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12 [Additional counsel appear on signature page.]

13 SUPERIOR COURT OF CALIFORNIA

14 COUNTY OF SAN DIEGO

15 Coordination Proceeding Special Title (Rule  
16 1550(b))

17 FIREARM CASE

18 Including actions:

19 *People, et al. v. Arcadia Machine & Tool, Inc.,*  
20 *et al.*

21 *People, et al. v. Arcadia Machine & Tool, Inc.,*  
22 *et al.*

23 *People, et al. v. Arcadia Machine & Tool, Inc.,*  
24 *et al.*

) JUDICIAL COUNCIL COORDINATION  
) PROCEEDING NO. 4095

) San Francisco Superior Court No. 303753  
) Los Angeles Superior Court No. BC210894  
) Los Angeles Superior Court No. BC214794

) NOTICE OF LODGMENT TO  
) PLAINTIFFS' OPPOSITION TO  
) MANUFACTURERS' MOTION FOR  
) SUMMARY JUDGMENT

) Date: March 7, 2003  
) Time: 8:30 a.m.  
) Dept: 65

Hon. Vincent P. DiFiglia

25 DOCUMENTS REFERENCED HEREIN FILED UNDER SEAL

26 Volume 4

1 Pursuant to Rule 319 of the California Rules of Court, plaintiffs hereby lodge the following  
2 documents in support of their Opposition to Defendants' Motion for Summary Judgment:

- 3 Exhibit 1 Curriculum Vitae of Whit Collins;
- 4 Exhibit 2 Curriculum Vitae of James Alan Fox;
- 5 Exhibit 3 Fox – CD;
- 6 Exhibit 4 Fox Task 1 Table;
- 7 Exhibit 5 Fox Task 2;
- 8 Exhibit 6 Fox Task 3;
- 9 Exhibit 6a California Dealer Profile;
- 10 Exhibit 6b Defendant Manufacturer to Dealer Profile;
- 11 Exhibit 6c Defendant Distributor to Dealer Profile;
- 12 Exhibit 6d Defendant Distributor and Dealer Profile;
- 13 Exhibit 7 Curriculum Vitae of Gregory T. Gundlach;
- 14 Exhibit 8 Gundlach – Material Considered;
- 15 Exhibit 9 Gundlach – Firearms Industry, Diversion and Safeguards for  
16 Responsible Distribution: Analysis Outline;
- 17 Exhibit 10 Resume of Steve Higgins;
- 18 Exhibit 11 Higgins – Documents "Relied on" List;
- 19 Exhibit 12 Curriculum Vitae of Carter K. Lord;
- 20 Exhibit 13 Lord – Evaluation of Compatibility Chart;
- 21 Exhibit 14 Curriculum Vitae of Gerald A. Nunziato;
- 22 Exhibit 15 Nunziato – ATF Data Provided to California Jurisdictions v. Data Not  
23 Provided;
- 24 Exhibit 16 Nunziato – CD;
- 25 Exhibit 17 Nunziato – Defendant Manufacturer Profile;
- 26 Exhibit 18 Nunziato – Defendant Distributor and Dealer Profile;
- 27 Exhibit 19 Nunziato – California Dealer Profile;
- 28 Exhibit 20 Nunziato – California Dealer Final Sale Profile;
- Exhibit 21 Nunziato – Defendant Manufacturer to Dealer Profile;

- 1 Exhibit 22 Nunziato – Defendant Distributor to Dealer Profile;
- 2 Exhibit 23 Nunziato – Crime Code Table;
- 3 Exhibit 24 Nunziato – Duplicates Table;
- 4 Exhibit 25 Nunziato – Suspect Completion Code Table;
- 5 Exhibit 26 Curriculum Vitae of Stephen P. Teret;
- 6 Exhibit 27 Curriculum Vitae of Joseph J. Vince, Jr.;
- 7 Exhibit 28 Curriculum Vitae of Franklin E. Zimring;
- 8 Exhibit 29 *Firearms Legislation: Hearings before the Subcomm. on Crime of the*  
9 *House Judiciary Comm., 94th Cong. (1975);*
- 10 Exhibit 30 H.R. Rep. No. 94-1103 (1976);
- 11 Exhibit 31 Bureau of Alcohol, Tobacco and Firearms, *Project Identification: A*  
12 *Study of Handguns used in Crime (1976);*
- 13 Exhibit 32 FFL Newsletters;
- 14 Exhibit 33 Bureau of Alcohol, Tobacco and Firearms, *Operation Snapshot (June*  
15 *1993) and attached Operation Snapshot Final Report (July 12, 1993);*
- 16 Exhibit 34 *Federal Firearms Licensing: Hearing Before the Subcomm. on Crime*  
17 *and Criminal Justice of the House Judiciary Comm., 103d Cong.*  
18 *(1993);*
- 19 Exhibit 35 Memorandum from the Special Agent in Charge, Los Angeles Field  
20 Division, Bureau of Alcohol, Tobacco and Firearms, to the Chief,  
21 Firearms Division, Bureau of Alcohol, Tobacco and Firearms (Nov. 28,  
22 1994);
- 23 Exhibit 36 Dep't of Treasury/Bureau of Alcohol, Tobacco and Firearms, *1994*  
24 *Firearms Enforcement Investigative Report (1995);*
- 25 Exhibit 37 Bureau of Alcohol, Tobacco and Firearms, Los Angeles Field Division,  
26 *Sources of Crime Guns in Southern California (1995);*
- 27 Exhibit 38 Bureau of Alcohol, Tobacco and Firearms, *1996 Firearms Enforcement*  
28 *Report;*
- Exhibit 39 Gen. Acct'g Office, *Federal Firearms Licensees: Various Factors Have*  
*Contributed to the Decline in the Number of Dealers (1996);*
- Exhibit 40 Bureau of Alcohol, Tobacco and Firearms, *Youth Crime Gun*  
*Interdiction Initiative, Crime Gun Trace Analysis Reports: The Illegal*  
*Youth Firearms Markets in 17 Communities (1997) (National Report;*  
*Inglewood, Salinas);*
- Exhibit 41 Bureau of Alcohol, Tobacco and Firearms, *A Progress Report: Gun*  
*Dealer Licensing & Illegal Gun Trafficking (1997);*

- 1 Exhibit 42 Bureau of Alcohol, Tobacco and Firearms, Crime Gun Analysis  
2 Branch, *CGAB Shots* (Dec. 1997; Jan., Feb., Mar., May, July, Aug.,  
3 Sept., Oct., Nov. and Dec. 1998);
- 4 Exhibit 43 Bureau of Alcohol, Tobacco and Firearms, *Safety and Security*  
5 *Information for Federal Firearms Licensees* (1998);
- 6 Exhibit 44 Bureau of Alcohol, Tobacco and Firearms, *Operation Shapshot: An*  
7 *Analysis of the Retail Regulated Firearms Industry* (1998);
- 8 Exhibit 45 Dep't of Treasury/Bureau of Alcohol, Tobacco and Firearms, *Gun*  
9 *Shows: Brady Checks and Crime Gun Traces* (1999);
- 10 Exhibit 46 Dep't of Treasury/Bureau of Alcohol, Tobacco and Firearms, *Gun*  
11 *Crime in the Age Group 18-20* (1999);
- 12 Exhibit 47 Bureau of Alcohol, Tobacco and Firearms, *Youth Crime Gun*  
13 *Interdiction Initiative, Crime Gun Trace Analysis Reports: The Illegal*  
14 *Youth Firearms Market in 27 Communities* (1999) (National Report;  
15 Los Angeles, Inglewood, Salinas;
- 16 Exhibit 48 Bureau of Alcohol, Tobacco and Firearms, *The Youth Crime Gun*  
17 *Interdiction Initiative Performance Report* (1999);
- 18 Exhibit 49 Bureau of Alcohol, Tobacco and Firearms, *Commerce in Firearms in*  
19 *the United States* (2000);
- 20 Exhibit 50 Bureau of Alcohol, Tobacco and Firearms, Press Release, *Treasury,*  
21 *ATF Release Firearms Report, Gun Trafficking Actions*, Feb. 4, 2000;
- 22 Exhibit 51 Bureau of Alcohol, Tobacco and Firearms, *Following the Gun:*  
23 *Enforcing Federal Laws Against Firearms Traffickers* (2000);
- 24 Exhibit 52 Bureau of Alcohol, Tobacco and Firearms, *Youth Crime Gun*  
25 *Interdiction Initiative, Crime Gun Trace Reports* (1999) (2000)  
26 (National Report; Los Angeles, San Jose, Oakland);
- 27 Exhibit 53 Bureau of Alcohol, Tobacco and Firearms, *2000-2005 Strategic Plan*  
28 (2000);
- Exhibit 54 Dep't of Justice, *Gun Violence Reduction: National Integrated*  
*Firearms Violence Reduction Strategy* (2001);
- Exhibit 55 Bureau of Alcohol, Tobacco and Firearms, *Firearms Commerce in the*  
*United States* (2001/2002);
- Exhibit 56 Bureau of Alcohol, Tobacco and Firearms, *Youth Crime Gun*  
*Interdiction Initiative, Crime Gun Trace Reports* (2000) (2002)  
(National Report, Los Angeles, Oakland, Salinas, San Jose, Stockton,  
Anaheim/Long Beach/Santa Ana);
- Exhibit 57 *Hayward Man Admits Illegal Gun Trafficking*, S.F. Examiner, Oct. 6,  
1999;

- 1 Exhibit 58 Americans for Gun Safety Foundation, *Broken Records: How*  
2 *America's Faulty Background Check System Allows Criminals to Get*  
3 *Guns* (2002);
- 4 Exhibit 59 Matt Bai, *A Gunmaker's Agony*, Newsweek, May 22, 2000;
- 5 Exhibit 60 Allen Beck, et al., *Survey of State Prison Inmates, 1991*, Dep't of  
6 Justice, Office of Justice Programs, Bureau of Justice Statistics (1993);
- 7 Exhibit 61 Steven Brill, Police Foundation, *Firearms Abuse: A Research and*  
8 *Policy Report* (1977);
- 9 Exhibit 62 John Christoffersen, *Inquiry Opens Into Gun Firms*, (Ft. Lauderdale)  
10 Sun-Sentinel, Apr. 6, 2000;
- 11 Exhibit 63 Philip J. Cook and Thomas B. Cole, *Strategic Thinking About Gun*  
12 *Markets and Violence*, 275 JAMA 1765 (1996);
- 13 Exhibit 64 Philip J. Cook and Anthony A. Braga, *Comprehensive Firearms*  
14 *Tracing: Strategic and Investigative Uses of New Data on Firearms*  
15 *Markets*, 43 Ariz. L. Rev. 277 (2001);
- 16 Exhibit 65 Marjorie Hardy, *Behavior-Oriented Approached to Reducing Gun*  
17 *Violence*, 12 Future of Children 101 (2002);
- 18 Exhibit 66 Caroline Wolf Harlow, *Firearm Use by Offenders*, Dep't of Justice,  
19 Office of Justice Programs, Bureau of Justice Statistics (2001, revised  
20 2002);
- 21 Exhibit 67 Marilyn Heins, et al., *Gunshot Wounds in Children*, 64 Am. J. Pub.  
22 Health 326 (1974);
- 23 Exhibit 68 Arthur Kellermann, et al., *Suicide in the Home in Relation to Gun*  
24 *Ownership*, 327 New Eng. J. Med. 467 (1992);
- 25 Exhibit 69 Arthur Kellermann, et al., *Gun Ownership as a Risk Factor for*  
26 *Homicide in the Home*, 329 New Eng. J. Med. 1084 (1993);
- 27 Exhibit 70 Myron Levin, *Corrupt dealers Expose Weakness in Gun Laws*, L.A.  
28 Times, June 1, 2000;
- Exhibit 71 Eric Lichtblau, *Wal-Mart Tightens Gun Policy Business*, L.A. Times,  
July 3, 2002;
- Exhibit 72 Bob Lockett, *The Implications of New York City, Shooting Sports*  
Retailer, July/Aug. 1999;
- Exhibit 73 David B. Ottaway and Barbara Vobejda, *Gun Manufacturer Requires*  
Dealer to Sign Code of Ethics, Wash. Post, Oct. 22, 1999;
- Exhibit 74 Laura Parker, *'It was easy': Confessions of a Gun Trafficker*, USA  
Today, Oct. 28, 1999;

- 1 Exhibit 75 Glenn L. Pierce, et al., *The Identification of Patterns in Firearms Trafficking: Implications for Focused Enforcement Strategies* (Northeastern Univ. 1995);
- 2
- 3 Exhibit 76 Seth Rosenfeld, *East Bay Gun Ring Biggest in Nation*, S.F. Examiner, May 29, 1999;
- 4
- 5 Exhibit 77 Report of Sen. Charles Schumer, *A Few Bad Apples: Small Number of gun Dealers the Source of Thousands of Crimes* (June 1999);
- 6 Exhibit 78 Report of Sen. Charles Schumer, *Crime Guns Sold by High Crime Gun Dealers Quickly Change Hands and Are Rarely Used by Original Buyer of the Gun* (Dec. 1999);
- 7
- 8 Exhibit 79 Joseph F. Sheley and James D. Wright, *Gun Acquisition and Possession in Selected Juvenile Samples*, Dep't of Justice, Nat'l Inst. of Justice, Office of Juvenile Justice and Delinquency Prevention (1993);
- 9
- 10 Exhibit 80 Peter Slevin, *Gun Dealer Verification Loophole Shut*, Wash. Post, Sept. 24, 2000;
- 11
- 12 Exhibit 81 Jon Vernick, et al., *Regulating Firearm Advertisements that Promise Home Protection*, 277 JAMA 1391 (1997);
- 13 Exhibit 82 Julius Wachtel, *Sources of Crime Guns in Los Angeles*, 21 Policing: An Int'l J. of Police Strategies & Mgmt. 220 (1998);
- 14
- 15 Exhibit 83 Tim Weiner and Ginger Thompson, *U.S. Guns Smuggled Into Mexico Aid Drug War*, N.Y. Times, May 19, 2001;
- 16 Exhibit 84 Garen J. Wintemute, *When Children Shoot Children: 88 Unintended Deaths in California*, 257 JAMA 3107 (1987);
- 17
- 18 Exhibit 85 Franklin E. Zimring, *Firearms and Federal Law: The Gun Control Act of 1968*, 4 J. Legal Studies 133 (1975);
- 19 Exhibit 86 Franklin E. Zimring, *Street Crime and New Guns: Some Implications for Firearms Control*, 4 J. Crim. Justice 95 (1976);
- 20
- 21 Exhibit 87 Minutes of SAAMI Exec. Comm. Mtg., June 8, 1976 (Sanetti Hamilton Dep. Ex. 57);
- 22 Exhibit 88 *The U.S. Market for Firearms and Accessories*, The Paumanok Group (1992) (excerpts);
- 23
- 24 Exhibit 89 Alliance Voice magazine (excerpts);
- 25 Exhibit 90 SAAMI Gov't Relations/Media Relations Preliminary Planning Meeting, May 11, 1994, Draft Agenda; Mem. from R. Delfay, SAAMI Exec. Dir., to May 11 SAAMI Meeting Participants, May 13, 1994;
- 26
- 27 Exhibit 91 Fax from Gene Chrz to Rob Silinski (Colt's Manufacturing), Aug. 25, 1994;
- 28

- 1 Exhibit 92 Documents from *United States v. Efren Armandico Alquiza, et al.*, Case  
2 No. 96-712 (C.D. Cal. 1996);
- 3 Exhibit 93 Letter from John R. Freeman, Analyst, Crime Gun Analysis Branch,  
4 Bureau of Alcohol, Tobacco and Firearms, to Matt Newton, Research  
5 Associate, Center to Prevent Handgun Violence, Aug. 17, 1998;
- 6 Exhibit 94 Attachment A from case involving Dempsey Blue Richmond, et al.;
- 7 Exhibit 95 Documents from *United States v. John Raymond Thompson*, Case No.  
8 99-1025 (C.D. Cal. 1998-2000);
- 9 Exhibit 96 Mem. from Robert T. Delfay, NSSF Pres. and CEO, to Members of the  
10 U.S. Senate re: "The Firearms Industry is United Behind the National  
11 Rifle Association" (May 12, 1999);
- 12 Exhibit 97 Mem. from Bob Delfay to NSSF Board of Govs., SAAMI Exec.  
13 Committee and Hunting and Shooting Sports Heritage Foundation re:  
14 "We Have a Problem. A Serious and Urgent Problem" (May 25, 1999);
- 15 Exhibit 98 Mem. from Bob Delfay to Georgia Nichols, Jay Hansen, Paul Januzzo  
16 and Ray Oeltjen re: Reigning [sic] in Ricker (June 4, 1999);
- 17 Exhibit 99 Colt Market Overview (undated);
- 18 Exhibit 100 Smith & Wesson Agreement (Mar. 17, 2000);
- 19 Exhibit 101 Boston Agreement (Dec. 11, 2000);
- 20 Exhibit 102 Letter from Forest G. Webb, ATF Special Agent in Charge, Nat'l  
21 Tracing Ctr., to Simon Bloom, Esq., Taurus Int'l Mfg., Inc., Mar. 23,  
22 2000 (w/attached Jan. 28, 2000 letter from Bloom to Colleen Davis,  
23 ATF Specialist);
- 24 Exhibit 103 Letter from Simon Bloom, Esq., Taurus Int'l Mfg., Inc., to Forest G.  
25 Webb, ATF Special Agent in Charge, Nat'l Tracing Ctr., Apr. 11, 2000;
- 26 Exhibit 104 Videotape – "Wayne County and City of Detroit – Gun Litigation";
- 27 Exhibit 105 Ad for Taurus Security System;
- 28 Exhibit 106 Hearing Transcript (Aug. 2, 2002) (excerpts);
- Exhibit 107 Distributor and Dealer Agreements produced by defendants;
- Exhibit 108 Don't Lie for the Other Guy materials;
- Exhibit 109 Documents produced by Defendant American Shooting Sports Council,  
Inc.;
- Exhibit 110 Documents produced by Defendant Andrews Sporting Goods;
- Exhibit 111 Documents produced by Defendant B.L. Jennings, Inc.;
- Exhibit 112 Documents produced by Defendant Beretta U.S.A., Inc.;

- 1 Exhibit 113 Documents produced by Defendant Colt's Manufacturing, Inc.;
- 2 Exhibit 114 Documents produced by Defendant Glock, Inc.;
- 3 Exhibit 115 Documents produced by Defendant H & R 1871, Inc.;
- 4 Exhibit 116 Documents produced by Defendant Heckler & Koch, Inc.;
- 5 Exhibit 117 Documents produced by Defendant National Shooting Sports  
6 Foundation;
- 7 Exhibit 118 Documents produced by Defendant SIG Arms, Inc.;
- 8 Exhibit 119 Documents produced by Defendant Smith & Wesson Corp.;
- 9 Exhibit 120 Documents produced by Defendant Sporting Arms and Ammunition  
10 Manufacturers' Institute, Inc.;
- 11 Exhibit 121 Documents produced by Defendant Sturm, Ruger & Co., Inc.;
- 12 Exhibit 122 Documents produced by Defendant Taurus Int'l Mfg., Inc.;
- 13 Exhibit 123 Documents produced by U.S. Repeating Arms Co. in *Boston v. Smith  
14 & Wesson*, Civil Action No. SUCV1999-02590-C (Mass. Super. Ct.);
- 15 Exhibit 124 Deposition of Ugo Gusalli Beretta, *Firearm Case*, JCCP No. 4095,  
16 taken on Jan. 25, 2002 (excerpts);
- 17 Exhibit 125 Deposition of Sy Bloom, *Firearm Case*, JCCP No. 4095, taken on Feb.  
18 20, 2002 (excerpts);
- 19 Exhibit 126 Deposition of Robert Bonaventure, *Firearm Case*, JCCP No. 4095,  
20 taken on Dec. 14, 2001 (excerpts);
- 21 Exhibit 127 Deposition of Ronald Borgio, *Firearm Case*, JCCP No. 4095, taken on  
22 June 28, 2002 (excerpts);
- 23 Exhibit 128 Deposition of David Brazeau, *Hamilton v. Accu-Tek*, No. 95 CV 0049  
24 (JBW), taken on Apr. 8, 1998 (excerpts);
- 25 Exhibit 129 Deposition of David Eugene Brazeau, *Firearm Case*, JCCP No. 4095,  
26 taken on Oct. 29, 2001 (excerpts);
- 27 Exhibit 130 Deposition of Seth Bredbury, *Firearm Case*, JCCP No. 4095, taken on  
28 Nov. 12, 2002 (excerpts);
- Exhibit 131 Deposition of Charles L. Brown, *Firearm Case*, JCCP No. 4095, taken  
on Dec. 20, 2001 (excerpts);
- Exhibit 132 Deposition of Donald H. Campbell, *Firearm Case*, JCCP No. 4095,  
taken on Jan. 15, 2002 (excerpts);

- 1 Exhibit 133 Deposition of Raymon H. Crow Jr., *Firearm Case*, JCCP No. 4095,  
taken on Aug. 8, 2002 (excerpts);
- 2 Exhibit 134 Deposition of Jimmy Lee Davis, *Firearm Case*, JCCP No. 4095, taken  
3 on Jan. 14, 2002 (excerpts);
- 4 Exhibit 135 Deposition of Robert Delfay, *Firearm Case*, JCCP No. 4095, taken on  
5 June 18-19, 2002 (excerpts);
- 6 Exhibit 136 Deposition of Gabriele de Plano, *Firearm Case*, JCCP No. 4095, taken  
7 on Nov. 28, 2001 (excerpts);
- 8 Exhibit 137 Deposition of Christopher Dolnack, *Firearm Case*, JCCP No. 4095,  
9 taken on Dec. 18, 2001 (excerpts);
- 10 Exhibit 138 Deposition of Kevin Foley, *Firearm Case*, JCCP No. 4095, June 7,  
11 2002 (excerpts);
- 12 Exhibit 139 Deposition of Thomas J. Frane, *Firearm Case*, JCCP No. 4095, taken  
13 on Feb. 6, 2002 (excerpts);
- 14 Exhibit 140 Deposition of James O. Garrison, *Hamilton v. Accu-Tek*, No. 95 CV  
15 0049 (JBW), taken on Feb. 2, 1998 (excerpts);
- 16 Exhibit 141 Deposition of Renee Goldman, *Boston v. Smith & Wesson Corp.*, Civil  
17 Action No. SUCV1999-02590-C, taken on Apr. 3, 2001 (excerpts);
- 18 Exhibit 142 Deposition of Charles Guevremont, *Firearm Case*, JCCP No. 4095,  
19 taken on Oct. 22, 2001 (excerpts);
- 20 Exhibit 143 Aff. of Robert I. Hass, *Hamilton v. Accu-Tek*, No. 95 CV 0049 (JBW)  
21 (E.D.N.Y. Feb. 20, 1996);
- 22 Exhibit 144 Deposition of Robert I. Hass, *Boston v. Smith & Wesson Corp.*, Civil  
23 Action No. SUCV1999-02590-C, taken on Feb. 26, 2002 (excerpts);
- 24 Exhibit 145 Deposition of Richard Herdtner, *Firearm Case*, JCCP No. 4095, taken  
25 on Jan. 18, 2002 (excerpts);
- 26 Exhibit 146 Deposition of George Hood, *Firearm Case*, JCCP No. 4095, taken on  
27 Aug. 7, 2002) (excerpts);
- 28 Exhibit 147 Deposition of Paul Jannuzzo, *Boston v. Smith & Wesson Corp.*, Civil  
Action No. SUCV1999-02590-C, taken on Jan. 10, 2002 (excerpts);
- Exhibit 148 Deposition of Paul Jannuzzo, *Firearm Case*, JCCP No. 4095, taken on  
July 24, 2002 (excerpts);
- Exhibit 149 Deposition of Bruce Lee Jennings, *Firearm Case*, JCCP No. 4095,  
taken on Aug. 1-2, 2001 (excerpts);
- Exhibit 150 Deposition of Bruce Jennings, *Boston v. Smith & Wesson Corp.*, Civil  
Action No. SUCV1999-02590-C, taken on Sept. 24, 2001 (excerpts);

- 1 Exhibit 151 Deposition of Janice Jennings, *Firearm Case*, JCCP No. 4095, taken on  
 2 Aug. 3, 2001 (excerpts);
- 3 Exhibit 152 Deposition of David Johnson, *Firearm Case*, JCCP No. 4095, taken on  
 4 Aug. 15, 2002 (excerpts);
- 5 Exhibit 153 Deposition of George Kellgren, *Firearm Case*, JCCP No. 4095, taken  
 6 on Aug. 8, 2001 (excerpts);
- 7 Exhibit 154 Deposition of Christopher Killoy, *Firearm Case*, JCCP No. 4095, taken  
 8 on June 25-26, 2002 (excerpts);
- 9 Exhibit 155 Deposition of Hermann H. Kloetzer, *Boston v. Smith & Wesson Corp.*,  
 10 Civil Action No. SUCV1999-02590-C, taken on Nov. 13, 2001  
 11 (excerpts);
- 12 Exhibit 156 Deposition of Roger Koenig, *Boston v. Smith & Wesson Corp.*, Civil  
 13 Action No. SUCV1999-02590-C, taken on Apr. 18, 2001 (excerpts);
- 14 Exhibit 157 Deposition of Chris August Larsen, *Firearm Case*, JCCP No. 4095,  
 15 taken on Aug. 2-3, 2001 (excerpts);
- 16 Exhibit 158 Deposition of LaToya Lige, *Firearm Case*, JCCP No. 4095, taken on  
 17 Sept. 5, 2001 (excerpts);
- 18 Exhibit 159 Deposition of Robert Lockett, *Firearm Case*, JCCP No. 4095, taken on  
 19 Aug. 9, 2002 (excerpts);
- 20 Exhibit 160 Deposition of Charles Lynn Lowder, *Firearm Case*, JCCP No. 4095,  
 21 taken on Dec. 18, 2001 (excerpts);
- 22 Exhibit 161 Deposition of Craig Mariani, *Firearm Case*, JCCP No. 4095, taken on  
 23 Aug. 7, 2002 (excerpts);
- 24 Exhibit 162 Deposition of James McGarry, *Firearm Case*, JCCP No. 4095, taken  
 25 on Jan. 30, 2002 (excerpts);
- 26 Exhibit 163 Deposition of John T. Meyer, Jr. *Firearm Case*, JCCP No. 4095, taken  
 27 on Jan. 9, 2002 (excerpts);
- 28 Exhibit 164 Deposition of Robert Morrison, *Boston v. Smith & Wesson Corp.*, Civil  
 Action No. SUCV1999-02590-C, taken on Aug. 21, 2001 (excerpts);
- Exhibit 165 Deposition of Douglas Painter, *Firearm Case*, JCCP No. 4095, taken  
 on Nov. 5, 2001 (excerpts);
- Exhibit 166 Deposition of Paul J. Pluff, *Firearm Case*, JCCP No. 4095, taken on  
 Nov. 6-7, 2001 (excerpts);
- Exhibit 167 Deposition of Jeffrey K. Reh, *Firearm Case*, JCCP No. 4095, taken on  
 Nov. 7-8-2001 (excerpts);
- Exhibit 168 Deposition of Michael P. Reissig, *Firearm Case*, JCCP No. 4095, taken  
 on Feb. 6, 2002 (excerpts);

- 1 Exhibit 169 Deposition of Stephen L. Sanetti, *Firearm Case*, JCCP No. 4095, taken  
on Sept. 11, 2001 (excerpts);
- 2 Exhibit 170 Deposition of Stephen L. Sanetti, *Firearm Case*, JCCP No. 4095, taken  
3 on Sept. 12, 2001 (excerpts);
- 4 Exhibit 171 Deposition of Robert L. Scott, *Firearm Case*, JCCP No. 4095, taken on  
5 Aug. 6, 2002 (excerpts);
- 6 Exhibit 172 Deposition of John S. Steele, *Firearm Case*, JCCP No. 4095, taken on  
7 Aug. 9, 2002 (excerpts);
- 8 Exhibit 173 Deposition of Robert Steger, *Firearm Case*, JCCP No. 4095, taken on  
9 July 30, 2002 (excerpts);
- 10 Exhibit 174 Deposition of Dan Stone, *Firearm Case*, JCCP No. 4095, taken on Mar.  
1, 2002 (excerpts);
- 11 Exhibit 175 Deposition of Ronald Stewart, *Firearm Case*, JCCP No. 4095, taken on  
12 Jan. 24, 2002 (excerpts);
- 13 Exhibit 176 Deposition of Stephen Teret, *Firearm Case*, JCCP No. 4095, taken on  
14 Dec. 12, 2002 (excerpts);
- 15 Exhibit 177 Deposition of Robert J. Thompson, *Firearm Case*, JCCP No. 4095,  
16 taken on July 17, 2002 (excerpts);
- 17 Exhibit 178 Deposition of Sylvan C. Wiley, *Firearm Case*, JCCP No. 4095, taken  
18 on Aug. 7, 2002 (excerpts);
- 19 Exhibit 179 Deposition of Joseph J. Zajk, *Firearm Case*, JCCP No. 4095, taken on  
20 Apr. 16, 2002 (excerpts);
- 21 Exhibit 180 Declaration of Jason Baker in Support of Plaintiffs' Motion for  
22 Summary Adjudication as to Defendants Ellett Brothers, Inc., MKS  
23 Supply, Inc., and Southern Ohio Gun Distributors, Inc., Jan. 15, 2003;
- 24 Exhibit 181 Declaration of Whit Collins in Support of Plaintiffs' Motion for  
25 Summary Adjudication as to Defendants Ellett Brothers, Inc., MKS  
26 Supply, Inc., and Southern Ohio Gun, Inc., Jan. 15, 2003;
- 27 Exhibit 182 Declaration of William Gage in Support of Plaintiffs' Motion for  
28 Summary Adjudication as to Defendants Ellett Brothers, Inc., MKS  
Supply, Inc., and Southern Ohio Gun, Inc., Jan. 15, 2003;
- Exhibit 183 Reply Brief in Support of Defendants' Consolidated Demurrers and  
Motion to Strike Plaintiffs' Complaint, Sept. 8, 2000;
- Exhibit 184 Ellett Brother's, Inc.'s Second Supplemental Responses to Plaintiffs'  
Third Set of Request for Production of Documents, Oct. 31, 2002;

- 1 Exhibit 185 Defendant H&R 1871, Inc.'s Further Supplemental Objections and  
2 Responses to Plaintiffs' First Set of Special Interrogatories, Oct. 1,  
3 2001;
- 4 Exhibit 186 MKS Supply, Inc.'s Second Supplemental Responses to Plaintiffs' Third  
5 Set of Request for Production of Documents, Oct. 25, 2002;
- 6 Exhibit 187 Southern Ohio Gun Distributors, Inc.'s Third Set of Supplemental  
7 Responses to Plaintiffs' Third Request for Production of Documents,  
8 Nov. 27, 2002;
- 9 Exhibit 188 Deposition of Forest Webb, JCCP, taken Nov. 21, 2002 (excerpts);
- 10 Exhibit 189 Documents produced by RSR;
- 11 Exhibit 190 Dick Metcalf, *Smith & Wesson's New President Speaks Out*, Shooting  
12 Times, Aug. 2000, at 58;
- 13 Exhibit 191 Documents produced by Defendant Phoenix Arms, Inc.;
- 14 Exhibit 192 Deposition of John Badowski, *Boston v. Smith & Wesson Corp.*, Civil  
15 Action No. SUCV1999-02590-C, taken on Nov. 29, 2001 (excerpts);
- 16 Exhibit 193 Deposition of James E. Chambers, *Firearm Case*, JCCP No. 4095,  
17 taken on Apr. 2, 2002 (excerpts);
- 18 Exhibit 194 Deposition of Nancy Coburn, *Boston v. Smith & Wesson Corp.*, Civil  
19 Action No. SUCV1999-02590-C, taken on Aug. 16, 2001 (excerpts);
- 20 Exhibit 195 Deposition of Robert Delfay, *Firearm Case*, JCCP No. 4095, Dec. 3,  
21 1999 (excerpts);
- 22 Exhibit 196 Deposition of Kenneth D. Green, *Boston v. Smith & Wesson Corp.*,  
23 Civil Action No. SUCV1999-02590-C, taken on Dec. 7, 2001  
24 (excerpts);
- 25 Exhibit 197 Deposition of Georgia Nichols, *Firearm Case*, JCCP No. 4095, taken  
26 on Dec. 20, 2001 (excerpts);
- 27 Exhibit 198 Deposition of Ray Oeltjen, *Boston v. Smith & Wesson Corp.*, Civil  
28 Action No. SUCV1999-02590-C, taken on Nov. 7, 2001 (excerpts);
- Exhibit 199 Declaration of William H. Gage in Support of Plaintiffs' Motion for  
Summary Judgment;
- Exhibit 200 *Shooting Industry*, SHOT Show Super Issue (Dec. 1999);
- Exhibit 201 Sept./Oct. 1993 article from Trade Associations' magazine, *Shot  
Business*;
- Exhibit 202 Ads regarding "Assc's Updated Guide to 105th Congress" from  
*Shooting Industry and Women & Guns*;
- Exhibit 203 Deposition of John Carr Adkins, *Firearms Case*, SFSC No. 303753,  
taken Dec. 3, 1999 (excerpts), pp. 91, 92, 93;

- 1 Exhibit 204 Deposition of Tony Cucchiara, JCCP No. 4095, taken June 27, 2001  
(excerpts);
- 2 Exhibit 205 Deposition of Tony Cucchiara, JCCP No. 4095, taken Dec. 17, 2001  
3 (excerpts);
- 4 Exhibit 206 Deposition of Robert Delfay, JCCP No. 4095, taken June 18, 2002  
5 (excerpts);
- 6 Exhibit 207 Deposition of Christopher Dolnack, JCCP No. 4095, taken Dec. 18,  
7 2001 (excerpts);
- 8 Exhibit 208 Deposition of Douglas Painter, *Boston v. Smith & Wesson*, Civil Action  
9 No. SVCV1999-02590, taken Nov. 5, 2001 (excerpts);
- 10 Exhibit 209 Deposition of Jayme Williams, AMT, SFSC No. 303753, taken June  
11 11, 2002 (excerpts);
- 12 Exhibit 210 *United States v. Wheeler*, No. CR-95-707-HLH (C.D. Cal.);
- 13 Exhibit 211 1999 memo from BATF to FFL holders re: straw purchases;
- 14 Exhibit 212 AP Wire, *Officials Praise Smith & Wesson*, Mar. 17, 2000;
- 15 Exhibit 213 Jackie Koszczuk, *NRA to Isolate Smith & Wesson*, Mar. 23, 2000;
- 16 Exhibit 214 Peter Slevin and Sharon Walsh, *Conn. Subpoenas Firms in Antitrust  
17 Probe*, Wash. Post, Mar. 31, 2000;
- 18 Exhibit 215 Deposition of Kenneth D. Green, *Boston v. Smith & Wesson*, taken Dec.  
19 7, 2001 (excerpts);
- 20 Exhibit 216 Memorandum from Steven Sliwa to Zilkha Partners dated June 28,  
21 1999;
- 22 Exhibit 217 Deposition of Stephen Sanetti, *Hamilton v. Accu-tek*, taken Nov. 27,  
23 1995 (excerpts);
- 24 Exhibit 218 Fox Butterfield and Raymond Hernandez, *Gun Maker's Accord on  
25 Curbs Bring Pressure from Industry*, N.Y. Times, Mar. 30, 2000;
- 26 Exhibit 219 *Under the Gun*;
- 27 Exhibit 220 Plaintiffs' Fact and Expert Witness Lists;
- 28 Exhibit 221 Documents produced by Southern Ohio Gun Distributors;
- Exhibit 222 *United States v. Twomey*, No. CR 99-40128-CW (N.D. Cal.);
- Exhibit 223 Deposition of Debra Bowling, JCCP No. 4095, taken Mar. 1, 2002  
(excerpts);
- Exhibit 224 Deposition of Tom Deeb, *Boston v. Smith & Wesson*, taken Aug. 20,  
2001 (excerpts);

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- Exhibit 225 Deposition of George E. Loney, JCCP No. 4095, taken May 2, 2002 (excerpts);
- Exhibit 226 Deposition of Randal Spatharos, JCCP No. 4095, taken May 3, 2002 (excerpts);
- Exhibit 227 Deposition of Dan Stone, JCCP No. 4095, taken Mar. 1, 2002 (excerpts);
- Exhibit 228 Documents produced by Los Angeles County.

DATED: February 3, 2003

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**EDUCATION AND TRAINING**

<i>Degree/Year</i>	<i>Institution and Field</i>
M.P.H./1979	The Johns Hopkins University School of Hygiene and Public Health Baltimore, Maryland Public Health
J.D./1969	Brooklyn Law School Brooklyn, New York Law
B.A./1966	St. Lawrence University Canton, New York English

**BAR ADMISSION**

1984	Admitted to practice before the United States Court of Appeals, Eleventh Circuit
1979	Admitted to Maryland State Bar
1975	Admitted to practice before United States Court of Appeals, Second Circuit
1974	Admitted to practice before United States District Court for the Western District of New York
1969	Admitted to New York State Bar

**PROFESSIONAL EXPERIENCE**

Director	2000-Present	Center for Law and the Public's Health Johns Hopkins and Georgetown Universities
Professor	1990-Present	Department of Health Policy and Management The Johns Hopkins School of Public Health
Associate Chair	1999-Present	Department of Health Policy and Management Faculty of Health and Public Policy
Joint Appointment	1984-Present	Department of Pediatrics The Johns Hopkins School of Medicine
Joint Appointment	1989-Present	Department of Emergency Medicine The Johns Hopkins School of Medicine
Adjunct Professor of Law	1987-Present	Georgetown University Law Center Washington, DC
Senior Fellow	2000-Present	Center for Civilian Biodefense Studies Johns Hopkins Schools of Medicine and Public Health
Co-Director	1996-Present	JD/MPH Joint Degree Program Johns Hopkins and Georgetown Universities
Director	1995-2001	Johns Hopkins Center for Gun Policy and Research
Associate Chair	1995-1997	Department of Health Policy and Management, Faculty of Health and Public Policy
Head	1991-1994	Division of Public Health Department of Health Policy and Management The Johns Hopkins School of Public Health
Director	1988-1994	The Johns Hopkins Injury Prevention Center The Johns Hopkins School of Public Health
Co-Director	1987-1988	The Johns Hopkins Injury Prevention Center The Johns Hopkins School of Public Health
Deputy Director	1986-1996	Program in Law, Ethics, and Health The Johns Hopkins School of Public Health Baltimore, Maryland
Associate Professor	1982-1990	Department of Health Policy and Management The Johns Hopkins School of Public Health
Assistant Professor	1979-1982	Department of Health Services Administration

		The Johns Hopkins School of Public Health
Lecturer in Law and Biomedical Sciences	1980-1983	University of Maryland, School of Law Baltimore, Maryland
Attorney	1970-1978	Brandt and Laughlin, P.C., Westfield, New York. [trials and appeals in Justice, County, Surrogate's, Family, Supreme and Appellate State Courts, and U.S. District Courts and U.S. Courts of Appeal.]
Staff Attorney	1969-1970	Harlem Assertion of Rights, Inc. 35 West 125th Street New York, New York [all aspects of poverty law with extensive litigation and administrative agency experience.]

## PROFESSIONAL ACTIVITIES

### *Society Membership and Leadership*

National Association for Public Health Policy - Chairman, Injury Prevention Council and Board of Directors, 1981-1985  
 American Trauma Society - Board of Directors, 1982-1985  
 Association of Trial Lawyers of America  
 New York State Bar Association, 1969-present  
 Bar Association of Northern Chautauqua County - President, 1977-1978  
 American Public Health Association  
 Center for Auto Safety - Board of Directors, 1989-1998  
 National Safe Kids Campaign - Advisory Board 1989-1991  
 Advocates for Highway and Auto Safety - Board of Directors, 1990-1998  
 Civil Justice Foundation - Board of Directors, 1989-1995  
 Cease Fire - Board of Directors, 1996-1999  
 HELP for Survivors - Board of Directors, 1996-1999

### *Participation on Advisory Panels (selected)*

Service on Advisory Panels for The Centers for Disease Control, the U.S. Surgeon General, the Indian Health Service, Transportation Research Board, Institute of Medicine, and other agencies.

### *Program or Project Development*

Developed JD/MPH joint degree program with Johns Hopkins School of Public Health and Georgetown University Law Center

### *Consultations (selected)*

The President of the United States  
 The Attorney General of the United States

United States Congress and State Legislatures  
Department of Health and Human Services  
Department of Transportation  
National Highway Traffic Safety Administration  
Consumer Product Safety Commission  
Centers for Disease Control  
Indian Health Service  
National Academy of Sciences, Institute of Medicine  
Hastings Center  
American Academy of Pediatrics  
American College of Physicians  
Transportation Research Board  
Kellogg Foundation  
Henry J. Kaiser Family Foundation  
The California Wellness Foundation  
Packard Foundation  
Barcelona, Spain Health Department  
State and Local Health Departments

*Testimony*

*Federal*

United States Senate, Committee on the Judiciary, Subcommittee on the Constitution, Testimony on Gun Safety, March 23, 1994.

United States Senate, Committee on Commerce, Science and Transportation, Consumer Subcommittee, Testimony on Toy Safety, July 1, 1993.

United States Senate, Committee on Appropriations, Subcommittee on Transportation and Related Agencies, Testimony on Funds for Trauma Research, May 14, 1987.

United States Department of Transportation, Hearings on Automatic Restraints, December 5, 1983.

United States Senate, Committee on Finance, Subcommittee on Taxation and Debt Management, Hearing on Automatic Crash Protection, January 28, 1982.

United States House of Representatives, Committee on Energy and Commerce, Subcommittee on Telecommunications, Consumer Protection and Finance, Hearing on Automatic Crash Protection Standards, April 27, 1981.

*State*

Maryland House of Delegates, Judiciary Committee, Testimony on Gun Safety, several years.

Maryland Senate, Judiciary Committee, Hearing on Motorcycle Helmet Legislation, several years.

Maryland Senate, Judiciary Committee, Hearing on Firearms Legislation, 1985.

Maryland House of Delegates, Judiciary Committee, Hearing on Motorcycle Helmet Legislation, several years.

Maryland House of Delegates, Judiciary Committee, Hearings on Child Restraint Laws, several years.

Massachusetts Attorney General Hearings, 1997.

Pennsylvania House Democratic Policy Committee, Testimony on Personalized Guns, June 25, 1997.

Maryland Governor's Task Force on Childproof Guns, 1999.

Maryland Senate, Health Subcommittee, Bioterrorism, 2000.

## **EDITORIAL ACTIVITIES**

### ***Peer Review Activities***

American Journal of Epidemiology  
American Journal of Public Health  
Epidemiology  
International Journal of Health Services  
Journal of the American Medical Association  
Journal of Health Politics, Policy and Law  
Journal of Interpersonal Violence  
The Millbank Quarterly  
New England Journal of Medicine  
Social Science and Medicine

### ***Editorial Board Membership***

Journal of Public Health Policy (1985-88)

Law, Medicine, and Health Care (1985-87)

Injury Control (1994-1996 )

### ***Ad hoc Review of Proposals***

Centers for Disease Control

## **HONORS AND AWARDS**

Delta Omega, Alpha Chapter - National Public Health Honorary Society

Who's Who in America

Who's Who in American Law

Golden Apple Award - (Received in 1984 and 1989). Given by students of Johns Hopkins School of Public Health, for excellence in teaching.

Teaching Award - (1997). Given by students at Johns Hopkins School of Public Health.

Distinguished Career Award - American Public Health Association, Injury Control and Emergency Health Services Section (1993)

Distinguished Service Award - Association of Trial Lawyers of America (1993)

Sol Feinstone Award - Granted by St. Lawrence University for humanitarian efforts (1996)

National Angel of Peace Award - Granted by the Violence Prevention Coalition of Greater Los Angeles

## **PUBLICATIONS**

### ***Books or Monographs***

DeFrancesco S, Lester KJ, Teret SP, Vernick JS. A Model Handgun Safety Standard Act.

Baltimore, MD: The Johns Hopkins Center for Gun Policy and Research, 1996.

Robinson KD, Teret SP, Vernick JS, Webster DW. Personalized Guns: Reducing Gun Deaths Through Design Changes. Baltimore, MD: The Johns Hopkins Center for Gun Policy and Research; 1998.

Robinson KD, Vernick JS, Teret SP. Firearm Violence: An Annotated Bibliography. Baltimore, MD: The Johns Hopkins Center for Gun Policy and Research, 1997.

Christoffel T, Teret SP. Protecting the Public: Legal Issues in Injury Prevention. New York: Oxford University Press, 1993.

Vernick JS, Baker SP, Edmunds L, Kelley B, Smith L, Teret SP, Zierler A. Motorboat Propeller Injuries. Baltimore, MD: The Johns Hopkins Injury Prevention Center and the Institute for Injury Reduction, September 1992.

Wilson MH, Baker SP, Teret SP, et al. Saving Children, A Guide to Injury Prevention. New York: Oxford University Press, 1991.

Bohan BF, Teret SP. Seat Belts and the Law: Mandatory Use Laws and the Legal Consequences of Non-Use. Washington, U.S. Department of Transportation, National Highway Traffic Safety Administration, DOT HS 807 576, 1990.

Bohan BF, Teret SP. Legal Issues Regarding Police and Seat Belts. Washington, U.S. Department of Transportation, National Highway Traffic Safety Administration, DOT HS 807 641, 1990.

Committee authorship, including Teret SP. Injury Prevention: Meeting the Challenge. New York: Oxford University Press, 1989.

Bohan B, Teret SP. Elderly Drivers and Highway Safety: An Examination of Medical Conditions, Laws, and Policies Related to Insuring The Safety of Elderly Drivers. Report to the Maryland Motor Vehicle Administration, 1989.

Robertson WO, Teret SP. Medical-Legal Issues in Pediatrics. Report to the Eighteenth Ross Roundtable, 1987.

Wintemute GJ, Teret SP, Kraus J. The Epidemiology and Control of Firearm Injuries. Report to the Task Force on Black and Minority Health, DHHS, 1985.

Trinkoff AM, Teret SP, Rattiner JL, et al. Enlisting Health Departments in Highway Safety Programs. Washington, U.S. Dept. of Transportation, DOT HS-806-531, 1983.

Teret SP, Celentano DD, Gadless BR, et al. Evaluation of the Baltimore County Drinking Driver Monitor Program. Report to the Maryland Motor Vehicle Administration. Baltimore, The Johns Hopkins School of Hygiene and Public Health, 1982.

Teret SP, Baker SP, Trinkoff A, et al. Report of the National Conference on Injury Control. Atlanta, Centers for Disease Control, U.S.P.H.S., D.H.H.S., 1982.

Simpson SG, Reid R, Baker SP, Teret SP. Injuries in the Keams Canyon Service Unit, 1979-80. Report to the Indian Health Service, Requisition #KCH 008-82. Baltimore, The Johns Hopkins School of Hygiene and Public Health, 1982.

Teret SP. Product Liability and NHTSA Action. A Report to the National Highway Traffic Safety Administration. Contract No. NHTSA-9-6675. Baltimore, The Johns Hopkins School of Hygiene and Public Health, 1980.

### ***Chapters***

Frattaroli S and Teret SP. Firearm Violence. In: Curtis LA. To Establish Justice, To Ensure Domestic Tranquility: A Thirty Year Update of the National Commission on the Causes and Prevention of Violence. Washington, D.C.: The Milton Eisenhower Foundation; December, 1999.

Teret S. The 1988 Maryland Gun Law: An example of Public Health Advocacy. In: A.B. Bergman, ed. Political Approaches to Injury Control at the State Level. Seattle: University of Washington Press, 1992.

Teret SP. The value of litigation to childhood health. In: WO Robertson, SP Teret, eds., Medical-Legal Issues in Pediatrics, Report of the Eighteenth Ross Roundtable on Critical Approaches to Common Pediatric Problems. Columbus, Ohio: Ross Laboratories, 1987.

Teret SP, Gaare R. The law and the public's health. In: R. Gaare, ed., BioLaw. Frederick, MD: University Publications of America, 1986.

Baker SP, Teret SP, Daub E. Injuries. In: S. Levine, ed., Epidemiology and Health Policy. London: Tavistock Publishers, 1986.

Teret SP. Alcohol and motor vehicle injuries. In: Principles for Injury Prevention in Developing Countries. World Health Organization, 1985.

### ***Journal Articles***

Teret SP. Development of putative father's rights in adoptive proceedings. NY State Bar J 1974; 46:2.

Teret SP. The role of epidemiology in proving future damages. Trial 1980; 16(2):31-3.

Baker SP, Teret SP, Dietz PE. Firearms and the public health. J Public Health Policy 1980; 1:224-9.

Teret SP. Injury control and product liability. J Public Health Policy 1981; 2:49-57.

Baker SP, Teret SP. Freedom and protection: A balancing of interests. Am J Public Health 1981;71:295-7.

Teret SP, Miller JR. Changes in the public's health and regulatory needs. Maryland Law Review 1981; 41:57-7.

Teret SP, Downey E. Air bag litigation. Trial 1982; 18(7):93-9.

Simpson SG, Reid R, Baker SP, Teret SP. Injuries among the Hopi Indians: A population-based survey. JAMA 1983; 249(14):1873-6.

Teret SP, Wintemute GJ. Handgun injuries: The epidemiologic evidence for assessing legal responsibility. Hamline Law Review 1983; 6:341-50.

Teret SP. Injury control advocacy. (Editorial) Tex Med 1983; 79(9):8.

Teret SP, DeFrancesco S. Cigarette safety bill: A case study in injury control advocacy. J Public Health Policy 1983; 4(4):440-6.

Teret SP. Opportunities for injury prevention. Church and Society 1984; 75(3):35-37.

Teret SP. Air bags and seat belts--untangling Standard 208. J Public Health Policy 1985; 6(1):5-6.

Teret SP. Assessment of injury prevention training needs--the training of students in the Johns Hopkins injury control program. Public Health Rep 1985; 100:601-2.

Teret SP, Jones AS, Williams AF, Wells JK. Child restraint laws: An analysis of gaps in coverage. Am J Public Health 1986; 76:31-4.

Teret SP. Litigating for the public's health. Am J Public Health 1986; 76:1027-9.

DeFrancesco S, Teret SP, McGuire A. Liability for cigarette-related fire death and injury. Trial Lawyers Quarterly 1986; 17(4):9-15.

Wintemute GJ, Teret SP, Kraus JF. The epidemiology of firearm deaths among residents of California. West J Med 1987; 146:374-7.

Wintemute GJ, Teret SP, Kraus JF, et al. When children shoot children: 88 unintended deaths in California. JAMA 1987; 257(22):3107-9.

Wintemute GJ, Kraus JF, Teret SP, Wright M. Drowning in childhood and adolescence: A population-based study. Am J Public Health 1987; 77:830-2.

Teret SP. Legislation, regulation, and litigation to prevent injury. Public Health Reports 1987; 102(6):633.

Wintemute GJ, Teret SP, Kraus JF. Commentary - Plastic handguns that resemble toy guns: New technology creates a uniquely hazardous product. Pediatrics 1988; 81(2):316-7.

Wintemute GJ, Teret SP, Kraus JF, Wright MW. The choice of weapons in firearm suicides. Am J Public Health 1988; 78(7):824-6.

Wintemute GJ, Kraus JF, Teret SP, Wright MW. The epidemiology of drowning in adulthood: Implications for prevention. Am J Prev Med 1988; 4(6):343-8.

Teret SP, Jacobs MJ. Prevention and torts: The role of litigation in injury control. Law, Medicine & Health Care 1989; 17(1):17-22. Also, reprinted in Chinese translation in China's Social Medicine 1990; 7(3):128-30.

Wintemute GJ, Kraus JF, Teret SP, et al. Unintentional firearm deaths in California. J Trauma 1989; 29(4):457-61.

Teret SP, Alexander GR, Bailey LA. The passage of Maryland's gun law: Data and advocacy for injury prevention. J Public Health Policy 1990; 11(1):26-38.

Wintemute GJ, Teret SP, Kraus JF, Wright MA. Alcohol and drowning: An analysis of contributing factors and a discussion of criteria for case selection. Accid Anal Prev 1990; 22(3):291-96.

Wintemute GJ, Kraus JF, Teret SP, Wright MW. Death resulting from motor vehicle immersions: The nature of the injuries, personal and environmental contributing factors, and potential interventions. Am J Public Health 1990; 80(9):1068-70.

Teret SP, Langlois JA. Preventable injuries among the elderly. Trial 1991; 27(4):40-44.

Webster DW, Chaulk CP, Teret SP, Wintemute GJ. Reducing firearm injuries. Issues Sci Technol 1991; 7(3):73-79.

Teret SP, Jagger J. All terrain vehicles: A case study in law and the prevention of injuries. J Head Trauma Rehabil 1991; 6(2):60-70.

Langlois JA, Wallen BAR, Teret SP, et al. The impact of specific toy warning labels. JAMA 1991; 265(21):2848-2850.

Cook PJ, Juarez P, Lee RK . . . Teret SP, et al. Weapons and minority youth violence. Public Health Rep 1991; 106(3):254-8.

Christoffel T, Teret, SP. Epidemiology and the law: Courts and confidence intervals. Am J Public Health 1991; 81(12):1661-1666.

Teret SP, Wintemute GJ, Beilenson P. The firearm fatality reporting system -- a proposal. JAMA 1992; 267(22):3073-3074.

Teret SP. So what? Epidemiol 4(2):93-94, Mar 1993.

Teret SP, DeFrancesco S, Bailey LA. Gun deaths and home rule: A case for local regulation of a local public health problem. Am J Prev Med 9(3)(Suppl):44-46, May/June 1993.

Cook PJ, Gunderson P, Johnson N, Teret SP, et al. Firearm injuries: Public health recommendations. Am J Prev Med 9 (3)(Suppl):52-55, May/June 1993.

Vernick JS, Teret SP. Firearms and health: The right to be armed with accurate information about the Second Amendment. Am J Public Health 1993; 83(12):1773-1777.

Teret SP, Wintemute GJ. Policies to prevent firearm injuries. Health Affairs 1994 Winter; 12(4):96-108, .

Vernick JS, Teret SP, Howard KA, Teret MD, Wintemute GJ. Public opinion polling on gun policy. Health Affairs 1994 Winter;12(4):198-208.

Teret SP, Baker, SP. Children shooting guns: a failure in product design. (Editorial.) Injury Prevention 1995; 1:39.

Teret, SP. Regulating risk to children. (Opinion.) Injury Prevention 1995; 1:71-72.

Teret, SP. The firearm injury reporting system revisited. (Editorial.) JAMA 1996;275(1):70.

Vernick JS, Teret SP, Webster DW. Regulating firearm advertisements that promise home protection: a public health intervention. JAMA. 1997;277:1391-1397.

Teret SP, Webster DW, Vernick JS et al. Support for New Policies to Regulate Firearms: Results of Two National Surveys. NEJM. 1998; 339:813-8.

Frattaroli S, Teret SP. Why Firearm Injury Surveillance? Am J Prev Med . 1998;15 (3S):2-5.

Teret SP, Webster DW. Reducing gun deaths in the United States. BMJ. 1999; 318:1160-1.

Vernick JS, Meisel ZF, Teret SP, et al. "I didn't know the gun was loaded": An examination of two safety devices that can reduce the risk of unintentional firearm injuries. J Public Health Policy. 1999;20(4):427-440.

Vernick JS, Teret SP. A public health approach to regulating firearms as consumer products. University of Pennsylvania Law Review. 2000;148:1193-1211.

Vernick, JS, Teret, SP. Recent developments in firearms litigation: A public health perspective. University of Houston Law Review. 1999;36:1713-1754.

Teret, SP. Policy and Science: Should Epidemiologists Comment on the Policy Implications of Their Research? Epidemiology. 2001;12:374-375.

Frattaroli S, Webster, DW, Teret, SP. Unintentional Gun Injuries, Firearm Design, and Prevention: What We Know, What We Need to Know, and What Can Be Done. Journal of Urban Health, 2002;79(1):49-59.

Layde PM, Maas LA, Teret SP, et al. Patient Safety Efforts Should Focus on Medical Injuries. JAMA. 2002;287(15):1993-1997.

Teret SP, Culross P. Product-oriented approaches to reduce youth gun violence. Future of Children, in press.

### ***Articles not peer reviewed***

Teret S, Wintemute GJ. Commentary - Bill would restrict suits against unsafe products. The Nation's Health 1983; 13(9):8.

Teret SP. Book Review - The influence of litigation on medical practice. J Nerv Ment Dis 1981; 199-202.

Wintemute GJ, Teret SP, Kraus J, et al. Children and guns. JAMA 1987; 258:1893-4.

Wintemute GJ, Teret SP, Kraus JF. Opposing views on deaths from firearms-authors' response. (Response to letter.) West J Med 1987; 147:208-9.

Wintemute GJ, Teret SP, Kraus JF, Wright MW. Wading pools: Source of drowning (letter). Am J Public Health 1988; 78(1):97-8.

Teret SP. Special issue on injury prevention of Law Med Health Care. (Book review.) Int Dig Health Leg 1990; 41(2):382-83.

Vernick, JS, Teret, SP. NRA claims distortions of second amendment in journal article. (Reply.) Am J Public Health Nov 1994; 84(11):1855-1856.

Teret SP, DeFrancesco S, Hargarten SW, Robinson KD. Making guns safer. Issues in Science and Technology.1998;24:37-40.

Teret SP. Postponing appointments: In praise of preventionists. Johns Hopkins Public Health. Spring 1999.

### **Other**

#### Audiovisual

Teret SP. Preventive initiatives and individual liberty. A Continuing Education Course in

Preventive Medicine, an Audiovisual Course (tape and slides). Vol. 1, Program 8. Baltimore, The Johns Hopkins School of Hygiene and Public Health, 1982.

#### Amicus Briefs to Court

Teret SP, DeFrancesco S. Amicus Curiae Brief on behalf of American Public Health Association and National Association for Public Health Policy, filed in the United States Court of Appeals for the Eleventh Circuit, in Evers v. General Motors, November 1984.

#### Bills Written and Introduced in Legislature

A Model Handgun Standard Safety Act, bills introduced in the Pennsylvania, New Jersey and New York Legislatures based on the model.

Maryland House of Delegates, Judiciary Committee, Hearing on Motorcycle Helmet Legislation, 1988.

Maryland House of Delegates, Environmental Matters Committee, Hearing on Firesafe Cigarettes, 1983.

New Jersey Senate Committee on Law, Public Safety and Defense, Hearing on Handgun Bill, 1988.

Baltimore City Council, Hearing on Local Gun Legislation, 1985.

District of Columbia Council, Judiciary Committee, Hearing on Handgun Manufacturer Strict Liability, 1989.

Child Restraint Bill, introduced in the Maryland House of Delegates.

Firesafe Cigarette Bill, introduced in the Maryland House of Delegates.

04/2002

**EXHIBIT 27**

**Joseph J. Vince, Jr.**  
**2214 W. Greenleaf Drive**  
**Frederick, MD 21702**  
**(301) 631-2950-JJVince@worldnet.att.net**

**Education**

1979	M. A., <i>University of Detroit</i> , Detroit, MI Criminal Justice
1970	B. A., <i>Youngstown State University</i> , Youngstown, OH Major: Criminal Justice Minor: History and Education

**Formal Managerial Training**

January 1994	<i>Senior Executive Service Candidate</i> , SES, Washington, DC
March 1987	<i>Leadership Development Program</i> , Center for Creative Leadership, Greensboro, NC
August 1981	<i>Executive Development Seminar</i> , OPM, Kings Point, NY
February 1980	<i>Supervision and Group Performance</i> , OPM, St. Louis, MO

**Experience**

November 2000-Present	Director	<i>The Father Delaney Center for Public Sector Information at Mount Saint Mary's College</i>
January 1999-Present	President	<i>Crime Gun Solutions LLC</i>
January 1999-Present	Faculty Affiliate	<i>Center for Gun Policy &amp; Research, Johns Hopkins U.</i>
January 1999-Present	Facilitator/Instru.	<i>International Association of Chiefs of Police (IACP)</i>
July 1997-January 1999	Chief	<i>Bureau of Alcohol, Tobacco and Firearms Crime Gun Analysis Branch, Falling Waters, WV</i>
July 1995-July 1997	Chief	<i>Firearms Enforcement Division, Headquarters, Washington, DC</i>
July 1993-July 1995	Deputy Chief	<i>Firearms Enforcement Division, Headquarters, Washington, DC</i>
March 1991-July 1993	Special Agent In Charge	<i>Division Office, Chicago, IL</i>
October 1986-March 1991	Assistant Special Agent in Charge	<i>Team Supervisor, ATF Southeast National Response Team (NRT); Division Office, Miami, FL</i>
January 1985-October 1986	Special Agent In Charge	<i>Intelligence Branch, Headquarters, Washington, DC</i>
November 1983-January 1985	Special Agent In Charge	<i>Firearms Tracing Branch, Headquarters, Washington, DC</i>
June 1983-November 1983	Operations Officer	<i>Firearms Division, Headquarters, Washington, DC</i>
August 1979-June 1983	Resident Agent In Charge	<i>Division Office, Omaha, NE</i>
October 1974-August 1979	Criminal Investigator	<i>Special Agent, Division Office, Flint, MI</i>
May 1971-October 1974	Criminal Investigator	<i>Special Agent, Division Office, Detroit, MI</i>

### **Other Law Enforcement Experience**

June 1969-May 1971      Deputy Sheriff      Trumbull County Sheriff's Office, Warren, OH

### **Awards**

1997	<i>Innovations in American Government, Finalist</i>	Presented by the Ford Foundation and the John F. Kennedy School of Government at Harvard University for work on the project "Disarming the Criminal"
1996	<i>Vice Presidential Hammer Award</i>	Three awards were presented for innovations in Federal Firearms Enforcement
1977	<i>ATF Gold Star Award</i>	Awarded on July 9, 1977, for wounds received in action

Numerous other awards and recognition have been presented throughout 27 years of service for the United States Department of the Treasury, Bureau of Alcohol Tobacco and Firearms by the United States Government and by other law enforcement agencies for quality investigative work and courageous leadership

### **Other Pertinent Experience**

#### ***Publications***

1998	<u>Youth Crime Gun Interdiction Initiative</u>	Crime Gun Analysis Reports of the Illegal Youth Firearms Markets in 27 Communities
1997	<u>Youth Crime Gun Interdiction Initiative</u>	Crime Gun Analysis Reports of the Illegal Youth Firearms Markets in 17 Communities
1992	<u>Protecting America: The Effectiveness Of the Federal Armed Career Criminal Statutes</u>	A Study by The Bureau of Alcohol, Tobacco and Firearms, United States Department of the Treasury
1986	<u>The Encyclopedia of Police Science</u>	Contributing writer
1983	"MERT - Response for the 80's"	<u>Law Enforcement Magazine</u>
1980	"Achievement Through Cooperation"	<u>Nebraska Law Enforcement Magazine</u>

#### ***Organizations***

Member, International Association of Chiefs of Police  
Member, International Association of Chiefs of Police, Firearms Committee

#### ***Public Instruction***

Lectures, Speeches and Presentations	Numerous Law Enforcement Groups Academies Training Seminars (Both U.S. & Abroad)	In Reference to ATF's Mission, Findings and Accomplishments
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**EXHIBIT 28**

## FRANKLIN E. ZIMRING

- PERSONAL** Born 1942, Los Angeles, California; married; two adult children.
- EDUCATION** Los Angeles Public Schools; B.A. with Distinction, Wayne State University (1963); J.D. *cum laude*, University of Chicago (1967).
- PRESENT POSITION** **WILLIAM G. SIMON PROFESSOR OF LAW** and **CHAIR**, Criminal Justice Research Program, Earl Warren Legal Institute, School of Law, University of California at Berkeley.
- OTHER WORK** **DIRECTOR**, Earl Warren Legal Institute (1983-2002).
- FACULTY OF LAW**, University of Chicago (1967-85): **KARL N. LLEWELLYN PROFESSOR OF JURISPRUDENCE** (1982-85) and **DIRECTOR**, Center for Studies in Criminal Justice (1975-85).
- MEMBER**, MacArthur Foundation Research Program on Adolescent Development and Juvenile Justice (1997-).
- FELLOW**, Center for Advanced Studies in the Behavioral Sciences, Stanford, California (1979-80).
- RAPPORTEUR**, Task Force on Sentencing Policy for Young Offenders, Twentieth Century Fund (1978).
- VISITING PROFESSOR OF LAW**, University of South Africa (1993), University of California (1983-85), Yale University (1973), and University of Pennsylvania (1972).
- DIRECTOR OF RESEARCH**, Task Force on Firearms, National Commission on the Causes and Prevention of Violence (1968-69).
- CONSULTANT:** American Bar Foundation, Police Foundation, New York City Human Resources Administration, National Commission on Reform of Federal Criminal Laws, Institute for Defense Analysis, Department of Justice, Rand Corporation, Abt Associates, Federal Parole Commission, Federal Bureau of Prisons, Federal Bureau of Investigation, General Accounting Office, Canadian Institute for Advanced Studies, States of Alaska, California, Nebraska, Illinois, Virginia, and Washington.
- ADVISORY POSTS** **CURRENT:** Advisory Committee, Sentencing Project, American Law Institute (2001-); Asian Pacific Violence Prevention Center, National Council on Crime and Delinquency (2001-); Criminal Justice Policy Group, California Attorney General's Office (2001-); National Policy Committee, American Society of Criminology (1989-91 and 1993-); Board of Directors, Illinois Youth Services Association (Honorary) (1977-); Advisory Committee, National Pre-Trial Services Association (1975-).

**PAST:** Advisory Board, National Campaign Against Youth Violence (2000-2002); Expert Panel Member, U.S. Department of Transportation, National Highway Traffic Safety Administration Panel on Crash Risk of Alcohol-Involved Driving (1994-2002); Expert Panel Member, U.S. Department of Education Panel on Safe, Disciplined, and Drug-Free Schools (1998-2001); National Research Council Panel on Juvenile Crime: Prevention, Intervention, and Control (1998-2001); Advisory Board, Center on Crime, Communities, and Culture, Open Society Institute (1998-2000); Affiliated Expert, Center for Gun Policy and Research, Johns Hopkins University (1995-98); Gun Violence Advisory Group, American College of Physicians (1995-98); Advisory Committee, Violent and Serious Juvenile Offender Project, National Council on Crime and Delinquency (1994-1997); Panel on NIH Research on Anti-Social, Aggressive, and Violence-Related Behaviors and their Consequences (1997-); Task Force on Future Directions for the National Archive of Criminal Justice Data, Bureau of Justice Statistics, Department of Justice (1995); Panel on Antisocial, Aggressive, and Violence-Related Behaviors and Their Consequences, National Institute of Health (1993-94); Panel on Understanding and Control of Violent Behavior, National Research Council, National Academy of Sciences (1989-91); Research Advisory Committee, California Attorney General (1983-1990); Law Enforcement Committee, California Governor's Policy Council on Drug and Alcohol Abuse (1989-91); National Research Council, Working Group Crime and Violence (1985-88); Internal Revenue Service, Advisory Group Taxpayer Compliance **Research** (1983-87); Board of Directors, Eisenhower Foundation for the **Prevention** of Violence (1981-84); U.S. Secret Service Advisory Committee on Protection of the President (1981-82); Assembly of Behavioral and Social Sciences, National Academy of Sciences (1977-80); Executive Committee, Illinois Academy of Criminology (1968-71, 1977-78); Advisory Committee, Assessment Center for Alternatives to Juvenile Courts (1977-78) (chairman); Advisory Committee, Law and Social Science Program, National Science Foundation (1976-77); Advisory Committee, Vera Institute of Justice, Court Employment Project Evaluation (1976-77) (chairman); Panel on Deterrence and Incapacitation, National Academy of Sciences (1975-77); Legal Committee, American Civil Liberties Union, Illinois Branch (1967-70).

**EDITORIAL  
BOARDS**

**CURRENT:** Punishment and Society (1998-); Crime and Justice: An Annual Review of Research (1979-90, 1998-); Western Criminology Review (1997-); Buffalo Criminal Law Review (1996-); Homicide Studies (1996-); The Prison Journal (1992-); Journal of Research in Crime and Delinquency (1976-84,1990-); Federal Sentencing Reporter (1988-); Studies in Crime and Justice (1980-); Journal of Criminal Justice (1978-).

**PAST:** Law and Society Review (1988-1998); British Journal of Criminology (1988-1996); Journal of Quantitative Criminology (1984-1989); Ethics, (1985-87); Encyclopedia of Crime and Justice (1979-83); Evaluation Quarterly (1976-84); Law and Behavior (1976-85).

**HONORS**

Society of Research on Adolescence, Biannual Book Award (2002); Pass Award, National Council on Crime and Delinquency (1999); Donald Cressey Award,

National Council on Crime and Delinquency (1995); Choice, Outstanding Academic Book Citation (1995 and 1982); Paul Tappan Award, Western Society of Criminology (1994); Fellow, American Society of Criminology (1993); Distinguished Alumni Award, Wayne State University (1989); Bustin Prize for Legal Research, University of Chicago (1981); Cooley Lecturer, University of Michigan Law School (1980); National Distinguished Alumnus Award, Delta-Sigma-Rho (1977); Ten Law Professors Who Shape the Future, *Time Magazine* (1977); Civilian Award of Merit for 1975, Chicago Crime Commission; Gavel Award Certificate of Merit, American Bar Association (1973).

**MEMBER** American Academy of Arts and Sciences (1990-); California Bar Association (1968-); Order of the Coif (1967-); Phi Beta Kappa (1964-).

### BOOKS AND MONOGRAPHS

(with Margaret Rosenheim, David Tanenhaus, and Bernardine Dohrn, eds.) *A Century of Juvenile Justice*, Chicago: University of Chicago Press (2002).

(with Gordon Hawkins and Sam Kamin) *Punishment and Democracy: Three Strikes and You're Out in California*, New York: Oxford University Press (2001).

(with Jeffrey Fagan, ed.) *The Changing Borders of Juvenile Justice: Transfer from Juvenile to Criminal Court*, Chicago: University of Chicago Press (2000)

(with Sam Kamin and Gordon Hawkins) *Crime and Punishment in California: The Impact of Three Strikes and You're Out*, Berkeley: Institute of Governmental Studies (1999).

*American Youth Violence*, New York: Oxford University Press (1998); paperback edition (2000).

(with Gordon Hawkins) *Crime Is Not the Problem: Lethal Violence in America*, New York: Oxford University Press (1997); paperback edition (1999).

(with Gordon Hawkins) *Incapacitation: Penal Confinement and the Restraint of Crime*, New York: Oxford University Press (1995); paperback edition (1997).

(with Gordon Hawkins) *Prison Population and Criminal Justice Policy in California*, Berkeley: Institute of Governmental Studies (1992).

(with Gordon Hawkins) *The Search for Rational Drug Control*, New York: Cambridge University Press (1992); paperback edition (1995).

(with Gordon Hawkins) *The Scale of Imprisonment*, Chicago: University of Chicago Press (1991); paperback edition (1993).

(with Gordon Hawkins) *Pornography in a Free Society*, New York: Cambridge University Press (1988); paperback edition (1991).

(with Michael Laurence and John Snortum, eds.) *Social Control of the Drinking Driver*, Chicago: University of Chicago Press (1988).

(with Gordon Hawkins) *The Citizen's Guide to Gun Control*, New York: Macmillan Publishing Company (1987); paperback edition (1992).

(with Gordon Hawkins) *Capital Punishment and the American Agenda*, New York: Cambridge University Press (1987); paperback edition (1989).

(with Mark Siegler, Steven Toulman, Kenneth Schaffner, eds.) *Medical Innovation and Bad Outcomes: Legal, Social, and Ethical Responses*, Ann Arbor, MI: Health Administration Press (1987).

(with Gordon Hawkins, ed.) *The Pursuit of Criminal Justice: Essays From the Chicago Center*, Chicago: University of Chicago Press (1984); Midway reprint edition (1986).

(with Michael Tonry, ed.) *Reform and Punishment: Essays on Criminal Sentencing*, Chicago: University of Chicago Press (1983).

*The Changing Legal World of Adolescence*, New York: The Free Press (1982); paperback edition (1985).

(with Richard Frase) *The Criminal Justice System: Materials on the Administration and Reform of the Criminal Law*, Boston: Little, Brown and Company (1980).

*Confronting Youth Crime: Report of the Twentieth Century Fund Task Force on Sentencing Policy Toward Young Offenders*, New York: Holmes and Meier (1978).

(with Gordon Hawkins) *Deterrence: The Legal Threat in Crime Control*, Chicago: University of Chicago Press (1973); Phoenix edition (1976).

*Perspectives on Deterrence*, Washington, D.C.: National Institute of Mental Health (1971).

(with George P. Newton) *Firearms and Violence in American Life*, Task Force Report to the National Commission on the Causes and Prevention of Violence, Washington, D.C.: U.S. Government Printing Office (1969).

#### SCHOLARLY ARTICLES

(with Sam Kamin) Facts, Fallacies, and California's Three Strikes, *Duquesne Law Review* 40:605 (2002).

(with Gordon Hawkins) Capital Punishment, in *Oxford Companion to American Law*, New York: Oxford University Press (2002).

The New Politics of Criminal Justice: Of "Three Strikes," Truth-in-Sentencing, and Megan's Laws, *National Institute of Justice Research Report, Perspectives on Crime and Justice: 1999-2000 Lecture Series, Washington, DC, Volume 4* (March 2001).

Crime, Criminal Justice, and Criminology for a Smaller Planet: Some Notes on the 21<sup>st</sup> Century (Noriyoshi Takemura, translator), *Toin Law Review* 8:75 (2001)

Crime, Criminal Justice, and Criminology for a Smaller Planet: Some Notes on the 21<sup>st</sup> Century, *The Australian and New Zealand Journal of Criminology* 34:213 (2001)

Imprisonment Rates and the New Politics of Criminal Punishment, *Punishment and Society* 3:161 (2001).

The Common Thread: Diversion in Juvenile Justice, *California Law Review* 88:2477 (2000); also as Chapter 5 in (with Margaret Rosenheim, David Tanenhaus, and Bernardine Dohrn, eds.) *A Century of Juvenile Justice*, Chicago: University of Chicago Press (2002).

(with Jeffrey Fagan) The Search for Causes in an Era of Declining Crime Rates: Some Lessons from the Study of New York City Homicide, *Crime and Delinquency* 46:446 (2000).

Incarceration Patterns, in *Mass Incarceration: Perspectives on U.S. Imprisonment*, University of Chicago Law School Roundtable, *A Journal of Interdisciplinary Legal Studies*, Volume 7 (2000).

Penal Proportionality and the Young Offender: Notes on Immaturity, Capacity, and Diminished Responsibility, in Thomas Grisso and Robert G. Schwartz, eds., *Youth on Trial*, Chicago: University of Chicago Press (2000).

The Punitive Necessity of Waiver, Chapter 6 in Fagan and Zimring, eds., *The Changing Borders of Juvenile Justice*, Chicago: University of Chicago Press (2000).

(with Jeffrey Fagan) Transfer Policy and Law Reform, Chapter 12 in Fagan and Zimring, eds., *The Changing Borders of Juvenile Justice*, Chicago: University of Chicago Press (2000).

American Youth Violence: Implications for National Juvenile Justice Policy, *Update on Law-Related Education* (American Bar Association publication) 23:6 (1999).

The Hardest of the Hard Cases: Adolescent Homicide in Juvenile and Criminal Courts, *Virginia Journal of Social Policy and the Law*, 6:437 (1999).

The 1990s Assault on Juvenile Justice: Notes from an Ideological Battleground, *Federal Sentencing Reporter* 11:260 (1999).

(with Jeffrey Fagan and June Kim) Declining Homicide in New York City: A Tale of Two Trends, *Journal of Criminal Law and Criminology* 88:1277 (1998); also (with Jeffrey Fagan) as Le Cause Della Diminuzione Dei Reati: Alcune Riflessioni Sull'Analisi Degli Omicidi a New York, in Marzio Barbagli, ed., *Perché È Diminuita La Criminalità Negli Stati Uniti?* Società Editrice Il Mulino (2000).

The Executioner's Dissonant Song: On Capital Punishment and American Legal Values, Chapter 6 in Austin Sarat, ed., *Killing State: Capital Punishment in Law, Politics, and Culture*,

Oxford University Press (1999); also in *Institute for Philosophy and Public Policy Report* 19:1 (1999).

(with Gordon Hawkins) Public Attitudes Toward Crime: Is American Violence A Crime Problem? in Edward Rubin, ed., *Minimizing Harm: A New Crime Policy for Modern America*, Westview Press (1999).

Toward a Jurisprudence of Youth Violence, in Michael Tonry and Mark Moore, eds., *Youth Violence. Crime and Justice: A Review of Research*, University of Chicago Press (1998).

The Youth Violence Epidemic: Myth or Reality?, *Wake Forest Law Review* 33:727 (1998).

(with Gordon Hawkins) Crime Is Not the Problem: A Reply, *University of Colorado Law Review* 69:1177 (1998).

(with Gordon Hawkins) Lethal Violence and the Overreach of American Imprisonment, *National Institute of Justice Research Report, Presentations from the 1996 Annual Research and Evaluation Conference, Washington, DC, July 1997*.

Juvenile Violence in Policy Context, *Valparaiso University Law Review* 31:419 (1997).

The Doom of a Good Intention, *Politics and the Life Sciences* 16:44 (1997).

(with Gordon Hawkins) Concealed Handguns: The Counterfeit Deterrent, *The Responsive Community*, Spring 1997, p. 46.

Kids, Guns, and Homicide: Policy Notes on an Age-Specific Epidemic, *Law and Contemporary Problems* 59:25 (1996).

Populism, Democratic Government, and the Decline of Expert Authority: Some Reflections on "Three Strikes" in California, *Pacific Law Journal* 28:243 (1996).

(with Gordon Hawkins) Is American Violence a Crime Problem?, *Duke Law Journal* 46:43 (1996); also in Edward Rubin, ed., *Minimizing Harm as a Goal for Crime Policy in California*, California Policy Seminar Policy Research Program Report (1997).

The Wages of Ambivalence: On the Context and Prospects of New York's Death Penalty, *Buffalo Law Review* 44:303 (1996).

(with Adolfo Ceretti and Luisa Broli) Crime Takes a Holiday in Milan, *Crime and Delinquency* 42:269 (1996).

The Genetics of Crime, *Politics and the Life Sciences* 15:105 (1996).

(with Gordon Hawkins) Toward a Principled Basis for Federal Criminal Legislation, *The Annals of the American Academy of Political and Social Science* 543:15 (1996).

Firearms Control in Federal Law in the United States: Current Conditions and Further Choices, *UNAFEI Resource Materials Series*, No. 46 (Materials Produced during the 96th International

Seminar Course on the "Promotion of International Cooperation in Criminal Justice Administration), p. 117 (1995).

Reflections on Firearms and the Criminal Law, *Journal of Criminal Law and Criminology* 86:1 (1995).

(with William Nelson) Cigarette Taxes as Cigarette Policy, *Tobacco Control* 4:S25 (1995).

(with Gordon Hawkins and Hank Ibsen) Estimating the Effects of Increased Incarceration on Crime in California, *California Policy Seminar Brief*, Volume 7, July 1995.

(with Johannes van Vuren and Jan van Rooyen) Selectivity and Racial Bias in a Mandatory Death Sentence Dispensation: A South African Case Study, *Comparative and International Law Journal of Southern Africa* 28:107 (1995); Misleading Statistics and the Death Penalty -- Two Authors Reply to Henry Lever, *Comparative and International Law Journal of Southern Africa* 30:364 (1997).

(with Gordon Hawkins) The Growth of Imprisonment in California, *British Journal of Criminology* 34:83 (1994).

Policy Research on Firearms and Violence, *Health Affairs* 12:109 (1993).

(with Gordon Hawkins) Crime, Justice, and the Savings and Loan Crisis, *Crime and Justice* 18:247 (1993).

(with Gordon Hawkins) Continuity and Focus in Criminal Justice Research, *Journal of Research in Crime and Delinquency* 20:525 (1993).

Comparing Cigarette Policy and Illicit Drug and Alcohol Control, in Robert Rabin and Stephen Sugarman, eds., *Smoking Policy: Law, Politics, and Culture*, Oxford University Press (1993).

On the Liberating Virtues of Irrelevance, *Law and Society Review* 27:9 (1993).

Drug Treatment as a Criminal Sanction, *University of Colorado Law Review* 64:809 (1993).

Prison Population and Criminal Justice Policy in California, *California Policy Seminar Brief*, Volume 4, August 1992.

Inheriting the Wind: The Supreme Court and Capital Punishment in the 1990s, *Florida State University Law Review* 20:1 (1992).

The Jurisprudence of Teenage Pregnancy, in Margaret Rosenheim and Mark Testa, eds., *Early Parenthood and Coming of Age in the 1990s*, Rutgers University Press (1992).

The Multiple Middlegrounds Between Civil and Criminal Law, *Yale Law Journal* 101:1901 (1992).

(with Gordon Hawkins) What Kind of Drug War?, *Social Justice* 18:104 (1991).

Firearms, Violence, and Public Policy, *Scientific American*, November 1991, p. 48; also in Robert K. Miller, ed., *The Informed Argument*, Harcourt Brace (1995); K. Ackley, ed., *Perspective on Contemporary Issues*, Harcourt Brace (1996).

Ambivalence in State Capital Punishment Policy: An Empirical Sounding, *New York University Review of Law and Social Change* 18:729 (1991).

(with Gordon Hawkins) The Wrong Question: Critical Notes on the Decriminalization Debate, in Melvyn Krauss and Edward Lazear, eds., *Search for Alternatives: Drug-Control Policy in the United States*, Hoover Institution Press (1991).

The Limits of Criminal Punishment: Some Ethical Issues for the 1990s, in David Gordis, ed., *Crime, Punishment, and Deterrence: An American-Jewish Exploration*, University of Judaism (1991).

The Treatment of Hard Cases in American Juvenile Justice: In Defense of Discretionary Waiver, *Notre Dame Journal of Law, Ethics and Public Policy* 5:267 (1991).

Punishing the Drinking Driver: Toward an Experimental Design, *Alcohol, Drugs, and Driving* 6:199 (1990).

(with Gordon Hawkins) On the Scale of Imprisonment: Downes's Contrasts in Tolerance, *Journal of the American Bar Foundation* 14:527 (1989).

The Problem of Assault Firearms, *Crime and Delinquency* 35:538 (1989).

Methods for Measuring General Deterrence: A Plea for the Field Experiment, in Martin Friedland, ed., *Sanctions and Rewards in the Legal System*, University of Toronto Press (1989).

(with Gordon Hawkins) The Path Toward the Abolition of Capital Punishment in the Industrial West, *Revue Internationale de Droit Penal* 58:669 (1988).

(with Gordon Hawkins) The New Mathematics of Imprisonment, *Crime and Delinquency* 34:425 (1988); Response to Zedlewski, *Crime and Delinquency* 35:316 (1989).

(with Gordon Hawkins) Murder, the Model Code, and the Multiple Agendas of Reform, *Rutgers Law Journal* 19:733 (1988).

Law, Society, and the Drinking Driver: Some Concluding Reflections, in Michael Laurence, John Snortum, and Franklin Zimring, eds., *Social Control of the Drinking Driver*, University of Chicago Press (1988).

Principles of Criminal Sentencing, Plain and Fancy, *Northwestern University Law Review* 82:73 (1987).

Legal Perspectives on Family Violence, *California Law Review* 75:521 (1987); also as Toward a Jurisprudence of Family Violence, in Lloyd Ohlin and Michael Tonry, eds., *Family Violence*, University of Chicago Press (1989).

(with Gordon Hawkins) Dangerousness and Criminal Justice, *Michigan Law Review* 85:481 (1987).

Some Social Bases for Compensation Schemes, in Mark Siegler, Steven Toulman, Franklin Zimring, and Kenneth Schaffner, eds., *Medical Innovation and Bad Outcomes: Legal, Social, and Ethical Responses*, Health Administration Press (1987).

(with Gordon Hawkins) A Punishment in Search of a Crime: Standards for Capital Punishment in the Law of Criminal Homicide, *Maryland Law Review* 46:1001 (1986).

Gun Control, *Bulletin of New York Academy of Medicine* 62:5 (1986).

(with James Zuehl) Victim Injury and Death in Urban Robbery: A Chicago Study, *Journal of Legal Studies* 15:1 (1986).

(with Gordon Hawkins) Cycles of Reform in Youth Corrections: The Story of Borstal, in Peter Greenwood, ed., *The Juvenile Rehabilitation Reader*, Rand Corporation (1985).

(with Gordon Hawkins) Western European Perspectives on the Treatment of Young Offenders, in Peter Greenwood, ed., *The Juvenile Rehabilitation Reader*, Rand Corporation (1985).

(with Gordon Hawkins) Capital Punishment and the Eighth Amendment: Furman and Gregg in Retrospect, *UC Davis Law Review* 18:927 (1985).

Violence and Firearms Policy, in Lynn Curtis, ed., *American Violence and Public Policy*, Yale University Press (1985).

(with Rayman Solomon) The Principle of the Thing: Goss v. Lopez, Student Rights, and Litigation in the Public Interest of Children, in Robert Mnookin, ed., *In the Interest of Children: Advocacy, Law Reform, and Public Policy*, Part VI, W.H. Freeman (1985).

Youth Homicide in New York: A Preliminary Analysis, *Journal of Legal Studies* 13:81 (1984).

Sentencing Reform in the States, in Franklin Zimring and Michael Tonry, eds., *Reform and Punishment: Essays on Criminal Sentencing*, University of Chicago Press (1983).

(with Satyanshu K. Mukherjee and Barrik Van Winkle) Intimate Violence: A Study of Intersexual Homicide in Chicago, *University of Chicago Law Review* 50:910 (1983).

Kids, Groups, and Crime: Some Implications of a Well-Known Secret, *Journal of Criminal Law and Criminology* 72:867 (1981).

Handguns in the Twenty-First Century: Alternative Policy Futures, *The Annals of the American Academy of Political and Social Sciences* 455:1 (1981).

Secret Service "Dangerousness" Research, in Jane Takeuchi, Frederic Solomon, and W. Walter Menniger, eds., *Behavioral Science and the Secret Service: Toward the Prevention of Assassination*, National Academic Press (1981).

Notes Toward a Jurisprudence of Waiver, in John Hall, Donna Hamparian, John Pettibone, and Joseph White, eds., *Issues in Juvenile Justice Information and Training*, Academy of Contemporary Problems (1981).

Privilege, Maturity, and Responsibility: Notes on the Emerging Jurisprudence of Adolescence, in Lamar Empey, ed., *The Future of Childhood and Juvenile Justice*, University Press of Virginia (1980).

American Youth Violence: Issues and Trends, in Norval Morris and Michael Tonry, eds., *Crime and Justice: A Review of Research*, University of Chicago Press (1979).

(with Gordon Hawkins) Ideology and Euphoria in Crime Control, *Toledo Law Review* 10:370 (1979).

Pursuing Juvenile Justice: Comments on Some Recent Reform Proposals, *University of Detroit Journal of Urban Law* 55:631 (1978).

Policy Experiments in General Deterrence, 1970-1975, in Alfred Blumstein, Jacqueline Cohen, and Daniel Nagin, eds., *Deterrence and Incapacitation: Estimating the Effects of Criminal Sanctions on Crime Rates*, National Academy of Science (1978).

Bad Checks in Nebraska: A Study of Complex Threats, in Greenburg, ed., *Punishment and Corrections*, Sage Publications (1977).

The Serious Juvenile Offender: Notes on an Unknown Quantity, in *The Serious Juvenile Offender: Proceedings of a National Symposium Held in Minneapolis, Minnesota on September 19 and 20, 1977*, U.S. Government Printing Office (1978).

Determinants of the Death Rate from Robbery: A Detroit Time Study, *Journal of Legal Studies* 6:317 (1977).

Making the Punishment Fit the Crime: A Consumer's Guide to Sentencing Reform, *Hastings Center Reports*, December 1976; also in University of Chicago Law School, *Occasional Papers*, No. 12 (1977); Hyman Gross and Andrew von Hirsch, eds., *Sentencing*, Oxford University Press (1981); Culbertson and Tezak, eds., *Order Under Law*, Waveland Press (1981).

(with Joel Eigen and Sheila O'Malley) Punishing Homicide in Philadelphia: Perspectives on the Death Penalty, *University of Chicago Law Review* 43:227 (1976); also in Hugo Bedau and Chester Pierce, eds., *Capital Punishment in the United States*, AMS Press (1976); *Civil Rights*, Staff Report of the Sub-Committee on Constitutional Rights of the Committee on the Judiciary, U.S. Senate (1976).

Street Crime and New Guns: Some Implications for Firearms Control, *Journal of Criminal Justice* 4:95 (1976).

Field Experiments in General Deterrence: Preferring the Tortoise to the Hare, *Evaluation Magazine*, Volume 3, Russell Sage Publications (1976).

Firearms and Federal Law: The Gun Control Act of 1968, *Journal of Legal Studies* 4:133 (1975); also in *Evaluation Annual*, Volume 1, Russell Sage Publications (1977); *Improving the Criminal Justice System in the United States*, 94th Congress, 2d Session, Library of Congress Document No. 94-171, at 273.

Measuring the Impact of Pretrial Diversion from the Criminal Justice System, *University of Chicago Law Review* 41:224 (1974); also in *Crime and Justice Annual -- 1974*, Aldine (1975); Povl Boesen and Stanley Grupp, eds., *Community Based Corrections: Theory, Practice and Research*, Davis Publishing Company (1976).

Threat of Punishment as an Instrument of Crime Control, *Proceedings of the American Philosophical Society* 118:231 (1974).

(with Richard Block) Homicide in Chicago, 1965-70, *Journal of Research in Crime and Delinquency* 10:1 (1973); also in Lee Rainwater, ed., *Deviance and Liberty*, Aldine (1974).

Of Doctors, Deterrence, and the Dark Figure of Crime: A Note on Abortion in Hawaii, *University of Chicago Law Review* 39:699 (1972).

The Medium is the Message: Firearms Caliber as a Determinant of the Death Rate from Assault, *Journal of Legal Studies* 1:97 (1972).

(with Gordon Hawkins) The Legal Threat as an Instrument of Social Change, *Journal of Social Issues* 27:33 (1971); also in Ronald Akers and Richard Hawkins, eds., *Law and Control in Society*, Prentice-Hall (1974); June Louin Tapp and Felice Levine, eds., *Law, Justice, and the Individual in Society*, Holt, Rinehart (1977).

Firearms and Federal Criminal Law, *Working Papers of the National Commission on the Reform of Federal Criminal Laws*, Volume II, U.S. Government Printing Office (1970).

(with Norval Morris) Deterrence and Corrections, *Annals of the American Academy of Political Social Sciences* (1969).

(with Gordon Hawkins) Deterrence and Marginal Groups, *Journal of Research in Crime and Delinquency* 5:100 (1968).

Games with Guns and Statistics, *Wisconsin Law Review* 1968:1113 (1968).

Is Gun Control Likely to Reduce Violent Killings?, *University of Chicago Law Review* 35:721 (1968).

(with Edward H. Hunvald) Missouri Implied Consent Statutes, *Missouri Law Review* 33:323 (1968).

"Free Press-Fair Trial" Revisited: Defendant-Centered Remedies as a Publicity Policy, *University of Chicago Law Review* 33:512 (1966).

**GENERAL**

Train an Impartial Eye on Police Behavior, *Los Angeles Times*, July 12, 2002, p. A17.

(with Gordon Hawkins) The Ethics of Criminal Justice: Aspects of Human Dignity, *International Encyclopedia of the Social and Behavioral Sciences*, Volume 5, p. 2949 (2002).

Review of David Garland, *The Culture of Control: Crime and Social Order in Contemporary Society*, *Criminal Justice* 1:465 (2001).

McVeigh's Execution Will Heal Neither Survivors Nor Public, *Los Angeles Times*, May 11, 2001, p. B17.

The Walking Plea of Wen Ho Lee, *San Francisco Chronicle*, October 2, 2000, p. A21

Contributor to M. Dwayne Smith, *A New Era of Homicide Studies? Visions of a Research Agenda for the Next Decade*, *Homicide Studies* 4:1 (2000).

It's Violence by All, Not Just Teen Violence, *Los Angeles Times*, August 8, 2000, p. B9.

Bring Courage Back into Fashion, *Los Angeles Times*, January 16, 2000, p. M5.

Capital Punishment, *Microsoft's Encarta Encyclopedia* (CD-ROM) (1999).

Gun Control, *Microsoft's Encarta Encyclopedia* (CD-ROM) (1999).

Criminal Investigation Is Just a Human Art, *Los Angeles Times*, August 1, 1999, p. M5.

Curb Imperial Power of Prosecutors, *Los Angeles Times*, April 20, 1999, p. A15.

Mystery Terms, *Boston Review*, New Democracy Forum, April/May 1999, p. 17.

Marking Time on Death Row, *The 1999 World Book Year Book*, World Book, Inc. (1999).

What is the Aim of Criminal Law? *Los Angeles Times*, January 14, 1999, p. A15.

The Buck Stops with Prison Managers: Perspective on the Corcoran Report, *Los Angeles Times*, November 28, 1998, p. M5.

(with Gordon Hawkins) Review of Jacob Sullum, *For Your Own Good: The Anti-Smoking Crusade and the Tyranny of Public Health*, *The Responsive Community* 8:75 (1998).

A Gulag Mentality in the Prisons, *Los Angeles Times*, July 15, 1998, p. B9.

Thank You for Not Sneezing, *Los Angeles Times*, February 1, 1998, p. M5.

The Truth About Repeat Sex Offenders, *Los Angeles Times*, May 5, 1997, p. B5.

Review of Ugljesa Zvekic and Anna Alvazzi del Frate, eds., *Criminal Victimization in the Developing World*, *Contemporary Sociology* 25:663 (1996).

Paranoia on the Playground, *Los Angeles Times*, November 11, 1996, p. B5.

Crying Wolf over Teen Demons, *Los Angeles Times*, August 19, 1996, p. B5.

Gun Control, *Microsoft's Encarta Encyclopedia* (CD-ROM) (1996).

Crime Is Not the Problem, *Iowa Advocate*, Spring/Summer 1996, p. 34.

Deadly Force: South Africa's Brave and Necessary Gamble with Its Death Penalty, *Chicago Tribune*, July 6, 1995, p. 19.

Will Success Spoil James Q. Wilson?, *Journal of Criminal Law and Criminology* 85:828 (1995).

Introduction to David Indermaur, *Violent Property Crime*, The Federation Press (1995).

For Gun Control, Give Big Cities Local Control, *Los Angeles Times*, May 17, 1995, p. B7.

Death Penalty, *jungeWelt*, April 1, 1995, p. 2.

Don't Bet on Executions Here Any Time Soon, *Newsday*, February 21, 1995, p. A27; also as Executions in New York? Don't Bet on It, *New York Law Journal*, February 27, 1995.

Clouding the Issue: Tobacco Industry Tries to Choke Off a Lawsuit, *Los Angeles Daily Journal*, December 12, 1994, p. 4.

The Voodoo Economics of California Crime, *Overcrowded Times*, October 1994, p. 3.  
(with Gordon Hawkins) Policy on Crime, in Leonard Levy and Louis Fisher, eds., *Encyclopedia of the American Presidency*, Simon and Schuster (1994).

Tough Crime Laws Are False Promises, *Insight on the News* 10:21 (1994); also in *Federal Sentencing Reporter* 6:61 (1994).

"Three Strikes" Law Is Political Fool's Gold, *The Christian Science Monitor*, April 11, 1994, p. 23.

New Senate, Same Old Crime Debate, *The American Lawyer*, March 1994, p. 25.

To Punish Genocide with Death Is Overkill, *Los Angeles Times*, December 2, 1993, p. B7.

Introduction to Harry Kalven, Jr. and Hans Zeisel, *The American Jury*, Gryphon Editions (1993).

A Country Where There Is No Status Quo, *Los Angeles Times*, June 30, 1993, p. B7.

Hanged If We Do, Or We Don't, *Johannesburg Star*, April 5, 1993.

The Color of Murder, *Legal Times*, February 22, 1993, p. 34.

Intercept Migrating Guns, *Christian Science Monitor*, September 10, 1992, p. 18.

Are State Prisons Undercrowded?, *Federal Sentencing Reporter* 4:347 (1992).

Politics Dictate Wilson's Verdict, *Los Angeles Times*, April 12, 1992, p. M5.

Tribute to Sheldon Messinger, *California Law Review* 80:307 (1992).

(with Gordon Hawkins) Review of Samuel Gross and Robert Mauro, *Death and Discrimination: Racial Disparities in Capital Sentencing*, *Constitutional Commentary* 9:135 (1992).

(with Gordon Hawkins) Why the S&L Gang Isn't in Jail, *Los Angeles Times*, February 3, 1992, p. B5.

(with Michael Laurence) Capital Punishment, in Leonard Levy, ed., Supplement to the *Encyclopedia of the American Constitution*, Macmillan (1991).

More Jail Cells, Fewer Classrooms, *Los Angeles Times*, May 31, 1991, p. B5.

The Speaking Engagement as One-Night Stand, *California Monthly*, April 1991, p. 17.

The Great American Lockup, *Washington Post*, February 28, 1991, p. A19.

Strategies for Arms Control: Trace Illegal Firearms, *New York Times*, January 4, 1991, p. A13.

Foreword to Stephen Sugarman and Herma Hill Kay, eds., *Divorce Reform at the Crossroads*, Yale University Press (1990).

Greenmail Goes Transnational, *Los Angeles Times*, March 23, 1990, p. B7; also as Can East Germany Leverage Its Way to Wealth?, *Newsday*, April 9, 1990, p. 43.

A Solitary Symbol in a Deadly Tug of War, *Los Angeles Times*, January 29, 1990, p. B5.

Review of Donald Downs, *The New Politics of Pornography*, *New York Times Book Review*, January 28, 1990, p. 18.

(with Gordon Hawkins) Bennett's Sham Epidemic, *New York Times*, January 25, 1990, p. A23.

Hardly the Trial of the Century, *Michigan Law Review* 87:1307 (1989).

Foreword to James Jacobs, *Drunk Driving: An American Dilemma*, University of Chicago Press (1989).

Review of Jack Katz, *Seductions of Crime*, *New York Times Book Review*, November 20, 1988, p. 50.

Drug Death Penalty: A Federal Tantrum, *New York Times*, September 16, 1988, p. 19; also as A Temper Tantrum Masquerading as an Act of Government, *Los Angeles Daily Journal*, September 20, 1988.

Pint-Sized Debate on Child Executions: More Jurisprudence from the Briar Patch, *Legal Times*, July 18, 1988, p. 14; also as Can the Bad Die Young?, *The Connecticut Law Tribune*, July 18, 1988, p. 10; Justices Waffle on Death Penalty, *Fulton County Daily Report*, July 19, 1988, p. 2; Decision on Executing Youths Highlights Death Penalty Dilemma, *Manhattan Lawyer*, July 19, 1988, p. 12; The Court's Death Sentence Schizophrenia, *The Texas Lawyer*, July 25, 1988, p. 29; A Stumble at the Finish Line, *The Recorder*, July 28, 1988, p. 4.

If We Have Reached a Landmark in Our Execution Policy, It Is Still One of Confusion, *Los Angeles Times*, March 18, 1988, Part II, p. 7.

NRA's Latest Advice Can Get You Killed, *Los Angeles Times*, December 6, 1987, Part V, p. 5.

Review of James Wright and Peter Rossi, *Armed and Considered Dangerous: A Survey of Felons and Their Firearms*, *American Journal of Sociology* 93:224 (1987).

Why the Goetz Verdict Was Not a Landmark Precedent, *New York Times*, June 21, 1987, p. 25.

Is Court Too Split To Sanction Death?, *Los Angeles Times*, April 27, 1987, Part II, p. 5.

A Frequent Flier Explains the Thrill, *New York Times*, April 20, 1987, p. 19; also as Rewarding the Pinball for Its Tos and Fros, *International Herald Tribune*, April 23, 1987, p. 5; Confessions of a Frequent Flier, *Chemtech*, June 1988, p. 386.

Hot Boxes for Ex-Smokers, *Newsweek*, My Turn, April 20, 1987, p. 12.

Beyond Solomon: The "Tragic Choice" Cases, *Los Angeles Times*, March 16, 1987, Part II, p. 5.

EF Hutton Goes South, *Michigan Law Review* 85:397 (1987).

Is Retribution Only for a Few?, *Los Angeles Times*, December 4, 1986, Part II, p. 7.

Facing the Threat of a Crippled UC, *Los Angeles Times*, September 3, 1986, Part II, p. 5.

The Death Penalty: Ten Dark Years, *New York Times*, June 19, 1986, p. 27.

Gun Lobby's Victory Can Help Handgun Control, *Los Angeles Times*, April 28, 1986, Part II, p. 5.

Justice Teeters on the Fine Points, *Los Angeles Times*, January 29, 1986, Part II, p. 5.

Review of Henry Pontell, *A Capacity to Punish*, *American Journal of Sociology* 91:724 (1985).

Two New Books on Guns, *Michigan Law Review* 83:954 (1985).

Lessons for the Urban Jungle, *Los Angeles Times*, March 15, 1985, Part II, p. 5.

Smoking and Public Policy, *Chicago Tribune*, Perspective Section, January 18, 1985, p. 27.

Research Agendas, Information Policies and Program Outcomes, in Alan Westin, ed., *Information Policy and Crime Control Strategies: Proceedings of a Bureau of Justice Statistics/Search Conference*, U.S. Government Printing Office (1984).

Is Crime Going Out of Style?, *Los Angeles Times*, July 12, 1984; also as Is American Crime Up or Down?, *Newsday*, August 30, 1984, p. 89.

The Dan White Case: Justice Is a Victim, *Los Angeles Times*, January 6, 1984, Part II, p. 5.

The Death Penalty's Iron Law, *New York Times*, October 12, 1983, p. 27; also in *Los Angeles Times*, September 21, 1983, Part II, p. 7.

Where Do the New Scholars Learn New Scholarship?, *Journal of Legal Education* 33:453 (1983).

(with Gordon Hawkins) Crime Commissions, in Sanford Kadish, ed., *Encyclopedia of Crime and Justice*, Volume 1, The Free Press, Macmillan (1983).

(with James Lindgren) Regulation of Guns, in Sanford Kadish, ed., *Encyclopedia of Crime and Justice*, Volume 2, The Free Press, Macmillan (1983).

Foreword to John Kaplan, *The Hardest Drug: Heroin and Social Policy*, University of Chicago Press (1983).

Review of Arnold Trebach, *The Heroin Solution*, and John Kaplan, *The Hardest Drug: Heroin and Social Policy*, *The Times Literary Supplement*, June 10, 1983, p. 610.

Choosing the Right Camp for the Children, *Institutions Etc.* 6:21 (1983).

Idealizing the "Angels" on Death Row, *Los Angeles Times*, February 24, 1983, Part II, p. 7.

Uncle Sam's Wars on Crime, *The New Republic* 186:38 (1982).

Poland's "Real" Problem, *Chicago Tribune*, September 28, 1982, Perspective Section, p. 25.

Will the 21st Century Be Safer?, *Chicago Tribune*, April 13, 1982, Section 1, p. 22.

Crime: The 120-Day Solution, *Chicago Tribune*, September 28, 1981, Perspective Section, p. 25.

Review of Peter Prescott, *The Child Savers: Juvenile Justice Observed*, *New York Times Book Review*, June 14, 1981, p. 24.

(with Gordon Hawkins) Review of Walter Berns, *For Capital Punishment: Crime and the Morality of the Death Penalty*, *American Journal of Sociology* 86:1171 (1981).

Portnoy's Real Complaint, *Moment* 6:58 (1980).

Taking a Tour of America's Prisons, *Chicago Tribune*, September 14, 1980, Perspective Section, p. 4.

Foreword to Philip Cook and Daniel Nagin, *Does the Weapon Matter?*, Institute for Law and Social Research (1979).

Comment, Current Developments in Judicial Administration, *Federal Rules Decisions* 80:147 (1979).

Crime in the Streets, *Chicago Sun Times Bookweek*, November 27, 1978, p. 14.

Review of The Institute of Judicial Administration and the American Bar Association, *Juvenile Justice Standards Project*, *Harvard Law Review* 91:1934 (1978).

Review of Charles Silberman, *Criminal Justice, Criminal Violence*, *Chicago Tribune*, November 5, 1978, Section 7, p. 1.

Review of John Allen, *Crime in the Streets: Assault with a Deadly Weapon*, *Chicago Sun Times*, November 27, 1977.

Foreword to Richard Block, *Violent Crime: Environment, Interaction, and Death*, Heath, Lexington (1977).

Comment, *Hastings Center Report*, p. 44 (1977).

Review of Mark Lane and Dick Gregory, *Code Name Zorro*, *Chicago Sun Times*, May 1, 1977.

Illegally Seized Evidence: Exclude It?, *Los Angeles Times*, April 20, 1976.

Review of Pretrial Intervention, in Abt Associates, *Pretrial Services: An Evaluation of Policy Related Research*, p. 152 (1975).

A Tale of Two Cities, *Wall Street Journal*, December 20, 1974, p. 12; also in *Hearings of Senate Subcommittee to Investigate Juvenile Delinquency, Oversight of 1968 Gun Control Act*, Volume 1, p. 11 (1975).

Eight Myths About Gun Control in the United States, *Christian Science Monitor*, July 24, 1972.

Getting Serious About Guns, *The Nation* 214:457 (1972).

Some Facts About Homicide, *The Nation* 214:303 (1972).

Firearms Control: Hard Choices, *Trial*, p. 53 (1972).

**REPORTS TO GOVERNMENTAL AGENCIES**

(with Peter W. Greenwood) *One More Chance: The Pursuit of Promising Intervention Strategies for Chronic Juvenile Offenders*, Rand Corporation (1985).

(with Peter W. Greenwood and Allan Abrahamse) *Factors Affecting Sentence Severity for Young Adult Offenders*, Rand Corporation (1984).

(with Peter W. Greenwood and Marvin Lavin) *The Transition From Juvenile to Adult Court*, Rand Corporation (1984).

(with Peter W. Greenwood, Albert J. Lipson, and Allan Abrahamse) *Youth Crime and Juvenile Justice: A Report to the California Legislature*, Rand Corporation (1983).

(with Peter W. Greenwood and Joan Petersilia) *Age, Crime, and Sanctions: The Transition From Juvenile To Criminal Court*, Rand Corporation (1980).

*Dealing with Youth Crime: National Needs and Federal Priorities*, a policy paper prepared for the Federal Coordinating Council on Juvenile Justice and Delinquency Prevention (1975) (mimeo).

*The Court Employment Project: A Report to the City of New York* (1974) (mimeo).

**EXHIBIT 29**

HEARINGS  
BEFORE THE  
SUBCOMMITTEE ON CRIME  
OF THE  
COMMITTEE ON THE JUDICIARY  
HOUSE OF REPRESENTATIVES  
NINETY-FOURTH CONGRESS  
FIRST SESSION  
ON  
FIREARMS LEGISLATION

These hearings are in 8 parts. Part 1 (Washington) February 18, 20, 27, March 5, 6, 13, 20, 26, and April 9; Part 2 (Chicago) April 14 and 15; Part 3 (Detroit) June 9 and 10; Part 4 (Cleveland) June 16; Part 5 (Denver) June 23; Part 6 (Atlanta) July 21; Part 7 (New York) July 25; Part 8 (Washington) May 14, July 17, 23, 24, and September.

Serial No. 11

Part 1



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Exhibit 29

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(II)

CONTENTS

	Page
Hearings held on—	
February 18, 1975	1
February 20, 1975	45
February 27, 1975	89
March 5, 1975	129
March 6, 1975	171
March 13, 1975	203
March 20, 1975	249
March 26, 1975	289
April 9, 1975	349
Opening statement of Hon. John Conyers, Jr., chairman, Subcommittee on Crime	2
Witnesses—	
Bingham, Hon. Jonathan B., a Representative in Congress from the State of New York	56
Prepared statement	58
Collins, Hon. James M., a Representative in Congress from the State of Texas	77
Prepared statement	78
Corbin, John F., Jr., assistant director, Bureau of Alcohol, Tobacco, and Firearms, Department of the Treasury	253, 349
Davis, Rex D., Director, Bureau of Alcohol, Tobacco, and Firearms, Department of the Treasury	253, 280, 349
Prepared statement	250
Dessler, Marvin J., Chief Counsel Designate, Bureau of Alcohol, Tobacco, and Firearms, Department of the Treasury	253, 349
Drinan, Hon. Robert F., a Representative in Congress from the State of Massachusetts	79
Prepared statement	79
Eaves, A. Reginald, commissioner of public safety, Atlanta, Ga.	174
Prepared statement	171
Fauntroy, Hon. Walter E., a Representative in Congress from the District of Columbia	20
Prepared statement	21
Gude, Hon. Gilbert, a Representative in Congress from the State of Maryland	36
Prepared statement	40
Hansen, George, a Representative in Congress from the State of Idaho	89
Prepared statement	127
Higgins, Stephen E., assistant director, Bureau of Alcohol, Tobacco, and Firearms, Department of the Treasury	253
Jensen, John R., chief of police, Minneapolis, Minn.	187
Prepared statement	199
McClory, Robert, a Representative in Congress from the State of Illinois	114
McClure, Hon. James A., a U.S. Senator from the State of Idaho	89
Prepared statement	120
Metcalfe, Hon. Ralph, a Representative in Congress from the State of Illinois	45
Prepared statement	54
Mikva, Hon. Abner J., a Representative in Congress from the State of Illinois	7
Prepared statement	9

(III)

Witnesses—Continued	Page
Pasternack, Dr. Stefan A., Georgetown University School of Medicine.	203
Peterson, Atley, assistant director, Bureau of Alcohol, Tobacco, and Firearms, Department of the Treasury	253
Quillen, Hon. James H., a Representative in Congress from the State of Tennessee	401
Prepared statement	86
Rochford, James M., superintendent of police, Chicago, Ill.	130
Rodino, Hon. Peter W., Jr., a Representative in Congress from the State of New Jersey, chairman, House Committee on the Judiciary.	145
Sikes, Robert L. F., a Representative in Congress from the State of Florida	60
Prepared statement	75
Symms, Hon. Steven D., a Representative in Congress from the State of Idaho	89
Prepared statements	108, 124
Thompson, William R., Deputy Director, Bureau of Alcohol, Tobacco, and Firearms, Department of the Treasury	349
Westenberger, Paul, Chief, Firearms Technical Branch, Bureau of Alcohol, Tobacco, and Firearms, Department of the Treasury	253
Williams, Hubert, police director, Newark, N.J.	145
Young, Hon. John, a Representative in Congress from the State of Texas	83
Additional material—	
"18 Guns, Two Men All Held," Times Herald, Vallejo, January 24, 1975.	331
"Feds Fan Out in Gun Raid," Philadelphia Daily News, December 11, 1974	335
Harrington, Hon. Michael J., letter dated July 19, 1974, to Rex D. Davis, Director, Bureau of Alcohol, Tobacco, and Firearms, Department of the Treasury	345
"On Gun Law Violations—Day Begins 5-Year Sentence," Morehead News, June 7, 1973	333
<i>Perez v. United States</i> , 402 U.S. 146 (1971)	114
"Raiders Seize 13 in Illegal Gun-Buying," Philadelphia Inquirer, December 12, 1974	334
"Six Are Arrested in Arms Cache," Atlanta Constitution, February 18, 1975	333
"Three Arrested as 200 Guns Are Seized," Baltimore Sun, November 13, 1974	332
"U.S. Agents Seize 2 Men in Attempt to Sell Weapons," Buffalo Courier Express, March 6, 1975	330
"Weapon Ring Is Smashed—Handguns Made From Stolen Parts," Tucson Daily Star, November 23, 1974	332
Additional statements—	
American Jewish Congress, statement on Federal Gun Control Legislation	432
Annunzio, Hon. Frank, a Representative in Congress from the State of Illinois	395
Bingham, Hon. Jonathan B., a Representative from the State of New York, supplemental comments	443
Broyhill, Hon. James T., a Representative from the State of North Carolina	405
Cleveland, Hon. James C., a Representative in Congress from the State of New Hampshire	397
Dellums, Hon. Ronald V., a Representative in Congress from the State of California	41
Dickinson, Hon. William L., a Representative in Congress from the State of Alabama	397
Dingell, Hon. John D., a Representative in Congress from the State of Michigan	406
Fellers, James D., American Bar Association, letter dated June 2, 1975, to Hon. John Conyers	423
Fish, Hon. Hamilton, Jr., a Representative in Congress from the State of New York	413
Fuqua, Hon. Don, a Representative in Congress from the State of Florida	413

Additional statements—Continued	Page
Gordon, Robert D., International Conference of Police Associations	438
Hammerschmidt, Hon. John Paul, a Representative in Congress from the State of Arkansas	414
Holt, Marjorie S., a Representative in Congress from the State of Maryland	398
Johnson, Hon. Albert W., a Representative in Congress from the State of Pennsylvania	416
Lagomarsino, Hon. Robert J., a Representative in Congress from the State of California	86
McKinney, Hon. Stewart B., a Representative in Congress from the State of Connecticut	411
Murtha, Hon. John P., a Representative in Congress from the State of Pennsylvania	443
Patman, Hon. Wright, a Representative in Congress from the State of Texas	400
Rangel, Hon. Charles B., a Representative in Congress from the State of New York	421
Rostenkowski, Hon. Dan, a Representative in Congress from the State of Illinois	422
Roybal, Hon. Edward R., a Representative in Congress from the State of California	420
Stevenson, Hon. Adlai E., a U.S. Senator from the State of Illinois	402
Ward, Dr. A. Dudley, United Methodist Church	439
Waxman, Hon. Henry A., a Representative in Congress from the State of California	404
Zunkel, C. Wayne, Church of the Brethren	435

legitimately, against the interests of society at this time to try to do something about the criminal problem, particularly in urban areas.

Let me just ask another question, moving away from registration, which I view in a little different category. I don't think that registration necessarily is a significant preventive, but just an aid or a tool.

Let me ask you if, in fact, there was a ban on the exporting, manufacture, and transportation of guns at this point, in the future, would that be a significant contribution?

Mr. ROCHFORD. I think it would be; yes.

Mr. HUGHES. Because what is happening is that with every 50 handguns that you pick up during a day, there are 50 more back on the market.

Mr. ROCHFORD. Maybe 60.

Mr. HUGHES. Yes, and more often than not, they are found in the hands of people who should not have them, but that would be a significant contribution in your judgment?

Mr. ROCHFORD. I feel that it would be.

Mr. HUGHES. Thank you.

Mr. CONYERS. Do you have any final observations, Superintendent? We don't mean to crowd you in any unfriendly fashion at all, but there is a mandate upon the Congress to act in the face of the senseless slaughter that you have reported here. We know this happens in every city in the country, and we appreciate the testimony that you have given today from the highest ranking police officer of the city of Chicago.

Do you have any other—

Mr. DANIELSON. Mr. Chairman, may I add this?

Mr. CONYERS. Yes.

Mr. DANIELSON. Mr. Chairman, may I ask the gentleman two very short questions? I mean questions susceptible to a short answer?

Mr. CONYERS. Please.

Mr. DANIELSON. The first is, we have a Federal law and have had it now for about 15 or 20 years requiring bookmakers—well, making it a Federal offense to make book unless the bookmaker first buys a tax stamp. Has that been of any help in controlling bookmaking in the area under your jurisdiction?

Mr. ROCHFORD. Yes, the Federal tax stamp has had a great impact on reducing the amount of gambling and bookmaking that has occurred. I think it has greatly reduced it because of the Federal law.

Mr. DANIELSON. In other words, that is valid?

Mr. ROCHFORD. Of course, they are still betting and gambling is going on—

Mr. DANIELSON. Well, there will always be some, but you feel it is a valuable tool?

Mr. ROCHFORD. Yes.

Mr. DANIELSON. You also expressed your opinion that loss of life, that killing, was the main objection—well, at least this was the main thrust of your testimony—is the main objection to handguns. In other words, it is the main danger of handguns, correct?

Mr. ROCHFORD. That is correct.

Mr. DANIELSON. How about the use of handguns in committing other crimes, such as robbery; are they not the most commonly used instrument in a robbery?

Mr. ROCHFORD. That is my testimony; yes, 95 percent.

Mr. DANIELSON. And there are far more robberies than killings?

Mr. ROCHFORD. That is correct.

Mr. DANIELSON. And seldom do you find a robbery with any family unit in it, I mean intra-family robbery?

Mr. ROCHFORD. That is correct.

Mr. DANIELSON. Thank you.

Mr. CONYERS. We are all grateful for your helpful appearance here today. Please feel free to furnish this subcommittee with any additional material and particularly statistics along the lines that have been raised in your interrogation. Again, thank you very much for coming. I appreciate my colleague from Illinois joining you in testifying here today.

Mr. ROCHFORD. Thank you for the opportunity of being here and giving me a chance to express my general views. I would like to in closing say that my only interest, my only concern is to save some lives, and I feel, and my personal feeling—if I may be permitted to say it—is that unless we act now on this important issue, that we are going to hand this terrible problem on to our children who are eventually going to have to face it. I thank you for this opportunity.

Mr. CONYERS. Our next witness is the police director of Newark, N.J. We will have him introduced to this subcommittee by none other than the distinguished chairman of the full committee, the Honorable Peter Rodino who himself represents Newark, N.J. Welcome, Mr. Chairman.

TESTIMONY OF HON. PETER W. RODINO, JR., A REPRESENTATIVE  
IN CONGRESS FROM THE STATE OF NEW JERSEY, ACCOMPANIED  
BY HUBERT WILLIAMS, POLICE DIRECTOR, NEWARK, N.J.

Mr. RODINO. Thank you very much, Mr. Chairman.

Mr. CONYERS. I would point out that it is absolutely ordinary that the full subcommittee is here at work and it is always like this even when you are not around, and we of course, welcome you here before us today.

Mr. RODINO. Thank you very much, Mr. Chairman. I must say that I am not only impressed but awed by the industry of the subcommittee. Of course, I think this is something that reflects the high marks of the Judiciary Committee, and I am very delighted that I could be here this morning. Thank you for the opportunity to be available to sit in for some while here and hear the testimony of Superintendent Rochford.

I would like to present a constituent of mine and a man who has a background in the area of law enforcement and a degree in law from Rutgers University, which I share with him as my alma mater. He was a fellow at Harvard University and has considerable experience in political science and in criminal justice. He served for a period of time as the director of the high crime impact program, which was and is a pilot program of the city of Newark, and then because of his excellence and his work in that area was appointed as the director of the police department of the city of Newark by Mayor Kenneth Gibson.

As you know, and without taking up the time of this subcommittee, because I believe the director has a very studied document to present to

the committee and has the expertise which is going to be invaluable to the committee, I would merely like to state, Mr. Chairman, that for many years while I have been a member of this committee, that I have been concerned about and anxious about the problem of guns and gun control. And I was one of those who supported the measure which we finally did adopt, which we hoped might have an impact on the question of the bearing of arms which are used unfortunately to maim and to do violence in most instances and to take lives. And the city of Newark has suffered greatly as the result of our inability to be able to cope with this question despite the fact that we have dedicated and devoted law enforcement individuals. We have a police force of 1,600 in the city of Newark, N.J. and a dedicated director and a mayor who is interested and Congressmen who have been trying to be helpful in this area of fighting crime in every way possible. Unfortunately it still goes on though and we lose people. Only a week or so ago we lost a police officer who was killed in the line of duty with a handgun. These things, of course, only reflect how we feel in the city of Newark, N.J. and throughout the country.

But as a member of this committee, I must say that I think that this area that you are now covering is tremendously important and I am hopeful that this committee does report to the full committee a proper vehicle so that we may be able to at least put an end to the maiming and killing and violence and the deaths that occur as the result of carrying guns which are not regulated.

With that, I am happy to present to this committee, Mr. Chairman, the director of the police department of the city of Newark, N.J., Mr. Williams.

If you will excuse me, I do have other places to go.

Mr. CONYERS. Thank you, Mr. Chairman, for not only an excellent introduction but a fine statement accompanying that. The committee is honored that you were able to spend some time with us.

Director Williams, we welcome you to the subcommittee. We have your statement, and it is a very thorough one and will be entered into the record at this point, which will enable you to proceed in any way that you want to.

Mr. WILLIAMS. Thank you. I would prefer to read the statement, Mr. Chairman.

My purpose in being here today is to express a deep and growing concern about the uncontrolled proliferation of handguns throughout our country and the dramatic increase in violent crimes against persons.

As the administrator of a police department with over 1,600 sworn officers, it is my public responsibility to protect the lives and property of 386,000 residents of Newark and the 150,000 nonresidents who commute into our city to work on a daily basis. In carrying out that mandate, I have a dual responsibility to both the public and to the officers whom I command, and for both of these groups the threat of violence by handguns is alarmingly great. The level of violent crime involving handguns and the fear of such crimes has a pervasive effect on the quality of life in Newark and other cities throughout the country. And in addition, the extent of such violence and the frightening prolifera-

tion of handguns immeasurably complicates the job of providing basic police service to the public.

These general opening remarks lead directly to two important conclusions. There can be little disagreement with the first conclusion that violent crime, particularly crime involving handguns, must be reduced drastically if our cities and towns are to be safe and livable. Second, to reduce the level of violent crime, strict control on the availability, possession, and use of handguns must be introduced.

As the subcommittee opens its hearings today, it must surely be noted that in no other country could the merits of these two conclusions be debated as endlessly and as fruitlessly as has occurred in the United States during the past several years. And we must ask whether our Nation can continue to permit the virtually free and uncontrolled commerce which presently exists in handguns, a commodity which is carefully designed and skillfully manufactured with one basic purpose, and this is to provide an instrument of death which can be concealed readily, drawn with no warning, and used with awesome speed and effectiveness on friend and foe alike.

If we are to reduce and control crime in America and if we are to reduce the fear of crime which saps the strength of our cities, we must examine the nature of crime and the circumstances under which it is committed. Indeed, such an approach is essential if we are to avoid the confusing rhetoric with which most discussions of crime are carried out.

No one knows better than the police officer that handguns and crime are closely related. Robberies do not succeed without the use or threat of force, and handguns contribute to a significant portion of robberies; assaults, atrocious assaults, and murders can become almost synonymous terms when a handgun enters the picture and turns a minor altercation and minor physical assault in a moment of anger into a deadly offense.

The correlation of handguns and crime is an easy relationship to document, particularly if one doesn't lose oneself in a futile debate about whether guns cause crime or whether people cause crime.

The inescapable facts are that handguns are used in a large and increasing proportion of violent crimes and that handguns are terribly effective in accomplishing their intended purpose. Nationally, according to the FBI, 53 percent of the 19,510 murders reported in 1973 were committed with a handgun. Studies have shown that a gun is five times as likely to cause death than is a knife, and it can thus be said that the presence and use of a handgun as a choice of weapon converts many atrocious assaults into murders because of the handgun's greater effectiveness.

Such a conclusion is consistent with an observation that is well known to the police. Many murders are not premeditated, and FBI statistics show that in 72.6 percent of homicides in 1972, the victim and perpetrator were either members of the same family, acquaintances, or lovers. The term "crime of passion" is very descriptive of a substantial portion of assaults and murders, and while reducing the number or rate of such crimes is a very difficult law enforcement problem, reducing the severity of such incidents could be accomplished by

lucing the availability and possession of handguns. A study in New York City supports such a conclusion through statistics showing that 78 percent of the murders in 1972 were committed by persons who had never before broken the law. [Lindsay, "The Case for Federal Firearms Control."]

It is difficult to avoid the conclusion that handguns directly contribute to increasing the severity of crimes, if not the actual number. Statistics from Newark certainly bear out the general conclusions concerning violent crime. During 1974, officers in my department responded to 2,977 incidents in which a firearm was used, and this figure included 52 homicides, 1,332 armed robberies, 331 aggravated assaults with a gun, 237 cases in which a life had been threatened with a gun, and 74 cases of vandalism. Forty percent of the homicides were committed with a handgun, and approximately half of all homicides occurred in family disputes or brawls. In addition, we arrested 469 persons for possession of a dangerous weapon, and confiscated 358 illegal guns. And these general statistics tell only part of the story, because our research staff has only during the last year established improved reporting procedures and begun to analyze carefully the patterns and trends in handgun and firearm usage.

An even more ominous trend which can be seen in Newark and other cities is the rapid increase in gun violence by juveniles. In 1974, the Newark police arrested 18 youths between 12 and 18 years of age for homicide committed with a gun. These 18 juveniles constituted approximately 25 percent of the total of 75 perpetrators of homicide with a gun. Like many cities, in Newark the level of violence by juveniles has been increasing steadily and dramatically, and the availability of handguns is an important factor in the growing seriousness of juvenile crimes.

Officers in my department estimate that there are over 50,000 illegal guns in Newark. While it is difficult to know exactly where these guns come from, we do know that a significant portion of them are brought in illegally from South Carolina, Virginia, Georgia, and Florida. Many others are stolen from manufacturers, retail outlets, and private residences. Unfortunately, there is presently no requirement that forces people to report theft or losses of their firearms to the police department.

Firearms, particularly handguns, contribute directly to a significant portion of violent person-to-person crime. To reduce the amount and severity of such crime, we must drastically reduce the availability of handguns. How can this be accomplished?

My State, New Jersey, has what is considered by most standards to be a strict gun control law. Under this law, which was passed in 1966, a person must apply to his local police department for a permit to purchase a handgun and for a special firearms identification card to purchase a long gun. The applicant must be photographed and fingerprinted and a character investigation is conducted as to criminal convictions, mental incompetence, or narcotics addiction. A 7-day waiting period is stipulated between the date of application and receipt of the permit. A separate permit is needed to carry a concealed weapon. As of 1972, approximately 134,000 applications for the purchase of pistols and revolvers had been approved by local and State police in New Jersey. At the same time, 2,500 were denied, of which 48.6 percent involved persons with criminal records.

While this law deters a certain amount of gun proliferation, it has not solved our gun problem in New Jersey. At the present time, for instance, manpower shortages in police departments have caused a backlog of 16,000 gun permit applications to be processed. But a more serious matter is that residents of New Jersey continue to buy firearms in other States and bring them back illegally. Also, this law does not mandate registration of all firearms in circulation, nor does it effectively regulate the private transfer of guns between citizens. And, as I mentioned before, there is no system to account for stolen or lost guns. One major concern that I share with the police officers in my department is the need to control the source of the firearms, be they retail merchants, wholesalers, or the manufacturers themselves.

I find no comfort in looking ahead to the resolution of this tragic gun problem when I look at Federal legislation. In my mind, the 1968 Gun Control Act contains so many loopholes as to make it almost ineffective. Handguns with a "sporting purpose" pour into this country at a rate of half a million each year. Even worse, handguns assembled from imported parts number over 1 million each year. These guns, I might add, are in addition to the more than 2 million pistols and revolvers made in this country each year. Where do all these guns go? Who has these guns? I know that in Newark we process only about 1,500 applications for handgun purchase a year. This leads me to conclude that many people that we don't know about have these guns, and that many of these people are people who do not know how to use them, who keep them in unprotected places, who use them to terrorize their fellow citizens, and who—as I said before—kill their friends, loved ones, strangers, and, yes, police officers.

Crime is a local problem, but handgun control is a national problem. Dealing with crime effectively at the local level is dependent to a great degree on whether or not strict Federal controls on handguns will be introduced.

The history of the debate on Federal handgun control reads like a sorry soap opera acted out by masked players portraying with great enthusiasm and ingenuity the roles of protector of the gun industry, and protector of the mythical right to bear arms. Such energetic roles have been acted with great skill and with even greater waste of the time and energy of the large segment of the public which is in agreement on the severity of the handgun problem. After more than 10 years of off again-on again national debate, the problem has only gotten worse and the level of rhetoric only gotten greater.

The fact of the matter has been and continues to be that State and local efforts to control handguns and handgun violence cannot be reduced without strong national controls. The issue at the national level is not one of crime, however. It is a question of commerce.

Crime, handguns, and commerce in handguns go together appallingly well. Although 37 States have some form of gun control laws in effect, not even the strictest of these statutes can affect the interstate commerce in handguns. And we are clearly talking about commerce on a large scale. During the 10 years examined in an Eisenhower Commission study, from 1959 through 1968, 10.2 million handguns were added to the civilian population. This is a frighteningly high portion of the 29.4 million total of all firearms, both long guns and handguns, added to the civilian population during those years.

However, my basic observation is that 10.2 million handguns is a big business, and it is a big business which is almost self-perpetuating. As a police administrator, it is my conclusion that the proliferation in handguns contributes to more serious crime, which contributes to more fear of crime, which contributes to more handgun sales, supposedly for protection, which in turn contributes to another round of the same cycle. The only winners on this self-perpetuating cycle are the handgun manufacturers. The public is the clear loser. And the police are caught in the middle with a massive problem which is beyond their present powers to control.

This commerce in handguns simply cannot be controlled at the local level. It is an interstate commerce problem; it is an interstate transportation problem; it is an interstate law enforcement problem. To control the local problem of crime we must also control the national problem of the manufacture, sale, transportation, and distribution of handguns to civilians. Only then can we at the local or State levels begin to control within our jurisdictions the possession, sale, and criminal use of handguns, and through such control improve the prevention and control of crime.

It is my opinion that handgun control must be approached by looking first at the source of guns and how they enter into and remain in circulation. In examining the problem from both the local and national perspectives, I have become convinced that the lack of even minimal monitoring and regulation of the firearms industry constitutes the beginning of an impossible enforcement situation. For example, we do not know with any precision how many guns are manufactured and placed on the market; nor do we know how many of these weapons are stolen during manufacture and shipping from factory to wholesaler to retailer; nor do we have any accurate system for numbering consecutively the number of guns which are manufactured. It seems futile to talk about methods of handgun control without first discussing such basic questions. As a law enforcement officer, it appals me that pharmaceutical drugs are controlled more stringently during manufacture and distribution than are handguns.

A second focus of attention should be upon the sale transaction. It would be reasonable to assume that the responsible dealer and the public have a common interest in restricting sales of guns to responsible citizens. Yet one must wonder to what extent anyone at the Federal, State, or local levels knows enough about the practices of gun selling and the effectiveness of existing laws designed to insure honest dealers and honest sales practices, particularly in interstate commerce.

Although I cannot talk with great expertise to this aspect of the problem, studies I have seen concerning the illegal interstate flow of handguns from several Southern States lead me to recommend this is an area for intensive exploration by this subcommittee.

However, I am not sure your attention to developing more effective reporting or controls on the manufacture and interstate distribution of handguns will lead to any significant reduction in the proliferation and violent use of such weapons. In the end, we must raise and face up to the more basic question: Do handguns serve a useful purpose sufficient to justify continuation of their manufacture and sale to the civilian public. In 1934 the National Firearms Act restricted access

to machineguns, which were then a serious problem in a few jurisdictions. In 1975, handguns are a serious problem in virtually every major city and many other jurisdictions in this country. I am persuaded that the hazards of handguns are so great that they should no longer be manufactured or sold to the public and that a mechanism should be created to drastically reduce the supply and possession of existing handguns. Proposals for registration and licensing cannot accomplish this, certainly not without very strong national controls on manufacture and interstate sale and distribution. Even more important, licensing and registration do not affect the significant portion of crime that falls in the "crime of passion" category.

A national ban on the manufacture, sale, and possession of handguns has the greatest potential for halting the proliferation of such weapons and thereby reducing violent crime. Whether or not an outright ban on handguns is presently feasible is an important question for this committee. I would suggest that a ban is the only truly viable solution and that a ban on handguns will be the ultimate wisdom of the American people. The sooner this ban is accomplished, the sooner our law enforcement and criminal justice system can begin to reduce and control crime and the fear of crime.

To conclude, I will again emphasize that we are confronting the interrelated problem of crime and the commerce in handguns. We cannot permit the profits of such commerce and the strength of commercial interests to stand in the way of effective handgun control and the public good.

Mr. CONYERS. That was a powerful statement and it raises a host of more complex questions that this subcommittee must grapple with. Unfortunately, we see that the House is in session now, and our questions probably won't be as detailed as we would want, but I recognize now the gentleman from South Carolina, Mr. Mann.

Mr. MANN. Thank you Mr. Chairman. I wish to express my admiration for the well reasoned statement just presented. I think you have really identified our alternatives and the question will be for us and the American public to resolve those alternatives.

The fact, as you indicated, the severity of crime is increased by the availability of handguns and the vicious cycle to which you refer, those facts are so true these days. It is so true that the perception of the average citizen that it is wrong to have a gun is not there, or it is not there substantially. That makes it all the more difficult for us to attack the ultimate problem that you put at the bottom line and that is the elimination of the demand and possession of weapons.

But I do appreciate the reasoning that went into this statement. Certainly you have pointed to one area that needs our immediate attention and is certainly subject to control, and that is the interstate sale of handguns without any controls. My State of South Carolina is one of the greatest offenders I know, and I know that the committee will be looking into ways to improve that situation. But once again for your statement today, I do wish to commend you.

Mr. CONYERS. The gentleman from Illinois, Mr. McClory.

Mr. McCLORY. Well I thank the gentleman for his statement. He has made a very forceful statement. He has expressed himself very force-

fully on the subject. I tend to feel that the gentleman is looking for an easy solution, and I think he is following a line of talk that tends to make the manufacturer, the industrial community the scapegoat for a lot of the problems that we have in our society. In this instance, I think he is tagging the manufacturer of handguns as being the culprit and that there is some kind of design or purpose. As a matter of fact, the gentleman states right in the opening part of his statement that the sole purpose, the intended purpose of the manufacture of handguns is to kill people. I am confident that that could not be sustained by any authority. In other words, that the manufacturers of handguns are not making the guns for the purpose of people going out and shooting other people.

I would also question the statement that you make on page 15—and I would like you to support that statement and let me know what the basis is for that statement—that the 1968 law does not require manufacturers to keep accurate and complete records. Because the 1968 law does require manufacturers to keep accurate and complete records with regards to all handguns that they manufacture. We do have that in the law right now. And if you are not able to get access to that kind of information, then you should inquire at the Treasury Department with respect to it. If that material in the long paragraph on page 15 is accurate, I would like you to support it with reference material that would convince me that it is accurate.

Mr. WILLIAMS. OK, we would be happy to provide the supporting documentation, Congressman, on the second point. On the first point as to the intended purpose of manufacturers developing guns to kill people, I simply made the statement that guns have the purpose of killing people. You manufacture guns and the ultimate end of that is to kill people. I am not making the inference that the manufacturer who designs guns only intends to kill people, but certainly those guns are used throughout this country to an alarmingly high degree to kill civilians as well as policemen and we all know that.

And I hope that is responsive to the issue that you raise. But I did not mean to give the impression that a manufacturer, that is, that manufacturers of handguns are doing it with the intent to kill people, but I think that we should all recognize that guns are lethal weapons and if this Nation has seen fit to ban heroin from its shores and refuse to allow any pharmaceutical company to develop it here in this country, I don't think that heroin is any more dangerous than guns. I think we ought to be moving down towards, as the Commissioner that testified before me said, to try to place into perspective our values. And it seems to me that human life will prevail over any interest that a manufacturer will have.

Mr. McCLORY. Mr. Williams, let me just make this further observation. I want you to know that the members of this committee, or at least I feel all the members of this committee are interested in effective handgun control legislation and particularly in the area which would help reduce street crime.

I would ask you this further question. Since you have supported a complete ban without qualifications on handguns, I wonder whether you would want that also to apply to law enforcement officers and to the military since you didn't say that you wanted to except either category.

Mr. WILLIAMS. I would think that as a general proposition, Congressman, that we ought to consider a complete ban. I would recognize the necessity of some exemptions. Certainly during this period of time we would want to exempt police agencies. I certainly state in my statement that we are talking about civilians, so that is completely exclusive of the military.

I would even go so far as to say that licensed gun clubs might have privileges under the law, but we start out with a general rule that handguns should be banned and that no civilians should be allowed to have them except perhaps those civilians or perhaps organizations like gun clubs that could justify it if there are very strong regulatory controls over the use of guns by those organizations.

And this it would seem to me would charge the organizations with the responsibility, by licensing them, Congressman, to control it and if they violated that, they could lose their privileges of ever having the right to have guns.

Mr. McCLORY. You support a complete ban on the manufacture then? Now, of course, we can't ban the manufacture of guns overseas so that would only apply nationally. Now with respect to the exemption that you would have for police officers and the military and considering that you have a complete ban on the manufacture, would they then be required to use imported guns? You didn't say anything about a ban on importation.

Mr. WILLIAMS. It is my view that this committee has a public duty to thoroughly investigate the propositions that are raised here and to develop reasonable rules of law as the result of the testimony that is obtained from witnesses. I don't intend to come here with a package of goods for you that you can adopt as the ultimate solution to a very complex problem, but what I do intend to give is my experience as a police director of a city of almost 400,000 people where police officers are now dying, police officers are being killed, and they are the only real defense that the public has. It is not the gun that an individual citizen may have in his home that is his defense. If a police officer gets killed when he pulls a gun on a criminal, then what chance is some civilian going to have that hasn't had the experience or training of a police officer? What chance does he have? So the gun really doesn't serve any protection for protecting anybody. It doesn't serve that purpose at all.

But what I have tried to raise, Congressman McClory, is what I believe to be the direction that the committee should take. As far as breaking down the details and developing the rules. I think in the infinite wisdom of this committee, that this subcommittee will be able to do that.

Mr. McCLORY. Even though I criticized your statement and parts of it, you have spoken very forcefully, and I appreciate the earnestness of your feelings. Thank you.

Mr. CONYERS. Mr. Ashbrook of Ohio.

Mr. ASHBROOK. Yes, thank you, Mr. Chairman. Let me say also that I respect your testimony but I would disagree with your conclusions, and I would also disagree with many of the areas where you sweep what I think are basic arguments aside referring to them as a "futile debate" and so forth. I think it is a very appropriate debate

and I think it is appropriate that we have a debate over these things. I am not sure whether it is futile or not.

I am somewhat interested in your statement that you feel that New Jersey has a very strict gun control law. What is the failure of Newark, N.J. in this area then? Is it the police department or the prosecution or the courts? Evidently it is not working right now and you are turning to us saying that we need a Federal law. What is the basic problem in Newark, N.J.? I have a little concern with people who come in and give us what you have referred to as the need for a Federal law and yet you have what you appear to be an adequate tool in New Jersey. I guess your testimony is it is not working. What seems to be the problem?

Mr. WILLIAMS. Well Congressman, the issues that I raised concerning my city are merely a reflection of cities similarly situated across this country and it is a reflection of problems that cities throughout the various States of our Nation are faced with, and that is that no matter how strong the laws of any city—and the city does not make the laws of course—but no matter how strong the laws of any State, those laws cannot reach nor deter citizens from other States in what they are doing. It is up to the Congress under the powers vested in it through the interstate commerce clause to control commerce that occurs between and amongst the various States. The city of Newark, N.J. does not, nor does the State of New Jersey have power in that area.

If the Congress fails to act, then it is clear to me that there will be no change in the problems that we are faced with with respect to handguns in America.

Mr. ASHBROOK. I am sorry, but I just don't follow that at all. The fact that you are registering firearms has nothing to do with commerce. I mean you people are—I mean if people are violating the law, what are you doing to enforce the law in New Jersey? Commerce wouldn't have anything to do with that. As a matter of fact, I think it is a rather questionable argument as to how much the public knows about whether a law is a State, Federal, or local law. I think when I was younger about the only Federal law anybody knew anything about was the Mann Act. I think everybody knew that was a Federal law, but I think for the most part very few people know whether laws are State or Federal or local ordinances.

I just don't see this mystical thing happen the minute we have a Federal law where all of a sudden 300,000 some people in Newark, N.J. say a Federal law is now on the books so we better all of a sudden do these things we didn't do in New Jersey when New Jersey had the law.

Mr. HUGHES. Would the gentleman yield?

Mr. ASHBROOK. Yes.

Mr. HUGHES. I think the gentleman is talking about two different things. We are talking about registration. Registration has been an aid to law enforcement in New Jersey and I am sure the police commissioner would agree. That really is the aim of our registration law. It has been effective to a degree. The problem is that Pennsylvania, for instance, does not have a registration law. We receive a lot of weapons I know in the South Jersey area from States that do not

have these laws. So it is still difficult to trace weapons as an aid to law enforcement.

So we don't have a sufficient ban on these weapons. Most of the permits, as the superintendent's testimony stated, have been issued and it is just a small percentage of the cases where they have been denied, and in those cases it was because of police records.

Mr. ASHBROOK. I guess I just don't get the thrust of either the previous testimony or this testimony. The thrust I gather from Mr. Rochford was that there are probably 500,000 that are not registered in Chicago which are required by law to be registered. Mr. Williams is evidently holding up the same idea that there are tens of thousands of guns amongst the 386,000 in the Newark, N.J. area, which legally, regardless of how they got there, are required to be registered and are not registered. That is why I don't think the commerce argument is good because regardless of how they got there, you have a New Jersey law, which says that guns are supposed to be registered but by your own estimate there are many that are not registered. I guess I just don't see how turning them over under a Federal statute will help that.

Mr. HUGHES. Would you yield again?

Mr. ASHBROOK. Yes.

Mr. DANIELSON. Well, what are the rules under which we are operating, Mr. Chairman?

Mr. CONYERS. Well, the rules of Congress, of course.

Mr. ASHBROOK. Mr. Chairman, I would be glad to let Mr. Hughes have some of my time if he wishes.

Mr. DANIELSON. Well, may I yield my time? I am apparently not going to get any.

Mr. CONYERS. Let's not be precipitous, Mr. Danielson. I am going to give you as much time as you need.

Mr. ASHBROOK. I still have about 2 minutes by my calculation and I will yield to Mr. Hughes.

Mr. HUGHES. Well, I would be happy to talk to you about this matter at some other point, Mr. Ashbrook, about the registration of firearms.

Mr. ASHBROOK. Well, then, getting back to Mr. Williams, is it a major problem in your city that a substantial number of the citizens have not registered their firearms?

Mr. WILLIAMS. We deal with two separate issues here, Congressman, and Congressman Hughes brought them out. One, of course, is the registration of weapons. The Newark, N.J. law has I believe proven relatively effective in that area. The other—

Mr. ASHBROOK. Relatively effective or ineffective?

Mr. WILLIAMS. Relatively effective. In the requirement of all dealers in weapons that they have a gun permit and all purchasers of guns to have a gun permit we have been effective, but the law does not deal with the transfer of guns so it has some problems. I think the New Jersey law could be strengthened. But even if the law were strengthened and it was the best law that probably could be made regarding the registration of weapons, it is a law that could not possibly be enforced. You cannot possibly enforce the transfer of weapons between individuals; you don't know anything about. It never becomes a matter of public exposure, in other words.

Mr. ASHBROOK. When you say "never" would you imply it could not be enforced if we had a Federal statute as to this same problem?

Mr. WILLIAMS. No, I just believe that we must begin to deal with the force of the problem. I presented an analogy earlier with respect to narcotics and when we talk about heroin in this country, which is a very, very dangerous substance, and when we talk about the people that produce it and bring it into the country, we talk about trying to distinguish between—that is, distinguish in our laws—in penalties for people that bring heroin in and that manufacture it and that produce it. So we will not allow it to be manufactured here. But when we begin to talk about gun control laws, all of a sudden we turn from placing the basic onus on the person who creates the problem, the gun, the person that manufactures the weapon, and try to place that now on the individual that has the gun. I think if there is to be consistency in our laws, we must as a very minimum charge the manufacturer of the guns with this responsibility. That is number one.

Number 2, we must begin to develop laws that will have some uniformity amongst the States. No matter how strong the law is in the State of New Jersey we cannot control what happens in South Carolina. If we develop laws regulating handguns, people could still purchase them in South Carolina. It is only when the Congress acts that the transfer and the transportation of guns between the States will be alleviated, which is a problem that we are faced with in urban cities like Newark.

Mr. ASHBROOK. Thank you.

Mr. CONYERS. My friend California has been exceedingly patient and the Chair now recognizes him.

Mr. DANIELSON. Thank you, Mr. Chairman. I truly wish to thank you, Mr. Williams. The information you have given us I am most pleased to receive. You have thought it out well and you obviously know your subject and I just wish all witnesses could do as good a job. We have had some excellent witnesses, but from now on yours is a standard that the others are going to have to conform to.

You understand law enforcement and a lot of people do not recognize the problems inherent to law enforcement. I have done a little myself in this area and I feel an affinity with you.

I have two observations I want to make. I can't ask you a question about your statement because everything you said I think is sound. If we agree with your ultimate conclusion of banning handguns, I can't find anything really to quarrel with your logic there. It may be that there are some of us who wouldn't agree with that conclusion, but you put your finger right on the nerve I think.

One thing I wanted to emphasize though is this. The question was raised about can we hold manufacturers responsible? I submit that we must hold manufacturers responsible. Anybody who creates, who manufactures, a substance or an object which is either inherently evil or which through its abuse is evil, such as narcotics and pharmaceutical drugs, must be held responsible for the manufacture and the introduction of that substance into commerce. If we are going to assume, as probably was true a few years ago, that drug manufacturers could manufacture millions of pharmaceutical drugs which were sometimes 100 times in excess of their therapeutic need and send them out into in-

terstate commerce and expect us naively to assume that all of these were going to doctors to treat patients when there was no way on earth that the whole human population could use them for therapeutic purposes, if we assume that, then I say we are just kidding ourselves and the same is true with guns. If we can say that a gun manufacturer anywhere can manufacture these objects and put them into interstate commerce and blindly assume that they are going to no one except those who need them for police purposes or for whatever purpose they wish, like collectors and people who go to a gun range on Sunday afternoon, we are just kidding ourselves. I think the worst sin we can commit here is the sin of self-deception.

I think the analogy of dangerous pharmaceutical drugs is excellent and I think we ought to keep it in mind in our hearings. And the last point I would like to make—and I am testifying, I guess just like you have and not asking questions—but I think maybe in this committee we ought to be careful to avoid what could be a problem we may be falling into. I do not diminish your testimony, Mr. Williams, but I found that many witnesses of late have been pointing out that maybe one of the justifications here is not the criminal use of firearms but the accidental intrafamily use, the crime of passion, the situation where a noncriminal—and I use that in a qualified sense—commits murder as a crime of passion. Now there is some validity in that but I think that what we are really doing here is we are getting too heavily involved on that one point, putting too much emphasis on that, and we are failing to face the gut issue of criminal use of these firearms. We are tampering our position and saying that the purpose of gun control legislation is to try to reduce crime and that we are trying to protect people against their own intrafamily weaknesses. The point has some validity I admit, but I am fearful we may be giving too much weight to it. That is just a friendly suggestion, and you can do with it what you want.

Along that line, and to illustrate my point, we have a lot of killings every year with handguns. But we probably have a vastly larger—and I don't know how much larger—but a larger number of uses of the handgun for other criminal purposes, namely, putting fear in the minds of individuals. The armed robber is a classic example, and kidnaping and rape, and any use of the handgun to put the victim in fear of losing life—not necessarily that the guy is going to pull the trigger, but he might—and there aren't any accidental robberies of course. They never take place within the family as a crime of passion for instance. There are no accidental rapes. There is no accidental kidnaping that I know of. So I think we can disabuse ourselves of arguing that the prevention of the accidental use of firearms is our major purpose here. It is a supportive purpose, a corollary purpose, but essentially it is crime we are talking about.

I was once involved in law enforcement. I was taught, and I was taught it to where it became a maxim, that if anybody pointed a gun at me, I must assume that he intended to use it. Thank God they don't always use it, but you must assume that. I am sure you instruct your officers accordingly. Can you imagine the fear put into the mind of a nonpolice trained individual when an individual points a gun at him? As far as I am concerned it is almost equivalent to shooting or to the killing.

Well, that is the end of my comments, and I thank you and I thank you, Mr. Chairman.

Mr. CONYERS. Did you have any reactions directly to the comments of our distinguished colleague?

Mr. WILLIAMS. Well the only comment that I want to make is that although I emphasize the problems that are faced with individuals having handguns and didn't deal perhaps as strongly as I could with the criminal element, it is only because I think that we should know exactly how deeply ingrained that problem is now in our society and that the basic problem, the basic issue covers both the individual use of guns and the criminal use. The basic problem is that guns are too readily available and accessible.

There is approximately 210 million guns in our country and about 40 million are handguns. These are the weapons used by the criminals. We must limit the accessibility of these guns. And to limit the accessibility of these guns we must deal therefore with the manufacture of the guns.

Mr. DANIELSON. I can't quarrel with that. In fact I can only agree with it if that does become our ultimate policy. And that is the path we have to take I am convinced. I think what you are saying, and I think I am in agreement, is that although there are accidental and crimes-of-passion type killings, although there is this kind of damage done by guns, the main thrust has to be the criminal use of firearms but the two are so integrated that you can't resolve one without resolving the other.

My father used to tell me that in World War I someone came up with the great idea that we should invent a poison gas that would kill only the enemy, but somehow or other we couldn't implement that. The gas was indiscriminate. I think that is what we are talking about here. If you are going to remove guns for criminal purposes, you darn well have to remove them for other purposes. Isn't that correct?

Mr. WILLIAMS. That is precisely correct.

Mr. DANIELSON. Shooting at tin cans is fun, but most people don't spend much time doing that.

Mr. CONYERS. I thank the gentleman for his usual erudite comments. I would like to recognize the staff counsel, Mr. Barboza.

Mr. BARBOZA. Does your Department have any information on the number of legitimate dealers in the city of Newark, N.J., that is, dealers in handguns?

Mr. WILLIAMS. We could probably readily ascertain that information. I don't have it with me here. Newark, N.J. does not have a large number of legitimate dealers in handguns.

Mr. BARBOZA. Do you have any reason or could you speculate as to the reason why?

Mr. WILLIAMS. I would assume that most of the people that are purchasing guns now—well, it is just not a big business in Newark, N.J.

Mr. BARBOZA. Is it a big business in the State of New Jersey do you find with your registration law?

Mr. WILLIAMS. No; I don't think it is a big business in the State of New Jersey.

Mr. BARBOZA. Do you think it has something to do with the registration law?

Mr. WILLIAMS. I think it has something to do with the registration law, yes.

Mr. BARBOZA. Then you feel that many of the guns that are coming into the New Jersey area are coming from your neighboring States without strict laws or even States from the South like South Carolina?

Mr. WILLIAMS. That is precisely the problem, and that is why it is my very strong feeling that the issue is an interstate commerce issue and that the States have no power individually to deal with those problems that are currently in their borders with respect to handguns.

Mr. BARBOZA. Has your office had any contact with the Alcohol, Tobacco, and Firearms bureau in tracing handguns?

Mr. WILLIAMS. Very limited contact. I think they have the responsibility to handle from the Federal perspective the gun problem, I don't know if they have ever made an arrest in the past 30 years in that area.

Mr. BARBOZA. So their presence is not felt in the city of Newark?

Mr. WILLIAMS. No; it is my personal feeling from what I know about the agency that it is very ineffective in dealing with the problem.

Mr. BARBOZA. Do you have any idea of how many agents they have in the city of Newark?

Mr. WILLIAMS. I don't think they have any, but that may be incorrect.

Mr. BARBOZA. You may be correct because they only have about 50 in the city of New York in comparison to about 1,500 FBI agents, and I think your statement places into perspective the massive nature of the interstate problem in handguns. I mean, an agency having only about 50 agents in a city of the size of New York, with 1,500 FBI agents, well, that probably speaks very well for the rest of the country too. Thank you.

Mr. CONYERS. I would like to try to capitalize on the experience of your being a lawyer and a law enforcement officer yourself, Mr. Williams, doing probably an excellent job under very difficult circumstances in Newark given the economic circumstances that your city is in. Let us try to put this whole problem in perspective. I would like to try to elicit some comment from you in connection with the whole subject of crime, the rate of crime, and the availability of guns and the misinformation that generally surrounds this subject.

I agreed to do a television program with three other members of Congress last night and a number of citizens in the community and a number of people that represent the pro and con arguments of gun possession and I was frankly amazed by the fact that the myths are more dearly held than the facts and merely repeating the facts to the citizens is ineffective. Many of these citizens are not persuaded that having a gun in your home increases the chance that you or your family may become the victims of that firearm. So that, among many other concepts, is apparently difficult to grab hold of.

Now what about the education aspect of this thing, which has seemingly gone neglected for so long, and what about the overemphasis on the recreational purposes of firearms? I would daresay that there are not many gun clubs in Newark or in many inner-city communities across the Nation. Could you comment on this point?

Mr. WILLIAMS. On the issue of education my assumption is that you mean that if we develop an effective education program for controlled

use of firearms, that there would be less accidents in the home, especially with people that have such weapons?

Mr. CONYERS. That and the consideration that the old romantic notion of carrying a gun enhances your protection and the lack of awareness of the danger of carrying a weapon that accrues to the person that does that and the danger that accrues to those who live in a home where a weapon is there.

Mr. WILLIAMS. OK. My personal feeling on the matter is that a weapon does not really offer the protection that people think it offers, and in many times it places lives in more jeopardy because they are likely to take a chance that they wouldn't take if they didn't have the weapon. It might be a better method to just run if somebody is robbing you or just gave him everything he wants. If you are going to challenge the authority of a criminal that is determined to take what he wants, then he might get more than what he came for and you might get more than what you intended. That is in other words that I don't believe that the average John Q. Citizen is capable of defending himself against a criminal with a weapon and who is seriously committed to robbing him. I think that the chances are better for survival if the citizen would just give him whatever he wants and that he should leave the responsibility for enforcing the law in the hands of the police.

And it is a reaction to fear, it is a fear syndrome that is created here, and people are not responding to facts or logic. They are acting out of fear. They feel in many instances the police are not capable of protecting them because of the increasingly high crime rates and violent crime rates. So what is happening in our country is the police are becoming more militaristic and they are getting stronger and heavier weapons, heavy-nosed guns, and we hear about hollow-nosed bullets with more kill power. I think that this in some degree is a reaction to the armament and the arms that the criminals have and the citizens have in reaction to the arms that the criminals have. So John Q. Citizen now is going to carry his own gun to protect himself.

Now the problem with respect to education especially is that when a person is acting emotionally, what he has thought about educationally does not mean very much. He goes for gut feelings, gut reactions. In most of these crimes, especially homicide, in most of the homicides that are committed someone is in an emotional state. There are very few crimes that are premeditated where someone is lying in wait with the intended purposes of killing someone. That is a very small percentage of the crimes. So I don't believe that education is going to do much to alleviate the problem.

I feel that the instrumentality is so dangerous that we need to limit the accessibility to guns and only to certain exclusive groups who we should allow the authority to carry guns. And if we fail to do that, it seems to me that we are going to be living in a society where the police are going to become much more militaristic and that our Nation would at some point in time begin to contradict some of the basic premises upon which it was founded.

The earlier Pilgrims and people who founded the Republic were very concerned about police power suppressing the rights of the people, and I think that we have approached that, and I don't say that guns

are the sole and exclusive means or reason why we are approaching that direction and why we appear to be moving in that direction, but I do believe it is a big part of the problem. And I seriously personally can't understand how many of our most distinguished citizens will have to be slaughtered before we reach the point in this country where we develop adequate controls of firearms.

Mr. DANIELSON. May I ask the gentleman a question?

Mr. CONYERS. Yes.

Mr. DANIELSON. You were talking about premeditated homicides—murder. Is it not a fact that quite a large number of homicides are committed without traditional premeditation but as an accident in the commission of a crime of violence?

Mr. WILLIAMS. That is correct.

Mr. DANIELSON. For instance, the killing of a police officer I would say, except in the execution type case, is normally not premeditated. It results from a gun fight between the officer on the one hand and the person who has been apprehended in the commission of a crime on the other hand. Do your figures give us any help on what number of the homicides or murders, what number is committed as an accident, or as what we call in California a felony murder?

Mr. WILLIAMS. First I wanted to deal with the underlying theory upon which that proposition is predicated. Number one, I was trying to out the distinction between a civilian that has a gun, whether or not that civilian is going to use the gun, as to whether or not education will affect the use of the gun, which is basically the question that was raised. And in that instance we have to deal with questions of premeditation, or passion. When you get to the point of determining what the criminal is going to do, I distinguish that behavior and—

Mr. DANIELSON. I see. Sure.

Mr. WILLIAMS. The criminal will act out of premeditation because in the commission of a particular offense—and that is why we have the felony murder rule—because the nature of the initial crime is so heinous that we naturally attach to that the homicide in cases of felony especially—

Mr. DANIELSON. OK, so you are distinguishing a homicide committed by a person involved in committing crime as being a separate class, you might say, from that of the kind of murder you see on the TV and on the movies?

Mr. WILLIAMS. That is right. The distinction between the civilian who has a gun and holds it on his premises and is likely to use that gun as a crime of passion as opposed to a person that is bent on criminality; that is, bent on owning and possessing a gun is going to use that gun if someone attempts to thwart him in his efforts to perpetrate a crime he intends to commit.

Mr. DANIELSON. And he intends to do that by fear, right?

Mr. WILLIAMS. Right.

Mr. DANIELSON. And he is usually successful if he has a gun?

Mr. WILLIAMS. It seems to me he would be.

Mr. CONYERS. Well, let me go back to the question of education in a different light then. Let's look now at the relationship of education of our citizenry and the necessity to restrain the uncontrolled distribution of weapons in our society as a factor in reaching some kind of legislative result in that direction. In other words, what I am suggest-

within a matter of 10 minutes. These are extra-special efforts. This requires getting quick response from the manufacturer, calling the dealer, and if he is in bed, getting him out of bed and asking him to go to the shop and look at his transaction directly.

In that case, of course, it wasn't as important because Bremer was in custody, but it certainly did verify that he purchased it.

Mr. HUGHES. Were these rifles in each case?

Mr. DAVIS. In each of those cases—well, in the one case, Bremer's case, it was a handgun. The sniper in New Orleans, it was a high-powered rifle.

Mr. CONYERS. Mr. Barboza.

Mr. BARBOZA. Mr. Davis, the subcommittee has raised questions with you with respect to your knowledge and reference as to where guns are shipped in the country. Also, along the same lines, we know that you have problems in terms of information, compiling it, putting it on computers, lack of resources, and other things.

If certain information were placed on a computer with respect to dealers, this would aid you in enforcement of the Gun Control Act, that is, I have here the application form for licensees under the Fire arms Act, form No. 7, which shows, of course, the name of the owner, the corporation, but in addition to this if the applicant's business is individually owned or a partnership. [See pt. 8, app. 2.]

Wouldn't that give you an idea of the kind of dealer, if you had that on a computer, how big he is, how small he is, or is he a—

Mr. DAVIS. Yes. In fact, that would do a great deal for us. As I say, we could establish normal volume and if there was a significant increase in the volume, it would certainly key us.

As I have indicated earlier, I think that this would be particularly useful, if the number of dealers in the United States were reduced to those who actually needed and were qualified to have a license. In other words, we are talking in terms of 30,000 or 40,000 dealers instead of in terms of 155,000.

So, that certainly a flow of weapons—I am sure that Mr. Westenberg could take all of the domestic handguns in the United States by model and caliber and so forth, and we could classify those as to those that would pass the factoring criteria, and—

Mr. GEKAS. Would you do that for the subcommittee? Would you try, please, to do that and supply it to the staff?

Mr. DAVIS. Very fine. It shall be done.

Mr. GEKAS. Thank you.

Mr. CONYERS. Well, we are grateful to you, Mr. Davis, and to your associates. We obviously are going to have to return to the scene of this discussion and I am hopeful that next Wednesday would be an appropriate time for us to resume the hearings on this important matter.

Thank you all again, and the committee stands in adjournment.

[Whereupon, at 12:02 p.m., the subcommittee adjourned, subject to the call of the Chair.]

## FIREARMS LEGISLATION

WEDNESDAY, MARCH 26, 1975

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON CRIME OF THE  
COMMITTEE ON THE JUDICIARY,

Washington, D.C.

The subcommittee met, pursuant to recess, at 10:30 a.m., in room 2141, Rayburn House Office Building, Hon. John Conyers, Jr. [chairman of the subcommittee] presiding.

Present: Representatives Conyers, Mann, Danielson, Thornton, Hughes, and McClory.

Also present: Maurice A. Barboza, counsel; Timothy J. Hart, assistant counsel; and Constantine J. Gekas, associate counsel.

Mr. CONYERS. The subcommittee will come to order. We are happy to welcome back our guests from the Bureau of Alcohol, Tobacco, and Firearms of the Department of the Treasury; its Director, Mr. Rex D. Davis; Mr. Corbin, Assistant Director, Criminal Enforcement; Mr. Dessler, Acting General Counsel and we have also Ora J. Pierce, Mr. Edward Owen, and the other staff that Mr. Davis has asked to be with him. Today we continue the very important consideration of firearms legislation as related to the functions of the Bureau of Alcohol, Tobacco, and Firearms. We appreciate the information that we received at your first appearance, and we look forward to a continuation of the testimony.

I understand that you wanted to conclude your presentation and describe some of the charts that you had with you from last time, which are here again.

TESTIMONY OF HON. REX D. DAVIS, DIRECTOR, BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS, ACCOMPANIED BY JOHN F. CORBIN, JR., ASSISTANT DIRECTOR, CRIMINAL ENFORCEMENT; ATLEY PETERSON, ASSISTANT DIRECTOR, TECHNICAL AND SCIENTIFIC SERVICES; MARVIN J. DESSLER, CHIEF COUNSEL DESIGNATE; ORA J. PIERCE, DEPUTY ASSISTANT DIRECTOR, REGULATORY ENFORCEMENT; AND EDWARD M. OWEN, JR., FIREARMS ENFORCEMENT OFFICE, DEPARTMENT OF THE TREASURY

Mr. DAVIS. Yes, sir, Mr. Chairman. We would like to do that, if it is acceptable to the Chair. We would like to respond to some of the questions for information that we were asked for by the committee during the last session, and if I could I would like to mention three or four areas where we feel we have not been able to take full advantage of the act, and then to continue with the presentation, if that is acceptable.

Mr. CONYERS. I think that is acceptable. We have so much material that we want to exchange with each other and examine in a friendly way that we could probably almost start from any direction.

Mr. DAVIS. All right.

Mr. CONYERS. I think your suggestion is good, and I will ask you to proceed in your own way.

Mr. DAVIS. Thank you, Mr. Chairman. During the last session, there were a certain number of questions that the committee asked us to provide information on, and at this time, if I could, I would like to refer to those questions and, where it was possible, to provide the committee with the information in response to those questions.

The first question that is on our list was a request for the number of thefts and the number of firearms stolen from licensed manufacturers.

Since the last session, we have conducted a survey of all major manufacturers in the United States for the period that began with the enactment of the Gun Control Act of 1968 to the present date.

Now, this survey resulted in the report of 659 theft incidents involving 3,377 firearms during the 6½-year period.

Due to the time limitation in conducting this survey and the nature of some of the responses, we believe this figure could fairly be doubled. In other words, we feel that this survey indicates the theft of about 1,000 firearms per year from the premises of licensed manufacturers, and it should also be noted, I think, that this figure does not include the theft of parts which could later be assembled into firearms.

The second question and the one that was somewhat embarrassing, was to determine the discrepancy between ATF and Bureau of the Census importation figures. If you recall, Mr. Chairman, there was a discrepancy in round terms of 600,000 firearms between the report by ATF, which was on the high side, and the Bureau of the Census, which was on the low side.

As I indicated to the committee at the last session, we did pursue this to determine wherein the discrepancy lay.

We did find out that our mid-Atlantic region, which is one of our seven ATF regions, report for the period did contain a distortion, and we instructed that region to reexamine the form 6-A on which this material is contained, and from which the report is made by the region, and we found substantial clerical errors.

On the basis of that inquiry, we can now say that the total handguns reported by that region was adjusted downward from 718,500 to 65,551. Now, this in turn resulted in a downward adjustment of total ATF figures from 900,700 to 247,251. Now while this is not exactly, or does not exactly coincide with the Bureau of the Census figure, it appears to us to be in the range of permissible variance within the existing reporting system, which does lend itself to some errors.

As I indicated at the last session, Mr. Chairman, we will review our reporting procedures with the view of making them more accurate and reliable.

Mr. CONYERS. Now have we agreed on counts that resolve the discrepancy?

Mr. DAVIS. Yes. Instead of the 900,700 of which we had on our chart and which we have reported, that has been reduced to 237,751. This makes it within the range of 60,000 of the Bureau of the Census Report which was 300,000-plus.

the act, and then to continue with the presentation, if that is acceptable.

In other words, there is about a 60,000 variation, now, between the two figures.

Mr. CONYERS. How did you arrive at that adjustment, if I might inquire?

Mr. DAVIS. Yes, sir. I can explain, sir, that on the form 6-A, there is a place for the number of packages, and then in another column the number of total firearms. Some of our clerks in that particular region multiplied the number of firearms by the number of packages, which gave them a greatly distorted figure, and when we did reexamine the 6-A's, this was discovered, and it was in effect a clerical error based on a misunderstanding of the form itself.

Another question that the committee asked us to look into was how many registered title II firearms were used in the commission of a crime from A, 1934, to the amnesty period—

Mr. DANIELSON. Mr. Chairman.

Mr. CONYERS. Yes.

Mr. DANIELSON. Would the gentleman be good enough to tell us what title II firearms are? I am not that good at jargon.

Mr. DAVIS. Yes, sir. The firearms that are included in title II of the Gun Control Act of 1968 include gangster type weapons, such as machineguns, sawed off shotguns and rifles and a special category of other weapons, as well as destructive devices which are such things as mortars, mines, rockets, any weapon that has over .50 caliber.

I might add, too, that these weapons are the only ones that are truly registered by the Federal Government.

Mr. DANIELSON. May I ask a question there, Mr. Chairman?

Mr. CONYERS. Of course.

Mr. DANIELSON. It is my understanding that we no longer permit the retail trafficking in antitank cannon and the like.

Mr. DAVIS. Yes, sir.

Mr. DANIELSON. Does that mean yes we do, or no, we don't?

Mr. DAVIS. No, sir, we do not, except for law enforcement purposes and other limited purposes. A private individual cannot now register a weapon of this type with the Bureau, and only dealers in these weapons can transfer them among themselves or to police departments.

Mr. DANIELSON. Can they transfer them to anyone except a police department? Who has cannons except the military forces? That is what I want to know.

Mr. DAVIS. There are collectors of weapons to a certain degree, but at the present time they could be transferred between dealers, or for these exceptional classes of organizations such as law enforcement agencies.

Mr. DANIELSON. Are there anything other than law enforcement agencies and military who can own a functional cannon today?

Mr. DAVIS. Only, sir, if it has been registered in previous times. I might point out that from the period 1934 until the enactment of the 1968 Gun Control Act, we had registered 60,000 of these. The act itself provided for a 30-day amnesty period following enactment of the act.

At that time, we registered 70,000, and since that time there have been an additional 117,000. Now if in fact an individual had registered a cannon prior to 1968 or during the amnesty period itself, he could legally own it.

Mr. DANIELSON. He could still have it then?

Mr. DAVIS. Yes, sir.

Mr. DANIELSON. It doesn't have to be deactivated?

Mr. DAVIS. No, sir.

Mr. DANIELSON. He could still stop a Sherman tank if he wanted to.

Mr. DAVIS. Yes.

Mr. DANIELSON. How many are those?

Mr. DAVIS. At least over 200,000 registered.

Mr. DANIELSON. Thank you.

Mr. HUGHES. I would like to interrupt.

Mr. CONYERS. Please do.

Mr. HUGHES. What is law enforcement's need for a cannon?

Mr. DAVIS. The title II weapons that a law enforcement agency would use would be a machinegun, such as a Thompson submachine gun.

Mr. HUGHES. You classify that as a cannon? I have a picture of a cannon as a cannon, artillery.

Mr. DAVIS. Yes, sir. I don't believe the ordinary police department would find any use for such instruments. As far as I know, there are none that have them.

Mr. BARBOZA. Are you saying the figure in 1973 of 900,700 has been reduced to 270,000?

Mr. DAVIS. It has been reduced to 247,751.

Mr. BARBOZA. So that your figure, then, is lower than the census figure?

Mr. DAVIS. That is correct.

Mr. BARBOZA. So there was a 530,000 gun discrepancy?

Mr. DAVIS. Yes. In this particular region, there were almost 600,000 guns overreported by reason of these misunderstandings of the form and the clerical errors that followed.

Mr. CONYERS. Director Davis, you said before that title II constitutes the only true Federal registration there is. Would you put that distinction on the record with a little amplification, please?

Mr. DAVIS. Yes, sir.

In the case of these types of weapons, the gun is registered with the Bureau to a named individual, and there is in fact—that gun cannot be transferred to another individual unless the application is made with the Bureau, and in the case of nonlicensees, there is a \$200 transfer tax imposed, so that in every case we know exactly where the weapon is if it is legally transferred.

So in effect this weapon is associated with a named individual in the files of the Bureau.

Mr. CONYERS. Now contrast that with the normal so-called "registration" requirements.

Mr. DAVIS. Well, this is the scheme, I would say, of those jurisdictions which require registration, that if you require a gun you must go, say, to the local police department and in some cases, of course, photographs and so forth are made, but a particular gun is associated with a particular individual, such as in New York City.

Mr. CONYERS. Do you find that most places have some kind of registration of that type? In Detroit, that has been commonplace for a

long time, and I assumed that that was customary in most of the United States.

Mr. DAVIS. No, sir, it is not customary. I would say that at the State level there are only about 8 or 9 States that have registration on a statewide basis. There are obviously some municipalities that have imposed this, but it is not a widespread requirement throughout the United States.

Mr. CONYERS. Mr. McClory?

Mr. McCLORY. Mr. Davis, I would like to pursue that just a little bit further, as long as we are on the question of registration, and the identity of the owners of guns. Is it not true that the—at the present time, the manufacturers of all firearms keep accurate and complete records and are required to keep them with regard to every firearm which is manufactured so that they have a record of the serial number and its manufacture?

Mr. DAVIS. Yes, sir, that is true.

Mr. McCLORY. Is it not true, also, that there is an accurate and complete record kept, and required to be kept in the transfer of that firearm from the manufacturer to a licensed dealer?

Mr. DAVIS. Yes, sir.

Mr. McCLORY. Is it not also true that every licensed dealer is required to keep not only an accurate and complete record with regard to the firearms that he receives, but also to keep an accurate and complete record with regard to all the firearms that he sells, or which are transferred from his dealership into the hands of the purchaser or transferee?

Mr. DAVIS. Yes, sir, that is correct.

Mr. McCLORY. So that in those States and communities where we do have registration, we have the information which is available in the hands of the dealer, which is merely put on the public record or in the public registrar book, or registration book of the locality or State where the registration law applies?

Mr. DAVIS. Yes, sir.

Mr. McCLORY. And the dealer is required to keep and maintain these records, is he not?

Mr. DAVIS. Yes, sir, that is true.

Mr. McCLORY. So that in the event of the commission of a crime or a loss the firearm or anything like that, it is possible today to determine by merely communicating with the dealer who the transferee of a particular firearms was, if you are able to identify it by serial number?

Mr. DAVIS. Yes, sir, I would say that is true with respect to the initial purchaser.

Mr. McCLORY. Yes. Well, now, the only record, then which is not kept, is if there is a transfer or a sale by a nondealer, or a gift by a nondealer to some other person.

And at the present time, you do operate, do you not, for service to local law enforcement and State law enforcement agencies a tracing service in which you trace the path through which a firearm on which the serial number is given, the path to the ultimate transferee?

Mr. DAVIS. That is correct.

Mr. McCLORY. We do that now at the rate of 3,300 inquires a month?

Mr. DAVIS. Yes, sir. Last year, there were over 33,000 for the calendar year 1974.

Mr. McCLOXY. Except for the records of those 3,300, or the number where the inquiry is made, you do not maintain any record yourself in your office, do you?

Mr. DAVIS. No, sir. All of the records relating to the movement in commerce of firearms is kept by the licensee, where it is a manufacturer, importer, distributor or retail dealer.

Mr. McCLOXY. And the time consumed to trace these weapons now varies between what, a matter of minutes to a matter of weeks?

Mr. DAVIS. Yes, sir, that is correct. This depends on the seriousness of the crime involved, or in which the firearm is involved, and so we place priorities on them.

Mr. McCLOXY. But the question as to the identity of the ultimate legitimate owner, or purchaser, of a firearm from a dealer, as far as that is concerned, there is no mystery about that at all? There is no problem getting that information, unless the dealer is violating the law himself by not keeping a record?

Mr. DAVIS. Yes, sir, that is correct. I would add that only if the dealer himself is manipulating his record, or if the purchaser has used false identification, then, of course, it would not be traced.

Mr. McCLOXY. Then if we had a Federal statute which required a particular type of registration of these firearms by municipalities or by States, or authorized the Federal Government to retain those, all we would be doing would be transferring to some central, or a group of agencies the information which is presently already available in the hands of the dealers?

Mr. DAVIS. I might qualify that, if I can, by saying that if you have a true registration law, such as you have in New York or in Michigan, there, the effect is that anybody who has a firearm, and in those cases handguns, must register them, so that in the case of a true registration law, if I acquired a firearm from you in those jurisdictions, then I would have to go register it.

As we have pointed out under Federal law, there is no requirement beyond the first purchaser.

Mr. McCLOXY. Right. Now with regard to the tracings that you are requested to carry on, to what extent does your information indicate that they are useful to law enforcement agencies with regard to, one, the apprehension of criminals, or just suspected criminals, and to the trial and conviction of an offender who used the firearm in the commission of a crime?

Mr. DAVIS. On the basis of a survey, while it was somewhat limited in scope, at least it was a random survey in which we asked the people who had submitted trace requests that somewhere in the 70-percent of those cases they said the tracing of the firearm was useful in the investigation.

A smaller number, or a smaller percentage, still around half of them, said it was useful in the apprehension of the violator, and another percentage, which was at least 25 to 30 percent, said it was actually useful in the prosecution of the case.

So that on the basis of that survey, we would have to say that the tracing of a weapon used in a crime is an important investigative tool.

Mr. McCLOXY. Could you provide for the committee the results of the survey that you have carried on?

Mr. DAVIS. Yes, sir, I would be very happy to do that.  
[The information referred to follows:]

## FIREARMS TRACING SUPPORT TO SPECIAL AGENTS

	Number of yes responses	Percent of yes responses
Did trace assist in identifying the violator?.....	55	27.5
Did trace assist in the investigation?.....	147	73.5
Did trace assist in making a case?.....	84	42.0

Source: From random sampling of 200 traces requested during October 1974.

Mr. McCLOXY. Is it not true, also, that as a result of tracings, innocent individuals who are not involved in any way in any criminal activity are able to be vindicated from suspicion as a result of the tracing?

Mr. DAVIS. Yes, sir. We have at least two or three examples where a person who was suspected of a crime was exonerated as a result of the purchase of a firearm. In those particular cases, the timing of the purchase had an important bearing on the establishing of his innocence.

Mr. McCLOXY. Then in some cases, it might occur that a licensed dealer, not a reputable licensed dealer, but since we have a great many licensed dealers, that sometimes they may be involved in trafficking in a firearm and participating in the commission of a crime?

Mr. DAVIS. Yes, sir, and this tracing helps pinpoint these individuals, particularly if they are dealing in a considerable magnitude. Our tracing efforts in our Project Identification, which I will amplify later, did, through tracing of firearms in New York City, establish that certain dealers in South Carolina were trafficking heavily, and it happened in those particular cases that we had already made cases on some of them, but certainly this is a technique for identifying dealers where a high percentage of the guns they handle wind up used in crime.

Mr. McCLOXY. If the Congress would see fit to enact some legislation with regard to a comprehensive registration of firearms and the assembling of the information, either centrally or in the States, or in some systematized way, you could enlarge and expand and greatly accelerate your tracing process, could you not?

Mr. DAVIS. Yes, sir. There is no question.

Mr. McCLOXY. Independent of any Federal or other type of registration and legislation, do you have any plans to improve the present operation?

Mr. DAVIS. Well, sir, under existing laws and regulations, we could institute a system whereby we could greatly expedite and make more efficient our tracing efforts.

Now, this would not be registration. It is possible to amend the firearms transaction form in such a way that when a dealer sells a gun, the information could be transmitted to the Bureau without the identifying name of the purchaser, but merely the identification of the weapon in question.

This we could do under present regulations. I might point out, unfortunately, that the Bureau is not equipped to handle the amount of information this would generate. For example, this would involve at least 6 million transactions a year, and that is a great deal of information to handle without computers.

But, it would certainly greatly benefit our ability to trace weapons. The reason this would not in my opinion even be de facto registration is that computers could not be queried as to whether John Doe owned a weapon.

In other words, that would not be possible. So, the only way it could be queried would be that if a particular weapon was suspect, and was known to be used in a crime, you could identify the dealer who sold the weapon, and therefore, you could reach a point where now we do it very laboriously via telephone, which takes, as you have indicated, many days in some cases.

By use of a computer, this could be done in a matter of seconds.

Mr. McCLORY. I would like to add that I did have the opportunity to visit your tracing operation. I want to commend you on the very useful service you are performing with limited means and with limited legislative authority.

Mr. DANIELSON. Would the gentleman yield?

Mr. McCLORY. I would be happy to yield.

Mr. DANIELSON. I think I heard this, but I want to recap so I can see if I missed anything.

Under existing law, manufacturers of handguns must keep a record of what they have manufactured, of the licensee to whom they have transferred the title, and that would be a wholesaler, I would assume, and the wholesaler in turn keeps a record of the licensed retailers to whom they transfer the title.

Then we are getting down to retail sales to the citizens, and depending upon the laws of the State in which the transaction takes place, you either do, or do not, have the identity of the first retail purchaser.

Mr. DAVIS. No, sir. In every case under Federal law, the purchaser of any firearms, including shotguns and rifles, as well as handguns, must fill out a firearms transaction form, and he must display positive identification.

Mr. DANIELSON. Then you do have the identity, at least, of the first retail purchaser.

Subsequent purchasers, transferees from the first retail purchaser, may or may not be available.

Mr. McCLORY. The dealer has the names. The dealer is required to have the names.

Mr. DANIELSON. I have that.

Mr. McCLORY. He doesn't have it.

Mr. DANIELSON. But, the world has it. It is a record.

Mr. McCLORY. It is a record which under existing law they are required to keep and maintain.

Mr. DANIELSON. The retailer must keep a record of the first retail customer. A second owner—suppose I buy the gun from a retailer, but I sell it to my good friend, Mr. McClory.

Is there any available Federal law requiring a record to be kept there?

Mr. DAVIS. No, sir, not at all.

Mr. DANIELSON. So once you pass the first retail purchaser, that is the end of trail.

Then, as I understand it, there would be one change in the law, at least, which would be of value to you, and that is that your central records would have the aggregate of all of these records of the manufacturers, so that on seeking to identify a weapon, you do not have to search out the manufacturer to start with, but your own computer could say, "Well, this gun was made by so and so and was sold to wholesaler number so and so, et cetera," down to that first retail sale?

Mr. DAVIS. Yes, sir.

Mr. DANIELSON. Subsequent to the first retail sale, then, that would be up to—under the present law—it would be up to the existing laws of the several States.

Mr. DAVIS. And it would be an investigative trail.

Mr. DANIELSON. I understand. I wanted to recap. Am I about right on that, in your tracing experience?

Mr. DAVIS. Yes.

Mr. DANIELSON. In your tracing experience, there are very few instances in which you were able to trace the gun from the purchaser to the licensed dealer because of the purchaser having transferred to some third party.

That is a very unusual incident, is it not?

Mr. DAVIS. Yes, sir, and I am hesitating, because I am not exactly sure of what the percentage would be, if I understand your question that, knowing the first purchaser, we generally are able to identify the person who used the gun in crime, and this, I would say, is generally true.

Mr. McCLORY. And the other thing which your tracing experience or survey shows is that the guns identified in the tracing process were purchased for the most part relatively recently; that is, 1, 2, or 3 years prior to the time the crime was committed?

Mr. DAVIS. Yes, sir. The percentage in the year is high in the year preceding the use in crime. It drops a little more in the second year, and a little more in the third year.

But in the aggregate, taking a 4-year period, it would cover about 50 percent of all guns used in crime.

Mr. CONYERS. Counsel Chris Gekas?

Mr. GEKAS. You indicated that the sample was a limited study, and you also indicated that you do not have the computer capabilities or the computer equipment to even institute this minimum system for tracing that you were describing to Mr. McClory.

You were up before Appropriations yesterday. In your appropriation, is there a request for computer capabilities for new equipment and new programs specifically related to the two areas, registration and studies, and any other areas? Do you have a request up to now for that?

Mr. DAVIS. No, sir. The fiscal year 1975 budget request does not contain an authorization for computer equipment or computer personnel.

Mr. GEKAS. Did ATF make such a request in its submission?

Mr. DAVIS. Yes, we did ask for that.

Mr. GEKAS. When you ask, who do you ask?

Mr. DAVIS. The budget submission will be made to the Department of the Treasury. The Department of Treasury will take such action as they feel appropriate on that request. It is then submitted to OMB, where they will take action and submit it to the Congress.

Mr. GEKAS. So you asked Treasury for computers for the tracing and the system to increase your computer capabilities?

Mr. DAVIS. Yes, sir.

Mr. GEKAS. And it was cut by what?

Mr. DAVIS. To the best of my recollection, it was cut by the Office of Management and Budget.

Mr. GEKAS. Could you supply the figures that—could you supply the total budget that ATF submitted to Treasury?

Mr. DAVIS. Can I take that under advisement, if I can, and tell the committee later?

Mr. GEKAS. You can see the point of my question. You could do a lot better job if you had this capability.

Why don't you describe for the members of the subcommittee what computer capabilities you do have? It is my understanding it is not extensive.

Mr. DAVIS. Yes. We have what we call a remote terminal linked to an 1108 Computer in the Treasury. We have four professional people and one clerk. My advice from those people is that the computer at Treasury is frequently not available for use, either because it is down, or because other jobs have priority.

Mr. GEKAS. So you regulate so many thousand tobacco licenses, so many thousand alcohol licenses, so many thousand firearms licenses, and in the firearms area, there are 6 million transactions a year in which there are 2½ million handguns, and you do not have a computer.

Mr. DAVIS. No, sir; and I would like to remind the committee that we collect \$7.5 billion a year in alcohol and tobacco taxes.

We have 500,000 retail liquor dealers. Any computer capability we would have would have an application beyond firearms.

Mr. CONYERS. Mr. Danielson?

Mr. DANIELSON. Thank you, Mr. Chairman. Does the manufacturer place the serial number of the weapon on the piece at more than one place?

Mr. DAVIS. Yes, sir; and Mr. Dessler, the chief counsel, can advise you of the specific legal requirement.

Mr. DANIELSON. Before you answer, sir, in addition to informing me as to what is the commercial practices, is this compulsory, or is it voluntary by the manufacturer? Are there any secret places for these identifying number, as in the automobile industry?

You know, the number appears in more places than just the engine block. Could you answer that, please?

Mr. DESSLER. Yes, sir.

The law requires the manufacturer to identify by means of a serial number, which is cast or engraved on the receiver or frame of the weapon. The law requires it to be placed on that specific part, the frame or receiver.

Mr. DANIELSON. That is one number.

Mr. DESSLER. Yes.

Mr. DANIELSON. Are there others?

Mr. DESSLER. There are no other numbers which the law requires. It is a serial number that shall not duplicate any others.

Mr. DAVIS. Mr. Owen, could you respond to the commercial practice with respect to serial numbers?

Mr. OWEN. Yes, sir, depending on the manufacturer, certainly the major handgun manufacturers do place additional serial numbers on major components.

Mr. DANIELSON. This is violational on the part of the manufacturer, and whether he does or not just depends on whether he feels like it.

Mr. OWEN. Yes, sir.

Mr. DANIELSON. You may be familiar. In the automobile industry, the engine number usually appears at more than one place. We used to call them the secret locations, and the idea was that somebody might file off the number, but you could still find it someplace else.

Whether you have or not, would you give some thought to there being some type of a requirement? It is so simple to remove a cast or engraved number from the frame or receiver, that it might be wise to consider having the same identifying number on the piece at some other arbitrarily determined place so that we double the safeguard of identification.

Mr. CONYERS. Mr. Hughes?

Mr. HUGHES. Yes, Mr. Chairman.

I would like to try to develop just a little more the concept of tracing. You know, we seem to take it right to the brink and drop it there.

I wonder if I can reach that, because I understand under the 1968 gun control law, we can trace it from the manufacturer, to the wholesaler, to the retailer, to the first purchaser. We cannot go beyond that.

As I understand your statement, you do not think there are that many transfers. Do you have any data to back that up, because that has not been my experience.

Mr. DAVIS. Yes, sir. You mean beyond the first purchaser?

Mr. HUGHES. Yes. I find a lot of swapping and selling and bartering back and forth.

Mr. DAVIS. I am sorry if I gave that impression, because there is a good bit, as I indicated, individual sales or casual sales, between individuals and trading and this sort of thing.

A great deal, of course, depends on the nature of the purchaser. If, for example, he has purchased a gun for home defense, it is more than likely that he will keep it, and it depends upon his interest, generally, in the subject of guns.

But I probably mislead you by responding to Mr. McClory's question. Even though there have been several transfers, it is possible, through investigation, to follow that from one individual to another, if the gun has been used in a crime.

Mr. HUGHES. So under present law, if there have been six transfers from the time that the first purchaser bought from the dealer, we have no record of that, at least at the Federal level?

Mr. DAVIS. No, sir.

Mr. HUGHES. How many States have some form of registration or identification law? How many out of the 50 States have that?

Mr. DAVIS. To the best of my recollection, there are about nine States that have statewide registration.

Mr. HUGHES. Nine States?

Mr. DAVIS. Yes, sir.

Mr. HUGHES. So we are talking about 41 States that do not have?

Mr. DAVIS. That is correct.

Mr. HUGHES. And it is safe to say that we have a great volume, from what you have testified, the 1½ million guns that are being introduced into the marketplace each year, that we have no record of whatsoever?

Mr. DAVIS. Yes, sir. That is, beyond the first purchaser.

Mr. HUGHES. Is there any requirement that the dealer make a determination as to whether or not the purchaser is the type of individual who should receive a handgun, whether he has a mental background or criminal background? Is there any determination along that line?

Mr. DAVIS. No, sir. The only positive requirement that the dealer has is to establish that the purchaser is of legal age to purchase that type of firearm, and that is 18 in the case of long guns and 21 in the case of handguns.

He also must establish that he is a resident of the State where the sale is made.

Now, the purchaser on the transaction form must swear that he is not proscribed by law from making the purchase, and the four categories, as you indicated, are convicted felons, individuals under indictment for a felony, persons addicted to narcotic drugs, and persons adjudged mentally incompetent.

There is no positive requirement on the part of the dealer that he establish this. If the dealer, in fact, knew the individual was a convicted felon, then, of course, he would be violating the law.

Mr. HUGHES. There is no requirement that the dealer make that determination under the present law?

Mr. DAVIS. No, sir.

Mr. HUGHES. What do you think was the basic philosophy or policy of the Congress when it passed the 1968 law that set up this type of tracing? What, in your judgment, was the Congress trying to do?

Mr. DAVIS. In my view, and based upon the legislative history and so forth, my view is that the Congress intended to prevent certain categories of individuals, who for the want of a better term, we can call high risk individuals, from acquiring firearms.

Of course, that also extended to the age limitations, and of course, in order to avoid the mail order sale of firearms whereby a person proscribed, or high risk person, could acquire them in violation of the laws of his State, it is required that he be a resident, in the case of hand-guns, in the State in which he makes the purchase.

So, as I see the scheme, the recordkeeping scheme, and the other provisions of the 1968 Gun Control Act, and particularly title I, they were to prevent these people from acquiring arms.

Mr. HUGHES. Obviously, we have big gaps, gaps large enough to run a Mack truck through. It seems incredible to me that we take it down to the first purchaser and drop it there.

In the years you have been administering the 1968 law, do you find it is a tremendous handicap on the part of those States? Or have you determined that it is a tremendous handicap on the part of those States that do have a registration law in trying to deal with the problem when 41 of the States do not have a registration law?

Mr. DAVIS. Yes, sir; our Project I studies in which we have traced firearms in 12 major urban areas of the United States indicates that there is an interstate traffic in guns used in crime between those States which have no laws, or weak laws on the control of guns, to those States, such as Michigan and New York, where they do have a tough gun law, or stricter gun law, or laws.

Those States that have handgun control laws, in many instances probably find that the legislation is just not effective when you can go across the State line and purchase whatever weapon you want to purchase and bring it back in.

Mr. DAVIS. It depends on the way you look at it, I guess. Certainly the law is effective to the extent that it forces the citizens of that State, if they are not able to acquire a gun legally in that State, to go to another State to acquire the gun.

Mr. HUGHES. You know, something else. Talking about the appropriations interests me, and I am new in Congress, and I have just talked with my colleague, Mr. Danielson, here. It is incredible that instead of coming to the subcommittee or committee that has jurisdiction, the appropriations are determined by the Appropriations Committee that does not have the expertise or the oversight that the committees have, and I think that is a tremendous shortcoming, because I cannot think of anything you need more right now than computer data. It is incredible that you have to pick up the telephone and go through manufacturer after manufacturer to trace a weapon.

I have heard it said that you can trace it in 20 minutes, a particular weapon, such as in the Bremer case, where it was a matter of a few minutes, but sometimes a matter of 3 minutes can make a difference in saving a life or in trying to bust a case wide open on the part of a law enforcement officer.

So, to me, we have the makings, I think, of a pretty good law. It looks to me like it needs a lot of shoring up. Is that the way that you find your situation to be at the present time?

Mr. DAVIS. Well, sir, I think any time that you have uncontrolled sale and transfer of handguns between individuals, obviously it leaves a tremendous gap in the ability to trace a gun that is used in crime, and certainly it leaves a tremendous gap in the information as to where guns are going and this sort of thing.

Mr. HUGHES. Do you feel, based upon your own expertise in the field, that we need some type of an inducement for the States to follow-through with some form of registration of tracing, or that the law be expanded so that if we do have control, not only of the transfers, but also thefts? If I understand it, if the weapon is stolen from the first purchaser, he is not required to report it.

Mr. DAVIS. No, sir. You are asking for my personal opinion, and it is this: I think we are all aware of the emotional issue that is centered around firearms and their control by whatever level of Government is involved, so that we are now saying that this would depend on 41 States to enact, we will say, uniform legislation to deal with this subject.

I would think that would be unlikely.

We also, I think, realize, and this is not limited to firearms, nor to gun control, but we know that there are varying degrees of enforcement in States that have similar laws.

So I would make these two points as favoring Federal legislation:

Mr. HUGHES. I happen to agree. I think that that is probably right. I would like to see legislation that would allow States to do it, and then if they do not step in and do it, to have certain minimum standards.

How many staff members do you have working in just the firearms section?

Mr. DAVIS. Well, sir, that is very difficult, because we, starting with our field personnel, we ask our agents to enforce all the aspects of the laws we enforce—in other words, firearms, explosives, illegal liquor, and so forth. We do not encourage specialization to any extent. For flexibility of use, we want them to be aware of and capable of enforcing any law under our jurisdiction.

The same thing is true of our inspector field force.

Mr. HUGHES. Can you give me an approximate number?

Mr. DAVIS. Well, sir, I can tell you that in terms—yes, I think I can give it to you here.

We have a total employment in the Bureau of Alcohol, Tobacco and Firearms of something like 3,700-plus employees, and I may have to do a little addition here, but—

Mr. HUGHES. I will not hold it up here.

Mr. DAVIS [continuing]. I think it would come out to about 1,864 man-years.

Mr. McCLORY. Would the gentleman yield for an observation?

Mr. HUGHES. Certainly.

Mr. McCLORY. I think the gentleman would be amazed to see the operation going on presently, the tracing operation, where we are working with pencil and paper instead of with modern technology. They carry on a very sensitive and extremely important element relating to law enforcement, and it is really remarkable, I think, the job that they do with the staff and the facilities that they have.

We really should salute them on the service that they perform with this limited budget.

The only other observation I would make is that with regard to the Federal registration, or some kind of pattern of State registration, which we might mandate by Federal law, we would not be requiring any more information about the individual handgun owner except in rare instances where it is lost or stolen, than we have right now. It is just centralizing the location of the information.

Mr. HUGHES. I think that is a good point, and my distinguished colleague brings to mind something that I do desire. I do desire to visit the facility, because I am interested in this aspect of the law.

Mr. DAVIS. I would like to extend the opportunity to any member of the committee who has the time to do so to visit the premises.

Mr. HUGHES. Let me take it to the next step, and that will be all for me.

I have taken too much time as it is. Do you have any idea of how many additional staff members you would require, or additional budgetary requests you would require if this committee were to prospectively say in the future that all transfers from the first purchaser on, all thefts, are to be reported to a central agency?

Mr. DAVIS. Yes, sir.

Mr. HUGHES. That is for new handguns. That is not dealing with the handguns that are already in the possession of individuals.

Mr. DAVIS. Yes, sir. There is one way, and I would guess it probably would be a simple way, in which this would be accomplished, and that is if you required—well, in effect, if you made it illegal for individuals to transfer guns to each other without going through a licensed dealer.

In effect, this would give all transfers back into the record—

Mr. HUGHES. I have that in mind, those transfers, also. I am talking about transfers from a dealer or an individual to new purchasers, new owners, new possessors of the weapon.

Mr. DAVIS. Well, again, obviously, in terms of equipment to handle that kind of information, certainly there would be an added burden on that.

In terms of field personnel, I would judge that, and this is certainly off the top of my head, without having an opportunity to think about it, but it would require substantial increases, and I will pull a figure out of the air of, say, 700 additional field personnel, those being divided between agents and inspectors.

Mr. HUGHES. Do you not think, to give the 1968 law on the tracing and identification aspect any meaning at all, we have to do just that?

Mr. DAVIS. Well, sir, I think, as you have pointed out, this was an obvious gap in the law, and should the Congress feel that, you know, that this should be closed, then obviously it would make the control of handguns, if it were limited to handguns, make it certainly more complete, and certainly produce more information about the movement of guns and so forth.

Mr. HUGHES. Thank you very much.

Mr. DANIELSON. Would the gentleman yield for another observation?

I want to get back to the computer thing which we all have been talking about, and which is important.

I have been sitting here pondering your figures, 40 million handguns in private ownership, and apparently 2 or 3 million more per year.

You do have computer capacity within the Treasury Department, do you not?

Mr. DAVIS. Yes, sir.

Mr. DANIELSON. Does not your agency have at least random access to that computer for input and output?

Mr. DAVIS. Yes, sir.

Mr. DANIELSON. I want to make this observation. It seems to me that if your computer capacity at Treasury is anywhere up to date, there should not be any real problem. Modern computers are rarely loaded as to capacity—maybe between nine and five it is a little difficult to get on, but not too difficult.

I participated in the study of our computer capacity in the State of California a number of years ago, and it seemed like every agency wanted to have its own computer. It seemed to be a prestige item or status symbol, or something like that, and the computer sat around gathering dust and premiums most of the time.

We have in California, the Department of Motor Vehicles, registrations of some 15,000,000 ordinary motor vehicles, plus trucks, taxis, et cetera. We also have the drivers license data and a lot of other data, and our highway patrolmen have no trouble when they are catching up to stop an automobile, radioing in the license number, and before the cars are stopped, they know to whom it is registered.

I am talking about 30 seconds, or maybe a minute.

Could it be—40 million, 100 million—it should not be any real problem. Could it be that—well, perhaps it is budgetary, and you need not say this if it is embarrassing to you, so if they want to hog it within the agency, they allocate so many dollars to internal departments of the Treasury.

My hunch is that that is the situation. I have never heard of a computer that is worked to death. The problem with most computers is that they sit there and do not do the work that they have the capacity of doing, simply because with the terminal in your office, random access can probably get almost anything you want in about 60 seconds.

The New York Times has a news computer system at the present time, whereby, if I had the money to spare, I could have a terminal in my office, and on almost any subject I can get a printout from the New York Times in a few minutes.

I have got a feeling, Mr. Chairman, that if we go into analyzing computers, we ought to find out whether that Treasury computer is being used to its full capacity.

Mr. DAVIS. Yes, sir, and I certainly will agree in general with your remarks. Let me say, however, that the California computer that deals with motor vehicle registrations and drivers licenses is more likely a dedicated system to that purpose.

If we computerize weapons for law enforcement tracings, it is essential that we have immediate access.

Mr. DANIELSON. Sir, if you will permit me. You say dedicated computer. That means our own private computer.

I think you need random access to good hardware, and with that, I do not think we are going to have any problem at all. I would like to see you be able to get your data in 60 seconds. You do not need it faster than that.

Mr. DAVIS. No, sir, and we do not care where the computer is. The problem goes beyond the hardware. It goes to personnel who are able to make use of it, but with the indulgence of the Chair, Mr. Peterson is in charge of our office in which our data processing activities occur, and maybe in just a few words he can indicate some of the problems we have.

Mr. PETERSON. I am the Assistant Director for Technical and Scientific Services. The 1108 Univac system the Treasury has is about 10 years old. It was bought as surplus equipment for Treasury, and Treasury primarily uses it for economic trend analysis. It is used very heavily in the financial analysis that the Treasury has to do.

Mr. CONYERS. Excuse me, sir. Would you take a seat at the witness table so that you will be a little closer to the microphone?

Let me take this opportunity to welcome our two distinguished subcommittee members, Mr. Mann and Mr. Thornton, who have joined us just a few moments earlier for our dialog.

Mr. PETERSON. I mentioned earlier that that is an old-fashioned computer in terms of what is modern and high capacity. We are very concerned with the capacity of this computer, because it is limited, and it does not seem to have the expansion capability that we would like.

I would like to point out that we are getting, also, computer support from the IRS Data Center in a major program. We get some computer support from the 10 service centers of IRS, and consequently we have to pull all these formats into our own required format so that we can analyze the data that we get, which is very, very rudimentary yet.

Mr. DANIELSON. What you are saying, Mr. Peterson, is just about what I was suspecting; that you have some antiquated Univac down there, the one that predicted that Dewey was going to beat Truman—that is literally true.

The thing worked like a cream separator, and you cannot really make it do the work it ought to do.

Mr. PETERSON. That is correct.

Mr. DANIELSON. But, you tap into IRS and their service centers. That is by random access?

Mr. PETERSON. No, sir, we have no direct access to any of the computers IRS handles.

Mr. DANIELSON. You have to ask them to do you a favor?

Mr. PETERSON. We are low priority to them.

Mr. DANIELSON. But you must ask them to look it up for you?

Mr. PETERSON. Yes, and they send up reports.

Mr. DANIELSON. Mr. Chairman, I do not know if this committee has jurisdiction, but what we ought to look into is this: The sort of thing I was talking about a while ago, that is within the state of the art.

The problem is that your art is too old. It is out of date. Is that it?

Mr. PETERSON. Yes, sir. We have now one key punch operator, which is a technique I hope I never use. I would like to have the electronic data input.

Mr. DANIELSON. You should have the optical input.

Mr. Chairman, I think we may have found something here.

Mr. CONYERS. If you would yield, if we can get authorizing jurisdiction within the subcommittee, we might be able to make this a substantive conversion. But, I think, as Mr. Danielson has indicated, we all treat your testimony from ATF collectively as extremely crucial to the significance of the report that this committee makes to Congress in connection with guns.

I am going to yield briefly to Mr. Gekas and then Counsel Barboza has a few questions he would like to pose.

Mr. GEKAS. Mr. Peterson, from what the Director said when I was asking questions before, it is my understanding that you have requested expansion of your capabilities for data processing, including personnel, the funds and the equipment.

Mr. PETERSON. Yes, sir.

Mr. GEKAS. I do not think the Director said it, but it has been cut out of your budget.

Mr. PETERSON. Yes, sir.

Mr. GEKAS. Have you submitted it? I do not know if you can answer this, but if you can answer it, have you submitted such requests for

the fiscal year since you have become an independent bureau—for each of the fiscal years? I think there are two.

Mr. PETERSON. In 1973, we did request funds, and we have requested them each year since.

Mr. GEKAS. They have been cut out?

Mr. PETERSON. They have been cut out.

Mr. CONYERS. Mr. Barboza?

Mr. BARBOZA. Mr. Davis, under the 1968 act, do you have responsibility for firearms prior to the first retail sale? That is, when they are imported into the country and when they are manufactured?

Mr. DAVIS. Yes, that is correct. We do.

Mr. BARBOZA. Do you know how many dealers there are in the United States today?

Mr. DAVIS. I am sorry. I could not quite hear that.

Mr. BARBOZA. Do you know how many firearms dealers there are in the United States today?

Mr. DAVIS. 165,000.

Mr. BARBOZA. Where is this information maintained?

Mr. DAVIS. It is maintained in the Internal Revenue Service. We make an investigation of an application for a license, the remittance and so forth go to Internal Revenue, and they keep the list of licensees by each of our regions.

Mr. BARBOZA. Are they on computer, then?

Mr. DAVIS. Yes, they are in the 10 Internal Revenue service centers in separate lists.

Mr. BARBOZA. Who maintains the license forms, the license itself, and do you ever have an opportunity to count those licenses to determine whether your figures match up with the figures that are contained in the computer?

Mr. DAVIS. Yes. We recently conducted such a survey in cooperation with Internal Revenue, and we did find there were approximately 15,000 to 25,000 licensees on their list who were no longer in business, or otherwise not in fact licensees.

Mr. BARBOZA. Could you, if asked, provide us with a list of dealers by region, by State, and by city? You have provided some of this information.

Mr. DAVIS. Yes, and we will provide that to the committee.

Mr. BARBOZA. Do you have the capability to tell the committee how many dealers are full-time dealers?

Mr. DAVIS. No, we do not.

Mr. BARBOZA. Do you have the capability to tell us how many dealers operate out of their homes, their basements, or how many operate from store fronts? Do you have that capability?

Mr. DAVIS. No, sir; each application for a license carries a requirement that they indicate the address of the business and the type of structure, whether it be dwelling or commercial, and the hours they stay open.

But to do this would require us to go back to every application and to examine them individually, which would be, as you can see, a tremendous undertaking.

Mr. BARBOZA. Yes, it would. Do you know how many guns are sold by individual dealers? Do you have that capability?

Mr. DAVIS. How many guns are stolen?

Mr. BARBOZA. How many guns are sold by individual dealers? Do you have that capability?

Mr. DAVIS. No, we do not.

Mr. BARBOZA. Do you have the capability of telling us what guns are sold in what parts of the country? What guns are the fastest moving in New York City, and what gun is the fastest moving in a city in another State?

Mr. DAVIS. No, we do not have that capability.

Mr. BARBOZA. Can you tell us whether or not various dealers are diversified? Do they sell other things besides guns, like groceries? Could you provide us with that information?

Mr. DAVIS. No, we cannot.

Mr. CONYERS. Would my counsel yield for a minute? I want to tell you an incident that I had heard—that in Highland Park, Mich., they were selling guns in record shops; I made that statement in some great alarm, but the record shop owner was licensed.

He was not doing anything illegal, as I had envisioned it, that this was a clandestine activity going on, where you buy your favorite LP and a Saturday night special along with it.

As counsel is pointing out, the fellow was licensed. He took \$10 out of his pocket, and got a license, and he is not doing anything improper whatsoever.

Mr. DAVIS. Mr. Chairman, I might point out under the Gun Control Act of 1968 that the only thing that—the only standard involved—is that he intends to engage in the business, and the Court interpretation of that term “engage in the business” means he must have a place where he conducts a business, it must be open to the public and he must have regular business hours. Those hours can be 6 to 8 in the evening. The place can be his living room, so that that is the situation.

Mr. BARBOZA. Mr. Davis, could you tell us the sales volumes of the dealers?

Mr. DAVIS. No, we cannot.

Mr. BARBOZA. Can you tell us how many dealer transactions occur and how many are in-State and out-of-State?

Mr. DAVIS. No.

Mr. BARBOZA. Would the information we have just talked about be of any use to you in enforcement of the Gun Control Act?

Mr. DAVIS. It would be of tremendous assistance to us. We could, for example, if we had the information of which you are speaking, it would be possible through a computer to have the computer programmed in such a way that if a dealer's volume significantly increased during a period, that this would be reported.

Therefore, it would be—well, it would not be evidentiary. It might flag you that an inspector should visit that dealer to determine whether or not he is in fact selling volumes of guns for resale.

Mr. BARBOZA. As Mr. Danielson has pointed out, and as counsel has pointed out, have you made a request to OMB for computers to use for the specific purpose of compiling this kind of information?

Mr. DAVIS. Our request has never been specific in terms of the use.

Mr. BARBOZA. Yes.

Mr. DAVIS. As I indicated before, we have as a total bureau, tremendous use for computers, not only in the firearms area, but many other areas.

Mr. BARBOZA. Yes. In terms, then, of how an individual becomes a dealer, how many dealer applications per year do you receive?

Mr. DAVIS. Yes, he would be.

Mr. BARBOZA. Where is the information filed or maintained?

Mr. DAVIS. We have an unusually high turnover in dealer applications. I have the exact figures here, but they will run in excess of 20,000 new applications each year, and of course the number is steadily increasing, but not by that number, so that certainly the average new applications per year will exceed 20,000.

Mr. BARBOZA. You do deny applications; do you not?

Mr. DAVIS. Yes, we do.

Mr. BARBOZA. What is the chief reason for the denials?

Mr. DAVIS. Right. In some cases, we find the individual is not qualified. In others, he is proscribed by law. He may be a felon, or have other disabilities.

In rare instances, he does not have the proper facilities. In other words, he does not have the place open to the public, or has no regular business hours and things of this kind.

Mr. BARBOZA. So it would not matter where or under what conditions he is selling the guns, or whether he has facilities for keeping them under lock and key, but merely that he has someplace from which to do business, then? Is that correct?

Mr. DAVIS. That is correct.

Mr. BARBOZA. What is the procedure for investigating these some 20,000 applications each year for licenses?

Mr. DAVIS. I did not understand the first part of your question.

Mr. BARBOZA. What is the procedure for investigating license applications?

Mr. DAVIS. You might say we consider this to be an important part of our responsibility in the licensing area. We assign it for field investigation. We receive an application filled out by the applicant for a license.

Now, I will have to say because of a shortage of personnel, that we have not been able to do as thorough a job in this area that we would like.

Mr. BARBOZA. Pardon me. By saying you cannot do as thorough a job, am I to assume, then, that not all of these applications are investigated? Do you go to the premises of the applicant in each case?

Mr. DAVIS. I would like to say we do that 100 percent, but unfortunately, we do not. I think in a great majority of them, we do.

One of the things we do, obviously, is to check his criminal record, to determine whether he is proscribed by law, and wherever possible, we do visit his premises to insure that he does have a place open to the public and so forth.

Mr. BARBOZA. Is it possible for you to tell us the number of dealers that were not visited, and were granted a license?

Mr. DAVIS. Yes. I have those figures.

All right, sir. I can give you for the 3-year period, last year and this year, and fiscal year 1975 being for 7 months. We received in fiscal year 1973, 24,231 applications.

We investigated 21,732. This figure is going to be a little bit off, and obviously there is a carryover factor here. Some are not investigated in the year they are received.

In fiscal 1974, 24,873 were received, and 27,483 investigated.

Fiscal year 1975, for the first 6 months, 16,562 received, and 14,598 were investigated.

Mr. BARBOZA. Mr. Director, you then have quite a bit of work, to do in terms of investigating these license applications because you have

so many of them. So, an agent may be spending a good deal of his time investigating the premises of record dealers and grocers and other establishments whom we might assume are not the appropriate kinds of businesses to sell an instrumentality such as a handgun.

I do not think you would sell medical supplies in a record shop, or in a grocery store. There is a great deal of responsibility that goes along with the privilege of selling that gun, and as a representative of the agency which is responsible for enforcing the gun law, you do have a responsibility to see that those individuals who have the privilege of selling the guns are, indeed, doing it in such a way that the guns are getting into the hands of responsible people, and not irresponsible people.

Mr. McCLORY. Would the gentleman yield?

I think we have to assume the responsibility here in the Congress. I think that we have to give the kind of direction legislatively in order for the Department to apply more stringent standards.

I do not think we can be weak-kneed in our legislative mandate and then expect the Department to toughen up without that kind of backing, which it seems to me the Congress has to provide.

Mr. HUGHES. I wonder if the gentleman would yield a minute; I would like to know, when you say investigate, that does not necessarily mean an onsite investigation?

What does it mean?

Mr. DAVIS. It does not mean a criminal investigation. Unfortunately we have had to use special agents for this purpose, because we have not had enough inspectors. We consider this to be a regulatory type work. We had in 1972 to make the decision on paper that we would transfer this responsibility to our inspectors instead of utilizing special agents whom we need for other things.

Unfortunately, again, because of lack of personnel, we have been able to accomplish this only on a minimal basis and I can give you the exact figures on that.

Mr. HUGHES. My question specifically is, when you say you conducted these investigations does that mean each instance that an inspector visited the prospective licensed premises?

Mr. DAVIS. Yes, sir, in the majority of cases. I might point out to the committee that the law requires that we issue a license within 45 days of the time it is received. Now this puts a fairly tremendous time period burden on us.

Mr. HUGHES. I realize you are short of staff, and I am not trying to be critical. I am trying to find out what investigate means.

Mr. DAVIS. Yes, sir.

Mr. HUGHES. I also think it is important to see what the licensed premises are going to be like. In my district, I have premises that sell hotdogs and hamburgers, and guns on the side.

Mr. DAVIS. We conduct the investigation by telephone. We get in touch with the local police departments and say "Does this man have a record with your department?"

Either the city, chief of police, sheriff, or whatever agency is involved, and we have tried to keep that to a minimum. But wherever possible, we actually visit the premises to insure that they are adequate and do conform to the law.

Mr. GEKAS. Mr. Chairman?

Mr. CONYERS. Yes, Mr. Gekas.

Mr. GEKAS. To help clarify some of the points, from one of the charts you supplied, "Firearms and Compliance Time," we can get an idea of the ATF effort that put in the firearms as a part of your total activities. Then we can break it down even farther to determine how much time, what percentage of effort is put into application and compliance. From the chart that is entitled "Firearms Application and Compliance Time". I see in 1974, and I guess that is calendar 1974, you spent 10,786 man-days on application investigations, and that is about 10 percent of your total firearms effort, because we can add from this chart on the bottom, we add up all your firearms man-days to about 100,000, and the man-days just related to firearms, and then back up to the top table, where the figure for 1974, the 10,786, which is just on applications, and that is about 10 percent of the total 100,000.

I wonder if you could supply us a total man-days or man-year breakdown for all the activities of ATF? Because if applications are only 10 percent of firearms, I would imagine that it is a much, much smaller percentage of the total activities of your bureau.

[The information referred to follows:]

### FIREARMS APPLICATION AND COMPLIANCE TIME MAN DAYS

FISCAL YEAR	1970	1971	1972	1973	1974	6 MOS. 1975
APPLICATION INV.						
SPECIAL AGTS.	5,872	7,732	12,337	9,049	5,784	1,317
INSPECTORS				277	5,002	3,278
TOTAL	5,872	7,732	12,337	9,326	10,786	4,595
COMPLIANCE INV.						
SPECIAL AGTS.	2,415	8,124	10,815	6,409	4,970	784
INSPECTORS				829	1,695	980
TOTAL	2,415	8,124	10,815	7,238	6,665	1,764

### FIREARMS TIME - CALENDAR YEAR 1974 MAN DAYS

APPLICATION AND COMPLIANCE	14,018
OTHER FIREARMS RELATED DUTY (TITLES I - II - VII)	86,066

Mr. DAVIS. Yes, there is no question about that. I might add that we feel the average application investigation requires 4 hours of actual investigating time, not including travel to the area, and so forth.

Compliance inspections can take less time, and it is a significant, of course, manpower problem.

Mr. GEKAS. To go into the figures just a little way, looking at the 10,786 figure for the 1974, that is man-days. I guess we get to man-years dividing the number of days in the year, which is 365, right?

Mr. DAVIS. No, sir, 219 man-days excluding leave and holidays and so forth.

Mr. GEKAS. If you figure 219, that is about 50 man-years that go into applications, just very, very roughly, 50 man-years. So in other words, what that breaks down to is of the 4,000 employees that you have, it is like having 50 full time employees of the 4,000 just working on applications, right?

That is, 50 of your 1,500, right, working on this, your agents?

Mr. DAVIS. Yes, sir.

Mr. GEKAS. To finalize and put it into perspective that is 20,000 investigations a year.

Mr. DAVIS. Yes, and that does not include compliance.

Mr. GEKAS. I was just talking about applications so to sum it up, we can say it is like having 50 full-time employees to investigate 20,000 applications in a year.

Mr. DAVIS. Yes.

Mr. CONYERS. That is a very good point. I think Mr. Barboza wants to continue, but getting back to the bureaucratic jargon that Mr. Danielson referred to, now that we find out how many man-days there are in a year, only 219, how many man-hours are in a man-day, so we don't kid ourselves.

Mr. DAVIS. In the case of our organization, that is not true, because our special agents are on premium pay, so that they work much more than the ordinary 8-hour day in order—in order to qualify, they have to work at least 9 extra hours a week, and in our surveys, we find they exceed that a great deal.

So in effect we are getting a bonus of man-days here that won't quite come out.

Mr. GEKAS. Under the authority of the law, Mr. Barboza went through a number of things that you don't have the capability for, dollar volume, and all those things he was going through. You say you don't have the capability. Under the current law, do you have the authority to require submission of that information to the bureau?

Mr. DAVIS. Yes. As I recall in every instance that Mr. Barboza mentioned, we have the legal authority to have that information submitted to us.

Mr. GEKAS. To go to a different thing he asked, under current law, you are required to issue licenses to the 155,000 people unless, within 45 days, that is, unless they have a record, they don't have a business premise, which is a minimal thing.

So I again make this point of what the law requires you to do. It requires you to issue the regulation to the record store owner and to the 711, to license him.

Mr. DAVIS. Yes, sir. I would say in the case of the record store owner, that he is in business a lot more than a lot of the people we issue licenses to. At least he has a commercial place open to the public during business hours.

I would like to point out one thing. Since the activity of dealing in firearms has to be licensed before it can be conducted—in other words, the law says, "intends to engage in the business," because obviously if he is engaged in the business without a license, we would arrest him.

When we visit him, therefore, we have no positive evidence and he may say "yes, I am going to buy 20 guns and install them in the rack in the living room," so we don't have the advantage of seeing whether he is actually?

Mr. GEEKAS. You must issue the license to him, is that correct?

Mr. DAVIS. Yes, if he meets those standards there is a positive requirement that the license be issued within 45 days.

Mr. CONYERS. Mr. Barboza?

Mr. BARBOZA. If I were to apply to ATF for a position of special agent and I were to request to be assigned to the State of Texas, what would you tell me in terms of my average day? Would you tell me "well, you might be raiding stills, you might be inspecting alcohol production centers, or you may be investigating applications for licenses, or making compliance inspections.

So I would say "Well, I would like to talk to somebody who does these things and ask him his priority."

He tells me "I would rather raid stills than make compliance inspections."

In the order of things your agents do, what do they enjoy doing the least? Do they enjoy license inspections? If they have to drive 50 miles in Texas to inspect a licensee who may sell 50 guns a year out of his basement?

Mr. DAVIS. When we acquire an agent and require him to do non-law enforcement type duties, it becomes a morale problem, and I would say our special agents are not very enthusiastic about this kind of work.

On the other hand, our inspectors are hired for the purpose of this exact kind of work. That it certainly is one of the basic reasons why we would like to move this responsibility over. We have just over 700 inspectors and they have a wide range of duties, including the collecting of that \$7½ billion in taxes each year, so I would say, certainly, that the special agent would be disappointed, and is disappointed, if he is required to do this.

Mr. BARBOZA. Let's take it through another step. You are the regional director. Who actually assigns the agent this responsibility to investigate these initial applications, and how would he go about it?

What would the request look like? Would you give him five licensees and say here, go and spend the rest of the day checking these guys out.

What would he do, and what would he bring back as verification that he visited the places?

Mr. DAVIS. The assignment would take place in terms that he would be given the application itself that had been filled out by the applicant for the license, and this would be his basic document from—to work from in locating the man and so forth, and verifying that the information he gave was accurate. In order to cut down on cost, obviously, we try to group these to the extent possible, so that, as you have indicated, if there are five of them in the vicinity of one city, we will try to catch all five of them at one time.

So that in that instance, he would go to that city, he would visit the sheriff's office, perhaps, to determine what his criminal record, if any, was, and then he would go to the addresses listed on the applications to determine if the premise were in fact as stated in the application.

Mr. BARBOZA. Would he be required to in some way record this?

Mr. DAVIS. Yes, he would be.

Mr. BARBOZA. Where is the information filed or maintained?

Mr. DAVIS. Well, let me ask Mr. Corbin to respond to that.

Mr. CORBIN. After the special agent completes his investigation, a file would be maintained in the local office. We refer to them as post-of-duty files. In Alexandria there would be a file maintained in the office, and the basic file would be sent to what we refer to as our district office in Falls Church, and then to the region in Philadelphia.

There would be two files.

Mr. BARBOZA. How would you locate the file if you were doing a random sample or study of inspections and wanted information about inspections?

Mr. CORBIN. If you knew the name and address in Alexandria, we would go, the chances are, to the local office. If you knew only the State, Virginia, we would go to Philadelphia.

Mr. BARBOZA. I see. Mr. Director, you might explain to the members how compliance inspections are made, and we might relate that to your files concerning applications for licensees and those granted.

Mr. DAVIS. Yes. Compliance inspections are made really for the purpose of two things, one to determine if the dealer is complying with two things, that is, complying with the Federal law, and that is, in terms of service.

If he has questions concerning the recordkeeping, or if he has any other questions that would assist him in complying with Federal law, we feel this is quite important in order to obtain the maximum compliance. I don't know whether I have been responsive completely to your question or not.

Mr. BARBOZA. Yes, I think you were. Director, in terms of your compliance activity, how often do you visit a particular dealer on the average? If I were a dealer in Lubbock, Tex., how often would I expect a visit from ATF?

Mr. DAVIS. Let me say that if we had any reason to believe that you were not complying with the law—

Mr. BARBOZA. Excuse me for interrupting, but how would you know I might not be complying, since you don't have all the information at your fingertips.

What are your avenues for determining that I am not complying with the law?

Mr. DAVIS. There might be a number of sources. The local law enforcement people might say "This fellow is not from what we have heard."

We might get a lead from an informant. There may have been in that city a number of guns that were seized in use in crime which led back to this particular dealer.

So these are the ways, or one of the ways, that we could do that.

Mr. BARBOZA. Director, is it correct, then, to state that you might not suspect a dealer until he has done something wrong, or suspected of doing something wrong, and you would not necessarily maintain surveillance on certain dealers based on information he received that might lead you to expect that they might not comply as a result of your initial application investigation?

I mean do you suspect certain people, even at the time that their application is granted, that they may be a source of a problem for you in the future?

Mr. DAVIS. Well, of course, there conceivably could be a situation if a dealer were located in a high-crime area, that we might put a surveillance team on that dealer to determine, in fact, if he were violating the law. But that would be the only way, unless we could visit him periodically, in what we might call a periodic compliance inspection, and by looking at this record he maintains, find indications that he was not in fact keeping certain records accurately.

Mr. GEKAS. Why don't you describe for the members of the subcommittee what a compliance investigation is, what they do when they go in, and what they look for, and specifically let's talk about multiple sales of handguns.

Mr. DAVIS. Very good. A licensed dealer is required, really, to keep two sets of records. One is a bound record in which he has to list acquisitions and his dispositions and the compliance—a thorough compliance inspection would involve making a random sampling of his inventory against his acquisitions and his dispositions to make sure that he had recorded everything both ways.

The second set of records that he would be required to keep, of course, are the transactions, the firearms transactions forms.

Mr. GEKAS. Which are filled out by the purchaser?

Mr. DAVIS. Half of this is usually filled out by the dealer and the other half by the purchaser.

Mr. GEKAS. That is the famous retail purchaser.

Mr. DAVIS. Yes.

Mr. BARBOZA. I don't want to interrupt your train of thought, but is the dealer required to fill in the missing spaces in the bound book in ink, or can he do it in pencil? Who maintains those records?

Mr. DAVIS. Mr. Dessler, why don't you give the regulations?

Mr. DESSLER. The regulations generally prescribe a format which is required for the maintenance of the dealer records, the bound records. So in 26 CFR 178.125 is where the format is spelled out, and for example, the record would indicate on an acquisition and disposition the date, the manufacturer, the caliber, gage, or type of component, the quantity, the name, address, date of birth, and mode of identification of the purchaser.

Mr. GEKAS. And the serial number of the gun?

Mr. DESSLER. Well, the actual acquisition and disposition record is going to show, yes, the manufacturer, the model, the serial number, the type of action, the caliber, and gage. That would be the description of the firearm.

Then the receipt part of it would show the date, from whom obtained, and then the disposition, the date and name, and the address and license number, or the 4473 number, of the purchaser.

Mr. GEKAS. Those are the forms you use when you do a trace to a retail dealer. You call him up and ask about a gun and he goes to those forms?

Mr. DAVIS. He would go more than likely to his bound record and then to the transaction record to find out the specific name.

Mr. HUGHES. I wonder if the gentleman would yield for a minute, Mr. Chairman.

Mr. CONYERS. Yes.

Mr. HUGHES. On the same subject, if in fact an application comes back and shows 10 firearms were sold to 1 individual, is that the basis for a follow-up investigation of that individual who purchased the firearms?

Mr. DAVIS. Yes.

Mr. HUGHES. If there is an intent to circumvent the licensing requirements?

Mr. DAVIS. In that case, I would say the purchaser becomes suspect and not the dealer. Under the Gun Control Act of 1968, there is no limitation that can be purchased by an individual at one time. So you would walk into a dealer, and assuming you were otherwise legally authorized to buy a gun, you could buy a hundred, if he had them, and so forth.

I might—this relates to a question that was proposed, and that was the multiple sales of handguns. In our project tracing guns used in crime, we found this was a significant loophole in terms of a dealer selling to an individual who in turn resold.

We call it "on the street" dealing, of course, without a license. This makes the gun very difficult to trace and so forth. I would like to point out to the committee in this respect that having recognized this, we just recently and we have the authority under existing law, we have proposed regulations in the Federal Register, and we have invited comment, here, and if one is needed that a licensed dealer must report to ATF if he sells more than one handgun to the same individual at the same time, or during 5 consecutive business days.

Now we hope that this will substantially, if not totally eliminate multiple sales of handguns. I might point out that we will provide the dealer with a big sign in his store saying "I have to report the multiple sale of handguns to the U.S. Government" because we want to discourage this.

On the other hand, if a person has a legitimate need, if the head of a security agency has put on five new guards and needs five .38's to equip them this can be ascertained by the agents, and he probably would not even realize they were around.

So this would give us a chance to close a loophole under existing law that has existed up to this time.

Mr. HUGHES. Thank you.

Mr. CONYERS. Mr. Davis, you had given some indication that you wanted to proceed with the development of your presentation from the hearing before. We are on question 3, and we also have the rest of your charts in front of us. As you can see, the committee wants to proceed carefully with respect to your testimony, because we believe it is going to comprise a very important part of our report.

You may proceed in either direction. The questions are written down, and we know that, obviously, you will have to join us again in another session anyway, so you can move ahead in any way you want. Mr. McClory?

Mr. McCLORY. Mr. Chairman.

Mr. CONYERS. Mr. McClory gets thorough with his interrogation.

Mr. McCLORY. No, I don't want to interrogate but I want to ask this question, if you will yield, Mr. Chairman, and that is that we do proceed with the testimony relating to these questions, and that when we do adjourn, that the balance of the questions might be submitted and written answers supplied for the benefit of the committee, if that would be acceptable.

Mr. CONYERS. I don't have any objection to that. Is that suitable to most of the members of the committee? I don't see any criticism of that.

Mr. GEKAS. May I finish up to make a point similar to the one I made on the applications for compliance?

Just on a percentage of time using the chart that is used for compliance, generally how often do you get to each of the 155,000 licensed dealers?

Mr. DAVIS. Well, as you can see on the chart there in 1974 on compliance, we made 6,600 compliances, so this would mean that something—I don't know what my mathematics are, but that would be somewhere once every 26 years, or whatever the figure would be.

Now we really feel that not only is there an obligation to the government, but there is an obligation to the dealer, so that he will not run afoul of the law, that at least he should be visited once every 3 years.

This is a man whom we have no reason to suspect. As you can see, this requires 50,000 compliance inspections a year under the present dealer laws.

Mr. GEKAS. There is another table you supplied us which does list the number of compliances investigations, and for 1974, it is 15,000. There are 15,000 made, according to your figures.

Mr. DAVIS. I am sorry.

Mr. GEKAS. The compliance investigations—inspections are about 6 percent of your total firearms effort, and I would imagine the firearms effort is certainly no more than a third of your total effort, including alcohol and tobacco.

So it is a smaller percentage to some extent anyway—I see Mr. Corbin shaking his head. It is 6 percent of the firearms effort, a somewhat smaller percent of the total bureau effort, and if we translate man-days into man-years, 6,665 I figure out is about 30, or is it 15?

It would be about 15 employees full time.

Mr. DAVIS. Full time. Yes.

Mr. GEKAS. Investigating those licensees.

Mr. HUGHES. Could I follow up on that? What is the fiscal year we are talking about? I note your man-days are on the basis of a fiscal year.

Mr. DAVIS. In this case, we have a man-day figure, and on the other we have the full actual number.

Mr. HUGHES. I am looking at your own chart, firearms applications and compliance, man-days.

Down below, we are talking about a calendar year, and I myself surmise from that that we are talking about two different time periods.

Mr. DAVIS. All right, sir. That was for calendar year 1974, the bottom.

Mr. HUGHES. On the bottom, and the top is for fiscal year 1974.

Mr. DAVIS. So that there would be a 6-month difference in the computation between the—they would not coincide for a 6-month period.

Mr. HUGHES. My question gets back to this. I notice in looking at your compliance investigations for the first 6 months of 1975, there is a tremendous dropoff, for instance, in the area of compliance investigations for 6 months, and that might be explained because it might be a short 6 months.

Well I don't know.

Mr. DAVIS. If I am looking at the same chart—

Mr. HUGHES. I am looking at the first 6 months of 1975 under man-days for firearms, applications, and compliance time, and I am looking at the compliance investigations, special agents, 774, and inspectors, 990, for a total of 17,064.

That represents a substantial drop for 6 months, unless it is a short 6 months.

Mr. DAVIS. Projected on a year basis, that would be less than in previous years.

Mr. HUGHES. How do you account for that?

Mr. DAVIS. Well—

Mr. HUGHES. What is the explanation for that, the tremendous dropoff in compliance investigations?

Mr. DAVIS. Yes, sir. The explanation is that we are just devoting the available time to higher priority work.

Mr. HUGHES. Thank you.

Mr. DAVIS. Mr. Chairman, do you have any estimate?

Mr. CONYERS. We are in recess. You may continue with this recitation.

Mr. DAVIS. In that case I will interrupt the response to the questions which we can either supply for the record or discuss later, and then we will continue.

Mr. CONYERS. That is quite all right.

Mr. DAVIS. Mr. Chairman, would there be any purpose in a brief summary of the last session, or just go right ahead?

Mr. CONYERS. Everybody was here. I think everybody was here last time.

Mr. DAVIS. All right, sir. Since we have covered a great deal of this, this material, I am going to be selective. This is the chart dealing with the applications of manpower to firearms.

## APPLICATION OF MANPOWER TO FIREARMS

	DIVISION STATUS UNDER IRS					BUREAU STATUS			
	1968	1969	1970	1971	1972	1973	1974	1975 (EST.)	1976 (EST.)
TOTAL AGENT MANPOWER AVAILABLE	985	1047	1211	1389	1630	1622	1576	1570	1558
AGENT MANPOWER APPLIED TO FIREARMS	214	442	700	810	911	952	1058	1082	1105
INSPECTOR MANPOWER APPLIED TO FIREARMS*	—	—	—	—	—	3	34	65	112

\* Decision to transfer compliance activity to regulatory enforcement

As you can see, this involves agents and inspectors. In the case of agents, we have 1,558 man-years available, and out of that, we have applied 1,105 to firearms. In the case of inspectors, we have applied 1,012 man-years to firearms. Let me back up. I am talking about projections; 1974—1,576 agents available, and 1,058 applied, and 34 man-years of inspector time, and I think we have pretty well covered this.

Mr. GEEKAS. For a classification, on the last chart for 1974, for the agents, you have to divide their duties by 3, don't you, because they handle alcohol, tobacco, and firearms.

Mr. DAVIS. And explosives.

Mr. GEEKAS. So you have to divide them by 4. So although there are a little more than 1,500 available and a little more than 1,000 are assigned, each of the agents has to divide his day up.

Mr. DAVIS. No, sir, that is not the case in this. In other words, the other duties would be absorbed by the difference between 1,058 and 1,576. So in other words, you would have 520 that would be devoted to illicit liquor and legal liquor violations, explosives, and of course, the others.

Mr. GEEKAS. So that is full-time agents for firearms, and they divide their time up among applications, inspections, compliance inspections, and the criminal area?

Mr. DAVIS. With the caveat that each agent may find himself doing one thing in the morning and another thing in the afternoon, explosives in the morning, firearms in the afternoon, and liquor at night.

Mr. CONYERS. Trying to get this into a realistic framework, how does that work, Director Davis? That sounds like—I mean it just does not reach me in terms of trying to see how one very dedicated agent could be handling all those kinds of activities.

Mr. DAVIS. Yes, and there are many of them that I have not mentioned yet, Mr. Chairman. We have seizures of property, and applications for relief from the Firearms Act, which requires a great deal of time.

I agree with you, Mr. Chairman, that maybe that was not very realistic, but it would only be in the southern part of the United States where an agent would probably become deeply involved in illicit liquor, where it has now decreased to a point that it is subject to that.

I was not exaggerating when I said in the morning a special agent would be calling on a banker with respect to a relief from disability on the firearms law, and in the afternoon have a search warrant in a firearms violation.

Mr. GEEKAS. But you do not develop expertise. You do not have people who are just firearms agents, experts?

Mr. DAVIS. No, sir. We feel in the long run we get more flexibility with respect to our manpower by having them generalists instead of specialists. We like to think they are experts in all facets of their work.

## FIREARMS ARRESTS AND SEIZURES

FISCAL YEAR	1970	1971	1972	1973	1974	6 MOS. 1975
ARRESTS	1,957	2,223	2,507	2,258	3,123	1,740
FIREARMS SEIZED	33,683	7,881	7,142	5,981	6,625	6,522

This chart which, again, we may give you just a quick rundown on, these are arrests and firearms seizures in the firearms area. We are pleased that over the years this figure has increased, we think notably. The firearms seized runs about the same. The reason is that we had such a large seizure in 1970 and that was because of a significantly large individual seizure.

Other than that, they were running pretty much the same, 6,000 or 7,000 firearms a year that we seize for violation of the law.

Mr. DANIELSON. Mr. Chairman?

Mr. CONYERS. Mr. Danielson.

Mr. DANIELSON. I am just referring to the fact that your agents must be qualified to work within all three of these fields. It is not unusual, is it, in the law enforcement investigation business that within the areas of your jurisdiction an agent must be qualified in everything?

For example, your agents do not all work in metropolitan areas all of the time. If you had an agent in a little place such as Big Stone Gap, Va., for example, he may very well be covering some leads on an alcohol case, and that is a mountainous area, as I recall, and it is also a tobacco area. He might very well be involved in some tobacco cases. While there, he follows up on some leads in firearms. Instead of sending out three agents, he does the whole job.

Mr. DAVIS. Yes, you are quite right and, of course, as you are aware, in law enforcement work, your activities are dictated by the violator, and not by a planned work schedule.

If you get a bombing at the local high school, that is what you do then, whatever else you have to do.

Mr. DANIELSON. The purpose of my observation only was to make the record less susceptible to someone interpreting it as meaning you people have been picked on.

Mr. DAVIS. No.

Mr. DANIELSON. I know you did not intend that, but I know sometimes well-meaning people read these records and they draw an inference that was not intended. You have to be versatile within your own field of jurisdiction at least.

Mr. DAVIS. Yes, sir, and I might add that I think all Federal law enforcement agencies do this. Certainly that is not true in city police departments, where the nature of the work is different, and they do specialize in vice squads and so forth.

Mr. DANIELSON. But there your geographical limits are more narrow. Your agents bite off a whole State sometimes.

Mr. DAVIS. That is correct.

Mr. CONYERS. I think we ought to detail the differences between the qualifications of an agent and an inspector.

Mr. DAVIS. Yes, sir. The special agent has to be a college graduate under our present policies. He has to have a certain amount of criminology or police administration, so many credit hours.

He must have taken the Treasury Enforcement Agent examination, which is a specialized examination and, then, of course, he can be recruited by any of the Treasury enforcement agencies—Customs, Secret Service, ATF, or Intelligence, or Internal Revenue.

The inspector, on the other hand, is not required to have the specialized education area of criminology, public administration, and of course their jobs are different in terms of who they deal with and the types of activities they are involved with.

Mr. CONYERS. In other words, to become an inspector, you need to have the minimum qualifications a high school graduate would have?

Mr. DAVIS. Four years of college.

Mr. CONYERS. No law enforcement background?

Mr. DAVIS. No, not at all.

Mr. CONYERS. Is there any kind of training involved?

Mr. DAVIS. Yes, sir. We have inspector training. We have step 1 and step 2 training, in-house training, and I certainly do not want to demean or underrate their job, because they get involved in what we call Federal Alcohol Administration Act investigations, which involve some of the biggest companies in the country which are in the alcoholic beverage area. It is very complicated, and a very difficult type of work.

Just to show you what we would call our direct law enforcement activity, the number of individuals arrested for the violation of the Federal acts and the number of firearms seized, that is what this is for.

Mr. CONYERS. Mr. Gekas?

Mr. GEKAS. It would be useful if you could, either now or at a later time, supply a breakdown for the subcommittee on arrests. What were the arrests for? For example, we are very concerned about the interstate trafficking in guns and people who are buying a hundred guns in one State and taking them to Detroit or New York City.

If you could break down your arrests and recommendations and prosecutions and convictions by, I guess it would be more than the title.

Mr. DAVIS. I am sorry you said that, we can certainly give you the information broken down by the title of the act. Whether we can go beyond that, we will see what we can do, and if at all possible, we will supply the committee with the information.

**FIREARMS DEFENDANTS - JUDICIAL PROCESS**

FISCAL YEAR	1970	1971	1972	1973	1974	3 MOS. 1975	6 MOS. 1975
PROSECUTION RECOMMENDED	3212	3473	4437	3677	4671	1151	2485
DECLINED	1231	1203	1441	1301	892	233	559
INDICTED	1309	1906	2645	2535	3243	773	1641
ACQUITTED	57	114	168	118	132	30	73
CONVICTED	577	1156	1567	1927	1314	577	1234

Mr. DAVIS. This represents the judicial process of those people that we arrested. I would like to make a footnote to this chart that all of you are aware of, that there is a time lag in the judicial process, between the time a person is arrested, indicted, and tried, and so forth, so these figures do not exactly coincide.

Again, we are pleased that the quality of the cases are continuing to go up. We measure that by the fact that there are less declinations of cases by U.S. attorneys, that the indictment rate goes up, that the acquittal rate has been up and down, but at least it is staying fairly stable recently.

The conviction rate has by and large gone up with the exception of the 1973-74 area.

Mr. CONYERS. Now, in real life, again, these bare statistics do not really tell us a lot in terms of a number of extraneous factors that could go into why indictments, acquittals, and convictions could go up or down. Is that not correct?

Give us some additional explanation so that nobody will be rushing to conclusions about what that means because they went up one year or down one year.

I think it is very critical that we describe a perspective that will not lead to some kind of immediate conclusions as to what that means.

Mr. DAVIS. All right, sir. If I can understand your question, of course, the declinations are made by the U.S. attorney whether or not to

prosecute the case. So that as our recommendations go up, and declinations go down, we feel this represents an element of quality in the case.

Mr. CONYERS. Yes, but on that point, the number of prosecutions recommended might be up, or down, because of the number of people you have got working.

It could be that simple. It could be, also, that there are a number of acts being committed and apprehended, and the declinations might be due to different standards that the U.S. Department of Justice is imposing on a case-by-case basis, as opposed to what they were considering indictable offenses the day or year before.

The number of indictments might turn on how a particular judicial circuit was approaching the law, or whether the demand for jury cases had entered into it.

What I am saying is that those statistics in and of themselves could lead to very simplistic conclusions that might not turn on any given assumptions that you would attach to it, and that is what I am trying to establish here.

Mr. DAVIS. Yes, sir. There is no question that what you say is accurate, and one thing, of course, is that it is hard to compare them because of the time lag in the prosecution process.

Mr. CONYERS. Of course.

Mr. DAVIS. And, of course, as you very accurately indicated, the prosecutions recommended in some way would certainly depend on the number of agents that you have out working.

So that there are a number of cautions that you have to take into consideration.

Mr. CONYERS. Could your counsel, perhaps, at some later date, try to detail this so we at least begin to see what your perspective is, or what significance you think could be fairly inferred from that set of statistics?

Otherwise, as frequently as the case is, someone will grab a statistic and will argue passionately that A resulted from B, when C through F were factors that nobody ever considered.

This happens time and time again, in hearings, where someone introduces some statistics, and unless they are put in perspective, they lead to some very erroneous assumptions.

Mr. DAVIS. Yes, sir, we will certainly amplify this.

Mr. CONYERS. To the best of your ability.

Mr. CONYERS. Mr. Gekas?

Mr. GEKAS. Just to carry that a little bit further, to make it specific. It seems to me that there is a discrepancy between the figures. Let us take 1974, and start with indictments. There are 3,243. Then you go down to acquittals and convictions, and they do not add up to that figure.

It could be because there is a time delay, but I think if we go back to 1970, 1971, and 1972, I think you will see there is no catchup. The acquittals and the convictions in each of these years, and then in subsequent years, do not seem to add up to the numbers indicted.

Mr. DAVIS. There is a very interesting point to be made here, and while obviously our agent force has been declining some since 1972, and I might point out, I think to reinforce what you and the chairman have indicated, we are required to support the U.S. Secret Service in dignitary protection during election years.

Mr. GEKAS. The point is that once they are indicted, they are in the system, and the elements of discrimination are eliminated. The figures have to indicate what happens to them. They are either acquitted or convicted, or I guess there are dismissals of charges.

Mr. HUGHES. I would assume some of those are nolle prossed. The U.S. Attorney's Office feels it is better to dismiss and use them as material witnesses. That accounts for some of the lag, I suppose.

Mr. DAVIS. Yes, and any time you try to confine something to a fiscal year, you fall into a trap, because unless you can trace each individual action through, you know—in other words, for some reason there may be a number of indictments on the first of December, and then, you know, they are not handled until the following—well, it might be June—and they are not handled until the following year.

Mr. GEKAS. That is why I say, though, if you go back to 1970 and carry it through, even if you assume the lag time, the figures still do not add up.

Another thing, are those by number of defendants and entered in by count? Do you count each time as—

Mr. DAVIS. These would be individual defendants. They would not be multiplied by counts. One defendant might have one count and another five, but they would be counted as one.

Mr. HUGHES. Let me ask another question. These would be indictments as well as accusations for information?

Mr. DAVIS. Yes.

Mr. HUGHES. How about when it is downgraded to a different offense?

Mr. DAVIS. That still would be counted.

Mr. CONYERS. Mr. Thornton?

Mr. THORNTON. Thank you, Mr. Chairman.

This question relates to the area of your work in compliance, and it stems, also, from your testimony last week, I believe, when in response to inquiry about the use of registration on what we call gangster-type weapons, you stated that you might receive a call from a local law enforcement official saying that he had such a weapon, and ask you for information concerning who that particular weapon was registered to.

If I recall your answer correctly, you said that you could not give him that information.

The reason I was late to this committee is that I am also on the Committee on Criminal Justice, and we are working on rules of criminal procedure designed to try to expedite trials, to deter commission of offenses.

I am wondering why this information on registration of gangster-type weapons is not available, and whether your enforcement activities are directed primarily to violations of law under the statute relating just to the firearms, or whether you need additional legislation. Do you use this information in general criminal use with respect to firearms?

Mr. DAVIS. Yes, sir. I might say now that we are laboring under two disclosure prohibitions, not only the title II information, which you referred to, but now that we were given the wagering tax law on December 24, that also has a restrictive prohibition.

Essentially, you describe the situation accurately. That is, if a sheriff calls up and says, "I just found a sawed-off shotgun beside a body," in other words, it has been used in a murder, and "Will you tell me whether or not this gun is registered and to whom?"

Then we would say, "We are not at liberty to give you that information."

If, by the same token, if a chief of police comes to us and says, "Is John Doe registered with you as a gambler?" We would have to say, "We cannot give you that information."

It so happened that the Supreme Court decisions were handed down on the same day, Haynes, Marchetti, and Grosso. That was in 1968, and they struck down both the National Firearms Act, as it was called at that time, and the wagering law.

The theory behind this was based on incrimination and violation of the Fifth Amendment. They, in effect, said if a person has to register with, at that time, the Internal Revenue Service, and it is general knowledge that carrying on the business of a gambler is in violation of a State law, if the IRS provides the name of that individual, he has been forced to incriminate himself.

If he does not pay the tax and does not register, he is in violation of the Federal law.

If he registers and pays the tax and the IRS gives that information to the State and local authorities, he is subject to prosecution by them.

The same thing is true. The Haynes decision said if a person is required to register a gangster-type weapon with the Bureau of Alcohol, Tobacco and Firearms, and in most States the possession of such a weapon is in violation of State and local law, then he again, and with the freedom of ATF to give that information, then he is forced to incriminate himself.

So in each case, these restrictive provisions in the law were enacted to overcome Supreme Court decisions.

I might also point out that in the case of title II, or the gangster-type weapon title, that there was included his 30-day amnesty period in which anybody could walk in and register a gun of this type, no questions asked.

Again, this was done so that the people could not argue subsequently that they had not had an opportunity to register that gun, and to overcome this.

Mr. CONYERS. Would my friend yield on that one point?

Mr. THORNTON. Yes.

Mr. CONYERS. Even if Federal authorities independently gathered information that would lead to the prosecution of somebody under a title II gangster-type weapon—that is they secured information independently of their filing—would that not allow you to proceed?

Mr. DAVIS. I will ask Mr. Dessler to respond to that.

Mr. DESSLER. If I understand your question correctly, Mr. Chairman, the information can be used for purposes of prosecution under the act, and the restrictive use provision applies too, and that is in section 5848, which says that it cannot be used against a person directly or indirectly as evidence against him in a criminal proceeding with respect to a violation of law occurring prior to or concurrently with the filing of the application.

Now, there is no restriction as far as the enforcement of the act

itself is concerned, but only with respect to turning the information over to the State which will then use it to prosecute the individual.

This was particularly criticized by the Supreme Court in the *Haynes* decision.

Mr. DAVIS. I might say, then, to use the illustration we have been using; the sheriff finds the sawed-off shotgun by the dead body, we could not testify in the prosecution that in fact the suspect, John Doe, had registered that weapon with us, if it were a State murder prosecution.

On the other hand, we could prosecute John Doe—no, he would have it registered in this case.

If it were not registered to him, we could prosecute him for having an unregistered weapon, and our experts do appear all over the country in prosecutions for the possession of an unregistered weapon.

Mr. THORNTON. May I continue, then?

It seems to me what you have just said is that the law in its present state does give you authority to prosecute for possession of weapons, but not to use that information with regard to perhaps a more serious offense in which the weapon was used.

Now, if the purpose of the 1968 Act was to inhibit the use of firearms in the commission of crimes, and if the laws were changed to make the mere possession of any particular firearm a criminal offense, like that of a gangster-type weapon, would we not also be inhibiting the use of the registration device for tracing such weapons used in the commission of crimes?

Mr. DAVIS. Yes, sir, I believe we would if in fact it were a true registration. Let me say that on the other hand we have had no problem with the requirement that the purchaser fill out a form at the time of purchase, which really goes to the fact of whether he is qualified.

But I think you are right; if there were a Federal law that required every firearm to be registered to an individual, then there is a likelihood that that prohibition of disclosure would follow.

My understanding here is that it is a question of whether we have any law at all under the Supreme Court decision, or whether we have a restrictive, a restrictive disclosure element of the law. Then the choice, about no law at all or one that has a restrictive disclosure provision.

Mr. THORNTON. I thank the gentleman.

Mr. CONYERS. We are caught by the fifth amendment. That is the long and short of it, right? To the extent that we can, we can use this law to punish for violations of nonregistration, but not much else.

Mr. DAVIS. Yes, sir. I might point out, and I don't want to leave the wrong impression, but in the case of wagering taxes, because we are enforcing the same law, it is the opinion of our chief counsel and Internal Revenue chief counsel that we can provide Internal Revenue with information obtained in enforcing the wagering law, so that we can use it in tax violations cases. But that is the limit. We could not tell the FBI when a person is or is not registered.

The next chart represents a workload item, and it is a considerable one. Under the 1968 act, a person can apply to the Bureau to be relieved of disabilities under the act. As you can see, we have lead into this. It requires approximately 20 man-years—20 man-hours, I am sorry.

## RELIEFS FROM FIREARMS DISABILITIES (CALENDAR YEARS 1969 - 1974)

YEAR	GRANTED	DENIED	INELIGIBLE	TOTAL
1969	120	39	20	179
1970	297	153	47	497
1971	421	134	82	637
1972	636	210	80	926
1973	596	227	85	908
1974	577	236	76	889
<b>TOTAL</b>	<b>2,647</b>	<b>999</b>	<b>390</b>	<b>4,036</b>

**TOTAL CURRENTLY UNDER INVESTIGATION - 698  
APPROXIMATELY 20 MAN-HOURS PER INVESTIGATION**

Mr. DAVIS. Per investigation, and that is, of course, agent time. You can see that in the year 1974, 889, if I can read it correctly, each requiring 20 man-hours of investigation, and that is an added responsibility under the act.

Now, we have covered this area very well. This merely shows you, I think, the number of licenses issued annually and in chart form it shows you the increases that have occurred over the years since the Gun Control Act, at the present time 156,000 plus. This is the figure we have been talking about.

Mr. GONYERS. And this, Director Davis, applies to retail dealers?

Mr. DAVIS. Yes. That total number would include manufacturers and importers and wholesalers, but obviously they would be a small number compared to the retail dealers.

Mr. GONYERS. Yes. Mr. Gekas.

Mr. GEKAS. Could you supply us, and you may have already supplied it, I am not sure, but could you supply us with the number and identity of manufacturers of handguns?

Mr. DAVIS. Yes. I think we have it in response to a previous question, but we will make a note of it, and if we have not, we will supply it. I think it is in some of this material.

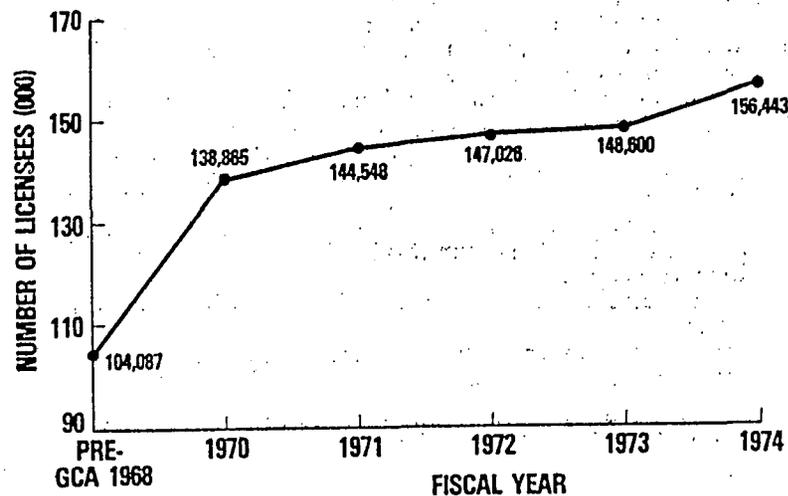
Mr. GEKAS. Also, it will be helpful if you differentiate between manufacturers of handguns on a large scale and those who just put together curios. Do you understand the distinction I am trying to

draw between artisans who make 10 a year and for curio purposes, and then people who are in the business of making handguns? Can you help us out on that?

Mr. DAVIS. Yes, we can do that easily, and we can take a cutoff figure. If they make less than 100 a year, we won't include them.

Mr. GEKAS. And also how many handguns each manufacturer produces.

## NUMBER OF FIREARMS LICENSES ISSUED ANNUALLY



## FIREARMS LICENSE ACTIVITY

		FY-70	FY-71	FY-72	FY-73	FY-74
APPLICATIONS RECEIVED	ORIGINAL	27,866	23,826	24,112	24,231	24,873
	RENEWAL	111,008	125,386	125,689	127,911	133,880
	TOTAL	138,874	149,212	149,801	152,142	158,753
LICENSES ISSUED		138,865	144,548	147,026	148,600	156,443
LICENSES DENIED*		2,512	1,032	1,683	1,669	1,540
LICENSES REVOKED		8	7	42	12	17

\*Includes abandoned, withdrawn, and denied.

In 1st half of FY-75, 14,334 original applications received.

Mr. DAVIS. This is the licensing activity, and we have again, I think, gone into this fairly substantially. It goes into the original application, again running in excess of 20,000 a year, which shows a tremendous turnover. It shows the number we have issued. It shows the number we have denied on various grounds.

As you can see, it is running currently in the 1,500 plus range. Now you might say that the law—you might see that there is a very small number revoked. We are particularly sensitive to this, because under our alcoholic beverage control regulations and laws, we have the ability to suspend a license for a period of time, which we find a very effective deterrent.

We also have the ability to compromise violations in terms of money amounts. Under the existing law, the Gun Control Act of 1968, we have only two options. We can prosecute the dealer if he violates the law, or we can revoke his license.

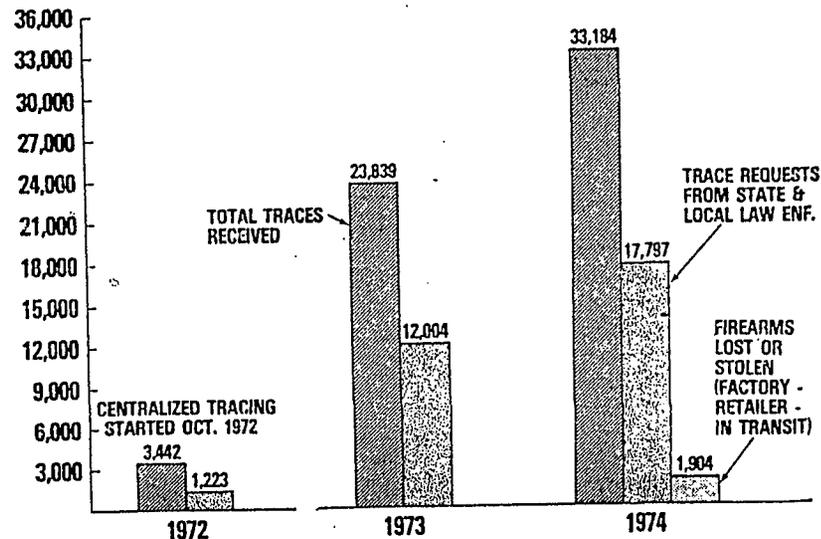
When we attempt to revoke his license, his remedies are such that it may go on for 2 or 3 years. Very frankly what we do as a substitute for this, is to wait until the next renewal period comes up and fail to renew, because it is a much more effective means.

So really we are somewhat handicapped by a lack of interim, or in-between remedies. Again, I think we have covered this chart pretty thoroughly, and since the committee has it, unless there are questions, we will move on by it.

I think again, unless there are questions, we will move on by the next one, too.

I think we are coming up on some charts here that represent specialized information that the committee may find interesting.

### NATIONAL FIREARMS TRACING CENTER



Mr. DAVIS. This particular chart reflects our gun-tracing activity which as you can see, has grown very tremendously. In the fiscal year

1974, we traced 33,184 weapons, and of that number 17,797 were for the benefit of State and local law enforcement bodies.

So more than half of the tracings we make are for the benefit of State and local organizations. One point that would be of interest to the committee, I think, is the fact that 1,904 of those weapons could not be traced because they were stolen. We can expand on that later when we talk about another point.

Mr. CONYERS. Mr. Gekas?

Mr. GEKAS. I would like to question you about the total tracing. It is my understanding that the FBI has made known to the 40-odd thousand law enforcement agencies across the country that they have bathtubs with bloodstains on them, and if the bathtub and bloodstain is sent in, they would examine the bathtub and the bloodstain to determine whether it is human blood, and that kind of business.

Have you made similar announcements to all the law enforcement agencies all across the country as to your tracing service?

Mr. DAVIS. No; we are afraid to. The method, as Mr. McClory saw the other day, the method we do this by, we are saturated.

Mr. GEKAS. How many personnel do you have in the center?

Mr. DAVIS. Twenty-seven tracers and two code-a-phone operators. They will each handle, each tracer, will handle about 200 traces a month. So that averages out so many a working day. These are all done by telephone.

Mr. GEKAS. If you did announce to all the law enforcement agencies across the country that you did have the service available and if you did have the capability to handle it, how many do you estimate you would have a year?

Mr. DAVIS. Certainly it would, I would say, oh, that it would approach a hundred thousand without any question. We are providing—

Mr. GEKAS. 100,000 total, or from the States?

Mr. DAVIS. From the States.

Mr. GEKAS. And that is annually, 100,000 annually?

Mr. DAVIS. Yes, additionally. We have here somewhere the number of State agencies that we receive traces from, and I have it here. It is about 2,000, and there are about 40,000 in the United States, so we are really receiving only a small percentage of these. So it would substantially increase, and, of course, any number would be a guess.

How have the law enforcement agencies, especially State and local, learned about your current capability, just by word of mouth?

Mr. DAVIS. Yes. Anytime you have a service that is free, the more it is used, the more it gets around that you have it available, and I think that accounts for the rapid increase over a 5-year period.

Mr. GEKAS. You will supply for the record the number of agencies that have submitted requests to you in the last few years?

Mr. DAVIS. Yes, we will do that.

Mr. GEKAS. The program began when?

Mr. DAVIS. In October 1972, so there has been a steady rise. I think the committee would probably be interested now in knowing that we—about 60 percent of these traces are successful in terms that we can trace it to the first purchaser that bought that particular gun.

Mr. CONYERS. Pardon me, Director Davis, if you would suspend for a moment, I would like to announce that on April 14 and 15, the

Subcommittee on Crime will be taking these hearings to the city of Chicago, Ill., in which we will be joined by, first of all, all the subcommittee members that can attend, plus a number of Members from Congress from the Illinois area.

Mr. McClory has worked very well and diligently with me in setting up these hearings. We are going to have the mayor of the city of Chicago, Mayor Daley; we are going to have Members of Congress. We are discussing the possibility of having the regional ATF person there to join us in testimony, a number of law enforcement people, and community people as well. I would like to yield at this point to the gentleman from Illinois for any further comments he would like to make.

Mr. McClory. Thank you very much, Mr. Chairman.

I appreciate that announcement, and it is my understanding that you will be holding a press conference and elaborate on the plans for our hearings in Chicago, and I merely have communicated with Mr. Ashbrook, the other minority member of the committee, advising him about this, and also advising him that I was offering a resolution with respect to the televising of these hearings in Chicago.

And if there is no objection, I would offer this resolution so that it may be adopted and made part of the record at this meeting, so that the hearings in Chicago can be televised.

Mr. CONYERS. Without objection, we will receive and accept the resolution that you propose. It has been discussed with a number of—as a matter of fact, all of—the other members of the subcommittee.

[The resolution referred to follows:]

*Resolved*, That at the hearings conducted by the Subcommittee on Crime of the House Judiciary Committee in Chicago, Illinois, on April 14 and 15, 1975, the hearings may be covered by television broadcast, radio broadcast, and still photography in accordance with Rule 5 of the Rules for the House Committee on the Judiciary.

Mr. McClory. Mr. Chairman, I am in a position where I must leave for a meeting. I will follow the additional testimony that you receive.

Thank you.

Mr. CONYERS. Fine.

Thank you for permitting our interruption, Mr. Davis.

Mr. DAVIS. Yes, Mr. Chairman.

We will provide the committee with a summary of the breakdown that could be of interest. We have this. This is one of the things we have been able to computerize, so we are able to break this down in a number of different ways to show the kind of crime that the guns traced were involved in, just to give you an example.

We will give you these so that you can analyze them further if you wish.

Mr. CONYERS. We will accept any of your statistical data that accompanies the charts into the record at this point, and at all other places where it is appropriate.

[The material referred to follows:]

[From the Buffalo Courier Express, Mar. 6, 1975]

#### U.S. AGENTS SEIZE 2 MEN IN ATTEMPT TO SELL WEAPONS

Two men who allegedly tried to sell 16 saved-off shotguns and two handguns to federal undercover agents, were released on bail late Tuesday following their arraignment on charges of possession of unregistered firearms.

Neal Kern, agent-in-charge of the U.S. Treasury Dept's Bureau of Alcohol, Tobacco and Firearms here, said the two had been trying to negotiate the sale to agents for the last three months.

The agents, posing as retailers of stolen weapons, agreed to pay \$2,000 for the guns, Kern said.

The suspects, arrested at about 8:30 Tuesday night, were arraigned before U.S. Magistrate Edmund F. Maxwell.

John A. Hinchey, 41, of 2715 Colvin Blvd., Town of Tonawanda, and Peter A. Santasiero, 34, of 29 Ridgeway St., Depew.

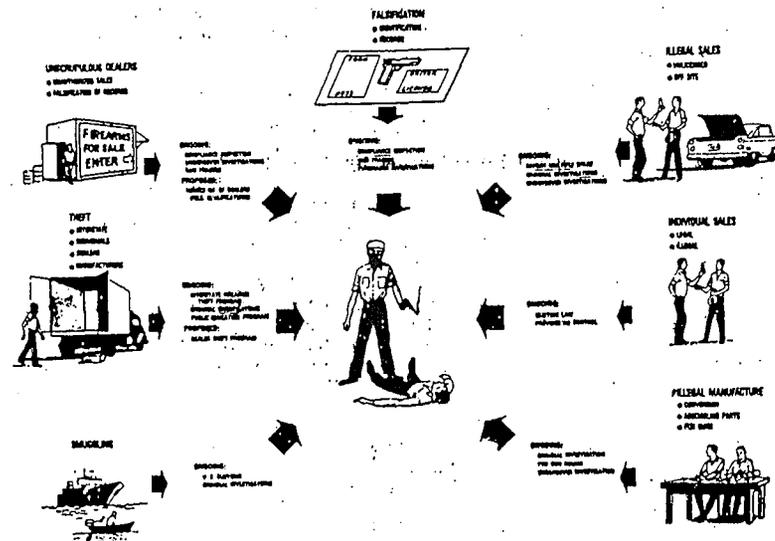
Kern said Hinchey was arrested in the parking lot of Howard Johnson's Restaurant, 6700 Transit Rd., Amherst, as he was about to deliver the weapons.

The guns were in his car which was parked in the restaurant's parking lot. Kern said.

Santasiero was arrested at his home shortly thereafter, the agent said. Arrest warrants were issued by Maxwell on Tuesday after agents filed affidavits supporting their allegations that the pair was negotiating a sale.

A search warrant also was issued, authorizing agents to search Hinchey's home. Seven rifles and approximately 650 rounds of ammunition were seized there, Kern said.

The agent said he does not believe the suspects are part of an organized ring. Maxwell freed Santasiero on a \$1,500 recognizance bond pending a March 19 preliminary hearing while Hinchey was released on a \$5,000 bail pending a March 11 hearing.



[From the Times Herald, Vallejo, Jan. 24, 1975]

#### 18 GUNS, TWO MEN ALL HELD

ESCONDIDO.—Two men were arrested and 18 guns and other automatic weapons seized, including a powerful Communist Chinese AK47 machine gun, police disclosed today.

It was the second such confiscation this week. In San Diego, authorities arrested two Los Angeles men with an AK47 machine gun.

A complaint issued by the U.S. attorney's office charged two others. Eric Leroy Rushing, 31, and John William Rynders, 26, both of San Diego, with possession of illegal weapons.

Rushing also was charged with carrying a weapon during the commission of a federal felony.

The U.S. Bureau of Alcohol, Tobacco and Firearms said the weapons seized in an Escondido house Wednesday were the largest number ever confiscated in San Diego County.

Agent James P. Stathes said Rushing and Rynders were arrested in a Carlsbad restaurant parking lot with two fully loaded Schmeisser MP40 machine guns and six clips of ammunition.

[From the Baltimore Sun, Nov. 13, 1974]

#### THREE ARRESTED AS 200 GUNS ARE SEIZED

(By Thomas B. Edsall, Washington Bureau of The Sun)

Washington.—The Federal Bureau of Alcohol, Tobacco and Firearms seized more than 200 guns yesterday and arrested three Maryland men in their homes on charges of violating the Gun Control Act of 1968.

Charles E. Snyder, Jr., 43, of Bowie, Md., was charged with dealing in firearms without a license, mailing firearms across state lines, selling firearms to out-of-state residents and selling a "cane gun," a weapon concealed as a walking stick, which must be registered with federal officials.

About 200 guns were taken from Mr. Snyder's home by the federal agents who found most of them in a garage, which they described as "jammed with military and historical memorabilia."

In a separate case, Lawrence LaGuardia, 34, of Ellicott City, and Charles Frank Ritrivi, 44, who lives in Carroll county, near Marriottsville, were charged with transferring and selling firearms in violation of Maryland law.

Several handguns were taken from Mr. LaGuardia and Mr. Ritrivi, according to Rex D. Davis, director of the Bureau.

[From the Tucson Daily Star, Nov. 23, 1974]

#### WEAPON RING IS SMASHED—HANDGUNS MADE FROM STOLEN PARTS

NEW YORK.—A six-month investigation by federal undercover agents yesterday resulted in the smashing of a sophisticated illegal weapons-supply ring centered in the Bronx. Nine men and a woman were arrested.

Handguns sold by the ring were assembled from parts stolen from gun factories in Connecticut, Florida and Washington and bore no registration numbers so they could not be traced by police, officials said.

Two undercover agents from the Treasury Dept.'s Bureau of Alcohol, Tobacco and Firearms bought 135 handguns plus nine "assassination-type" weapons—sawed-off shotguns and rifles—from the ring, it was charged.

Raymond N. Kiely, regional director of the bureau, termed the roundup one of the most significant recent actions in firearms in the area "Because it is instrumental in breaking up a conspiracy of illicit traffic, in weapons sought by the criminal element."

Among those accused in the five indictments unsealed yesterday was Richard Hauptner, 41, the Bronx, identified as a quality control foreman at CDM Products, Inc. in Watertown, Conn., where many of the parts were stolen.

Officials said 20 assembled handguns were seized Tuesday night at the home of Patrick Sherry, 25, the Bronx, an employe of the New York Telephone Co., and said hundreds of parts were found at the Bronx home of Julius Celentano Jr., 23.

Sherry and his wife, Susan, allegedly conspired to sell a carbine with a silencer, two sawed-off shotguns and a sawed-off rifle. The indictment said they demonstrated the silencer at their home Sept. 4.

Three others indicted were Thomas Cocchiaro, 23, Holbrook, N.Y., and Rubin Margolin, 64, and his son, Howard, 32, co-owners of The Last Laif tavern in the Bronx.

The indictment said the Margolins arranged for Cocchiaro to sell handguns to patrons of the tavern, and that Cocchiaro sold 22 .22-caliber automatic pistols about the end of June.

Also indicted were Emanuel Carvalho, 51, an unemployed cook of the Bronx; Leonard Virello, 49, the Bronx and William Masselli, Mount Vernon, N.Y.

[From the Atlanta Constitution, Feb. 13, 1975]

#### SIX ARE ARRESTED IN ARMS CACHE

Six Lumpkin County residents have been arrested in connection with the seizure of a large assortment of allegedly stolen guns, hand grenades and other explosive devices in north Georgia, the U.S. Bureau of Alcohol, Tobacco and Firearms (ATF) said Wednesday.

One of those arrested was identified as M. Sgt. Douglas McArthur Perry of Camp Merrill, the Army mountain ranger training post at Dahlonega.

Five others were listed as Dewey D. Odum; Frankie Nell Jones; James Howard Moss; his wife, Mrs. Shirley Brackett Moss and Herman Brackett.

E. D. Hughes, assistant agent in charge of the Georgia ATF office, said all except Brackett had posted \$7,500 bonds on charges of violating the federal firearms and gun control act. Hughes said Brackett was held under the same bond.

Federal undercover agents had worked for several weeks on the investigation and had purchased 35 hand grenades, Hughes related.

Agents fanned out Tuesday night in a series of searches that resulted in the six arrests and also netted a wide assortment of other items, Hughes said.

He listed 25 shotguns and rifles, two sawed-off shotguns and one sawed-off rifle, four packages of C-4 plastics explosives, five hand grenade simulators, five ground blasting simulators, a smoke grenade, 12 feet of Wrima blasting cord and three electric blasting cap assemblies.

Hughes said agents also seized a 1974 Ford Cobra.

Federal agents said the six arrested persons were believed to be part of an alleged ring dealing in stolen firearms and explosives. They declined to say where the items had been stolen.

[From the Morehead News, June 7, 1973]

#### ON GUN LAW VIOLATIONS—DAY BEGINS 5-YEAR SENTENCE

Roy Ernest (Tots) Day of U.S. 60 West, Morehead, has begun serving a five-year prison sentence in connection with charges of violation of the federal gun control law.

The charges against Day stemmed from a raid on March 20, 1970, at his residence, made by agents of the Alcohol, Tobacco and Firearms Division of the U.S. Treasury Department and Kentucky State Police officers.

At the time of the raid, the officers confiscated 68 revolvers, nine semiautomatic pistols, one derringer, eight rifles, 10 shotguns, \$3,000 in illegal alcoholic beverages and two trucks.

Day was tried in federal court in Catlettsburg in June of 1971 on a charge of dealing in firearms without a proper license and four counts of selling firearms without a license to a non-resident of Kentucky but the jury was unable to reach a verdict.

On April 23, 1972, a jury in federal court at Catlettsburg found him guilty on five counts of possession of firearms after having received a discharge from the Army other than an honorable discharge; and one count of illegal possession of firearms under the new federal firearms law.

Judge H. David Hermansdorfer sentenced Day to two years on each of the five counts of possession of firearms after having received an Army discharge, other than honorable; three years for illegal possession of firearms in violation of the new federal gun act; and a \$10,000 fine. Day paid the fine. Judge Hermansdorfer ruled that the five sentences of two years each run concurrently; and that the three year sentence be consecutive, making his total sentence to prison five years.

Day's Attorney, John Young Brown Sr. of Louisville, appealed to the 6th Circuit Court of Appeals at Cincinnati.

On April 5, 1973, the 6th Circuit Court of Appeals sustained the sentences and fines. Morehead Attorney George I. Cline represented Day when he appeared for final sentencing at federal court in Jackson on May 21 of this year. His counsel (Cline) asked that the sentence be reduced; and also that Judge Hermansdorfer confer any sentence under Title 18, section 4208(a)2 which

makes Day eligible for parole anytime within the discretion of the U.S. Parole Board. Judge Hermansdorfer refused to reduce the sentences; but did sustain Cline's motion that Day be sentenced under section 4208(a)2 which makes him eligible for parole anytime.

The federal court jury trial in April of 1972 hinged on the alleged purchase of seven .38-caliber revolvers from Day by Charles Stone, a special investigator with the Alcohol, Tobacco and Firearms Division's Charleston, W. Va., office. Agent Stone, at that time; testified that he purchased the firearms on four various dates between Jan. 28 and March 13, 1970, for a total of \$645.

Day testified during the trial that he had never been in the business of selling guns and had accumulated them over a period of 15 to 20 years. It earlier was brought out in the trial, however, that many of the 75 revolvers sold and seized were not manufactured until after 1967.

The defendant said he collected the .38-caliber revolvers because they were becoming hard to obtain. During the first trial he said firearms manufacturers had stopped making the revolvers due to concentrated efforts in making other firearms due to Vietnam conflict.

Day said he acquired some of the guns in trade for merchandise.

[From the Philadelphia Inquirer, Dec. 12, 1974]

#### RAIDERS SEIZE 18 IN ILLEGAL GUN-BUYING

(By Richard L. Paplernik, *Inquirer Staff Writer*)

About a year ago, Alexander J. Pavone walked into the Old, Odd and Otherwise Gunshop in Prospect Park, Delaware County, looked over the large collection of firearms and decided to make a purchase.

Pavone filled out the required federal forms, but he neglected to mention that three years ago, according to court records, he had been convicted of armed robbery.

Shortly before 6 A.M. Wednesday, Pavone, 22, of the 2200 block of South 8th Street, was awakened by a raiding force of U.S. Treasury agents and Philadelphia police. He was charged with violating the Federal Gun Control Act.

Agents of the *Treasury's Alcohol, Tobacco and Firearms Bureau* (ATF), charged Pavone with lying on his purchase-application form.

According to the agents, Pavone had more than 100 other Philadelphia residents previously convicted of major crimes made illegal purchases at the gunshop which is on Lincoln Avenue, Prospect Park.

Wednesday morning about 60 federal agents aided by Philadelphia police swept through sections of south and southwest Philadelphia in an attempt to arrest 29 of these alleged violators. By the end of the morning they had arrested 18 persons and had found that four others already were in area prisons for other crimes.

Rex D. Davis, the bureau director, who came from Washington to oversee the operation, said the six-month investigation into the sales was "expected to result in the largest number of firearms arrests . . . in a single investigation in the history of the mid-Atlantic region."

Officials stressed that no charges had been brought against the shop's owner, Dom DiPlacido.

Davis said the investigation had begun when a number of weapons "used in street crimes in Philadelphia were traced to purchases made at DiPlacido's shop.

Frank Quindlen, special agent-in charge of the bureau's Philadelphia ATF office, said federal law required gundealers to obtain sworn statements from purchasers attesting that they never had been convicted of a felony.

The agents, inspecting the records maintained by DiPlacido, said that more than a hundred persons from Philadelphia who had made such statements and had obtained the weapons were "convicted felons."

Other arrests, they said, are expected in "the near future."

A spokesman for the U.S. attorney's office said the falsifying of such records was punishable by a maximum term of five years' imprisonment and a \$10,000 fine. Actual possession of the weapons by a felon, the sources said, could be penalized by a sentence of two more years.

The raid Wednesday resulted in the seizure of about 20 rifles and handguns that the bureau displayed at the U.S. Customs House at Second and Chestnut Streets, where the agents had set up their command center.

ATF agents and Philadelphia police under the command of Capt. Frank Goldberg met at the Customs House at 4 A.M. for a briefing. The group was divided into 10 teams.

"We want you to knock on your first door at 5:30 A.M.," said ATF agent Don Friel. He said agents should not break in any doors without special authorization.

Accompanying some of the teams were members of the special Philadelphia police stakeout squads.

As the agents spread through the city making arrests, members of the stakeout squads stationed themselves around the homes, in some cases with guns drawn and trained on doorways or windows.

Some of the raiders were accompanied by news cameramen and reporters.

Joseph Pearson, a bureau group supervisor in command of the raiding parties, said the arrests had been made "without breaking in any doors or using any force."

Typical of the arrest pattern was the 5:30 A.M. knock on the door by agents at the home of Richard Bressi, on Nanton Street near Marshall.

Agent Thomas Dunheavy, designated as "team leader" pulled up to the Bressi home as Philadelphia police cordoned off the area.

Bressi, who agents said is a convicted felon who purchased a weapon at DiPlacido's store, answered the door, heard Dunheavy identify himself as a federal agent and then surrendered in a resigned manner.

The raiding teams were not successful in all cases. In some instances, when no one answered their knocks, the team left the area.

The 18 persons arrested were arraigned and released in ball ranging from \$1,500 to \$10,000.

[From the Philadelphia Daily News, Dec. 11, 1974]

#### FEDS FAN OUT IN GUN RAID

#### FEDS SEEK 31 IN GUN RAIDS

(By Scott Helmer)

Teams of Treasury Department agents swept through South Philadelphia in pre-dawn raids today hoping to net most of 31 persons charged with gun violations and considered armed and dangerous.

Those named in warrants issued yesterday by U.S. Magistrate Edward Naylor are convicted felons charged with receiving and possessing firearms and falsifying Federal firearms records in violations of various sections of the Gun Control Act. One suspect is being sought in New Jersey and a second is from Delaware County.

Rex Davis, Director of the Bureau of Alcohol, Firearms and Tobacco Unit, said the operation is expected to result in the "largest number of firearms arrests by his agency in a single investigation in the history of the Mid-Atlantic Region."

Davis said these are the first arrests in the country since the recently announced "significant criminal enforcement program," aimed at those persons who, because of their prior criminal records of convictions, are considered armed and dangerous.

Davis would not name those suspects for whom warrants had been issued.

The raids ended a six-month investigation made by ATF agents in conjunction with Philadelphia police and the U.S. Attorney's office.

Davis said the investigations show that all persons sought bought firearms outside Philadelphia in order to circumvent city firearm laws.

Frank Quindlen, special agent in charge of the Philadelphia district office, led the arrest teams which also consisted of police and agents of the Federal Drug Enforcement Administration.

Mr. Davis. Thank you, Mr. Chairman.

## FIREARMS TRACING SUPPORT TO SPECIAL AGENTS

	<u>NUMBER OF YES RESPONSES</u>	<u>% OF YES RESPONSES</u>
DID TRACE ASSIST IN IDENTIFYING THE VIOLATOR?	55	27.5
DID TRACE ASSIST IN THE INVESTIGATION?	147	73.5
DID TRACE ASSIST IN MAKING A CASE?	84	42.0

### FROM RANDOM SAMPLING OF 200 TRACES REQUESTED DURING OCTOBER 1974

This one is a sampling test. We did want to find out the value of tracing in investigations, and these are the "Yes" responses. It was useful in identifying the violator in question. That was in 27.5 percent.

In 73.5 percent of the times, it did assist in the investigation, and in 42 percent, it did assist in making a case.

Based on this, we think the tracing activity is a valuable tool on a limited basis.

Mr. Chairman, we think this particular project would be of interest to you.

Mr. CONYERS. Excuse me a moment. Counsel Gekas wanted to raise a point in connection with the last chart.

Mr. GEKAS. That is a useful study, the last chart. Is that the study that Mr. Peterson was referring to when he said that—or maybe it was you, Director—that you requested funds to expand it? Mr. Peterson, I see you nodding. Is that in the current budget?

Mr. PETERSON. No, sir, it is not. It is what we call our cost-benefit analysis, and we believe that a thorough study should be made in the field as to where we could best serve, and this we have not been able to do yet.

Mr. GEKAS. The point is that that is from a random sampling of

200 traces, which is a small number, and you have asked for funds to expand?

Mr. DAVIS. I might say he probably asked me, and I did not have them to give him. I do not think we have formally included it as a specific budget request, you see.

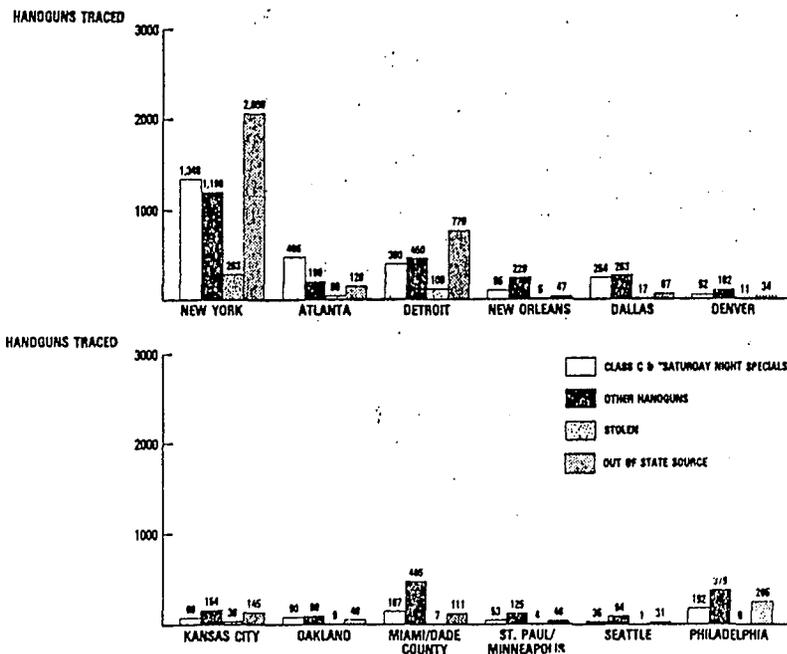
Project Identification, let me describe very briefly. In this, we initiated this in four cities initially. In fact, we were requested by the New York City Police Department to extend it to that city.

It involved initially New Orleans, Atlanta, and Detroit. We did extend it to New York, and since that time, we have carried it on beyond that, so that at the present time we have concluded Project Identification in 12 cities.

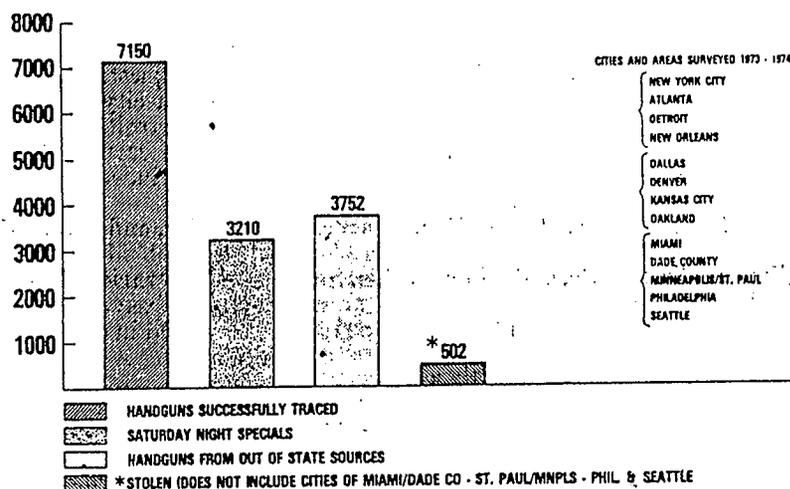
We have extended it to Dallas, Denver, Kansas City, and Oakland in the second phase, to Miami-Dade County, St. Paul, Minn., and Minneapolis, Seattle, and Philadelphia. So that we have various information of this, and these are guns, actually, I might say, actually recovered by the police in those cities as having been used in crime.

So these are street crime statistics.

### PROJECT "I"



## PROJECT I COMPOSITE GRAPH OF ALL CITIES SURVEYED



As you can see, we have broken it down here in various areas.

Mr. Chairman, I would like to say that while there is a great deal of differences of opinion about the definition of a Saturday night special, that in this project, and for this project alone, we call, or describe a Saturday night special as being a gun which costs \$50 or less and was .32 caliber or less, and had a 3-inch or less barrel.

We think in order to qualify, the gun had to meet all three of these criteria, and we feel this is a fairly tough Saturday night special test.

Mr. CONYERS. That is a good, simple definition.

Let me ask in connection with that: Are you aware of the fact that allegations have been made that persons can buy on schoolyards in the District of Columbia a Saturday night special for much less than \$50, for example, for \$9?

Is that common knowledge around your Bureau?

Mr. DAVIS. Yes; it is common knowledge in general terms. We know in cities like Baltimore there have been locker inspections in schools that uncovered a number of cheap handguns, so we are aware of the availability of these kinds of guns.

Mr. CONYERS. How did Project Identification involve itself in selecting cities? I see Project I had handguns traced in five cities.

Mr. DAVIS. We have completed 12 cities and we have extended it to 4 more. So, essentially, we will end up with 16 urban areas. We started out more or less at random.

One of the prerequisites is that we have the complete cooperation of the police department. When we had completed the first four cities, we thought that the statistics generated were so interesting and revealing, and since all of them had been east of the Mississippi, we felt that we should try to get a national sampling.

So, we have—in selecting these cities, we have tried to include all parts of the country and all types of situations.

We think the 16 cities we completed will have national validity.

Mr. CONYERS. What was the conceptualization involved? I mean, how did you come up with this notion of a project, and were there any other criteria in addition to the cooperation of the police departments that were involved? When was it started, roughly how much did it cost and what were the manpower allocations?

Mr. DAVIS. As far as concept was concerned, we felt that by taking guns, handguns, actually used in street crime and then trying to discover where they came from and what kind they were that this would be useful information on which we could make some judgments and very frankly we felt it would be useful for Congress in considering any type of legislation that they might have under consideration.

Now, I don't know whether Mr. Corbin has the manpower figures but I will ask him if he has an approximation. I know they were expensive in terms of man-days.

Mr. CORBIN. Unfortunately, I don't have the manpower figures what the project did cost. It is expensive in manpower.

Mr. CONYERS. Was that the main ingredient, just the manpower involved? The personnel expense was the major item, then?

Mr. DAVIS. Yes.

Mr. CORBIN. Yes. In effect, what we did to some extent, we had to take special agents off active cases to do research that we judged was worthwhile.

Mr. CONYERS. What year did it begin?

Mr. CORBIN. We began in 1973.

Mr. CONYERS. How long does it take for an average city to have been covered under the Project I?

Mr. DAVIS. Ninety days.

Mr. CORBIN. That is the initial period of time that we take requests from, in the New York Police Department location. It would take us much longer to complete our project.

Mr. CONYERS. Counsel Hart?

Mr. HART. I would like to explore with you for a minute the concept of the Saturday night special. A good definition of what a Saturday night special is has troubled Congress in the past.

You said last week that the Bureau's definition of a Saturday night special is a pretty tough one.

For purposes of clarification, is that the definition you used in your project identification survey, or is that the definition that has arisen from the use of your factoring criteria for imports?

Mr. DAVIS. That would be the factoring criteria that we are currently using for imported weapons, with some modifications. We feel that any very rigid definition is subject to circumvention. The \$50 limitation, obviously, somebody can start selling a gun for \$50.50, or they can put in a 3 1/8-inch barrel which would circumvent that.

The caliber you can't do much about, of course.

There are other approaches which would involve tensile strength and various kinds of things like this.

Mr. HART. Do you think those types of standards such as tensile strength, density, melting point, et cetera, are just as easily circumvented from a technical standpoint?

Mr. DAVIS. From a technical standpoint, of course, any time you have an absolute standard, I should think you could go slightly above that, and you are out of business.

I think we prefer factoring criteria because there are many aspects. While it is certainly a point system, if you go one way, then you may subject yourself to going over the line in another way. So that we think that the factoring criteria takes into account other features of a weapon in a handgun that makes it more difficult.

Mr. CONYERS. Isn't this one of the problems of pulling experts together? We can't expect a commission of experts to come up with a simple definition in terms of cost, concealability and also the three or four items that you have laid out. They denominated factors and criteria that go through a lot of formulations, and then, as I just examined this, we become mystified by the whole question of definition.

Obviously, something undefined is a problem until that point is arrived at at which it is defined.

Maybe after all of this mumbo-jumbo had gone down, in a clear-headed fashion, someone who had not been affected by all the Commission's discussions said, "Well, for goodness sakes, let's just use price, concealability, size, and caliber, and thereby simply define it."

Mr. DAVIS. I might point out, Mr. Chairman, that is what the Bureau did when it received the 1968 Gun Control Act. It called together an advisory committee of six experts from outside the Government to come up and the result was the factoring criteria.

I might point out that the reason we used the definition we did for Project I is because we didn't want to take physical possession of the guns, such as if you have it in your hands, so that by having a description on the trace request as to the caliber and length of the barrel, and then with our experts knowledge through current literature what the going price was, we could do this at a distance. So we didn't have to have the gun in question.

When you hear about the number of guns we are talking about, then you can understand why.

Mr. HART. Director Davis, how do we establish the essential difference between the Saturday night special definitions?

Just a couple of questions on that, if I may.

First of all, with respect to the definition you used in Project Identification, how was that definition arrived at? Was it merely, as you say, for purposes of arm's-length identification, for example?

Mr. DAVIS. Well, we think they have a validity, certainly, in discussions of class of weapon. Certainly the cost goes to availability. The barrel length goes to concealability, and of course, the caliber again goes to concealability.

So that in effect, we came up, I guess, by a different way in what we could consider a cheap, easily concealed handgun.

Mr. HART. That is the next question, Director Davis. You demonstrated the other day, with the display to my left, that a German revolver, a .38, which is originally in a target pistol configuration can be altered after it is imported so that it is more easily concealable than it was previously. I think it is one of the German pistols there, and there was a situation where Mr. Westenberger pointed out that the maker merely added a longer grip frame to the pistol to make it importable.

Does this definition—even though it uses barrel and caliber—really take concealability into account to the extent that the factoring criteria do by applying the overall length stipulations?

Mr. DAVIS. I would say probably not as effectively. You can have a 3-inch barrel revolver with large grips and so on that make it less concealable than a 4-inch barrel. But for the purposes of the survey we felt it met the purposes of the survey.

Mr. HART. If one is willing one can conceal a sawed-off shotgun with a relative degree of ease.

Is that correct? That is what one of your people told me.

Mr. DAVIS. That is true. If you sawed off the barrels of the shotgun and the stock you are trying to achieve concealability with respect to the firepower and effectiveness of the weapon. Certainly, I think the modifications that took place in the country of the weapon that was imported were designed only for one purpose, and that was concealability.

Mr. HART. To go further into the data that you may have acquired through Project Identification; do you have any figures on how many of the handguns traced satisfy two requirements, that is, caliber and barrel length—which go to concealability—but not the value criteria?

Mr. DAVIS. Let me say that we certainly do with respect to the first four cities. Now, whether we have continued that or not—excuse me.

Mr. HART. I don't mean to say do you have that at this moment, but you will have it as the different phases of Project I are completed; is that right?

Mr. CONYERS. Use the microphone, please.

Mr. CORBIN. We have furnished to the committee a summary result in the first four cities, and it does contain that information for those cities.

Mr. HART. But that information will also be provided with respect to the other phases?

Mr. CORBIN. As we complete them, yes.

Mr. HART. Are you reasonably certain that you will complete all the planned phases in Project Identification?

Mr. DAVIS. If I can answer that, if I understand your question, we are going to complete 16 cities. Some of us call those phase 1, 2, 3, and 4.

We had hoped in the beginning to carry this one step further and whether we call it phase 2 or not I don't know but what we had hoped to do is actually go back even on a sampling basis and find out how we got from the dealer and the first purchaser to the site where it was used in a crime.

Now, unfortunately, this is a consuming of manpower resources, and if we are going to be able to do it, it will have to be on a very limited basis.

Frankly, under the present circumstances I don't see that we will be able to.

Mr. HART. So you are pessimistic about the plans and usefulness and future of Project I as you indicated in the material that you submitted to the subcommittee.

Is that a fair statement, that you are not too optimistic about completing Project I in the way in which you had originally planned?

Mr. DAVIS. Yes. One thing, let me say this, I think if we can call it step one of Project I, it has tremendous value in terms of information, obviously, and we would like to have the other information. We are going to have to look at it in terms of cost-effectiveness and in terms of what else we should be doing. I am not optimistic at this point in even doing limited sampling.

Mr. GEKAS. I recognize one of the problems, that of the budget and resources, but you indicated that you had planned to do the phase 2 which is the followup from the first retail purchaser through to the crime.

You were hoping to do that on a sampling basis and that would be very, very valuable for the subcommittee in our investigation of the problem.

One of the things that we found is that the state of knowledge on the traffic in firearms is very, very limited and I would urge you to do it, and I would go to the point of putting the pressure on you to go ahead and do it and demand it, but I know you are under some restrictions.

At least maybe we can work together on this and select a representative sample and get an idea of what the results would be to determine if further examination is needed.

Mr. DAVIS. Let me tell you, we have talked alternatives. I know it won't be quite as effective, but certainly it would be much less demanding on us from a manpower standpoint, and that is to instruct our special agents every time they arrest a person, a criminal, or if he is arrested by State and local officers for the commission of a crime with a firearm, to interview him with respect to where he obtained the gun.

Now, this would sort of be going in the back door, but at least it would have some value in finding out where criminals generally get guns.

Mr. GEKAS. The value of doing the Project I studies is that you would have the complete picture and that would be a better investment of your resources on a sampling basis. I know there are statistical experts out there, and I am sure you have some available to you to determine a small enough sample that would still give an indication at least of some preliminary results, because that would be just enormously useful for the subcommittee in the performance of its duties.

Mr. DAVIS. Certainly, Mr. Chairman, we will give it every consideration that we can, and if at all possible we will proceed along that line.

Mr. CONYERS. Mr. Director, you have been very long enduring. We only have one other line of questioning today and then we are going to stop.

I just want you to know that we are approaching the end of this hearing. It has been a long one for you and your associates, and you have been extremely capable and candid in giving us so much valuable information, and it is concentrating on areas that will be a very important part of the final report of this subcommittee.

Mr. HART. Director Davis, I would like to conclude this line of questioning on Saturday night specials and, to some extent, Project Identification.

For purposes of the record, could you identify the four phases of Project Identification, just by definition?

Mr. DAVIS. Yes. Actually in those terms, the four phases were the four groups of cities that we took on each time, and we will be happy to identify those for the record if you would like us to.

Mr. HART. Please go ahead.

Mr. DAVIS. The first group of four were New York, Atlanta, Detroit, and New Orleans; and that would be the first phase. The second was Dallas, Denver, Kansas City, and Oakland. The third phase was Miami-Dade County area, the St. Paul-Minneapolis area, Seattle, and Philadelphia.

Mr. CORBIN. The last four are Boston, Charlotte, N.C., Los Angeles, and Louisville.

Mr. GEKAS. Is Chicago in there?

The superintendent from Chicago came and he indicated there had been some similarly titled studies and I thought it was Project Identification.

Mr. DAVIS. They did investigations with Professor Zimmering in Chicago.

Mr. CORBIN. I think I am giving the last four cities correctly. I may be one city off.

Mr. DAVIS. We have received requests for other cities. The mayor of Cleveland has asked us because it is useful information to give. We haven't had the opportunity to do that though.

Mr. HART. Director Davis, this is with respect to the question I asked just a few moments ago. Of the handguns which satisfy the caliber and the barrel length but not the value criteria at least in phase 1, was the percentage of those types of handguns greater or less than the number of Saturday night specials that fit your definition?

Could you explain or supply that for the record?

Mr. DAVIS. We can supply that for the record. We certainly have this available.

Mr. HART. How many of those handguns—those which were successfully traced, or those that you had a general description for—would fail to meet the factoring requirements on imports?

I assume you can supply that for the record.

Mr. DAVIS. In other words, if we had applied the factor criteria—

Mr. HART. In other words, of the weapons you traced during the four phases, how many would have failed the import criteria?

Mr. DAVIS. I expect in that instance it is going to be a little more difficult to supply for the record. We certainly don't have it available at the moment, and let me, if I can, ask Mr. Owen.

Mr. Owen informs me that any gun with a barrel less than 3 inches would not pass.

Mr. HART. Period? Is that regardless of cost?

Mr. DAVIS. Regardless of cost or any other factor.

Mr. HART. In line with that request, for subcommittee purposes I would also like to know what the relative percentages of—well, I guess that answers the question.

The last question I had was with regard to the disagreement between the Bureau and Congressman Harrington which surfaced last summer concerning the inclusion of the percentage on the Saturday night specials used in crimes in New York City.

Apparently Congressman Harrington took issue with the figure of 70 percent, which you later revised downward.

Can you explain the disagreement and why the figure was subsequently reduced?

Mr. DAVIS. Yes. We resolved that and I might say we resolved that in Congressman Harrington's favor.

We got trapped by what we called a composite average in which we tried to take the three criteria, the cost, barrel length, and caliber, and came out with a composite average and since then we have corrected the original report and since then we have applied the three criteria uniformly so that any weapon falling in that class, which we called class C, must meet all three in order to fall in this area.

Mr. HART. If I can state it more simply, the essence of his objection was that you added them all together and divided by three and that you shouldn't have.

Is that fair?

Mr. DAVIS. I suppose it isn't that simple, but in essence, that is close to what we did.

Mr. HART. Again for purposes of the record, in the original phase 1 report of Project Identification you concluded that 70 percent of the guns used in New York City, or within those cities, were Saturday night specials according to three criteria.

Now, what was the adjusted figure?

Mr. DAVIS. It was in the neighborhood of 50 percent.

Mr. CORBIN. That was with respect to the first 12. Whether or not it was with respect to the first four, I don't know.

Mr. DAVIS. In all the masses of paper we brought together, we didn't bring the little report on that.

But I can tell you that in the—

Mr. GEKAS. Doesn't your next graph refer to that?

Mr. DAVIS. Yes. It shows in the first 12 cities that it was a little less than 50 percent. Of 7,150:3,210 would be Saturday night specials. But for New York itself, or the first four cities, my recollection is that it was a little higher as a percentage, about 50 percent.

Mr. HART. So it would be between 45 and 50 percent, roughly, or in that neighborhood?

Mr. DAVIS. Yes. For the 12 cities it would run—let's see—we run less than 50 using the strict standards.

Mr. GEKAS. Mr. Chairman, if I could try to put that figure into perspective by taking opposite points of view. From the point of view of those who advocate Saturday night special bans, can you say that based on the results of project I you would be eliminating half of the problem if you eliminate Saturday night specials?

That is a gross simplification but some times that is the job of counsel, to make such simplifications.

But for people who are concerned about the problem of handguns in totality, can you say that Saturday night specials account for only half of the problem? You are saying the same thing, and I guess the implication of the second one is that you have to do more than deal with the Saturday night specials. I only describe the two positions to try to put the various legislative proposals into perspective.

It is actually arguable two ways, of course.

Mr. DAVIS. Right. Obviously the professional criminal who arms himself in advance for the purpose of committing a crime, to him concealability is an important factor because he wants to go undetected until the point where he is going to use it; and maybe afterward.

For other types of crimes that are probably not premeditated it doesn't make a great deal of difference. If you eliminate one class of weapons, you are going to move people up into the other class.

Mr. GEKAS. It would be useful to take the project I figures and break them down by type of offense in which they were used, and then to bring them down further into demographic characteristics.

For example, if you found out that all the guns classified as Saturday night specials are being used in urban areas by offenders who are between the ages of 15 and 24, and that the older more seasoned criminal who is robbing banks is using the more expensive type weapon that does not classify as a Saturday night special, you don't know what conclusion you draw from that in terms of legislation. But it would be enormously educational, it seems to me.

Mr. CONYERS. Without objection the correspondence between Congressman Michael Harrington dated July 19, 1974, and responses from Director Davis will be included in the record at this point.

[The correspondence referred to follows:]

JULY 19, 1974.

Mr. REX DAVIS,  
Director, Bureau of Alcohol, Tobacco, and Firearms,  
Washington, D.C.

DEAR MR. DAVIS: My staff has brought to my attention a serious statistical error in the Bureau's report, "Project Identification." The error seems to invalidate the study's conclusion that 70 percent of all handguns used by criminals are "Saturday Night Specials."

Since I believe that private ownership of all handguns, rather than just Saturday Night Specials, is at the root of this country's troubles with firearms, I feel it is important that this error be corrected before the statistics are put to any further use.

On page three of the report, the Bureau sets forth a working definition of the Saturday Night Special, describing it as a "cheaply made handgun of .32 caliber or less, with a barrel three inches or less, and easily concealed in the palm of the hand or in a coat pocket." The report further states that a "cheap", or Class C, gun is one costing less than \$50.

Thus, three criteria are established for categorizing a handgun as a Saturday Night Special—low cost, short barrel, and low caliber. The report clearly stipulates that a handgun must meet *all three* criteria in order to be termed a "Saturday Night Special."

The problem is that on page four of the report, a subtly different definition of Saturday Night Specials is employed. The number of Saturday Night Specials is calculated by taking a "composite average" of the number of guns possessing *one* of the three qualifying characteristics. Handguns are classified as Specials even if they only meet *one* of the three criteria.

For example, the New York City survey indicates that 1,501 guns meet the cost criterion for Specials, while 1,938 meet the size qualification, and 1,636 are of suitably low caliber. The differences between the three figures indicates, of course, that many guns meeting one criterion do not necessarily meet the other two. All small guns, for instance, are clearly not inexpensive or of low caliber. Yet, all these guns—many of which obviously do not meet the report's three-part definition of a Special—are included in the figures on Specials.

As a result, the finding that 66 percent of the handguns seized in New York are Specials is almost certainly erroneous, since not all of the guns included in that percentage meet all three qualifying characteristics.

The inaccurate representation of the figures disturbs me, because it can be used to argue that legislation to prohibit all handguns, rather than just Specials, is unnecessary. By portraying Saturday Night Specials as greater factors in crime

than is actually the case, the study encourages the false belief that legislation banning the Special would substantially cut back on the number of weapons used by criminals. The Bureau's 70 percent figure has already been cited by at least one Congressman as a reason to pass legislation directed solely at the Special. And yet the figure undoubtedly overstates the proportion of handgun-related crimes attributable to the Special.

I favor a complete ban on all handguns, and have introduced legislation to that effect. I am concerned at the circulation of statistics which discount the misuse of all types of handguns, especially models which are expensive, or of high caliber, or feature long barrels.

An official in the Bureau's tracing division has indicated to my staff that the information necessary to derive correct data is available in the Bureau's files. It seems to me that reanalysis of the data is called for. If the Bureau wants to know how many of the guns it traced actually meet its own three-part definition of a Special, then it should check each gun included in its survey to ascertain how many meet *all three* of the qualifying criteria. Only then can Project Identification's findings have any real significance.

I hope you will immediately re-examine your data to correct your error. If manpower shortages preclude your doing so, I would be happy to direct several of my staff to work under your direction until the task is completed. I realize that both of us are devoted to obtaining the best possible information on the abuse of handguns, and I look forward to our working together to correct this error in the study.

Yours sincerely,

MICHAEL J. HARRINGTON.

SEPTEMBER 18, 1974.

HON. MICHAEL J. HARRINGTON,  
House of Representatives, Washington, D.C.

DEAR MR. HARRINGTON: We have finished our review of the types of handguns used as the basis for our initial Project Identification report, and you are correct in your assumption that the number of guns which meet all three categories—\$50 or less cost, .32 caliber or less, and 3-inch barrel or less—is less than the 70 percent indicated on page 4 of the report under the heading of "Saturday Night Specials". Our review figure sets the percentage at 51 percent for the total, with 53 percent for New York City, 56 percent for Atlanta, 46 percent for Detroit and 29 percent for New Orleans.

In making the review, we encountered two problem areas. The first was the difficulty in insuring that the report forms used in the review in all instances were exactly the same forms used originally. Project 1, for these four cities, was a continuing project extending over a six-month period. Sometime in December 1973, it was determined that we had a sufficient quantity of traces completed to enable a meaningful statistical analysis. At that point, we segregated all of the forms received to that date and began the statistical summary. The project, however, continued and additional forms came in. These forms, while not included in the statistical summary, were mixed in with the first ones when the study was completed. As a result, there could be a few forms in the review that were not part of the original group, but this should not change the percentage figures significantly one way or the other.

The second problem was that the review showed a number of forms on which the barrel length of the gun was listed in fraction lengths, such as  $3\frac{1}{4}$  or  $3\frac{3}{4}$ . We are not sure if these measurements—many of which were made by local police as opposed to ATF personnel—are accurate since we are not aware of many handguns manufactured with barrel lengths in such fractional sizes. It may be that these weapons actually had barrel lengths of 3 inches and, if meeting the other criteria as to caliber and cost, should have been classified as Saturday Night Specials. Since we could not examine the firearm ourselves, we took the length as documented on the form and classified them as being outside the Saturday Night Special category.

We can assure you that there was no attempt on our part to alter the facts in our original report. Our objective in Project 1 was to determine the source of handguns being recovered by local police departments in order to develop intelligence—for the benefit of the police and ATF—on which to base criminal investigations of illegal firearms dealers, organized firearms theft rings and other diverters or suppliers of handguns to criminals. It was not the purpose of this

project to define or measure traffic in Saturday Night Specials. Rather, in achieving the primary objective of the project, we necessarily compiled statistics which gave us a "by-product" that we felt might have some value to ATF or the police. In looking over that "by-product", we recognized that we must release it to the public since it did provide, for the first time, an official study of this type.

If we confused the issue by using the title "Saturday Night Specials" on page 4 of the original report, we apologize. We simply intended to show that the preponderance of guns recovered by the police fell into three categories and the composite average gave the reader a quick indicator of what percentage those guns were of the total.

At any rate, that is water under the bridge and we are intent on making sure that future reports are understandable and accurate. We have extended Project Identification to 8 additional cities, and the report on our findings in Dallas, Kansas City, Denver and Oakland will be released within the next month. The other cities will follow. Our analysis of the types of handguns recovered in these cities will be more complete and detailed in view of the fact that we are now feeding the basic data into a computer.

We appreciate your interest in our efforts to administer and enforce the Federal gun laws, and we want you to know that constructive criticism is always welcome in ATF. Please let us know if we can be of further help in any way.

Sincerely yours,

REX D. DAVIS,  
Director.

Mr. CONYERS. I want to thank Director Davis and his associates again. This has been an extremely important hearing.

We invite you for further testimony at our next announced Washington meeting, and, on that note, the subcommittee will stand in adjournment.

[Whereupon, the subcommittee was adjourned at 1:20 p.m. subject to the call of the Chair.]

## FIREARMS LEGISLATION

WEDNESDAY, APRIL 9, 1973

HOUSE OF REPRESENTATIVES  
SUBCOMMITTEE ON CRIME  
OF THE COMMITTEE ON THE JUDICIARY  
Washington, D.C.

The subcommittee met, pursuant to recess, at 9:40 a.m., in room 2141, Rayburn House Office Building, Hon. John Conyers, Jr. [chairman of the subcommittee] presiding.

Present: Representatives Conyers, Mann, Danielson, Hughes, and Ashbrook.

Also present: Maurice A. Barboza, counsel; Timothy J. Hart, assistant counsel; and Constantine J. Gekas, associate counsel.

Mr. CONYERS. The subcommittee will come to order.

This is the Subcommittee on Crime of the House Judiciary Committee, and we are continuing hearings on firearms legislation. Our holdover witness is the Director of the Bureau of Alcohol, Tobacco and Firearms, of the Department of the Treasury, Mr. Rex D. Davis, who is accompanied by his Assistant Directors, Mr. Corbin, Mr. Higgins, Mr. Peterson, and Mr. Pierce. We also have his acting general counsel, Mr. Marvin Dessler, and Mr. Edward M. Owen, firearms enforcement officer. We welcome you back to these hearings. I would like to underscore, Mr. Director, the feeling of this subcommittee that your testimony is critical to the kinds of conclusions that we must arrive at preliminarily in trying to determine what kind of legislative remedy should be applied to the problem that we are examining. For that reason, we express in the record again our appreciation of your cooperation in this third visit before the committee. And we would ask you to begin where we left off.

TESTIMONY OF REX D. DAVIS, DIRECTOR, BUREAU OF ALCOHOL, TOBACCO AND FIREARMS, DEPARTMENT OF THE TREASURY; ACCOMPANIED BY WILLIAM R. THOMPSON, DEPUTY DIRECTOR; JOHN F. CORBIN, JR., ASSISTANT DIRECTOR, CRIMINAL ENFORCEMENT; ATLEY PETERSON, ASSISTANT DIRECTOR, TECHNICAL AND SCIENTIFIC SERVICES; MARVIN J. DESSLER, CHIEF COUNSEL DESIGNATE, AND CURTIS BARTLETT, FIREARMS ENFORCEMENT ANALYST

Mr. DAVIS. Well thank you, Mr. Chairman. If I may, I might correct the record with respect to some of the staff members, because of court commitments and other things. I might first point out that today we have also with us the Deputy Director, Mr. William R. Thompson.

Mr. O. J. Pierce is not with us today. And, finally, Mr. Ed Owen is replaced by Mr. Curtis Bartlett, who is another of our firearms experts.

Mr. CONYERS. Would you identify them here, please?

Mr. DAVIS. Yes, sir. Mr. William R. Thompson, the Deputy Director of the Bureau, and Mr. Curtis Bartlett, who is our firearms expert.

Mr. CONYERS. Thank you.

Mr. DAVIS. If it is agreeable, Mr. Chairman, there were some questions that had previously been asked of me by the subcommittee which I was not able to respond to during the last meeting. And if I could continue with those, I think we might get those out of the way, and then if I could continue with the presentations here.

One of the requests made by the subcommittee was that we attempt to prepare legislation which would prevent the importation of firearms, or which could later be modified in this country to a state where they would not have originally been importable. After giving this serious consideration, Mr. Chairman, we are of the opinion that it would not be possible to draft legislation that would prevent entry into this country of weapons with the capability of later being modified. We feel that the only solution to the modification of imported weapons, so that they would not have been importable originally, would be in some way to control domestic manufacture of handguns and apply those to the ones that have been imported, but which passed through the criteria.

Another question, in fact, or this is sort of a consolidation of four questions put at various times by the committee members goes this way: Provide the identity of the firms that have altered imported guns. How many guns were imported and then modified to less than import standards and identify those domestically manufactured handguns that would not pass the import criteria, and how many Saturday night specials were made in the United States last year. We have had our firearms experts review these questions, and I would say, in the interest of saving time, that we have a fairly comprehensive statement for the record in response to these questions. I might just point out for the interest of the committee some of the highlights of this particular thing.

For example, we have found that there were about 20,000 revolvers of a particular make, Rossi revolvers, that have been modified between 1969 and the present date. In other words, they have been converted from their state which made them importable by various things, such as reducing the barrel length and other things.

Mr. CONYERS. Would you review this issue again in which this convertibility takes place. Is this from the point of view of imported weapons that meet the criteria?

Mr. DAVIS. Yes, sir.

Mr. CONYERS. And then are subsequently modified?

Mr. DAVIS. Yes, sir. I might ask Mr. Bartlett to indicate on the board the kind of weapon, the kind of modification that takes place. He is pointing to a German revolver, in which the configurations in which it was imported did meet the import criteria, and then across on the blue side of the board is the same revolver after the barrel length had been reduced, the grip pull had been modified, all of which tended to make it more concealable on the person.

Mr. CONYERS. Then, Mr. Davis, the point is things like that modification would have been unacceptable in the original form?

Mr. DAVIS. Yes, sir. In other words, if they had attempted to import into the United States the weapon as modified, then it would not have met the import criteria.

Mr. CONYERS. Then the question by the subcommittee members was: Can we not by legislative process preclude this kind of activity from occurring?

Mr. DAVIS. Yes, sir. As I have indicated, Mr. Chairman, we feel that it would be almost impossible to draft legislation that could anticipate the kinds of weapons that would be subject to later modification in this country. And, in fact, if it is the desire of the Congress to prevent this kind of activity, then the legislation would have to be aimed at the domestic activity, rather than the importation.

Mr. CONYERS. It would have to be aimed at the post-manufacturing practice of modification?

Mr. DAVIS. Yes, sir.

Mr. CONYERS. We will have to begin to deal directly with that as a problem, which has not been addressed by the Congress in Federal law. Is that correct?

Mr. DAVIS. No, sir, it has not, and should Congress enact legislation that was directed toward domestic manufacture of handguns, then it would more than likely also solve this problem of modification once the gun had been introduced into the United States.

Mr. CONYERS. Let me recognize counsel, Mr. Gekas.

Mr. GEKAS. A simple way to do that would be to take the criteria that you have for importation and just write it into a law, and so none of your foreign guns can be manufactured in the United States, and take that thing and put it in the law, and it would be a very simple way to do it?

Mr. DAVIS. Yes, that would. Certainly that would be one approach to control the domestic, the standard of domestic manufacture of guns.

Mr. GEKAS. And that would prevent this problem right here also, would it not, this modification business?

Mr. DAVIS. Yes, it certainly would.

Mr. GEKAS. Right. Thank you. Thank you, Mr. Chairman.

Mr. DAVIS. Now I think again that I will just submit this for the record so it will be put on analysis by the committee, but another one of the high points, or highlights of the question was how many of these weapons that are domestically manufactured would fall into the Saturday night special category. And again, we have applied in this case a very strict definition of Saturday night special. Number one, that it would not qualify for importation into the United States, as being adaptable to sporting purposes, that one or more parts of the weapon would not meet the melting, tensile strength or powdered metal test, which is an integral part of the bill introduced before the House in the Second Session of the Ninety-Third Congress. And then, finally, the project definition, which is \$50 or less in cost, and .32 caliber or less, and the barrel length, in the case of a revolver of 3 inches or less, and in the case of a pistol, a barrel length of not more than 6 inches.

Now, taking the year 1974, in which we have the manufacturing statistics, on applying the test, our estimate, our best figure is a little more accurate than an estimate, we've got 414,002 handguns that met all of the above prerequisites and, therefore, would fall in the Satur-

day night special category. Now, that is out of a total manufacture in 1974 of 1,894,872 handguns. In other words, about 22 percent of all handguns manufactured in the United States in 1974 would be considered a Saturday night special, applying these very strict and varied criteria.

Mr. GEKAS. Mr. Chairman?

Mr. CONYERS. Yes.

Mr. GEKAS. To play that up against the results in project I, 22 percent of the guns domestically manufactured in the United States in that year satisfied the Saturday night special test, but 50 percent of the guns that you have traced, having been confiscated by the police because they were used in crimes, satisfy the lesser Saturday night special test, which is an interesting play of the percentages. It seems like Saturday night specials take up more than their proportion, and account for more than their proportional share of guns used in crime than would be suggested in the percentage of manufacture.

Mr. DAVIS. That is correct. In other words, in determining what the Saturday night special was for the purpose of project I, as you recall, we used only the \$50 or less, .32 caliber or less, and the length of the barrel, or overall length, which in this case, to even make them stricter, we also said that it would not be importable under the Gun Control Act, and that it would not meet the provisions of H.R. 12553 and H.R. 12554, which goes to melting temperature, tensile strength, and, of course, the powdered metal scintering test, so it is a very rigorous definition of the Saturday night special.

Now, in addition—

Mr. GEKAS. Mr. Davis, excuse me. Can you tell us—I hate to send your experts back working on something new—but can you tell us how many of the guns manufactured in the United States in that year, or whatever, would satisfy each of the tests individually? Can you have someone do that just for the subcommittee?

Mr. DAVIS. I think that would be possible. In other words, if they applied only one criteria, how would that then affect or change the figures?

Mr. GEKAS. Well, what you have done here is that you have applied three possible tests all together, right? And if you would take each of the tests, take the important criteria separately, take the project I standard separately, and then take the melting point standard separately, then tell us how many of the guns manufactured in the United States would fall into each of those, that would be very instructive for us.

Mr. DAVIS. Excuse me. Well, Mr. Chairman, after consulting with Mr. Bartlett, he indicates that it would be difficult in some cases to break that down, that we would be happy to give an educated guess, if that would suffice.

Mr. CONYERS. Fine. We will accept also into the record your statement detailing your answers to these questions.

[The material referred to follows:]

*Question.*—The Conyer's Committee requested information on the number of foreign firearms that were imported and subsequently modified to the extent that they would no longer qualify as importable handguns. They also requested to know which firms were involved in the endeavor.

*Answer.*—The practice of modifying imported handguns is restricted to the revolver category of handguns since it is impractical and uneconomical to

modify pistols. This practice commenced in the year 1969 and is still in effect to a diminished degree. This is due to the fact that the availability of domestically manufactured handguns or handguns assembled from foreign parts and domestic frames (in the desired short barrel configuration) has created sufficient supply to satisfy the demand for this type handgun. As such, it is no longer necessary to modify large quantities of imported revolvers.

The firms involved in this endeavor, are as follows:

(1) *Firearms International Industries, Accokeek, Maryland.* (Subsidiary of the Garcia Corporation)

This firm has been the exclusive importer of Rossi revolvers, manufactured in Sao Leopoldo, Brazil, since the enactment of GCA 68. They also hold a manufacturers license.

(a) Rossi .38 Special caliber revolvers imported by FII, were sold to Dale McGhee, Morton Mississippi, a licensed dealer. McGhee modified these revolvers by cutting barrels to varying lengths under 3 inches and then fulfilled orders from other licensees for these modified revolvers. This practice was in operation from 1969 to 1972 when McGhee was indicted for non-related T-I violations of GCA 68.

(b) Rossi .38 Special caliber revolvers, also imported by FII, were sold to Valor Imports, Miami, Florida, a licensed dealer. Valor Imports also modified these revolvers by cutting the barrels to lengths of less than 3 inches and then fulfilled orders from other licensees for these altered revolvers. This operation on the part of Valor has not terminated.

FII has never modified their imported firearms and has refused orders from licensees who requested these altered revolvers.

Based on information received from confidential industry sources, an approximate number of 20,000 imported Rossi revolvers have been modified between 1969 and the present.

(2) *Florida Firearms, Miami, Florida.* This firm is presently licensed as both an importer and manufacturer under GCA 68. Although they do not possess any exclusive importations, they stress the importation of German revolvers and Spanish shotguns.

The German revolvers include Arminius revolvers, manufactured by Weir-auch, Mellrichtstadt, West Germany and Rohm revolvers, manufactured by Rohm Gesellschaft, Sontheim, West Germany. Both commodities are distributed by the firm of Wischo-Wilsker, Erlangen, West Germany.

(a) Arminius .38 Special caliber revolvers, imported by Florida Firearms, were shipped to Valor Corporation, who modified the firearms by cutting the barrels to less than 3 inches and then offering them for sale. During the period 1969 to 1973, approximately 6,000 Arminius revolvers were so altered.

(b) Rohm .38 Special caliber revolvers, imported by Florida Firearms, were shipped to Valor Corporation, who modified the firearm by cutting the barrels to less than 3 inches and then offering them for sale. This particular program was one time only practice in the early 1970's and encompassed only 300 chrome finish revolvers.

Based on the foregoing, firm documentation exists to support the fact that at least 26,300 imported German and Brazilian revolvers were altered to non-sporting configuration subsequent to their importation into this country.

*Question.*—The Conyer's Committee requested to know how many Saturday Night Specials were manufactured in the U.S. last year.

*Answer.*—The Committee was apprised of the problem in definitively isolating the "SNS" type of firearm. To arrive at the requested statistics, the following *strict interpretation* of a "SNS" was used:

(1) Does not qualify for importation under the sporting purpose provisions of GCA 68.

(2) One or more of the major structural components of the handgun would not pass the melt, tensile strength or powdered metal test envisioned in HR-12553-12554 of the 2nd Session of the 93rd Congress.

(3) Retail at \$50.00 or less.

(4) Is chambered for .32 caliber or less.

(5) In the case of a revolver, has a barrel length of not more than 3 inches and in the case of a pistol has an overall length of not more than 6 inches.

Using the 1974 manufacturing statistics derived from the Form 4433-A, a total of 414,002 handguns met all of the above listed prerequisites. Total manufacture in 1974 was 1,894,872. Therefore almost 22% would fall into the "SNS" category.

These included handguns which were made of foreign parts and U.S. frames and handguns made entirely of U.S. components. None of these firearms were subsequently exported from the U.S. (See accompanying graph chart).

**Question.**—The Conyer's Committee requested to know the number and identity of U.S. handguns manufactured in 1974 that would not meet the importation provisions of GCA 68.

**Answer.**—During any given period, there are between 320 and 330 Federally licensed manufacturers of firearms (all types) in the U.S. Of these, approximately 30 are presently actively engaged in the manufacture of handguns, ranging from significant to minimal quantities produced. Another 15 firms are currently licensed as manufacturers but they show no production. Further, 37 handgun manufacturing firms have started in business since the enactment of GCA 68. Of these, 15 have discontinued in business.

More than 50% of the 1974 annual handgun production of the below listed firms fall into the category of not meeting the current importation standards of GCA 68. (Not listed in any significant order).

- (1) KDI Bauer Corporation, Warren, Michigan.
- (2) RG Industries, Miami, Florida.
- (3) Charter Arms Corporation, Bridgeport, Connecticut.
- (4) CDM Products, New York, New York.
- (5) Harrington and Richardson, Incorporated, Gardner, Massachusetts.
- (6) Iver Johnson Arms and Cycle Works Incorporated, Fitchburg, Massachusetts.
- (7) General Precision Corporation, Watertown, Connecticut.
- (8) Butler Associates, East Haven, Connecticut.
- (9) \* Firearms International Industries, Incorporated, Accokeek, Maryland.
- (10) Thompson Arms Company, Rochester, New Hampshire.
- (11) Clerke Technicorp, Santa Monica, California.
- (12) Security Industries of America, Little Ferry, New Jersey.
- (13) Buddie Arms, Fort Worth, Texas.
- (14) Firearms Import and Export Corporation, Miami, Florida.
- (15) Bauer Firearms Corporation, Fraser, Michigan.
- (16) Norton Armament Company, Mount Clemens, Michigan.
- (17) Chicago Firearms, Incorporated, Lyons, Illinois.
- (18) Florida Firearms, Miami, Florida.
- (19) Plainfield Machine Company, Incorporated, Middlesex, New Jersey.
- (20) Raven Arms, Baldwin Park, California.
- (21) Rocky Mountain Arms Corporation, Salt Lake City, Utah.
- (22) Sterling Arms Corporation, Gasport, New York.

Less than 50% of the 1974 annual handgun production of the below listed firms fall into the category of not meeting the current importation standards of GCA 68. (Not listed in any significant order)

- (1) Dan Wesson Arms, Monson, Massachusetts.
- (2) \* High Standard Sporting Firearms, Hamden, Connecticut.
- (3) \* Colt Industries, Hartford, Connecticut.
- (4) \* Sturm, Ruger and Company, Southport, Connecticut.
- (5) \* Smith & Wesson, Springfield, Massachusetts.

Note (1) If a manufacturer's entire handgun production qualifies for importation under current standards, the firm name does not appear on the above listings.

Note (2) An asterisk before the firm name indicates that the manufacturer has either dropped certain non-qualifying models from this production line or has modified existing models to meet the importation standards.

Note (3) Statistics on the above firms were evolved by examining the Form 4483-A, Quarterly Firearms Manufacturing and Exportation Report, submitted by Federally licensed manufacturers. Where a specific manufacturer stocks various models which cannot be determined from the stated report, actual production by model, was verified from the manufacturer for the quarterly period October to December, 1974 and that percentage figure was applied to that firm's entire years production.

Based on the foregoing approximately 1,021, 161 handguns were manufactured in the U.S. during 1974 which would not qualify as being importable under the importation provisions of GCA 68. This tabulates to almost 54%. (See accompanying graph chart).

It should be noted that a high percentage of 1974's domestic handgun production failed to meet the importation criteria due to the fact that barrel lengths (in the case of revolvers) were less than 3 inches, measured from muzzle to the face of the cylinder. In the specific case of Ruger, Colt, Smith and Wesson, Hi Standard and Charter Arms, the majority of these short barrel configured revolvers retail at over \$100.00. Likewise, a percentage of current non-qualifying pistols, some of which also retail for over \$100.00, could be readily adapted to qualify. These steps would be similar to the compliance methods used by foreign manufacturers subsequent to the passage of GCA 68.

ANALYSIS OF 1974 DOMESTIC HANDGUN PRODUCTION

Production Level	Number of Firms	Total Production	Percentage of Total Production	Percentage of Firms
1,200,000				
1,100,000				
1,000,000				
900,000				
800,000				
700,000				
600,000				
500,000				
400,000				
300,000				
200,000				
100,000				
TOTAL DOMESTIC HANDGUN PRODUCTION FOR 1974 (1,984,977)				
APPROXIMATE DOMESTIC HANDGUN PRODUCTION FOR 1974 WHICH WOULD NOT MEET IMPORTATION PROVISIONS OF GCA 68 (1,021,161)				
APPROXIMATE DOMESTIC HANDGUN PRODUCTION FOR 1974 MEETING ALL OF THE BELOW LISTED PREREQUISITES: (1) UNDER \$50 COST; (2) READING GENERALLY; (3) UNDER CALIBER .32; (4) EMPLOYING MANY-VARIABLE CALIBER AMMUNITION; AND (5) NOT GENERALLY RECOGNIZED AS A SPORTING PURPOSE HANDGUN. (414,002)				

Mr. DAVIS. Very good, sir. Thank you. And we have this part of the question, which was a sort of a special thing, and it goes somewhat to the previous question in which the committee asked to know

PLTF 100714

the number of U.S. handguns manufactured in 1974 that would not meet the importation provisions of the Gun Control Act, if any, in this respect, during any given period. There are 320 to 330 federally licensed manufacturers of the firearms of all types in the United States. There are approximately 30 that are presently active in the manufacture of handguns, ranging from significant to minimal quantities produced.

Mr. CONYERS. Is that about 30, did you say?

Mr. DAVIS. Yes, sir. Another 15 firms are apparently licensed, but they show no present activity.

Now, there have been 37 handgun manufacturing firms who have started business since the enactment of the Gun Control Act of 1968, and of these 15 have discontinued business. We have a list, here, Mr. Chairman, of 22 firms, which we feel that 50 percent or more of their production did not meet the current importation standards, so that we had these firms identified by name, and then we have another five firms in which less and 50 percent of their annual production would fall into this category of not meeting importation criteria.

Mr. CONYERS. Do you have an idea of what type of annual production these companies engage in?

Mr. DAVIS. Yes, sir. We could give you the annual production of each category. The difficult part, at least without exhaustive studies, is to be specific about their production of that part which meets and that part which does not meet, but we can give you the annual production of these two categories of firms.

Mr. CONYERS. Can you or any of your men describe these corporations to us? They are of great interest to the committee in terms of exactly who is making guns, how many they make, what the style of their business and so forth. Are they, in fact, subsidiaries of larger corporations, or are they small businessmen in the narrow sense of the term? Of course, then I wonder about their annual profitability, or what kind of gross sales figures are turned up in terms of their business operation. Can you discuss that with us a little while?

Mr. DAVIS. Mr. Chairman, there are some parts of the question which you have just asked of me that we may not be able to provide. For example, we would not have access to their profitability, and whether or not they filed such reports before the Securities and Exchange Commission. I am not sure. I think we can provide to you the overall production. We can give you generally the price range of those firearms, some things of this kind. And we can, I think, with sufficient time, tell you when they went into business, in relation to the enactment of the Gun Control Act, and what we know about the business from general information.

Mr. CONYERS. That kind of a supplemental report to this testimony would be exceedingly important, as we have been trying to get in our vision an appreciation of where the guns come from, and how they figure into the commerce of the United States.

Mr. DAVIS. At this time, it would probably be of interest to the committee to know how much of this production is of imported parts, as opposed to complete manufacture in this country, and we will try to give you as comprehensive a report in this area as we are able to.

Mr. CONYERS. Mr. Gekas.

Mr. GEKAS. Did you say that there are 30 substantial manufacturers of handguns, and of the 30, 22—maybe I should rephrase this, 22 of the 30, or more than 50 percent of their business is on guns that would not satisfy the importation criteria?

Mr. DAVIS. Yes, that is correct, although I do not want to mislead the committee. In terms of production, which we do not have before us at the moment, I would assume that those 22, in terms of total production, represent the smaller percentage than their number. By and large, I would say that most of these firms are rather small. From the reason that they started business, you might suspect that they were created for the purpose of producing inexpensive guns, so I would assume that their production is a much smaller percentage than their number.

Mr. GEKAS. But, nevertheless, as you say, there are 414,000 weapons manufactured in 1974, was it, that would not pass the factoring criteria? So in actual numbers it would be quite substantial, even though the percentage of total handguns manufactured may be only 15 percent, and 15 percent of 1,800,000 is a lot of weapons. Thank you.

Mr. DAVIS. Well, as the chairman has indicated, we will submit this particular report for the record, and we will have it in sufficient copies as to meet the committee's needs.

Mr. CONYERS. Might I point out, Mr. Director, that our staff has sent out to the 10 largest and 5 smallest handgun manufacturers, a letter, which I think has probably been provided to you, which has asked for the very basic information that we have been talking about, their production, how long they have been in business, who their officers are, for their brochures and sales prospectuses; and so forth. I would like to enter that into the record, without objection at this time, and I would also like to make sure you have a copy so you can see the kind of information that we have asked of them, and see if between your Bureau and them and our subcommittee staff digging around, we can begin to develop for the Congress a much fuller picture than is presently available to us.

[The letter referred to follows:]

APRIL 3, 1975.

PRESIDENT,  
Firearms Mfrs./Importers  
Anywhere, U.S.A.

DEAR MR. DOE: The Subcommittee on Crime of the House Committee on the Judiciary commenced hearings on Tuesday, February 18, 1975, on legislation to amend chapter 44 of title 18 of the United States Code, commonly known as the Gun Control Act of 1968. Information furnished by the Department of the Treasury indicates that your firm is a firearms manufacturer and/or importer licensed under the 1968 Act. It would be helpful to the Subcommittee in its evaluation of existing law if you would provide the following information with respect to handguns manufactured, imported or assembled by your firm; if applicable, please provide for us:

1. The name and location of each of your handgun manufacturing, importation and/or assembling facilities;
2. If you have discontinued production, importation or assembly of handguns, please state when you ceased such activity and why;
3. The length of time your firm has been in the business of manufacturing, importing or assembling handguns, giving inclusive dates;
4. The names and titles of the executive officers of your firm, during that period;
5. The number of handgun tracings made by your firm on each type and caliber of handgun for each of the fiscal years 1968 through 1974 which were initiated

pursuant to requests made by the Bureau of Alcohol, Tobacco and Firearms of the Department of the Treasury;

6. The dates representatives from the Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury, have visited your firm and the purpose of the visit and the length of time spent at the firm by the ATF representative on each date;

7. Brochures, sales prospectuses and/or catalogues on handguns manufactured, imported or assembled by your firm;

8. Annually, for each of the fiscal years 1968 through 1974, the number, caliber and type(s) of handgun(s) manufactured, imported or assembled by your firm;

9. Annually, for each of the fiscal years 1968 through 1974, the gross receipts from the sale of handguns manufactured, imported or assembled by your firm and the States to which the handguns were delivered;

10. Annually, for each of the fiscal years 1968 through 1974 an abstract from shipping manifests which indicates where, to whom, and on what dates orders in excessive of five (5) units of any handgun inventory item were received, filed, and posted or delivered;

11. Annually, for each of the fiscal years 1968 through 1974, the net profits from the sale of each caliber and type of handgun manufactured, imported or assembled by your firm;

12. The other products sold by your firm and the percent that handgun sales relate to the gross sales receipts of your firm for each of the years 1968 through 1974;

13. Annually, for each of the fiscal years 1968 through 1974, the number, caliber and type of handguns from your firm which were stolen while the handguns parts exclusively, and the number manufactured or assembled in whole or in part with imported parts;

14. Annually, for each of the fiscal years 1968 through 1974, the names and addresses of major distributors and/or dealers and the number, caliber and type of handguns manufactured, imported or assembled by your firm which each major dealer purchased directly from your firm;

15. Your estimate of the number of handguns manufactured, imported, or assembled by your firm in each of the fiscal years 1968 through 1974, which would not attain a qualifying score (75 points for pistols, 45 points for revolvers) applying the Factoring Criteria for Weapons promulgated by the Secretary of the Treasury;

16. A description of the type of security facilities and/or services provided for storage of inventory of unassembled handgun parts, and/or finished products awaiting shipment to destination, including any improvements made to such facilities and/or services during the past eight (8) years;

17. If you provide delivery of ordered merchandise to purchasers, provide a description of the types of security provided in transit and to whom provided. If any, during the past eight (8) fiscal years. Include any improvements made for such in-transit security, if provided;

18. Annually, for each of the fiscal years 1968 through 1974, the number, caliber and type of handguns which were stolen from your firm's storage and/or plant facilities;

19. Annually, for each of the fiscal years 1968 through 1974, the number, caliber and type of handguns recovered which were formerly stolen from the firm's storage and/or plant facilities;

20. Annually, for each of the fiscal years 1968 through 1974, the number, caliber and type of handguns from your firm which were stolen while the handgun's were in the process of being shipped to purchasers;

21. Annually, for each of the fiscal years 1968 through 1974, the number, caliber and type of handguns recovered which were formerly stolen during the shipping process from your firm to purchasers.

The information requested above will be of substantial assistance to the Subcommittee and your prompt response to this inquiry will be appreciated.

Sincerely,

JOHN CONYERS, Jr.,  
Chairman, Subcommittee on Crime.

Mr. DAVIS. Yes, sir. Mr. Chairman, we appreciate the opportunity to have the letter if we have not already received it.

Mr. DANIELSON. Mr. Chairman, would you yield on the question?

Mr. CONYERS. Yes, I will to the gentleman from California.

Mr. DANIELSON. I would just like to ask the chairman, and I conceded. I have not been here all of the time—oh this is the list of addressees?

Mr. CONYERS. This is the letter that we sent to them.

Mr. DANIELSON. I have answered my question. Thank you.

Mr. CONYERS. Right. Counsel Maurice Barboza, has some questions.

Mr. BARBOZA. Director, with the quick overview you have given us this morning concerning manufacturers, were they derived from your voluntary quarterly reports?

Mr. DAVIS. Yes, sir, although they are, as you will see, not specific. In other words, I might point out to the committee, that we feel, with the advice of counsel, that some of these statistics, production statistics, as to being broken down into very specific areas, may be under disclosure laws, and, in fact, can be trade secrets, so there is some question as to whether or not we are in a position to supply detailed production records of the firms which have voluntarily submitted them to us, and if the committee would like, I would have Mr. Dessler respond further to that, if you wish to pursue it.

Mr. BARBOZA. These figures, though, Mr. Davis, 414,000-plus handguns which met the criteria, were these guns studied as a result of a quarterly report, and can I assume that all manufacturers that we have in the records, some 330, have filed quarterly reports during 1974?

Mr. DAVIS. Yes, sir.

Mr. BARBOZA. They have all filed reports?

Mr. DAVIS. And this, of course, would include, I might point out, long guns as well as handguns, too. In other words, these are the source documents where we report the domestic manufacturers and weapons for each year.

Mr. BARBOZA. What was the first year that the quarterly reports were required?

Mr. DAVIS. That would be fiscal year 1973, ending on June 30, 1973.

Mr. BARBOZA. Thank you.

Mr. DANIELSON. Mr. Chairman?

Mr. CONYERS. I yield to the gentleman from California.

Mr. DANIELSON. I do not know again, because of my necessary absence from time to time, whether we have asked Mr. Davis to supply us with his definition of what is a Saturday night special, if we have just his judgment?

Mr. CONYERS. No. It is a good question, because I have been thinking about it myself.

Mr. DANIELSON. I think, Mr. Chairman, if Mr. Davis can give us one now, I would like it. On the other hand, if he would prefer to go back to his office and try to construct such a definition, I think it should be done in that manner, and I will make one added comment to it. Then that is about all I have here. I have grave doubts in my mind whether a legally and constitutionally accepted definition of Saturday night special can be drafted ever. If it can, I think, I know that this committee needs it, and I think it should have it. It seems to be popularly accepted by gun forms as gun proponents, and now by our Attorney General, Mr. Levi, and many others, that if we can get rid of the Saturday night special, nobody is hurt, and everybody is ahead of the game. So it behooves us, if it is at all possible, to define Saturday night special. And I would appreciate your assistance on it.

Mr. DAVIS. Well, thank you very much. And we would be most happy to respond to that if we could. As you are well aware there.

are a number of definitions extant, including some we have come up with ourselves. I think that what we could do would be to give the committee the various definitions, and then to indicate what, you know, their accomplishment would be. Now, certainly, one objective in addressing this problem is the safety of the user. In other words, the reliability of the gun, the fact that it will function, and that it will not injure, the quality is sufficient that it will not injure the user. There is another area. If we talk about the usefulness as a crime tool, a tool of crime, and that is conceivable. And there is another area, of course, and that is the availability, based on price, which automatically includes quality, so we will provide these various definitions, and try to convey to the committee what we felt would be the end objective of a particular definition, and how it could be administered under these definitions.

Mr. DANIELSON. Well, I would like to give you a caveat there. I lived in the real world for quite a long time, and I'm not quarreling with your points here. I think that in the mind of the public, the word Saturday night special probably has more to do with the use to which the person puts the gun. In other words, if a bad man, if a criminal uses the gun it is a Saturday night special. If a sportsman or a gun fan, a person you know who has a real artistic interest in the weapon, he uses it, it is not a Saturday night special. But if we are going to define something legally, it will have to be a definition which will stand up under a judicial scrutiny of whether or not these are intrinsic qualities of the piece itself. Now, price, just to bring up one point, price, let us say the common Saturday night special are \$1.25 a copy. Now, if it is only a matter of price, and we forbid guns, for example, under \$100 a copy, a manufacturer or seller simply has to raise their price to \$100, and he has gotten around that. And so I do not think that price—it may be that it would be a desirable standard, but I do not think it is a real standard. I have tried a lot of lawsuits, and when you get into court, if you are going to have a standard like \$100, and here is a man selling a pot metal gun for \$150, your standard falls down, so you have got a tough job here. And, you know a lot about guns, obviously, and I just hope you can help us out, because these are the people who have a warm affection for guns who seem to say they do not mind getting rid of the Saturday night specials. But when I ask them, well, what is a Saturday night special, you get a shrug of the shoulders, and one witness even went so far as to say well, I don't want to get into that now. Well, we have got to get into it now.

Thank you very much.

Mr. DAVIS. Yes, sir. If I may only comment on one aspect of your remarks, and that is, there is, in fact, and I am not advocating this, some mechanism for increasing the price to \$100, and some manufacturers, obviously, could produce a well-built gun for that price, and if a person knew anything at all about guns, then he would obviously choose the well-made gun as opposed to the pot metal gun that you described, which would eventually, I think, have the effect of driving those kinds of guns off the market.

Mr. DANIELSON. That is entirely true, except our only concern here, our only real concern is with the criminal who uses the weapon. If everybody used the weapon the way people should use weapons, we would not even have to have these meetings.

Now, if I am going to be a bank robber, or a holdup man, and I needed a weapon, it would be of little concern to me that that pot metal gun cost me \$100, because what I am looking for is a gun, and I want to scare somebody with it; I want to put him in fear of his life, so I will go to \$200 if necessary, so the cheapest gun on earth is going to serve my purpose. So I give you a very sincere caveat. You have got to have it defined in a manner which is intrinsic to the weapon itself, which will set standards which can be determined by objective analysis.

Now, I sound like I am picking nits here, but I am not picking nits. This is the essence of legislation which would focus on the Saturday night special.

Mr. DAVIS. Yes, sir. We will certainly do our best to provide the committee with the various definitions of what, in our view, they accomplish, and what the administrative feasibility is of each one of them.

Well, Mr. Chairman, I think the points raised by the committee in the past, one of them has been the application of the factory criteria to weapons, in other words, an actual demonstration of how gun experts or other persons go about determining whether a gun is importable under the criteria system. And with the committee's permission, I would like to ask Mr. Bartlett to briefly indicate how this approach is made.

Mr. CONYERS. Very good.

Mr. DAVIS. And at the same time, we will provide the committee with a sheet, a factoring criteria sheet, which is used as a worksheet in determining this. [See p. 281.]

Mr. BARTLETT. My name is Curtis Bartlett, and I am a firearms enforcement analyst. The standard form that we use for factoring imported handguns is entitled "Factoring Criteria For Weapons," and it is ATF Form 4590. And I am going to go through the pistol and revolver criteria with you, and explain a little bit about what the various criteria mean.

On the pistol, I am going to use, for example a Colt automatic. This is a model Mark IV, series 70, .45 automatic and on the first category we have overall length. In an automatic pistol, or in any pistol, the length is measured from the muzzle to a point, to the rearmost point perpendicular to the axis on the muzzle on the gun, so if we would draw a vertical line up from the grip and measure at the distance from the muzzle to that line, we have the overall length. In this case, there is an overall length of 8½ inches. And now, we allow one point for each quarter point over 6 inches, for each quarter inch over 6 inches, so the gun is 8½ inches, we have 2½ inches at one point per quarter inch, for a total of 10 points, which we allow on the length.

Now, under the frame construction, we have two categories. One is investment cast or forged steel, which is awarded 15 points, and then we have investment cast or forged hard-tensile strength alloy, which is awarded 20 points. I might point out that cheap guns are made out of pot metal and would be awarded zero points.

Mr. DANIELSON. Be awarded what? Would the gentleman speak into the microphone, please?

Mr. BARTLETT. I'm sorry. I just wanted to point out that cheap, inexpensive guns made out of pot metal, and so forth, would be awarded zero points for frame construction. And in the case of—

Mr. CONYERS. Mr. Gekas.

Mr. GEKAS. What is pot metal?

Mr. BARTLETT. Well, that is basically a slang term for cheap, cast-able alloys.

Mr. GEKAS. You mean poured into some kind of a mold?

Mr. BARTLETT. Usually poured into a mold.

Mr. DANIELSON. Mr. Chairman, may I suggest the witness be seated with the microphone in front of him. If we cannot hear, he might as well not say it.

Mr. GEKAS. Pot metal is—you heat the stuff up and pour it into a mold?

Mr. BARTLETT. It is really a slang term. It is actually, other than forged steel, or forged investment cast high tensile strength alloy, whatever metal it would be, whether it would be brass, or a cheap alloy, or whatever, would be awarded zero points.

In any event, in the case of the pistol in question, here, this is a steel frame, it is forged, so it is awarded 15 points for frame construction.

The next category is the weight. One point per ounce. In this particular case, the weapon weighs 39 ounces, so it gets 39 points for weight.

Mr. CONYERS. Excuse me. But to be qualified, the weapon to reach a certain number of points under the factoring criteria, plus, when going back to overall length, for each one-quarter inch over 6 inches, you receive more points, each, or additional points are awarded for length?

Mr. BARTLETT. That is correct.

Mr. CONYERS. In other words, the longer it is, the less concealable it is, and the more desirable it is in terms of meeting the factoring criteria test?

Mr. BARTLETT. That would be correct.

Mr. CONYERS. Very good.

Mr. BARTLETT. The point I think being to award fewer points to very small, concealable handguns.

Mr. CONYERS. Right.

Mr. DANIELSON. Mr. Chairman?

Mr. CONYERS. Yes.

Mr. DANIELSON. With your permission, as these points come up, I think it would be good to ask the questions on them. You have just gone to weight, I understand what you have said here. Are there any discriminations made by you in effecting these criteria as to whether weight has been unnecessarily added?

I wanted to get around this criteria. I am trying to think, and I'm going to be devil's advocate here, but if I wanted to get around this criteria, and I want to score points on weight, I would just, wherever possible, put as much additional weight as I can, within reasonable bounds, at least. For example, the stock on that pistol you just showed us was made of either plastic or wood.

Mr. BARTLETT. Yes.

Mr. DANIELSON. There is no reason on earth that a piece of nicely machined steel couldn't work for that same stock, and as the result, you would pick up a few extra ounces on weight.

Mr. BARTLETT. Yes, sir. Very few ounces, I would think in this case.

Mr. DANIELSON. If it would be so easy, if I am starting to get past the 75 points, and you get 1 point per ounce, you could get maybe 3 or 4

more points if I were to fill that butt largely with lead, for example, but constructed in such a manner, or an alloy that has much lead in it, but to construct it in a manner that it did not detract from the functioning of the piece, but simply husking it, is there any discrimination made in your factoring criteria on that? I am trying to find ways to get around your law, and I'm the devil's advocate now. How do you concur with that?

Mr. BARTLETT. Yes, sir.

Mr. DANIELSON. I do not think you can.

Mr. BARTLETT. I do not think that the criteria can really take that sort of thing into account.

Mr. DANIELSON. OK. I am doing this to plant a thought into your mind that maybe you ought to take into consideration the weight of a gun could unnecessarily be beefed up, for example, and that is something that you ought to think about, we ought to think about. When I say you, I mean all of us here. OK? Thank you.

Mr. BARTLETT. The next category is caliber. We note there are the caliber .22 short and .25 automatic are awarded zero points. Well, the .22 long rifle and the 7.65 millimeter to .380 auto is awarded three points. And the 9 millimeter parabellum luger is awarded 10.

Mr. CONYERS. Would you please describe these definitions, you know, the long and the millimeter, and the auto?

Mr. BARTLETT. These are cartridges that the guns would be chambered, fired. In the case of the .22 short and the .25 auto, both of these cartridges are very applicable to very small, tiny, handguns. The .22 long rifle, 7.65 millimeter, to .380 require a larger, heavier gun, and the 9 millimeter parabellum requires a much larger and heavier and stronger gun in order to withstand the greatly increased pressure of those larger cartridges.

Mr. DANIELSON. Mr. Chairman?

Mr. CONYERS. The gentleman from California.

Mr. DANIELSON. Would you gentlemen explain or define the 9-millimeter parabellum?

Mr. BARTLETT. This is the same as the 9-millimeter Luger. It is a cartridge, it is a particular cartridge, and it is a standard military cartridge used throughout the war.

Mr. DANIELSON. Beyond 9-millimeter? There is a 9-millimeter parabellum, is that smaller than a .380?

Mr. BARTLETT. Exactly the same as the .38 special in diameter.

Mr. DANIELSON. In the third category, you are going to larger sizes, to larger calibers than a .38?

Mr. BARTLETT. Thirty-eight or larger.

Mr. DANIELSON. Or larger. Well, OK, .38 and larger.

Mr. BARTLETT. The term .380 is basically the same as the 9 millimeter, but it is a smaller, less-powerful cartridge.

Mr. DANIELSON. A .45 is obviously in the same category?

Mr. BARTLETT. It is in the same category, that is correct.

Mr. CONYERS. Thank you.

Mr. GEKAS. What caliber is that?

Mr. BARTLETT. This is a .45.

This is a standard U.S. pistol cartridge, and it has a very large bore. It is almost one-half of an inch.

Mr. GEKAS. To go back to the metal. What kind of metal is in this gun?

Mr. BARTLETT. This is forged steel frame.

Mr. GEKAS. I see.

Mr. BARTLETT. I do not know if you can see clearly or not, but this revolver here is a .38 caliber, and the pistol is a .45, and there is a considerable difference between the two.

Mr. GEKAS. To paraphrase the statement which we have all heard, do you know if these guns are loaded?

Mr. BARTLETT. No, sir. I checked these.

Mr. GEKAS. No, sir, you do not know, or no, sir, they are not loaded?

Mr. BARTLETT. No, sir; they are not loaded. I checked them immediately before entering the room.

Mr. GEKAS. Thank you.

Dr. DAVIS. I might add, Mr. Gekas, in view of my position, I was concerned about that, too.

Mr. BARTLETT. Well, it is hard to find a pointing place.

Mr. GEKAS. Well, it is not Saturday night, so we can all rest easy.

Mr. BARTLETT. The pistol in question is awarded 10 points because of its caliber.

Now the safety features. Locked breech mechanism, 5-point value. Locked breech mechanism is a mechanical feature which is easily required in larger, heavier, higher pressured calibers. The smaller, low pressured ammunitions might not require a locked breech mechanism, whereas a higher caliber with heavy pressures would require a locked breech mechanism, and, this is a mechanical feature, and it requires a certain degree of complexity in the mechanism. The locked breech in itself refers to the fact that at the moment of firing the barrel and the breech are tightly locked together.

Mr. GEKAS. Would you point to where the breech is on that instrument, Mr. Bartlett?

Mr. BARTLETT. Yes, sir. The breech is the portion of the firearm which seals off the back of the barrel.

Mr. DAVIS. Mr. Chairman, I have asked him to remove the slide from the weapon so the committee can have a better view.

Mr. GEKAS. Would you say that the velocity breech mechanism is a protection against explosion from the pressures?

Mr. BARTLETT. It is required because of the pressure. On a low calibered gun the force of the recoil can be—I believe that I am unable on this particular one to take this out. It has a very tight bushing on it. On a low powered gun, the force of the recoil can be controlled by means of the weight, the initial mass of the slide mechanism and the heavy spring, plus the resistance of the hammer pressing on the rear of the slide, and all of these features help to keep the breech shut against the recoil forces. Now, once the pressure increases to a certain point, you have to correspondingly increase the forces of the spring, and the mass of the slide at a certain point where this becomes impractical, and you must have a locked breech mechanism, which mechanically locks the breech, sealing the back of the barrel, preventing the expanding gases and so forth from exploding backwards.

Mr. DANIELSON. Mr. Chairman?

Mr. CONYERS. The gentleman from California.

Mr. DANIELSON. In real lay language, what you are saying is that an

explosion takes place inside the cartridge, and it works like all explosions; has equal force forward and to the rear. It goes in all directions, and you have to build a solid wall behind it, in order to focus all the power forward. Otherwise, it would work like a jet engine and blow back in your face?

Mr. BARTLETT. That is exactly correct.

Mr. DANIELSON. So you lock the breech to the barrel, so, it cannot blow backward at you?

Mr. BARTLETT. That is correct.

Now, in an automatic pistol of this particular type, the forces of recoil are used to cycle and automatically reload the weapon. What is required is that the barrel and the slide recoil together for a certain distance, and after the pressures have had a chance to die down, then the barrel is mechanically unlocked from the slide, and the slide continues rearward, like so [indicating] and this accomplishes the ejection and the reloading of the weapon.

Now, as we know, some push tests on the muzzle, and I do not know if you can see it or not, but the barrel and the slide are recoiling together. In this position, the barrel and slide are locked together. At this position, they are unlocked, and the slide is permitted to move backward by itself.

The next feature is the loaded chamber indicator. This is a device which indicates that there is a cartridge in the chamber, ready to fire in the gun, and usually this will be some kind of a little pin, or a little signal of some sort which projects from the firearm, and is quite clear, merely from looking at the gun that there is a round in there ready to fire. Now five points are awarded for the loaded chamber indicator. In the case of this pistol, it does not have one, so it gets zero points in that category.

The next feature is the grip safety, which is awarded three points. The grip safety is sort of an automatic safety feature. When the gun is held in the hand, this portion, from the rear portion of the grip is depressed, and this permits the gun to be fired. Now, if this portion of the grip is not depressed, then the gun cannot be fired, this is the safety feature in the event the weapon is dropped or mishandled or not in the proper position for firing, not being held properly, it would not fire. That is awarded three points.

The next feature is the magazine safety. The magazine safety again is another automatic type safety device. It basically functions on the magazine of the pistol. When the magazine is removed from the magazine safety, it prevents the gun from being fired. This theoretically makes the weapon safe upon the removal of the magazine. The magazine, if you are not familiar, is located in the back, usually, and this is where the cartridges are contained. This particular weapon does not have a magazine safety.

Mr. GEKAS. It has a grip safety?

Mr. BARTLETT. It has a grip safety, correct, but not a magazine safety.

Mr. GEKAS. Does it have a loaded chamber indicator?

Mr. BARTLETT. It does not.

The next feature is the firing pin block or lock, which is awarded 10 points, and this is quite an important feature. This is the actual, an

actual positive safety device in which the firing pin or the firing train is positively locked. Now, we interpret this to mean either a lock of some sort on the firing pin, itself, or on the hammer, but, for example, a safety which would merely block the trigger, which would block the sear, or other minor internal parts would not be considered a positive firing pin block or lock.

Mr. GEKAS. Does that protect against the dropping?

Mr. BARTLETT. It is basically the most positive type of a safety. It would protect, it should protect, if it works properly, against dropping or against mishandling or accidental misfiring.

Mr. GEKAS. What it does is it stops—I do not know how, the pin from hitting a cartridge, is that what it does?

Mr. BARTLETT. Basically, yes. In any event, this pistol does have this feature, and it is awarded 10 points.

The next category is miscellaneous equipment. External hammer is awarded two points. The hammer is the part that strikes the firing pin, and this pistol does have an external hammer. This is also considered to be a safety feature, in that you can see merely by looking at the gun if the weapon is cocked. You can also, in the event of a misfire, recock the hammer, and this is felt to be safer than guns having concealed hammers or striker fired mechanisms.

The next feature is double action, which is 10 points. There are basically two types of trigger mechanisms, the single action and the double action. The single action, which is what the .45 has, requires that the gun be cocked either manually or automatically by action of the gun before the trigger can be pulled. A double action, which is similar to this revolver, is basically self-cocking in that the trigger merely must be pulled and the gun, the hammer, will move rearward and forward merely on the action of the trigger.

Now, most double action guns are also single action, too, you can cock the hammer manually and fire it in a single action mode, or if you desire, you can fire it in a double action mode.

Mr. BARBOZA. Mr. Chairman?

Mr. CONYERS. Mr. Barboza.

Mr. BARBOZA. What would be the difference in the purposes of single and double action? Who would be likely to use the single or double action?

Mr. BARTLETT. The double action is generally considered to be more reliable. Police use revolvers almost in all cases with double action, in that the gun can be, the trigger can be or now has to be pulled with one action, and it can be fired. Furthermore, in the event of a misfire, it merely takes the action of the trigger finger to recock and fire the firearm.

Now, in the case of this .45, for example, before it could be fired, the hammer has to be cocked, and the trigger pulled. Now, in the event of a misfire, then this requires two operations again to cock the hammer and pull the trigger again.

Mr. BARBOZA. Would that be more accurate, a more accurate weapon, the single action?

Mr. BARTLETT. Basically, when guns are fired for accuracy and target shooting and so forth, they are usually fired in a single action method. The force required to pull the trigger over that long distance, and it is quite a considerable force coming, you know, it re-

quires—makes your hand tremor a little bit, and for the ultimate in accuracy you should have a fairly slight force in the trigger. So, target weapons are single action, or are fired in a single action mode.

Mr. BARBOZA. For instance, how many Saturday night specials would be single action?

Mr. BARTLETT. Many of the revolvers which might fall in that category with the double action, most—the majority of the revolvers currently manufactured today, which are of modern design, are of double action.

Mr. BARBOZA. Thank you.

Mr. BARTLETT. In any event, the pistol here is not double action, so it is awarded zero points for that category.

The next feature is the drift adjustable target sight, which is awarded five points. And this is interpreted to mean a sight which can be adjusted by means of tapping it, or moving it, so that the point of aim can be corrected. This is opposed to a fixed target sight which cannot be adjusted in any way, and which is just manufactured that way at the factory and left alone. In any event, the drift adjustable sight feature which is usually found, adjustable sights are usually found on the better quality guns.

Now, the next feature, which is a click adjustable target sight, is awarded 10 points.

Mr. GEKAS. Mr. Chairman? Do handguns have adjustable sights?

Mr. BARTLETT. In some cases.

Mr. GEKAS. Does this one?

Mr. BARTLETT. This one has a drift adjustable sight.

Mr. GEKAS. That is to the right or left?

Mr. BARTLETT. That means that the sight can be moved, but it has to be tapped or pushed. It fits very tightly in a groove in the top of the frame, in the top of the slide, and if you want to adjust it, you can tap it with a mallet or something like that.

Mr. GEKAS. Thank you.

Mr. BARTLETT. Now, the next feature is a click adjustable target sight, and this is usually found on target arms, and this refers to a sight which is adjustable by means of screws, so that, you know, you can carefully and very finely tune your sight for accuracy.

Mr. GEKAS. The target pistols have those?

Mr. BARTLETT. Target pistols would generally have them.

Mr. GEKAS. But that one does not?

Mr. BARTLETT. That one does not, so this pistol gets zero in that category.

The next feature is target grips, and the grips, are, of course, the portion that you hold onto, and the target grips are interpreted to mean a grip having a thumb rest of some type, or a thumb indentation. Now this is a feature which is usually found on target type handguns. This pistol does not have a target grip. These are merely what they call service grips, so this gets zero points in that category.

The last category here is target trigger, which is awarded two points, and a target trigger is interpreted to mean a trigger which is wider than a standard trigger, and which is also grooved or checkered. Now, this pistol does not have a target trigger. It has a grooved trigger, but it is a very narrow, service type trigger, so it is awarded zero points in that category.

Mr. DANIELSON. On that point—

Mr. CONYERS. I yield.

Mr. DANIELSON. On that point, what real value would that add? It might cost a little more to make the trigger, but beyond that, I cannot see an awful lot.

Mr. BARTLETT. Well, to a target shooter, the value is that the force required to pull this trigger is distributed over a wider area.

Mr. DANIELSON. Right, and that might give you a better target pistol. But I have got a kind of a one track mind here. I am only concerned about firearms in their use in criminal activities, especially in a household. A trigger that is grooved or checked to prevent slippage of the trigger finger against the triggering mechanism, and also better to distribute the pressure might add a few dollars to the cost. I cannot think it would do very much, however, and this is probably a gun that you could fire more accurately, I would imagine you could hold a man up just about as well with a target trigger as you can with a plain, ordinary service trigger. I was just wondering what value lies there, except that you get a nicer weapon?

Mr. DAVIS. Mr. Chairman, if I may respond to this particular question, we are dealing here with the criteria that are under the 1968 law for the importation of weapons, and it is strictly based on sporting, either readily adaptable or usable for sporting purposes. Now, the committee at the inception of the 1968 act, that we appointed to develop this criteria were generally from outside of the Treasury Department, were noted experts, firearms experts, so their purpose in coming up with the criteria was to determine if the weapon was adaptable for sporting purposes. So each one of these, you will find, have a relation to that, and, of course, in coming up with the criteria, limits are circumscribed by the limits of the law, so I might point that out, that, in essence, here, what we are doing is taking criteria developed for importation on the basis of adaptability for sporting purposes and applying them to domestic guns, just as an illustration of how the criteria is applied.

Mr. DANIELSON. Are these criteria like the target trigger—most of these things are very good and useful here—on the target trigger, there is nothing bad about it either. But I am just wondering what affirmative value it has to us in our problem of crime? I do not have any quarrel with it, I think it is a fine thing, but I am trying to find out where it will help us. Is that part of the law on the importation?

Mr. DAVIS. Well, sir, only to the extent that the criteria has to be related to the adaptability for sporting purposes, and, of course, the committee determined that the type of trigger, and it is given, as you can see, a rather small number of points, but that this was a feature of the handgun that did indicate that it was useful for sporting purposes. And in this case target shooting, as in the case of the sights, of course, and the target grip, all of these are relating to recreational or sporting purposes or target shooting.

Mr. DANIELSON. It lends them a little more value, I guess you might say, and that is the factoring value which is obtainable through designing the gun that is useful, especially for target and recreational use?

Mr. DAVIS. Yes, sir. And I might point out, and I think maybe it would be useful to comment at this point in time, for example, you

will recall that the .22 caliber bullets, or a chamber for a .22 receives no points. But with the application of all of these criteria, this certainly does not mean that, you know, a fine .22 caliber pistol could not be imported. In other words, the importability would be based on its overall length and some of these other features, so even though it happened to get no points because of its caliber, if it was, in fact, a genuine .22 caliber target pistol, it would be permitted under these criteria.

Mr. DANIELSON. Thank you.

Mr. ASHBROOK. Mr. Davis, following up on that point, the only one that does not really seem to me, I'm trying to think through your point of view, what you are trying to do as against my own, the only thing that does not seem to me as logical is the 10 points for double action, and how that fits into that area.

Mr. DAVIS. Yes, sir. Of course, really the two features here, maybe this has not come through, is the fact that we have two features. One of them, as indicated, is accuracy, this is the function of the single action trigger, as indicated, if you are target shooting, invariably, unless, you know, unless one of the rules of the competition is that you would fire a single action, with the trigger in the cocked position. On the other hand, we have the feature of faster firing, and in the case of the double action, in certain hunting situations, and other situations, this could be a feature that would be desirable in a sporting gun.

Mr. ASHBROOK. Well, applying the Danielson test of whether it is going to be used for crime or not, and I have no statistics, but my gut feeling would be that 98 percent of the criminals would use a double action, as against a single action?

Mr. DAVIS. Yes, sir. That I think certainly would be a valid view. Again, we were required under this to use a sporting purpose criteria. And if Mr. Bartlett would have any further comments from the experts' viewpoint—

Mr. DANIELSON. Would the gentleman yield on that very point?

Mr. ASHBROOK. Yes.

Mr. DANIELSON. I agree with Mr. Ashbrook. For police purposes, I think you always have double action. A criminal certainly would want double action. I mean, he does not want to sit around and cock the hammer and then pull the trigger. Yet double action gets you added value, which is hard for me to understand.

Mr. ASHBROOK. Yes, that is the point.

Mr. DANIELSON. I really think this is a valid point. I think part of it here may be semantics, also. I think this is a bad misnomer, though it be true. Double action really requires one action, you pull the trigger and it does the whole thing. Single action has a double action. You cock it and then you pull the trigger. It is a misnomer.

I think we came in the world too late to change it. But, it is backwards. Single action means double action and double action means single action here. I think that for anticrime purposes we would be better off if we had the hand that takes two actions, cock the trigger, pull it, I mean cock the hammer and pull the trigger, which is called single action by the firer of the piece. He cocks it, he pulls the trigger. Double action, on the other hand, requires only one action. He simply pulls the trigger and it does two functions at the same time.

I tend to agree with Mr. Ashbrook here, but I understand now, from your explanation, that under the law on imports, you are to tailor your regulations to fit the sporting weapon piece.

I think you might have made a mistake here, though. I think if my business was shooting targets, bullseyes, if that was my recreation, I would prefer a single action piece which requires two actions, cock it and then squeeze the trigger, because you would have a much tighter squeeze, you would have the old hair trigger situation, and you could stay on target.

Mr. DAVIS. Yes, sir. I might point out that in some forms of target shooting speed is of the essence and so that there could be situations where, in timed shooting, then it would be necessary to use double action. But, again, I will ask Mr. Bartlett if he has any observations about this double action feature, and maybe he can shed some further light on it.

Mr. BARLETT. Yes, sir. I would like to say something about it. I think perhaps one confusing aspect of double action is that in the automatic pistol, to design a double action feature, requires a very complex mechanism as compared to the double action feature in a revolver.

Double action is a feature which will not appear in cheaper made automatic weapons. The trigger mechanism in an automatic pistol is not complicated, due to the fact that the hammer must be reset each time it is cocked. And furthermore, there is a distance involved between the trigger here, which must go around the magazine and connect to the sear mechanism and the hammer. And in a revolver it is a much simpler mechanism.

There are very few parts involved, but in a double-action automatic pistol, the firing train is composed, I would say, of three or four times as many parts as a revolver.

Mr. DANIELSON. I believe you are right, and I am glad you made those comments. In going through these charts, I do not know if I can speak for my colleagues, but I think I tend to sometimes mix pistols and revolvers. I know they are not the same, but in our questioning and in our discussion, we sometimes do not make the very essential, but nevertheless, very fine distinction between a pistol, which is your automatic type, and a revolver, which has a chamber which revolves. There is a lot of difference in the two pieces. And I know now that I commit this common sin of saying pistol when I mean revolver, and gun, when I mean—which means nothing, of course, but I recognize your distinction. I think this is something worth considering if we should change factors, if we should pass a law.

Mr. DAVIS. Yes, sir. I just might point out that in the case of the pistol, and I think you have already recognized this, but in the case of the pistol, after the first shot, then it is automatically cocked and ready to shoot again. And in the case of a revolver, each shot, you either have to pull the trigger or, you know, you pull the double action and so the semiautomatic pistol gets its name from the fact that the hammer is automatically cocked after the first shot, and then until the clip is spent it will shoot a single action.

Mr. HUGHES. I wonder if the chairman would yield?

Mr. CONYERS. I yield to my friend from New Jersey.

Mr. HUGHES. Have I missed something along the line? It's my understanding that in addition to the adaptability of these weapons for

sportsmen we were trying to get sophisticated weapons. Therefore, much of the criteria I see, unless I have lost the drift somewhere along the line, is related to a ban on cheap handguns. Thus the double action feature, the safety devices and many of the things that we are talking about and to which you award points, are directed to just those purposes.

Am I correct in that?

Mr. DAVIS. Yes, that is correct. In other words, the 1968 Gun Control Act, using a sporting criteria, and our purpose in demonstrating the application of the criteria to the committee was to familiarize it with the way the criteria are used, and I would assume if the committee wants the criteria to be applied to domestic handguns, or to modify that for imported, they must use a different criteria.

Mr. HUGHES. I never saw, over the years that I was in law enforcement, that it made much difference to the average criminal whether it was double action or whether it had safety devices, or whether it was a starter pistol or a toy pistol. If it looks like a lethal weapon, it serves the purpose of the criminal.

Mr. DAVIS. You are quite correct, and I think again, we almost have to go back to the situation as it existed at the time of the Gun Control Act of 1968 in which there were inexpensive handguns being imported into the United States, and that Congress wished to prohibit the importation of these kinds of weapons. Yet, they saw the necessity to permit certain kinds coming into the United States for the use of sportsmen, and so forth, so that they used the criteria of being either particularly suitable or readily adaptable to sporting purposes.

And, of course, this is the kind of concept we have tried to embody in the criteria.

Mr. Hughes. But, running all throughout this is the desire to have a weapon that incorporated safety features and was otherwise a fairly sophisticated weapon.

Mr. DAVIS. That is correct.

Mr. HUGHES. Let me ask a question. We have finished with the criteria, I would assume. What rating does that standard .45 get under the standards?

Mr. BARTLETTE. That was the next one I was going to get to. Adding up all of the points, I have come to a total of 99, and a qualifying score is 75 points, and so on point value the pistol would qualify.

Mr. HUGHES. Let me take you to the next step. If I were a manufacturer, let us say in Germany, and I wanted to find out whether or not my pistol would qualify under the standards, can I come and receive from the Alcohol, Tobacco, and Firearms Section some determination as to whether it would be importable?

Mr. BARTLETTE. Yes, sir. The pistol would be sent, could be sent to us, sometimes by the manufacturer, sometimes by the proposed importer, and we would place a conditional importation on the firearm, allowing it to come in for our examination, and then we would either approve or disapprove it and return it.

Mr. HUGHES. Now, do you have any discretion if, in fact, you have a manufacturer that is after your particular approval on a certain weapon if, in fact, that particular manufacturer is also one of the people that is shipping frames into the country to circumvent the law

and other weapons? Do you have anything within the present law that would permit you to utilize any form of sanctions against a violator under the act?

Mr. DAVIS. No, sir, we do not. In other words, if I understand the question, could we take action against a foreign manufacturer and his importer in this country if they had an importable product, handgun, under the criteria, but on the other hand, he was—

Mr. HUGHES. They are chiseling.

Mr. DAVIS. They are importing parts into the country. No, sir, the application of the law would not permit us to impose a sanction on a legally importable weapon, because it may be over here in another area he was doing something that was either borderline or over the law itself. The weapon, itself, would stand on its own merits.

Mr. GEKAS. Mr. Chairman?

Mr. CONYERS. Mr. Gekas.

Mr. GEKAS. How much does that Colt cost, first of all?

Mr. BARTLETT. The Colt, I am not sure, really, about the current price. I believe it is somewhere around \$180, \$170, somewhere in that area.

Mr. GEKAS. The next question is there are a number of weapons that are made outside of the country that are finely tooled weapons that would not pass the factoring criteria, am I correct? I think we ought to put this into perspective.

It is my understanding that there are some very expensive German-made small guns, about this big, that are finely tooled and handcrafted and gold-inlaid and that sort of thing, and are not importable, is that not correct?

Mr. BARTLETT. I would assume so, yes.

Mr. DAVIS. I think you can take a specific example; the Walther PPK, which is a 7.65 millimeter, semiautomatic pistol. And Mr. Bartlett can back me up on this if I am wrong.

But, I am reasonably certain that would not be importable.

Mr. GEKAS. But if it did come in, it is not a traditional Saturday night special?

Mr. DAVIS. Yes; but by the same token, it is not particularly suitable for sporting purposes. I know that we can get some arguments. I am sure that there are hundreds, for example, who say that this would be an excellent weapon for a coup de grace, or something of this kind in hunting, but by the same token, there are other weapons available that would fulfill this.

Even though it is an expensive gun, it does not meet that criteria to be particularly suitable for sporting purposes.

Mr. BARTLETT. One thing that I should add now, at the bottom of the sheet are a list of prerequisites. One, the pistol must have a positive manually operated safety device, and, two, the combined length and height must be in excess of 10 inches with the height right-angle measurement to the barrel without magazine or extension being at least 4 inches, and the length being at least 6 inches.

These are prerequisites which are applied regardless of the point value, and although a pistol might possibly qualify in points, if it did not have a positive safety or it did not meet the size requirements, it could not be imported. And I believe that is the case with the Walther PPK, which cannot meet the size requirements for importation. And

that pistol was subsequently redesigned and the size was increased to make the model PPK-S, which is a modified PPK, and it did meet these size requirements and, therefore, could be imported.

Mr. CONYERS. How much more time are you going to be needing in terms of discussion of the factoring criteria?

Mr. BARTLETT. I would like briefly just to go through the revolver category. I could go through it very quickly if you would like, just so that we could make a distinction between that and the pistol.

Mr. CONYERS. All right.

Mr. BARTLETT. The revolver criteria is somewhat similar. The first category is barrel length, less than 4 inches is zero and for each quarter-inch over 4 inches is a half. One thing that I should point out is that the revolver, the barrel is measured from the muzzle to the face of the cylinder. This is the barrel length.

Frame construction again is 15 points for steel frame, 20 points for alloy frame. The weight is 1 point per ounce.

The caliber .22 short; .25 ACP's: zero and the .22 long rifle and the .30 to .38 is three points; and the .38 special is four points; the .357 magnum and over is five points.

Again, we have a set of criteria for miscellaneous equipment. Adjustable target sights are five points, target grips, that would be those having a thumb rest or a thumb indentation of some sort, and being over-sized, would be five points, and a target hammer and trigger five points.

And we have prerequisites, one being it must pass the safety test and this is probably the biggest problem that foreign manufacturers have with us. A double-action revolver must withstand its weight being dropped on the spur of the hammer five times from a height of 36 inches, and we do have a testing feature where the test, you know, firing revolvers, which are submitted for importation approval, and we test them, and we drop a weight equal to the weight of the gun from a height of 36 inches on the hammer five times, and if it fires it does not pass the test.

Also, in a single-action revolver there must be a feature, which causes the hammer to retract to the point where the firing pin does not rest upon the primer of the cartridge, and it must withstand a drop test also. The hammer would be withdrawn manually in the case of a single-action and automatically in the case of a double-action. The hammer would be withdrawn manually in the case of a single-action and automatically in the case of a double-action.

A qualifying score for a revolver would be 45 points. This is a revolver here. In this case it is a Smith & Wesson model 64. It has a steel frame, so it is awarded 15 points for that category. It weighs 31 ounces and the caliber is .38 Special, which is four points. It has fixed sights, so there are no points for sights.

It has service grips, so there are no points for grips. It has a standard trigger and standard hammer, so there are no points awarded in that category. It does pass the safety test, and it meets the barrel length requirement, which has to be in excess of 3 inches, and it meets the overall frame-length requirements. This revolver would be awarded 50 points and could, therefore, be imported.

Mr. GEKAS. Those are both domestically manufactured?

Mr. BARTLETT. These are both domestically manufactured guns. Normally, these would not be factored, unless someone overseas was trying to bring one of these into the country, in which case we might have to factor them.

Mr. GEKAS. How much does the revolver cost?

Mr. BARTLETT. I am not sure of the exact cost again. I believe it is around \$100 or \$150 or \$160, somewhere in that area.

Mr. DAVIS. Mr. Chairman, since we are on the record and we have used two specific guns here, just for the purpose of illustrating the application of the factoring criteria, I would just like for the record to point out that this in no way has any derogatory connotation about the workmanship of the guns. As we have indicated, they are excellently made, and I thought maybe it would be well to get that in the record, since we have identified them specifically.

Mr. CONYERS. Of course.

Mr. DANIELSON. Mr. Chairman?

Mr. CONYERS. Yes, sir. Mr. Danielson.

Mr. DANIELSON. Do any of your statistical records from you, sir, or from anyone else insofar as merits are concerned give us any statistics as to the frequency of the use of pistols as opposed to revolvers in criminal conduct?

Mr. DAVIS. Yes, sir, in our Project Identification which involved the tracing of guns used in crimes in 12 cities and now to include 4 more. While we do not have those broken down immediately for that purpose, we could give the committee a breakdown as to the frequency of use between pistols and revolvers.

Mr. DANIELSON. I think that would be valuable for our purposes.

On a related point, I would like to know whether, speaking now only of pistols, I would like to know the relationship of those pistols used, which are formerly military weapons? There are a lot of them in existence, whether they were purchased through legitimate channels or swiped or what? But, the Army, the old Army 45, there are tons of them around and I would like to know within the pistol category, the extent to which military weapons are found, as opposed to those of nonmilitary manufacture?

Mr. DAVIS. Yes, sir. Would you be interested in a breakdown as to foreign military weapons as opposed to domestic military weapons?

Mr. DANIELSON. Right. The German, or its counterpart of the old Luger. There are a lot of those floating around.

But, I am thinking about the Army 45. I am thinking of the Luger, now that you mention it, but I was thinking of the Army 45 and the Navy 45, of which there must be hundreds of thousands floating around the country in one place or another. They are not a very good target weapon, but they are certainly serviceable for holdups and the like.

Mr. DAVIS. Yes, sir. We will do our best to get that information to the committee.

Mr. CONYERS. Well, we want to thank our expert, Mr. Bartlett. We appreciate your presentation.

Now, Mr. Davis, you probably want to continue with some of your material that you have not had a chance to present to us so far.

Mr. DAVIS. Yes, sir. Thank you, Mr. Chairman.

One other comment, there have been some questions by the committee directed at the allocation of our resources among our various re-

sponsibilities, including those that are not related to the firearms activity, and we will give, we will submit for the record, where we apply our manpower across the board and the type of activities that they are engaged in.

Mr. Chairman, I think at the last session we had reached the point in the presentation where we were talking about the results of Project Identification. And as I a minute ago indicated, this is an effort on our part, in cooperation with the police departments in 12 major U.S. cities, geographically distributed throughout the country, and in which we are also engaged in an additional 4, and the project will be terminated around the 15th of this month, at least for the moment then we are talking about the statistics from 12 major cities or metropolitan areas where ATF with the cooperation of the police, traced weapons which have been used in crimes in those cities.

Mr. GEKAS. Mr. Chairman?

Mr. DAVIS. I think the last time we had shown the committee these charts. [See pp. 337 and 338.]

Mr. CONYERS. Excuse me. Counsel has an observation.

Mr. GEKAS. Just to very briefly, I think, recover some ground that we covered last time, dividing phase I and phase II up, when you say Project I traces of weapons, would you describe the trace that has been conducted, please?

Mr. DAVIS. Yes. In this particular case, in every case where it was possible, we have traced the weapon to the dealer who made the original sale. Now, this gives us, of course, a concept of the flow of weapons. Certainly, from the point of sale to the city in which they were ultimately used in crime.

Mr. GEKAS. But—go ahead. Excuse me.

Mr. DAVIS. But, the phase II would involve taking the weapon from that point, and in some manner trying—

Mr. GEKAS. From which point?

Mr. DAVIS. From the point of sale and trying to determine how it moved in traffic or commerce to the city in which it was ultimately used in committing an offense.

Now, this, of course—

Mr. GEKAS. May I paraphrase? What you have done, then, is that you have gone and traced it by serial number from the manufacturer or wholesaler to the first retail sale, and what you are describing now, would be phase II, would be tracing it from the first retail purchaser through to the crime?

Mr. DAVIS. Yes, to the extent that that would be possible and, of course, in some cases, they may have been stolen. In some cases, the person that—in some chain of ownership, the person might not be available or otherwise, and at least to the extent possible, to try to determine how it arrived at the point where it was used in the crime.

Mr. GEKAS. You have not done phase II?

Mr. DAVIS. Yes, we have not done that. As you can readily understand, this is very demanding on our manpower. It would take a good bit of agents' time, even on a sampling basis, so at least, at this point in time, we have not undertaken that.

Mr. GEKAS. Do you plan to undertake phase II?

Mr. DAVIS. Well, we—

Mr. GEKAS. We talked about this briefly last time, as you recall.

Mr. DAVIS: We certainly can appreciate the desirability and the importance of the information that would be derived from that.

Mr. GEKAS: Let me interrupt you there, and ask you how many man-hours and how much money do you think it would cost the ATF just to take a random sample of the 3,000 or so guns that you traced in New York City?

Mr. DAVIS: Right. Well—

Mr. GEKAS: Let us say we did one out of every 10 randomly.

Mr. DAVIS: We would then be involved in the random sample of about 300 weapons and, of course, the random sample, since about 75 percent of those guns originated outside of the city and the State of New York; this means that we would be, you know, we would be having to start the trail in some other State, and in any investigative endeavor, it is difficult to estimate the time in advance.

But, I would just take a fairly reliable figure, and I would say that it would take us about 10 man-days to, on the average, follow that weapon through to the point that we could, so we are talking now about 3,000 man-days, we are talking in terms of 15 agent man-years, which, as you can understand, is a considerable investment.

Mr. GEKAS: Well, with the 50 or 60 billions that we have here, and now the Attorney General has made a statement, you can imagine the great value to the subcommittee in understanding what the commerce in guns are, and how they get into the criminal, which is, I think, the point of why we are all convened here today. And if we could provide for you the methodology, would you be willing to commit the time, and maybe it is expensive, but I think it is very, very important to this subcommittee's work.

Mr. DAVIS: Well, we will certainly undertake that and we will do the best we can. I see Mr. Corbin, the Assistant Director of Criminal Enforcement, flinching on my right here, but we will certainly undertake that and see how it comes out. The time—the timing—this could be, of course, the end result might not be available for some weeks. But, we will undertake it as best we can.

Mr. GEKAS: Well, the value of it, it seems to me, if I may as a professional staff member say, in trying to aid the subcommittee members in reaching a judgment on how to legislate, without the facts of how weapons go from the first retail purchaser through to the crime, we are legislating in the dark, and quite frankly, I think it is much more important to expend that time than to make 100 title VII cases, which may or may not have a substantial deterrent law enforcement impact.

So, I do think that whatever diversion would be required in such a sampling, and I know tracing 3,000 guns would be an enormous burden, but to trace a random sample, to give us an idea of how guns are traveling to New York City from the first retail purchaser, would be enormously important. And, I would hope that we could work closely with you to try and set up just exactly the kind of information that we are searching for.

Mr. DAVIS: Very good. We will undertake to do that, and get it started.

Mr. GEKAS: Thank you, Mr. Chairman.

Mr. DAVIS: I think the last time we had indicated through the charts the results of project I in the 12 cities that are here. I think we can go into detail, but the committee does have the charts available to

them, and certainly we would be happy to provide any additional information.

Mr. DANIELSON: Mr. Chairman?

Mr. CONYERS: I yield to the gentleman from California.

Mr. DANIELSON: Apropos of that, I have looked over your chart, and I note that one of the classifications that you have there is Saturday night special. In making that discrimination, what standard did you apply? Did you apply the standards that are in the factoring criteria? What standards did you apply?

Mr. DAVIS: No, sir. I will have to say very frankly, we came up with our own criteria for the purpose of this project. We do not apply it, we have not applied it anywhere else. I think it is a very tough criteria.

One, in the criteria, is that the gun cost \$50 or less, that it was .32 or less caliber, and that the barrel was 3 or less inches. Now, to qualify, a gun had to meet all three.

In other words, if it were a \$75 gun, but still a .32 or less and a 3-inch barrel, it would not be. So, only those guns that met all three of these criteria were classified.

Mr. DANIELSON: You have only put on a fairly conservative, from the point of view of not including too many pieces within that category, definition?

Mr. DAVIS: Yes, sir. That is correct. And there is one other reason, I might say, why we adapted this particular one, not only because we thought it was conservative, but since we did not have the guns in hand; in other words, these guns were in the hands of police departments, and some of them, of course, being evidence in cases and things of this kind, so this test would be easy to apply from the standpoint of knowing what the model was, and, you know, this configuration.

Mr. DANIELSON: You did not ask the local authorities, then, whether it was a Saturday night special? You simply asked them the model and so forth, and then you applied that?

Mr. DAVIS: Yes, sir. And, I might point out, the methodology here is we have a form 5000 which we call a tracing document. The local police fill in all of the essential information, and they include the barrel length and this kind of thing, and then, of course, from our knowledge of the current retail market, and the model of the guns, then we could determine what the retail value was.

Mr. DANIELSON: You made your own assessment of value, of dollar value?

Mr. DAVIS: Yes. That is correct.

Mr. DANIELSON: I understand it then. Thank you very much.

Mr. CONYERS: Mr. Davis, without jumping ahead of your presentation, is it not the case that even with your tough criteria established for project I, we found that there were plenty of expensive guns being used in the commission of crimes, as well as Saturday night specials?

It seems to me that that gets down to the proverbial bottomline of this, and it is something I think we ought to make clear and be sure we understand. And I want to be sure that I am making the correct assumption here.

Mr. DAVIS: Yes, sir. I might point out, Mr. Chairman, that 47 percent of those that we—well, of the 9,196 in the first 12 cities that were

received, that 47 percent of those—well, actually, the ones we successfully traced, 6,858, that 47 percent of those met the three criteria of our definition, so that for practical purposes, you could say about half were Saturday night specials and half were not.

Mr. CONYERS. Well, what conclusions does that lead us to?

I mean, can I raise the question that the abolishing of the Saturday night specials may not have as devastating an impact on the reduction of street crime as is generally thought? Is that an unfair assumption to those colleagues of mine who have introduced legislation abolishing the Saturday night specials?

Mr. DAVIS. Well, Mr. Chairman, it would almost have to depend on your definition of a Saturday night special.

Mr. CONYERS. Well, let's use the one that was in the legislation that passed the Senate.

Mr. DAVIS. That would be the criteria of factoring that was introduced by Senator Bayh, as I understand it?

Mr. CONYERS. Right.

Mr. DAVIS. Well, in there, of course, my recollection of this goes back to last year, but I am quite certain that in the factoring criteria, for example, that a barrel less than 3 inches would not be permitted, so that here again you are changing the game rule a little bit.

Now, there are many guns that maybe cost \$120, but they have a barrel that is 2 inches long; so that automatically under that criteria those guns would not be permitted. So, there is so much that depends on the definition itself, and I think, as Mr. Danielson has already indicated, that what you accomplish is based on the definition.

But, I can say that using a definition in which all three criteria had to be met, then I think probably your statement is correct, that the impact of applying that would, you know, while it might be somewhat substantial, it certainly would leave a big area that was not, or had not been addressed.

Mr. DANIELSON. Would the chairman yield?

Mr. CONYERS. Yes.

Mr. DANIELSON. I have one observation and one question I would like to run past you here.

One of the gentlemen on our staff was kind enough to tell me that it is his understanding that the factoring criteria which we discussed a while ago actually are the basic standards included in Senator Bayh's bill to distinguish between Saturday night specials and non-Saturday night specials.

Am I right on that?

Mr. DAVIS. Yes. That is correct.

Mr. DANIELSON. That type of a standard, I respectfully submit, would put a pretty high standard on the type of a gun which would be declassified from Saturday night special.

The other point is, in looking at your project I chart, and in view of your comments that \$50, 3 inches and some other factor you had there—

Mr. DAVIS. Yes, sir. .32 or less caliber.

Mr. DANIELSON. .32 or less caliber, there might be an awful lot of weapons picked up in Project Identification, which generally speaking by the public, knowledgeable public, at least, would still be considered Saturday night specials, but which are not so classified in your project

I chart, simply because your standard was so conservative that about the only thing you classified as a Saturday night special was really junk that a person should not use under any circumstances.

Mr. DAVIS. Yes, sir. That would be an accurate observation.

Mr. DANIELSON. So, your red line and green line up there, the red line being non-Saturday night specials and the green being Saturday night specials, as I understand it, the red line—I think I have got that right. I can hardly read it from here.

Mr. DAVIS. Yes, sir. The red is Saturday night specials, and the green are others.

Mr. DANIELSON. Yes, but actually, you could have a more accurate standard and shift considerably more guns out of the green category, which is, let us call it for this discussion, acceptable, into the red category, which, for this discussion, let us call Saturday night specials.

It need not be that equally balanced. It would show that much farther into the red zone.

Mr. DAVIS. Yes, sir. And of the various definitions, of course, that are currently being considered or have been considered in the past, again, you would get different results if you applied, for example, Congressman Dingell's current legislation which goes to melting point, tensile strength and the test for metals.

And of course, obviously you would get a different type of result. Mr. DANIELSON. On that chart, red has the usual connotation of dangerous, I gather. You used the red for the bad guns?

Mr. DAVIS. I do not know whether that was conscious or not.

Mr. DANIELSON. Just so I know what we are talking about here, and the green means again good guns?

Mr. DAVIS. Yes, sir.

Mr. DANIELSON. All right. With a more careful and a yet realistic classification, a far greater number would be in the red category and a lesser number, a correspondingly lesser number in the green category?

Mr. DAVIS. That is correct.

Mr. DANIELSON. Of the yellows, which are stolen guns, are the yellows included in the red and green?

Mr. DAVIS. Yes, they would be.

Mr. DANIELSON. And the blues, out-of-State source, would likewise be?

Mr. DAVIS. Yes, sir.

Mr. DANIELSON. They would be included. Well, they probably all would be. Well, some of them would be in the red and the green at least?

Mr. DAVIS. Yes. In fact, the blue, of course, would include both the red and green, and the yellow would be in part of the red and green.

Mr. DANIELSON. The red and green have to do with the quality of the gun and the yellow and blue have to do with the source of the gun?

Mr. DAVIS. Yes, yes, sir.

Mr. DANIELSON. I see. Thank you.

Mr. CONYERS. Mr. Gekas.

Mr. GEKAS. I wondered, may I suggest that you might use the graph that is the composite graph of all cities that depict rather than individually, which may be a little bit better. There, I think, you have changed your colors, though.

Mr. DANIELSON. Yes, you have changed the colors.

Mr. GEKAS. Now, Saturday night specials are the green or the blue, I beg your pardon, all handguns are the yellow and the stolen guns are orange?

Mr. DAVIS. Yes, sir. Which gives you the result, of course, of the 7,150 guns that were successfully traced. Of that, the 3,210 would have been under our definition of Saturday night specials. The green from sources outside of the State where the city was located, so that you can see there that well over half of the guns used in crimes in cities had their source from outside of that State.

Mr. DANIELSON. Mr. Chairman, may I point out, though, that it disturbs me a little bit. I somehow or other got the impression that many of the guns used in crime are stolen guns and here you have only got 502 out of some 7,150, about 7 percent.

Mr. DAVIS. Yes, sir. Now, this varies, and we found, for example, in New York City that about 10 percent were stolen. It varies from city to city, but you are entirely correct, that over the whole range of guns traced, that about 7 percent were stolen. And this may be of particular interest to the chairman in that in our project here that 92 percent of all firearms traced from Detroit, Mich., were traced to dealers in another State.

In New York City, 77 percent of the firearms that were traced were traced to dealers in other States.

Mr. GEKAS. First retail sale?

Mr. DAVIS. First retail sale, so we feel this is a good definition of source. We know that the gun originated in other than the place where it was eventually used in crime.

Mr. CONYERS. Do those statistics suggest there are strong local gun laws?

Mr. DAVIS. Sir, we found a direct correlation between, however you want to call it, the strictness of the local law and the number of guns that had their source outside of that area. And you can get some concept here in that in Kansas City, Mo., 65 percent, and in Philadelphia, et cetera, and these are all having sources in another State and so forth.

And then, to make a comparison, in New Orleans, where I think the parish has a fairly tough law, but the rest of the State does not, there were only 15 percent that had their source outside of the State of Louisiana.

And we have Atlanta, Ga., and again my understanding is the State does not have a very strict law, and only 19 percent came from sources outside of Georgia.

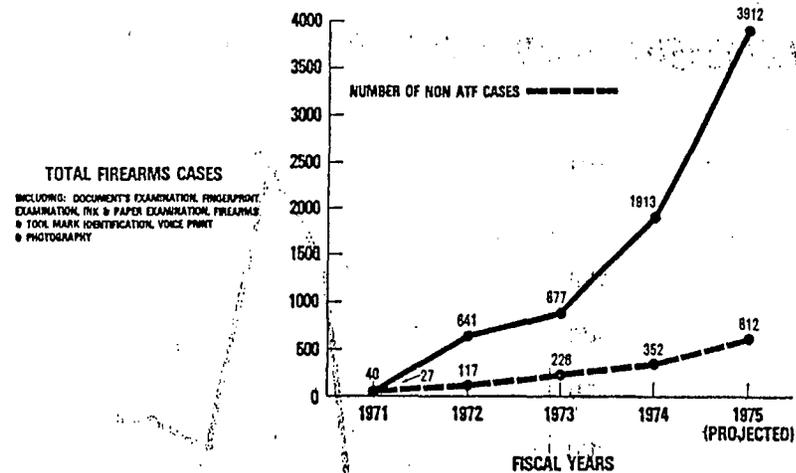
So, from that point of view, we do see a correlation between the severity of the local law or State law and their source of guns.

Mr. CONYERS. Thank you.

Mr. DAVIS. Again, we have available to the committee the specific statistics. I think it is of importance, and this came up before, if I can find the total for these—well, I might say that we did find, Mr. Chairman, certainly in the last six cities surveyed, we found an unusually high number of these guns that had gone through a pawnshop at least in the six cities, and we did not do it in the first four, and in the second eight we did, but in about 30-some percent, they had gone to a pawnshop before they were used in crime.

Then, if the committee has no objection, we will move on to the next area. We did want to indicate to the committee what we consider to be an important responsibility, as envisioned by Congress, and that is of assistance to State and local law enforcement officers.

## IDENTIFICATION LABORATORY ATF HEADQUARTERS



The Gun Control Act of 1968 has its preamble and its purpose to assist Federal, State, and local law enforcement officers in their fight against crime and violence, so we have from that determined that we do have a responsibility in the firearms area to assist the State and local agencies in any way we can.

And I do not know that the committee wants to spend much time on this, but this chart indicates that in our identification laboratory, which is concerned with such things as fingerprinting and things of this kind, at least in fiscal year 1974, about 75 percent of our efforts in this laboratory were done at the request of State and of local law enforcement agencies.

I have already mentioned the fact that about 50 percent of our tracing effort is done for the benefit of State and local law enforcement to help them trace guns used in crime.

Mr. GEKAS. Mr. Chairman?

Mr. CONYERS. Yes.

Mr. Gekas.

Mr. DAVIS. The next chart—

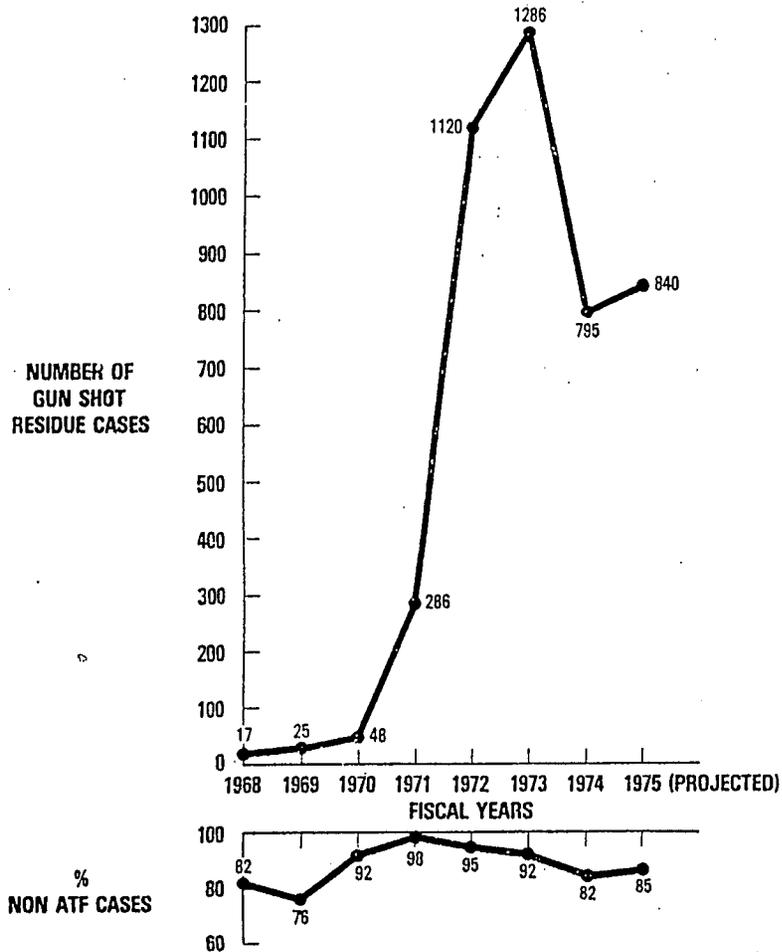
Mr. GEKAS. Mr. Davis, excuse me. Is it the case that in your tracing center you have not made a general announcement to the 40,000 local, State, and local law enforcement agencies that you have an identification laboratory capability, and that any local and State law enforcement agency that needs that capability can send the gun or whatever to you, and it will be analyzed?

Mr. DAVIS. No, we have not. We felt that to do so would really deluge us with requests.

Mr. GEMAS. You do not have the resources to handle those, but there is no question that if they knew you could do it, that you would be getting a lot of guns from Utah, or wherever?

Mr. DAVIS. Yes. There is no question about that, and certainly in the tracing area we felt that some kind of, you know, publicity regarding the capability would really—we have had a natural growth by word-of-mouth that has really kept us with a big backlog.

### FORENSIC LABORATORY ATF HEADQUARTERS



The next one is gunshot residue. Gunshot residue, I might just indicate, is the process whereby when a person is suspected to have committed a crime with a gun that we have pioneered a kit which the State and local officers can use to swab the suspect's hands and so forth, and submit it to our laboratory, and a determination can be made if the individual has fired a gun recently. In this particular area, we are running about 80 percent, 79 percent of our total case analysis being done for the benefit of State and local enforcement organizations.

### TRAINING OF STATE AND LOCAL LAW ENFORCEMENT OFFICERS

REGIONAL TRAINING PROGRAMS (BRIEF SEMINAR-LECTURE TYPE)	FY-74 (7-1-73 - 6-30-74)	FY-75 (7-1-74 - 1-31-75)
NUMBER OF: OFFICERS TRAINED	32,671	24,090
DEPTS REPRESENTED	5,306	3,213
PARTICIPANT MANHOURS	139,441	93,760
<b>HDQTR'S TRAINING PROGRAMS (40-80 HOUR CLASSES)</b>		
NUMBER OF: OFFICERS TRAINED	482	539
DEPTS REPRESENTED	52	61
PARTICIPANT MANHOURS	21,700	22,856

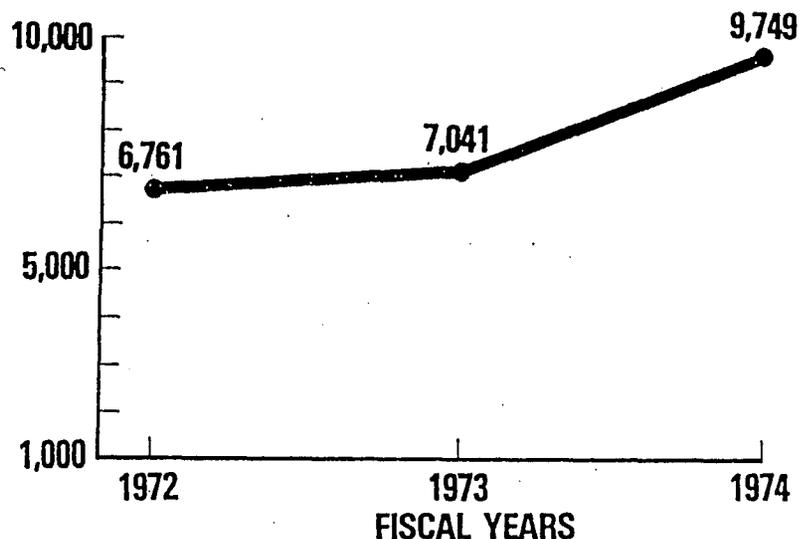
In the training area, we have two categories here, and one of them, of course, is what we might call informal training where we appear at police academies, or we set up short training programs for State and local law enforcement organizations, and then we do have an arrangement, an agreement with the Law Enforcement Assistance Administration, with a joint-funding approach, where we give them between 40 and 80 formal class hours. In the first category, as you can see, we have this fiscal year—well, last fiscal year, 1974, about 32,000 agents or local, State and local officers who were trained, representing about 5,300 departments, and so forth.

In the LEAA formalized training in fiscal year 1974, about 482 State and local officers representing 52 departments.

Again, we feel that it is important that the State and local officers know what the provisions of the Federal Firearms Act are, and that they be made aware of the assistance that we can provide them. And we have found, generally, this also makes them more aware of their own firearms laws and what their capabilities are.

PLTF 100728

## ATF ENFORCEMENT REFERRALS - NON-BUREAU VIOLATIONS



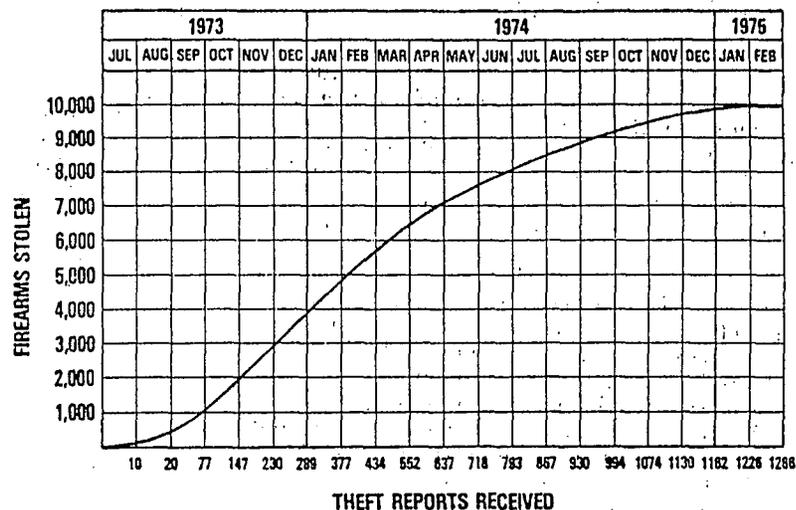
The next one is referrals. The chart there indicates that in fiscal year 1974 we made 9,749 referrals to other organizations, and while it is not reflected on the chart, about 80 percent of those referrals were to State and local agencies regarding suspected or known violations of their particular laws.

Then, I might point out, Mr. Chairman, that we do actively participate in investigations with State and local law enforcement officers when there is a suspected violation of the Federal laws, so that this joint investigation occurs, and, of course, the ultimate prosecution of the individual, should a crime be proved, would be determined at that point, whether he be prosecuted under State law or Federal law, depending on the severity of the crime and other factors.

So, we do spend a good bit of time, indirectly, there.

Mr. Chairman, at this point I would like to go into some specialized projects that we have undertaken. And I think some of these will be very meaningful information to this committee.

## INTERSTATE FIREARMS THEFT PROJECT



The first one, as indicated by the chart, is what we call the interstate firearms theft program. Now, this came about when we began receiving information that there was a large number of handguns and other firearms being stolen from the interstate shipment of guns, from the manufacturer to the ultimate dealer or wholesaler. Our information was, at that point in time, that something like a thousand guns a month were thus being stolen.

So, we initiated a project on July 1 of 1973, which involved the voluntary cooperation of the carriers of the United States to report to ATF the loss or theft of firearms from interstate shipments. We, through various means, and this involved about 28,000 carriers, and ATF personally visited over 2,500 trucking companies, again to solicit their voluntary cooperation, and we have received 1,256 reports of lost or stolen firearms, and totally involving about 10,000 firearms having been stolen.

ATF has personally made 22 criminal cases involving 44 defendants, and we have recovered about 1,000 of these stolen weapons, either working alone or with State and local authorities.

Mr. CONYERS. How many have been stolen?

Mr. DAVIS. Those reported to us have been about 10,000, so we have recovered about 10 percent of the 10,000 stolen and, of course, we have made the cases that I have indicated.

Now we are quite pleased with this program, because it has, aside from the Federal presence in terms of making an active investigation when a report is received, made the carriers much more security conscious. For example, the United Parcel Service, which carries a good part of the traffic or the shipment of these weapons, has now begun installing magnetometers so that, you know, the employees, if they are involved, would be screened.

Colt Firearms, for example, has revised their entire method of shipping firearms in interstate commerce. They have gone to a container system, and they have cut down the shipments to a small number of distributors around the country. They use security guards to deliver them to the airport and, of course, they are met at their destination by people there.

So, we feel that this has had a very salutary effect. Now, instead of about a thousand, the reports of about a thousand firearms a month being received by AFT, it is now about three hundred a month, and we do not want to get complacent. We are constantly going around again, working with the carriers, making sure this is not just a factor of their not reporting, that this actually represents a decrease in thefts, and should we receive that during the committee hearings, we will certainly forward it.

Mr. CONYERS. Well, that is the point that I would like to raise with you now. The project on interstate firearms thefts suggests that we do not have any real way now of knowing who is producing the guns, and where they are going, and including the ones that are stolen out of production, and this is about the only way we have of getting a line on that particular subject matter.

Mr. DAVIS. Yes, sir. And, I might point out to the committee that this is a voluntary action on the part of the carrier. For comparison, under title XI of the Organized Crime Control Act of 1970, which involves the regulation of explosives, there is a provision of the law that the loss or theft of explosives must be reported to the local police and ATF within 24 hours of discovery.

Mr. CONYERS. And we do not have any comparable legislation in terms of firearms?

Mr. DAVIS. No, sir.

Mr. CONYERS. This whole question on these guns, these machines, if you will, which are causing such indiscriminate death, our legislation and our best efforts notwithstanding, at this point we do not really know how many guns are being produced, where they are going, how many are being stolen, except through your voluntary project here, which only gives us literally the tip of the iceberg, correct?

Mr. DAVIS. Yes, sir. And, I might point out, however, that the carriers and the trade associations have been very cooperative, but that there is a tendency for a program to sort of become stale after a period of time. We hope that is not the case here, and we are recontacting these people, and we want to make sure whether the drop in reported thefts from interstate commerce is truly representative of a decrease, rather than maybe some apathy on the reporting.

Mr. CONYERS. Are you going to be able to finish your presentation this morning, or do you think it will run a little bit over?

Mr. DAVIS. I think, yes, sir, I think it will probably run a little bit over.

Mr. CONYERS. Well, go right ahead.

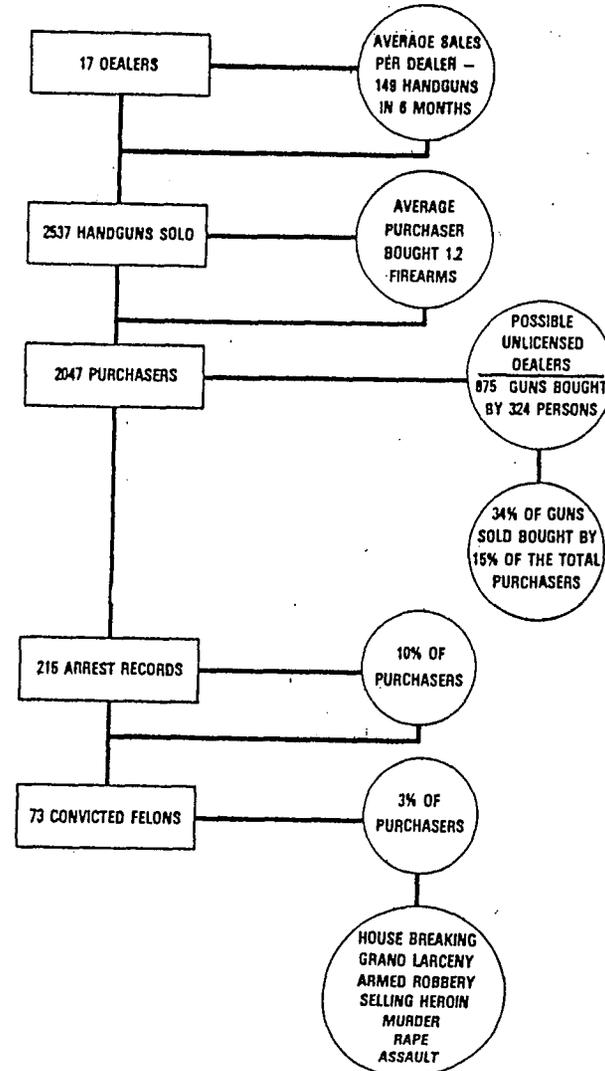
Mr. DAVIS. Mr. Corbin, I think has made a valid point. We think a much higher percentage of stolen guns will ultimately be used in crime by the nature of their untraceability and so forth, so we are very concerned about stolen guns.

Mr. DANIELSON. Mr. Chairman, I would like to assure you that I think it almost necessarily follows that the guy that stole it is a thief in the first place.

Mr. CONYERS. The crime is sure to follow.  
Mr. DANIELSON. I just do not see how you can miss on that one.  
Mr. DAVIS. We like to win some of them.

# GREENVILLE PROJECT

(SURVEY OF HANDGUN SALES BY LICENSED DEALERS IN GREENVILLE, S.C. (5/1/74 - 10/31/74))



Well, this next one, I think, again will be of interest to the committee. Again, this is a special project that we call Greenville project. And what we wanted to do here, because of some indications we had under Project I that the Greenville area was a substantial source of weapons, particularly used in New York City crime, we went in to make a survey and to find out exactly who was buying these particular guns.

I might say that Greenville has a population of about 240,000 people in Greenville County, and this is from the Census and Greenville County has a total of 144 licensed dealers who sell handguns. These dealers sell about 8,000 handguns annually, and about 6,500 of these being sold by 12 dealers, including 2 pawnshops, and the sales take place just in or outside the city of Greenville, S.C., which has no law requiring handgun purchasers to obtain a permit, nor police records to check on handgun purchasers.

So, what our purpose here was in going to the area of this kind was to find out how many felons were purchasing guns in violation of the Gun Control Act of 1968, either by providing false identification or falsely signing the firearms transaction record, 4473.

Now, in November of 1974, we had our agents go into 17 licensed locations in and around Greenville. We took a 6-month period, May 1 through October 31, 1974, and found that these 17 licensees had sold a total of 2,537 handguns to 2,047 individual purchasers. And the Federal Bureau of Investigation had agreed to give a name check to all of the purchasers identified here to find out if they had criminal records.

Now, what we found out, and, of course, now we are dealing with the names of 2,047 purchasers that were submitted to the FBI, we found out that 215 had arrest records in the FBI files or approximately 10 percent of the purchasers. Now, the mere fact that they had an arrest record, of course, with the FBI does not mean they had been convicted of felonies, and, therefore, were proscribed from purchasing.

Now, we have found out that 215 that 94 of the purchasers did have felony records, and this was somewhere in the neighborhood of about 5 percent of those who purchased who were proscribed under Federal law.

I might point out, too, that a point that I am going to cover either today or later in the presentation is that there were multiple sales of handguns here.

And the next step that we did was of the 94 people with felony records; we reviewed the files to determine which of those were prosecutable under Federal law. In other words, some of them had felonies that had been committed so far in the past, and some of them were not properly represented by counsel or for other reasons, working with the United States Attorneys Office, so we felt that they did not warrant Federal prosecution.

To make a long story short, we will prosecute about 24 of those persons who unlawfully purchased handguns in this particular area.

I might point out, also, that in order to validate the sample, and I suspect I should not mention it for the record, but I do not know what difference it would make, we are going to a midwestern city of a similar size to also determine what it would look like there under the same kind of a study, so that we will not have just concentrated on one particular city.

The one thing I did want to mention, of course, one thing, the reason is to maybe lay some groundwork for a little later in the presentation, we did find that in the case of 324 purchases that the purchaser purchased more than one handgun. Now, I might add that some of these were from different dealers, some from the same dealer and so forth. But, immediately, you know, you start to question an individual who buys more than one handgun. And if my recollection is correct, it went up to as high as 30 handguns purchased by an individual. And, of course—

Mr. ASHBROOK. At that point, why do you question somebody who wants to purchase more than one handgun? Is that a test or subjective?

Mr. DAVIS. Well, yes. We feel, you know, that the ordinary individual really does not need 30 handguns and it is an indication that he is probably reselling them in violation of Federal law.

Mr. ASHBROOK. You mean, if I were to buy two handguns that you are going to assume that I am selling handguns?

Mr. DAVIS. Well, sir, right at the present time, we would not. We are undertaking what we call a multiple handgun sale purchase stand. We recognize the fact that there are certainly perfectly legitimate reasons why an individual might want two handguns, say one for him and one for his son, or where the head of a security agency might want to buy five handguns to outfit security guards that he has just put on the payroll. At the same time, we know there are many instances where a person buys quantities of handguns and many times they are up in the hundreds, merely for the purpose of going out and reselling them in violation of Federal law, without determining whether the individual is a felon or otherwise proscribed, or whether he is even a resident of the same State, and again, I am sort of anticipating a point further on in the presentation. But in other words, we will look at it as a warning flag, so that a dealer should have to report the sale of a handgun, more than one gun to the same individual at the same time, or during 5 business days.

Now, obviously, if an ATF agent checks that, and finds out that you are the head of a security agency, probably the inquiry would not go anywhere beyond that. Or if he found out that well, obviously, we are not going to be that concerned about the purchase of two handguns.

Mr. ASHBROOK. Could I ask you a question on that? Does it make any difference whether it is the same handgun or a different one? I mean, somebody buying two identical Colt .38 calibers, and maybe that would apply, but what if I buy a Colt .38 caliber and another type of gun? You mean if I buy two guns, somebody is going to come out and ask me questions about why I bought two guns?

Mr. DAVIS. No, sir. Not automatically.

Mr. ASHBROOK. But it will come to somebody's attention?

Mr. DAVIS. Yes, the dealer would report that to the local ATF office. Obviously, again, it would depend on the number of handguns and the type of handguns, and many other factors, on whether there would even be a sealed inquiry made. But, we have through our various investigations, including Project I, we have found out that it is a very common practice for people to buy a quantity of handguns, and then go out to the street and sell them without complying with Federal law. We feel that this is a loophole, you know.

Mr. ASHBROOK. Conversely, did you find it is a common practice for a number of people to buy two handguns just because they happen to want two handguns, like myself?

Mr. DAVIS. Well, yes. And, of course, we do not know how common that is. We can give you figures from the Greenville project to show multiple purchases, and I do not have them immediately available.

Mr. ASHBROOK. I do find it rather interesting that the inference is made almost automatically that there is something wrong.

Mr. DAVIS. Well, no, like here, you know there is no presumption of guilt. It merely means that this is something that maybe should be looked into, and, you know, if there is a legitimate reason for the purchase of the gun, why, certainly, there would be no, you know, no further action.

Mr. ASHBROOK. Well, assuming that I am a person that buys two handguns, and somebody comes out and questions me, do I have to answer?

Mr. DAVIS. No, not at all. What we would ordinarily do, you know, very frankly, would be very seldom that we are going to question somebody. But if you went in and bought further handguns, we could very well put you under surveillance, assuming that we checked out, you know—

Mr. ASHBROOK. Yes, sir, and you ought to do that, as a case example just to see what happens.

Mr. DAVIS. Like any investigator's lead, we would do the same thing if a dealer called us today, and he said, hey, you know, there is this fellow that has been coming in here, and has been, you know, buying 20 handguns at a time. We would put him under investigation. Now, it might turn out, as I say, that in checking him we might find that he is the head of a local security agency, and he has a very legitimate need for a number of hand guns, and we would drop it right there.

Mr. DANIELSON. Mr. Chairman, let me put in my observation. I think you would be remiss in your duties if you did not. I think the vast majority of gun owners are perfectly decent, law abiding American citizens like all of us try to be. But I do not think anybody who is legitimate, bona fide as a gun owner, a gun fan, would want some guy running around taking 30 .44 caliber magnums here, and 50 Police Specials there, and there is bound to be something crazy about that, and if there is a legitimate reason, they would probably be glad to tell you. Did you ever find a security agency that was unwilling to tell you why they brought 30 guns, for instance?

Mr. DAVIS. I am not sure that that specific situation has come up, but I am sure that they would not have any objection. Let me state, Mr. Ashbrook, that we are not trying to be, you know, devious about this. We are going to give every dealer a poster to put in his store, saying that I am required by Federal law to report to ATF the purchase of more than 1 handgun, under these conditions, and we would, you know, rather that he have a legitimate reason, which is fine, we would rather keep the guy from buying them so that we would not have to investigate him. You know, we would be very willing if the people did not intend to resell these in violation of Federal law, would just quit. But it takes a lot of manpower to follow up, so now, we are not trying to be devious or anything of that

kind. We certainly intend that the purchaser realizes this and we hope that it will be only the person who has a legitimate reason for buying them that will do so.

Mr. CONYERS. Your objective is to accomplish deterrents set for those who may have, in fact, unscrupulous purposes as opposed to legitimate purchasers of multiple handguns, who would still have no hesitation to go ahead and buy them, because he knows that he is in no way acting potentially illegally?

Mr. DAVIS. Yes, sir. I think that is it exactly.

Mr. CONYERS. Well, we are nearly out of time, and we are going to stop at noon. But counsel, Mr. Barboza, has told me he has two questions that are connected with our Chicago hearings that he would like to pose before we leave here today.

Mr. BARBOZA. Mr. Director, with respect to licensed dealers in the city of Chicago, after the staff reviewed the January 15 printout that your office provided us with of licensed dealers in the midwestern region, we found that there were 180 licensed firearm dealers in the city of Chicago proper. However, during a visit to the city of Chicago's Gun Registration Office, we found that they have listed a total of 31 dealers, of both long guns and handguns, and of those 31, six of them possessed dangerous weapons licenses which are in order to sell a handgun in the city of Chicago. You must purchase a dangerous weapon license for \$200. Now, Mr. Director, required we have no way of knowing how many of these 180 dealers in the city actually are selling handguns, but in issuing licenses would you not first check to determine whether or not an individual has the proper city licenses before issuing a Federal license?

Mr. DAVIS. No, sir. The determination has been made, and I will let Mr. Dessler respond to this further, that the issuance of a Federal firearms license is not dependent upon compliance with the State and local laws; so that even if a person who is allegedly carrying on a firearms business in an area zoned residential, and if it is a noncommercial zoned area, perhaps Mr. Dessler could explain this point to you.

Mr. DESSLER. Yes. The standards for licensing that are in 923 do not leave that discretion with the Secretary on whether to issue or not to issue the license. It is based upon a qualification under State or local law.

Mr. BARBOZA. Well, Mr. Dessler, section 922 of the act, 922(b) (2) states that:

Any firearm or ammunition to any person in any state where the purchase or possession by such person of such firearm or ammunition would be in violation of any state law or any published ordinance applicable at the place of sale, delivery or other induced position, unless the licensor knows or has reason to believe that the purchase or possession would not be in violation of such state law or such published ordinance,

... and it goes on.

Mr. DESSLER. That is correct.

Mr. BARBOZA. Is that not a means of insuring that the States' laws and local laws are upheld?

Mr. DESSLER. Yes. With respect to the purchase of firearms. In other words, the license to the dealer is prohibiting him from selling a firearm to an individual where the purchase or possession by that pur-

chaser would be in violation of State law. But that does not go to the qualification of the licensee to be licensed under Federal law.

Mr. BARBOZA. Even though you know by his business that he will actually engage in selling handguns?

Mr. DESSLER. That is correct.

Mr. DAVIS. If I might expand on that, as you are well aware, we provide to each licensed dealer a publication which lists therein all of the laws relating to the conduct of his business in every locality in the United States where they have laws. And this, of course, is used by him to determine whether a sale would be in violation of State or local law.

On the other hand, and I have been just informed by Mr. Higgins, who was formerly the regional director in the midwestern region that we have provided a list on all 180 Federal licensees to the city of Chicago. If I can surmise what has happened, to you, as we have indicated to the committee earlier, that probably 100 or more of these really are not engaged in the business of selling firearms.

Mr. DAVIS. We met one who testified.

So I think this is the big distinction. If this city of Chicago goes to a person who has received a Federal license, and under our qualifications, we determine that, in fact, he is not really not engaged in the business, in terms of their law, well, of course, they would, I assume, discount the thing, and move on to the ones that are actually actively engaged.

Mr. CONYERS. Mr. Ashbrook has a final question.

Mr. ASHBROOK. Mr. Davis, on the understanding that you are coming back the next time, instead of throwing something at you cold, when you come back, I wonder if it would be possible for your people to get information generally on the area of administration. Let me say, at the outset, that I recognize that as a matter of policy you are not going to comment on whether you favor legislation, but I am sure you must consider the aspects of implementing legislation, that this Congress might enact, someone, on the assumption you are going to the office of the Appropriations Subcommittee, if Congress were to enact mandatory legislation, could you give us, or gather some information, because I would like to ask a question regarding that legislation as it relates to personnel and costs. And secondly, if you can project it, what the administration and cost aspect might be if we were to confiscate or require the turning in of handguns, I would like to generally ask some questions next time on the administration.

Mr. DAVIS. Yes, sir. We will be happy to. And I might say fortuitously, some months ago, I appointed a committee within the Bureau to examine all aspects of cost and administration of all alternatives of gun control.

Mr. ASHBROOK. Fine.

Mr. DANIELSON. I would like to thank our colleague, Mr. Ashbrook, for bringing up that subject, and I certainly join in it. I will wish to inform the chairman now that if we should pass a gun control law sometime, I will seek at least to have it contain a provision as to authorization, because I feel the ATF should come back here periodically for authorization in order that we are bound to exercise effective oversight.

Mr. CONYERS. Well, that is a point that you have raised on other legislation.

Mr. DANIELSON. Right.

Mr. CONYERS. We in Judiciary are grateful to you. And I might say, commenting on my colleague of an Ohio observation, that you were not appropriately charged with the responsibility of commenting on legislative proposals. It makes it very important that we do ask the Secretary of the Treasury to join us before these proceedings are concluded, so that we may engage in that aspect of our deliberation.

Once again, we are very grateful to you, Director Davis, and your numerous associates for joining us in a very meaningful hearing. The subcommittee stands in adjournment at this point.

[At 12:05 p.m., the hearing was recessed, subject to the call of the Chair.]

HEARINGS  
BEFORE THE  
SUBCOMMITTEE ON CRIME  
OF THE  
COMMITTEE ON THE JUDICIARY  
HOUSE OF REPRESENTATIVES  
NINETY-FOURTH CONGRESS  
FIRST SESSION  
ON  
FIREARMS LEGISLATION

These hearings are in 8 parts. Part 1 (Washington) February 18, 20, 27, March 5, 6, 13, 20, 26, and April 9; Part 2 (Chicago) April 14 and 15; Part 3 (Detroit) June 9 and 10; Part 4 (Cleveland) June 16; Part 5 (Denver) June 23; Part 6 (Atlanta) July 21; Part 7 (New York) July 25; Part 8 (Washington) May 14, July 17, 23, 24, September 24, and October 1 and 9, 1975

Serial No. 11

Part 3

Detroit



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Witnesses—Continued	Page
Stanczyk, Hon. Benjamin C., judge, Antique Arms Collectors Association of Michigan.....	1135
Prepared statement.....	1145
Tanay, Dr. Emanuel, professor of medicine, Wayne State University.....	1090
Prepared statement.....	1103
Vaughn, Hon. Jackie, III, a member of the Michigan House of Representatives.....	909
Prepared statement.....	917
Walker, Dwite, president, Citizens United to Save Lives.....	965
Prepared statement.....	972
Washington, Thomas L., executive director, Michigan United Conservation Clubs, Inc.....	931
Prepared statement.....	945
Wille, Dr. Warren S., consulting psychiatrist, Jackson Prison.....	1090
Prepared Statement.....	1106
Wilt, Dr. G. Marie, Research Institute, Wayne State University.....	1003
Prepared statement.....	1018
Woodruff, Dr. James W, president, Detroit Metropolitan Youth Foundation.....	978
Prepared statement.....	986
Young, Hon. Coleman, mayor, city of Detroit.....	887
Additional material—	
“Firearms Control Has Wide Backing,” New York Times, June 5, 1975.....	896
Hulverson, Col. George L., Department of State Police, State of Michigan, prepared statement.....	948
Appendixes—	
Appendix 1: Correspondence.....	1167
Appendix 2: Cahalan, William L., prosecuting attorney, Wayne County, Michigan, letter dated May 22, 1975, to Hon. John Conyers, Jr.....	1183
Appendix 3: “Responses of Detroit Police Department to Requests for Assistance in Social Conflict Situations and Recommendations for New Procedures” report by G. Marie Wilt and James D. Bannon.....	1187

## FIREARMS LEGISLATION

DETROIT, MICH.—MONDAY, JUNE 9, 1975

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON CRIME, OF THE  
COMMITTEE ON THE JUDICIARY,  
Washington, D.C.

The subcommittee met pursuant to notice, at 10 a.m., in the 13th floor auditorium, city-county building, Detroit, Mich., Hon. John Conyers, Jr. [chairman of the subcommittee] presiding.

Present: Representatives Conyers, Mann, and McClory.

Also present: Maurice A. Barboza, counsel; Timothy J. Hart, assistant counsel; and Constantine J. Gekas, associate counsel.

Mr. CONYERS. Will the members of the subcommittee take their places.

I am very happy to begin these hearings on Federal firearms legislation in Detroit, Mich., here in the city-county building.

This morning the Subcommittee on Crime continues hearings on more than the 50 legislative proposals that would amend the Gun Control Act of 1968. For the benefit of those who are in the audience, I would like to introduce the members of my subcommittee who are here.

To my left is Hon. Robert McClory, a Member of Congress from the State of Illinois, and a very articulate and knowledgeable member of this subcommittee.

On my extreme right is Hon. James Mann, a Member of Congress from South Carolina who is also a distinguished member of this subcommittee and a member of the full Judiciary Committee.

To my immediate right is our staff counsel, Maurice Barboza.

I'm pleased that these members were able to take time out of their extremely busy legislative schedules to join me in the city of Detroit to consider what is clearly one of the most significant issues before the Congress, firearm control legislation.

In mid-February of this year this subcommittee conducted the first congressional hearing on firearms legislation since 1972, and since then has held a total of 12 hearings in Washington, D.C., and Chicago, Ill. Today's hearing in Detroit marks the start of a series of road hearings that will be held in key cities around the country during the month of June. Next month the subcommittee will travel to Cleveland, Ohio, followed by hearings in Denver, Colo., and, in addition to the nearly 70 witnesses that have already been heard, another 80 additional witnesses added to the record.

Before we are finished the subcommittee will probably have heard more testimony on this subject than any other previous panel in the Congress.

This figure differs from that reported in the section on motives, because it was classified as robbery and 1 as other crime. However, for purposes of analyzing interactions, all homicides committed by policemen are combined here.

Precipitated homicide...  
Ibid., p. 85.

sented in Chapter IV concerning national homicide trends, the tendency for handguns to predominate seems to be a current pattern across the United States.

One other characteristic of homicides for which the writer's research and Wolfgang's study collected data is the extent to which homicides are victim-precipitated. Wolfgang's definition of this concept includes two elements that are essential in determining whether or not a homicide can be considered victim-precipitated: 1—the victim must have been the first to use physical force against the person who became his killer, and 2—the victim must have been the first to show and use a deadly weapon.<sup>10</sup> Based upon his definition, Wolfgang found 20% of the cases he studied to have been victim-precipitated.<sup>11</sup> A contrast, discussed in Chapter IV, was found by the writer in terms of the victim's precipitation of his death in Detroit homicides. Although 32.4% of the Detroit homicides consisted of situations in which the victim initiated violent interactions, in only 3.4% of the cases was the victim the only person to resort to using a lethal weapon. Although there were another 22.3% of the Detroit cases in which both victims and perpetrators made use of such weapons, this is not quite the same interaction pattern as Wolfgang describes. Even though the victim was the first to use a weapon in some of these cases, in many of them resort to weapons was almost simultaneous by both actors.

Perhaps the Detroit findings indicate that a slight change in definition is needed to accurately reflect the nature of today's victim-precipitated homicides. The previous discussion of weapons used clearly indicates that there is a greater frequency of homicides in Detroit in which weapons were used that are readily identifiable as deadly than there was in Philadelphia.<sup>12</sup> Therefore, in terms of the more common use of some weapon rather than fists or some household item to commit homicides, it seems appropriate to include only the first criterion for victim-precipitated homicides—that of observing that the victim was first to use physical force against his would-be slayer. Accepting this change, one can say that victim-precipitated homicides remain a large percentage of homicides. They are, in fact, a somewhat larger proportion of homicides in Detroit than Wolfgang found twenty years ago in Philadelphia.

The major distinction between the writer's inquiry and Wolfgang's study, as discussed extensively in Chapter I, is the shift away from legal categories or types of homicides towards sociologically defined and distinct types of homicidal acts. The writer believes that this development of types based upon their sociological content is one of the major contributions to the understanding of homicides made by her research. As will be pointed out in the remaining sections of this chapter, the two types of homicidal social interactions—crime specific and social conflicts—are most suggestive of both theoretical understanding and hypothesis development.

Mr. CONYERS. The next witness is the Regional Director of the Alcohol, Tobacco, and Firearms Department of the United States Treasury. He has a staff with him and we welcome them at this time.

In the meantime, I would like to read a letter from Congressman Charles C. Diggs, the senior member of the Michigan delegation, who has sent me this communication.

"DEAR MR. CHAIRMAN: I appreciate your invitation to testify at your Subcommittee hearings on gun control in Detroit on June 9-10, 1975.

"Unfortunately, my schedule will not permit my attendance at the hearings. I am, however, very concerned about the gun control problem and will submit a

<sup>10</sup> Ibid., p. 252. At this point the writer wishes to quote Wolfgang's definition, in order to make clear the differences in the extent to which homicides he studied were victim-precipitated and the manner in which victims in the current study precipitated their demise. "The term victim-precipitated is applied to those criminal homicides in which the victim is a direct, positive precipitator in the crime. This role of the victim is characterized by his having been the first in the homicide drama to use physical force directed against his subsequent slayer. The victim-precipitated cases are those in which the victim was the first to show and use a deadly weapon, to strike a blow in an altercation—in short, the first to commence the interplay of resort to physical violence."

<sup>11</sup> Ibid., p. 254.  
<sup>12</sup> Specifically, if one includes only weapons viewed as lethal (handguns, knives, rifles, and shotguns), then the proportion of cases in Detroit (.807) was much higher than that found in Philadelphia (.680).

PLTF 100736

written statement to the Subcommittee. I would appreciate it if you would indicate for the record that my testimony will be submitted for inclusion in the transcript of the Detroit hearing.

Sincerely,

CHARLES C. DIGGS, Congressman.

We have, from the senior Senator of Michigan, the Honorable Philip A. Hart, this message.

I regret that the press of Senate business prevents me from attending your important hearings on gun control legislation. As a sponsor of legislation to ban the manufacture, sale, and possession of handguns, I can think of no other measure before the Congress that is more important in dealing directly and effectively with reducing violent crime and with reducing the fear of crime which grips America today. I commend you for conducting these hearings, and I hope that they will produce action by your subcommittee on effective handgun legislation.

My best wishes,

PHILIP A. HART, United States Senator.

We welcome, Mr. Murrell. If you would identify those on your staff that are with you, we have your statement for the record, and it will be incorporated at this point. Then you will be permitted to proceed in your own way.

TESTIMONY OF FRED H. MURRELL, REGIONAL DIRECTOR, CENTRAL REGION, BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS, DEPARTMENT OF THE TREASURY, ACCOMPANIED BY HARRY ELLIS, REGIONAL COUNSEL; DAVID EDMISTEN, ASSISTANT REGIONAL DIRECTOR FOR CRIMINAL ENFORCEMENT; AND LEONARD A. MIKA, SPECIAL AGENT IN CHARGE OF DETROIT DISTRICT OFFICE, CRIMINAL ENFORCEMENT

Mr. MURRELL. Thank you, Mr. Chairman. On my immediate right is Mr. Harry Ellis, regional counsel. To his right is Mr. David Edmisten, the assistant regional director for criminal enforcement, and to his right is Leonard A. Mika, special agent in charge of Detroit District Office, Criminal Enforcement.

We also have with us, but not at the table, Mr. Vincent E. Medonis, who is area supervisor, regulatory enforcement for the Detroit area.

Mr. CONYERS. I would appreciate it if you would describe the ATF on a local level in terms of its manpower and how it discharges its various responsibilities. You can incorporate this motion into your presentation or any way that you choose.

Mr. MURRELL. I will try and set this forth.

The central region, as the chairman knows, is made up of Michigan, Ohio, Indiana, Kentucky, and West Virginia. The total population is approximately 31,000,000 people. Of course, Detroit is, by far, the largest metropolitan area that we have in the central region.

We have primary divisions within the Bureau of Alcohol, Tobacco, and Firearms which we refer to as Regulatory and Criminal Enforcement. We have the responsibility of regulating the alcohol industry, tobacco industry, the firearms industry, the explosives industry, and, of late, the wagers industry. Responsibility of the Criminal Enforcement Division is to enforce criminal violations in the areas

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(II)

CONTENTS

	Page
Hearings held on—	
June 9, 1975.....	883
June 10, 1975.....	1003
Witnesses—	
Bannon, James D., Comdr., Detroit Police Department.....	1003
Prepared statement.....	1016
Beebe, Hon. Lorraine, member, Michigan Criminal Justice Commission.....	891
Prepared statement.....	901
Blackwell, Hon. Robert E., mayor, city of Highland Park, Mich.....	998
Prepared statement.....	1001
Bryant, Dr. Barbara E., Market Opinion Research Corp.....	891
Prepared statement.....	903
Burden, Thomas H., cochairman, Citizens for Pistol Control.....	965
Prepared statement.....	974
Chalapis, John B., president, Antique Arms Collectors' Association of Michigan.....	1135
Prepared statement.....	1142
Dill, Kenneth, cochairman, Citizens for Pistol Control.....	965
Prepared statement.....	974
Edmisten, David, assistant regional director, Bureau of Alcohol, Tobacco, and Firearms, Department of the Treasury.....	1027
Ellis, Harry, Regional Counsel, Bureau of Alcohol, Tobacco, and Firearms, Department of the Treasury.....	1027
Elwell, Ronald E., coordinator, Research Committee on Crime and Gun Facts.....	1058, 1082
Prepared statement.....	1067
Glassen, Harold W., Michigan Rifle and Pistol Association.....	1110
Prepared statement.....	1120
Henderson, Erma, member, Detroit City Council and Equal Justice Council, Inc.....	1042
Prepared statement.....	1054
Hertel, Hon. Dennis M., a member of the Michigan House of Representatives.....	919
Prepared statement.....	929
Hough, Capt. Gerald, Department of State Police, State of Michigan.....	954
Killen, George F., commissioner, Wayne County Board of Commissioners.....	1161
Prepared statement.....	1162
Lowery, Aaron, director of public safety and justice for New Detroit, Inc.....	1147
Prepared statement.....	1154
Mika, Leonard A., special agent in charge of Detroit district office, criminal enforcement, Bureau of Alcohol, Tobacco, and Firearms, Department of the Treasury.....	1027
Moore, Hon. Arthur E., judge, Oakland County Circuit Court.....	988
Prepared statement.....	994
Murrell, Fred H., Regional Director, central region, Bureau of Alcohol, Tobacco, and Firearms, Department of the Treasury.....	1027
Prepared statement.....	1040
Roumell, George T., Jr., president, Detroit Bar Association.....	1080

(III)

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pertaining to the various programs we have. I want to speak more to our regulatory situation as to the overall situation. Mr. Edmisten will be glad to give you the details on the other.

During calendar year of 1974, one of the duties is to collect an excise tax, as the committee is well aware. This region collected approximately \$2 billion. I think we missed it by \$60 thousand. We have 129 inspectors. The inspector would work within our regulatory function. Our special agents work in our criminal function, so those two words I think you are pretty familiar with by now but that is the difference between an inspector and a special agent. Of these 192 inspectors that we have on board in our region, 13 of them are stationed in Michigan, 11 in Detroit and 2 in Kalamazoo. Of this compliment about 21½ of these man years are lost for regular compliance work, be it firearms or what, due to the fact of required onpremises supervision of distilled spirits plants which is a requirement of law. The balance which leaves us about, oh 10½ people, 10½ man years to devote to the problem that we have here in Michigan, not just Detroit, but Michigan, the whole State—

Mr. CONYERS. To devote to the problem of firearms regulation and enforcement of the—

Mr. MURRELL. Firearms, and the regulatory enforcement of all of our other programs, such as the tobacco industry, which is not very prevalent here, the explosives industry, which is big, the regulation of the alcohol industry, which is tremendous, in which we are very frankly not able to keep up with.

The reason—it sounds like such a small number of our people in regulatory enforcement are here in Michigan, but this law requiring onpremises supervision by our inspectors at distilled spirits plant, where the \$2 billion, a primary part of that comes from—133 of this 192 are hooked into this one duty, onpremises supervision. That leaves 8 area supervisors and 51 inspectors to cover all of these other programs involving 5 states and 31 million people.

There are several attachments to my statement which give you a breakdown, which is more of interest to you at this time, I think, in which I will just give a brief resume of the map to my right, the chart, gives the six counties which make up, what we regard as Metropolitan Detroit. And listed in each county are the—as by the legend, are the total licenses of various categories.

In the State of Michigan we have 5,665 total dealers, 4,994 firearms licenses, 559 for ammunition only, 80 gunsmith only, and 32 pawnbrokers. In addition, we have 11 manufacturers of firearms and 255 manufacturers of ammunition for a total of 266 in this category. We also have 16 importers licenses in Michigan and 213 collectors licenses for a grand total of 6,160 licenses.

In the region, as a whole, we have a total of 23,620 licensees. This averages out to one license for every 1,400 residents of the central region.

Mr. CONYERS. This is a dealer's license?

Mr. MURRELL. Yes, sir.

Mr. CONYERS. For the sale of guns?

Mr. MURRELL. For the sale of guns.

Part 2 of the attachment gives a breakdown by the county, as I made reference to before, and it shows as a total of 1,798 licensees in the metropolitan area.

The startling figure that comes out of this is 848 of these are operated out of commercial premises, 950 operate from residences.

In page 3 of the attachment is a report, since 1969 to date, showing the number of new licenses applied for each year and renewals and discontinued licensees.

With all the frustrations, Mr. Chairman, that we have had with our manpower and resources, we have one distinction in the central region, we do not have a licensee in the region that we have not investigated prior to the issuance of the license, and that was a back breaking task to accomplish. For that reason I think we have less licensees per capita probably than a lot of the other regions. We were able to accomplish this only by using the predominant bulk of our special agent manpower to supplement our inspector strength in order to do this. However, without help pretty soon, it's going to be hard to maintain it.

Now, I have read and reviewed the proposed changes in the law as put before this committee in Washington by Mr. MacDonald. If these proposals become law, a conservative estimate, we feel like there would be a reduction in firearms licensees of approximately 40 percent, possibly more.

Mr. CONYERS. That is an important objective, as you view it?

Mr. MURRELL. That would make it much more manageable in trying to keep a feel for what is going on in the traffic of handguns.

Mr. CONYERS. Do any of you have a brief summary of the recommendations made by Mr. MacDonald?

Mr. MURRELL. It's not brief. I have my attorney here and I asked him to be ready to brief it for you, should you care for it.

Mr. CONYERS. Well, we have the testimony. I just thought we might state it for the benefit of all of those who are in attendance at these hearings, so they would be able to participate in the judgments that you have arrived at.

Mr. MURRELL. There are several things I would like to speak to specifically. It gives us various categories of licenses, one for handguns, or for all guns, one for long guns, as a separate license for pawnbrokers, a separate license and fee. The fees are much more commensurate with the commercial business of dealing in firearms. I think it's something like—their recommendation is \$250 for a full firearms license; commercial.

It gives a permit requirement such as we have over the distilled spirits industry where we can check into the financial status of a person, his background, how he is financed, and is he established in the firearms business.

It also gives us the privilege of invoking ordinances or laws passed by a city, county, or State, as far as zoning and where a commercial business can be conducted and where it cannot be conducted.

They are the many highlights, I think, which would give us the grip of being able to deal with an unwieldy monster, and, certainly, right now, that is what we have.

With this we have the criminal side of the thing, and with what success we have had in the continuation of my statement from Mr. Edmisten which would probably put it all in focus and give you the questions.

Mr. CONYERS. Thank you very much. Mr. Barboza has one question.

Mr. BARBOZA. Mr. Murrell, could you explain how you derive the statistics on dealers, broken down by license, ammo, gunsmiths, pawnbrokers, importers, manufacturers? How is that information compiled and how did you derive those statistics from the information?

Mr. MURRELL. I had my firearms licensing section, which is located in Cincinnati, pull and hand inspect each licensee we had in the State of Michigan and in the six counties. We have them filed by counties.

Mr. BARBOZA. So that information is not on computer?

Mr. MURRELL. No, sir. This is a manual operation.

Mr. BARBOZA. In the region or is it on computer in Washington?

Mr. MURRELL. This is not computerized anywhere, to my knowledge. We don't have that much computer capability.

Mr. BARBOZA. How were you able to distinguish between licensees located on residential premises and those that were located in commercial premises?

Mr. MURRELL. By a review of the file where the inspection was actually made on premises.

Mr. BARBOZA. By review of the license application, the original application?

Mr. MURRELL. Yes, sir; and we maintained a file, anything pertaining to that licensee that comes up, be it routine business or be it renewal or be it a criminal violation, they are all in one folder.

Mr. BARBOZA. That is quite a bit of work, 6,000 licensees, isn't it?

Mr. MURRELL. Yes, sir.

Mr. BARBOZA. Considering that half of them are located in the residential areas and probably do less than—less than half-time business; is that correct?

Mr. MURRELL. We have had them apply that only wanted to be over 30 minutes a week.

Mr. BARBOZA. How much money does that cost you each year in manpower and paper?

Mr. MURRELL. That would be hard to nail down. I never tried to run a cost figure on it. We haven't had the luxury of having time to do a lot of cost research. Most of it is kind of like fighting fire. We stay with the fire rather than stand back and try to determine the cause, although we are studying it consistently.

Mr. BARBOZA. Firearms manufacturers; is that in the whole region or is that in Michigan?

Mr. MURRELL. That, I figure—I think is for Michigan.

Mr. BARBOZA. Do you know how many are handgun manufacturers and how many are—assume that includes destructive devices, as well, correct?

Mr. MURRELL. Yes, sir. We have 11 manufacturers of firearms in Michigan. No manufacturers of destructive devices in Michigan.

Mr. BARBOZA. How many are manufacturers of handguns?

Mr. MURRELL. I would have to defer that to Mr. Edmisten. He was here as special agent in charge of this office and I think would be more familiar. I did not break it down into that category in these figures.

Mr. BARBOZA. Does Mr. Edmisten have the names of these manufacturers?

Mr. EDMISTEN. No, sir, I don't, but there are six.

Mr. BARBOZA. Do you have any idea of whether you have inspected the record this year, the records that they are required to make in the 1968 act? Could you just briefly explain to the subcommittee what those records are that are required to be kept under the act?

Mr. EDMISTEN. Each manufacturer and each dealer is required to maintain on their premises a complete record of the acquisition and disposition of all their firearms. If they manufactured them, they must keep records as to the exact number and type of guns by serial number, and they must be able to show the disposition, to whom they have sold these guns.

Mr. BARBOZA. So then, if I were to ask you, where did X manufacturer sell in the State of Michigan, you would be able to go to their records and check them and tell me who are his distributors in the State of Michigan?

Mr. EDMISTEN. That's correct.

Mr. BARBOZA. Then can you tell me whether you have inspected any of those records within this year?

Mr. EDMISTEN. Yes, we have, but I don't have that specific information with me.

Mr. BARBOZA. Do you inspect these manufacturers each year?

Mr. EDMISTEN. Periodically, yes. We try to inspect them at least once a year. We have established as our compliance goal to inspect each manufacturer or each dealer at least once a year.

Mr. BARBOZA. Do you know whether that is true in other regions, as well?

Mr. EDMISTEN. Generally, yes. This is a goal that we established not only regionally but nationwide. I might add that unfortunately in a lot of regions they don't have the manpower to have done this. So, whether they have or not I can't say.

Mr. BARBOZA. Then you would be able to tell us where the number of guns in the State of Michigan are being sold? Could you tell us the concentration of guns, if you were able to review those records; where those guns are going in the State of Michigan, where they are being sold, the concentration areas, major distributors, wholesalers; is that correct?

Mr. EDMISTEN. Of the recently manufactured ones, yes; but you must realize that there are millions of guns in trafficking throughout the United States—

Mr. BARBOZA. I am speaking only of guns that are manufactured.

Mr. EDMISTEN. Guns manufactured in the last several years, yes.

Mr. BARBOZA. Is Detroit a center of gun distribution? Are there major distributors located there?

Mr. EDMISTEN. Both legally and illegally, yes.

Mostly illegally.

Mr. BARBOZA. I'm speaking only of the legal distributors.

Mr. EDMISTEN. There are a lot of legal distributors, yes. There is a heavy concentration of licensees in and around the perimeter of Detroit that flourish and have a big gun business.

Mr. CONYERS. Now, describe for me, sir, what you mean by illegal gun distributors.

Mr. EDMISTEN. Well, there are two categories. There is the individual that goes to his home, let's say, somewhere in the south, he buys a gun and he brings it back. One or more—it's a small commercial venture for him. He buys a gun for \$20, he returns to Michigan, he resells it for \$45 or \$50. Well, if he has enough money he brings back four or five. There is truly the commercial criminal that goes to any place where guns are available, he may buy as many as 4 or 5 hundred from a source for the same figure, \$20, brings them back to Detroit, he will resell them for \$50.

Mr. CONYERS. Could that be done in the area which is your region?

Mr. EDMISTEN. Yes, sir.

Mr. CONYERS. What areas might fit that kind of description?

Mr. EDMISTEN. Ohio is the favorite target from here. The gun laws in Ohio are tightening up considerably. In past years it was no small feat to go to, say, Toledo, and buy 100 guns and you could be there and back in 2 hours, and have most of your wares distributed here on the streets of Detroit.

We recently conducted a survey in the Toledo area to determine how many people were making multiple purchases in that area, which discovered that amazingly there are still a lot of out-of-State residents, not only from Michigan, but from other States, as well, that go to the gunshops around Toledo and make multiple purchases, as many as 25 or 30 a day.

Mr. GEKAS. Isn't that against the law?

Mr. EDMISTEN. Yes, sir; but if they present—they have various means of acquiring Ohio State licenses, for instance. You go to any State, as though you were a resident, and apply for a driver's license. You get yourself a license, although you're not a resident there; then you go to your favorite gunstore, you present the driver's license from that State. This establishes to the satisfaction of the dealer that you are a bona fide resident of that State.

Mr. GEKAS. Perhaps formally it establishes that you are a bona fide resident but if somebody comes into a gunstore with a temporary registration or license, or whatever, and wants to buy 400 handguns—

Mr. EDMISTEN. Don't get me wrong. They don't buy 400 from one dealer.

Mr. GEKAS. Let's say they want to buy 25, and let's say—is 25 a more reasonable figure?

Mr. EDMISTEN. From 2 to 25, but—

Mr. GEKAS. Let's say they want to buy from 2 to 25 then, they want to buy—let's say they want to buy 5, to make the figure very low, five \$15 handguns?

Mr. EDMISTEN. For me and for you. I know there is something going on, but as far as that dealer is concerned, there is nothing illegal about that transaction.

Mr. GEKAS. So, what you're saying is that the Federal law is deficient in that it does not prevent that transaction from being culminated?

Mr. EDMISTEN. If the dealer is sufficiently satisfied that his customer is a bona fide resident by some means of identification, he is exonerated from all wrongdoing.

Mr. GEKAS. What you're saying is that there is a hole in the law?

Mr. EDMISTEN. That is correct.

Mr. BARBOZA. Mr. Edmisten, I think you began to say that there was a large concentration of distributors, and when I use the word distributor, I am not speaking of just dealers, I am speaking really of the major wholesalers who purchase handguns from manufacturers for resale to licensed dealers, and you indicated that there may be a high concentration in the Detroit area. I have a map here of the State of Michigan, which was submitted by a witness who will be testifying this morning, Ronald B. Elwell, of the Research Committee on Crime and Gun Facts, and he indicates there is a corridor here in Michigan, which would include Wayne County, I believe Oakland County, and two other counties, where there is a high concentration of homicides; and he indicates that in other parts of Michigan there are fewer numbers of homicides, in fact, very few homicides. Now, if you were to review those manufacturers and distributors' records, would they indicate that there is a brisk legal business in handguns in this particular area, and how would you compare the business in this area with the business in, say, the northwestern part of the State in handguns?

Mr. EDMISTEN. I really don't know how to answer that question, Mr. Barboza. We haven't researched these licensees and the amount of their business in relation to the question you're asking.

Mr. BARBOZA. Let's just speak in terms of commonsense. If I were a manufacturer and I were going to sell some handguns, where would I sell them? Would I go up to the Northwest where people use rifles or would I sell them in Detroit where people have a fear of crime and buy them for their homes.

Mr. EDMISTEN. Obviously, if you're a businessman, whether you're a manufacturer of guns or whatever other business you're in, you're going to send your products where the market is.

Mr. BARBOZA. Would you say the market in Detroit is a good market for handguns?

Mr. EDMISTEN. Yes. The market in the area of Detroit and these suburbs is very great.

Mr. BARBOZA. So if we take Dr. Wilt's study and we examine it and we find there are over 800 homicides in the city of Detroit, a large percentage of them, more than half, committed with handguns, and we examine them further and show that 50 percent of them were conflict related, that is, the homicide that was committed in the home where there was no intention to use the weapon for that purpose, but, perhaps, to use the weapon for plinking, which is probably not likely in the city of Detroit, but to use it for self-defense, but yet that gun is used in a homicide.

Mr. EDMISTEN. I have reviewed Dr. Wilt's report, or, at least, a portion of it, and I must find myself agreeing with most of it. It's very accurate.

Mr. BARBOZA. If I restate the—if I were a handgun manufacturer, where would I send my guns? I would send them to Detroit; correct? I wouldn't have to advertise either, would I?

Mr. EDMISTEN. No.

Mr. BARBOZA. The market is already there?

Mr. EDMISTEN. But for one thing. Michigan has one of the toughest laws on the legal purchasing of guns in the United States, outside of New York. This accounts in part for the very flourishing black market of guns in the Detroit area. This accounts for why people go to other States and bring back guns for resale, because people cannot comply with the gun laws in Michigan legitimately and ain themselves as they are apparently doing. So this, then, entices the black-marketeers to bring weapons into Detroit.

Mr. CONYERS. That gets to my question: How do you recommend that we go about curbing the illegal traffic in handguns?

Mr. EDMISTEN. To me, sir, it would be a two-pronged thing. There are two methods by which guns are brought into Detroit. By and large, the biggest method is by individuals. About 70 percent of all the guns that are used illegally in the Detroit area are brought in one on one, one person, one gun. The remaining 30 percent are brought in by commercial people who are black-marketeering. So we are going to have to strengthen the laws and enforce them, not only on the commercial people that bring them in in large lots but on the individuals as well. They present 70 percent of the problem.

Mr. CONYERS. How do we grab that? That is what we have been wrestling with, and I would be interested in your views, if you have any, on the subject.

Mr. MURRELL. I would like to comment on that one, please, sir.

With the existing manpower that we have, we are lucky to keep our head above water at the present rate we are going.

Mr. CONYERS. Right. I concede that.

Mr. EDMISTEN. Thank you. I would have said that.

Mr. CONYERS. We have great plans for augmenting ATF in terms of getting to the firearms regulation problem, assuming you have five times as many men combing the region. The problem probably wouldn't abate itself too much. People would still take off to Toledo and purchase guns. They still would be coming in. You would have more people to apprehend more people with, but the problem would still be spiraling, anyway.

What I'm trying to get at, and I think it has become an essential responsibility of this subcommittee, is to examine not what the legal, law-abiding citizen will do in the face of more stringent firearm regulations, it's what the aim of the illegal citizen, the citizen that is bent upon committing crime will do, and what will the citizen who is trying to operate in a defensive situation, as he perceives it, will do. I think that that is perhaps a narrow question, and I want to ask it here. I would be remiss to have all of you experts in the field up here and just leave me and staff and six other Congressmen worrying about it, and you come in and give great testimony and go back to your offices and say, well, that's it for today.

Mr. MURRELL. We are hoping it will be beneficial to you, Mr. Conyers.

There is one thing, I think, with the proposed legislation which has been submitted to the committee for consideration, there are a lot of things in there that will reduce the number of dealers down to a more workable commodity. If we can get the legal channels plus consumer capability from the manufacturer, of being able to trace a weapon faster, and have better resources to take care of this smaller number of dealers, I think we can be more effective. I don't think there is anyway in the name of all that's holy that we can ever stop it, and we don't think it is.

Mr. BARBOZA. Mr. Murrell, could we get into this subject of gun manufacturing. Perhaps you could explain to the committee the manufacturing process, the manufacturing process of the handgun, from the point that it's stamped, the frame, and receiver, the time that it's assembled, the time the serial number is placed on the gun, the time that it's stored on the loading dock, orders are taken, and then they are shipped to the distributor through a trucker, could you just run that through for us, or one of your, just briefly summarize.

Mr. MURRELL. Not being an expert, but—

Mr. BARBOZA. As someone who might have visited a manufacturer and is familiar with his procedures.

Mr. MURRELL. Do you want to take it?

Mr. EDMISTEN. I would be glad to give that a try.

Most gun parts are stamped out of metal, intricate little parts, that, when assembled, they function together as a whole. The barrel normally has a serial number stamped on it. The receiver, which is the permanent part of the gun, always requires a serial number.

Mr. BARBOZA. When is that serial number placed on the receiver or on the barrel?

Mr. EDMISTEN. At the time that this receiver is manufactured.

Mr. BARBOZA. Not at the time that the entire gun is assembled?

Mr. EDMISTEN. No; at the time this receiver is manufactured, the serial number is stamped upon it at that time.

Mr. MURRELL. That is true with all manufacturers.

Mr. EDMISTEN. In the case of imported guns, a lot of times they don't have numbers on them. There is a little different requirement there. They also have to place not only the serial number but the country of manufacture and name of the manufacturer.

Mr. BARBOZA. In terms of domestic manufacturers, is there any common practice or is there any rule that requires that they stamp the frame of the receiver at the time that that particular component is manufactured?

Mr. EDMISTEN. As far as I know, Mr. Barboza, there is no uniform regulation that ATF or the Treasury Department would require—

Mr. BARBOZA. Is it possible the manufacturer might stamp the serial number after the entire gun is assembled?

Mr. EDMISTEN. Conceivable. You would have to mount this gun in some kind of frame that would allow the terrific impact of stamping into it, which is largely impractical.

Mr. BARBOZA. OK.; so then, the other parts that are assembled, with the firearms, would you just explain that process?

Mr. EDMISTEN. These intricate parts that go together to make up the entire gun, whether it be revolver or automatic, are not stamped.

They may be manufactured at outlying areas, such as a car-manufacturing plant, and then they are shipped into an assembly area.

Mr. BARBOZA. You have some intricate regulation on the alcoholic-beverages industry. Are there any ATF regulations that require the manufacturer to store and lock the facilities of the handgun parts that he manufactures?

Mr. EDMISTEN. As a part of becoming a licensee, they must show to us, to our satisfaction, that they have the capability of maintaining a safe premise so that they are reasonably safe from being burglarized. This is one of the things we look for when we issue a license, particularly, a manufacturer's operation. We would look for safety.

Mr. BARBOZA. Are there any regulations which indicate what those safety requirements are?

Mr. EDMISTEN. Not to my knowledge.

Mr. BARBOZA. How do you then—

Mr. EDMISTEN. In our long experience we know what constitutes an area that would prevent being burglarized.

Mr. BARBOZA. The statute says that a dealer or licensee must have premises. I don't believe there is anything in there that says they must be safe.

Mr. EDMISTEN. No, sir.

Mr. BARBOZA. Does the same requirement that you somehow apply without regulation, apply uniformly to dealers, as well?

Mr. EDMISTEN. We try to; yes. This is not something that we would deny a license for that sole reason.

Mr. BARBOZA. So it wouldn't matter whether you—that's the important point.

Mr. EDMISTEN. When we make this investigation, we try our best to tell the applicant that he should maintain a business that is as safe from being burglarized as possible.

Mr. BARBOZA. But he is not required to have parts placed under lock and key?

Mr. EDMISTEN. No.

Mr. BARBOZA. In other words, a gun manufacturer could operate without any locks on his door; is that correct?

Mr. EDMISTEN. Conceivably, he could.

Mr. BARBOZA. Which would make it susceptible to it being burglarized?

Mr. CONYERS. Would you yield on that point?

What about the rate of burglaries that are increasing, as I have been given to understand, in terms of the manufacturers, the dealers, the wholesaler—everybody. There are increasing gun robberies, is that not true?

Mr. EDMISTEN. Yes, sir, it is.

Mr. CONYERS. Are you keeping some kind of record that could be introduced in these proceedings?

Mr. EDMISTEN. No, sir, unfortunately I don't have that. I know that on a national level we are aware that there are increasing burglaries of gun manufacturers and gun dealers. A part of our public affairs office in Washington has an entire program devoted to educating these dealers to the fact that they are liable to be burglarized and they should maintain safe premises.

Mr. CONYERS. I think counsel is developing the point that we really ought to have regulations within ATF that would spell that out very clearly. An inspector goes out and how can he look at a place and rate it as safe? As a matter of fact, professional burglars would laugh at anybody trying to do that. They would challenge any place as being—not being burglarproof.

Mr. BARBOZA. One last question concerning—this is a question that we are now in the process of developing, I'm sure you're familiar, from your discussions with the Washington office, that Mr. Conyers, the chairman of the subcommittee, has sent a letter to 34 handgun manufacturers requesting specific information, and he has also asked that ATF inspect the records of those manufacturers who have not complied with that request to determine whether they are complying with the recordkeeping requirements of the 1968 Gun Control Act.

The development of this information would help us to identify the distributors of firearms, the major distributors, the companies that wholesale firearms to other dealers, to locate them in cities to determine where they are located and further selling to retailers in those areas where there is also a high crime rate.

The other part of the development is to determine whether there are safe facilities for transporting handguns in interstate commerce, whether at the time they leave the manufacturer and are placed in the hands of the shipper, they are in safe hands, that they are not being transported in the back of station wagons. Can you just comment on that aspect of the business and what ATF has done, whether you know who the shippers are, who the major manufacturers are, whether you know what the facilities are like, whether you know that the employees are people who are trustworthy, who are not going to be handling the guns over to organized crime. Do you know that when the guns reach their destination, do you know that their packages are in whole and full of the guns that they were packed with when they left the manufacturer?

Do we know these things and how can we begin to find them out and is the 1968 Gun Control Act competent of doing that over the next 6 years, if this subcommittee decides to do nothing with it?

Mr. EDMISTEN. To begin with, to my knowledge, the Gun Control Act of 1968 does not carry any of the provisions that require that guns be shipped under any specific circumstances, safeguarded to any extent. So I cannot answer your questions on this because it's not a requirement under the present law.

We do have a program called the interstate theft program in which we identify the approximate number of guns that have been stolen in interstate shipments.

Mr. BARBOZA. Is that a national program?

Mr. EDMISTEN. It is a national program that is operated out of our Washington office. There are substantial numbers of guns.

Mr. BARBOZA. Is it required? Are these shippers all required to file reports?

Mr. EDMISTEN. No; it's strictly a voluntary thing.

Mr. BARBOZA. As are many of the other programs along these lines?

Mr. EDMISTEN. Yes; the Gun Control Act could be strengthened in that respect, that manufacturers could be required to ship their

firearms under more safe conditions to keep them from being burglarized or stolen.

Mr. BARBOZA. In summary, Mr. Chairman, I think it's important to point out for the visitors and the viewing audience that many of the approaches that the subcommittee is now considering, which would deal with firearms control, really do not involve the handgun, as such, that is, either taking it away from the individual or restricting his use of that firearm. What many of the proposals are directed toward and what the subcommittee is considering are proposal which would make it safer for people to live in cities that insure that firearms are manufactured, that they are shipped, that they are sold in the safest, most practical means. Would you agree with that statement?

Mr. EDMISTEN. Yes, sir, it might go one step further. Both Mr. Murrell and I would like to place on the record that we need additional manpower, additional equipment. This is not the answer to the entire problem. I'm sure that the entire criminal justice system needs additional manpower, the courts need it, the prosecuting attorneys. We, alone, in law enforcement cannot abate the misuse of handguns. It's an endeavor that will come about through the entire criminal justice program, through, if you will, an educational program of the public, as well as strict enforcement of the laws relating to guns.

Mr. CONYERS. Your statement has been amply testified to by Rex Davis who has been before us many, many times, and I don't think that there is a person on the subcommittee that is not in total agreement with what you have said.

I appreciate your developing that line of inquiry.

Mr. MURRELL. I had one further thing. There is a program which we are trying to make voluntary but we do have leverage to make it a little stronger. Starting July 1, reporting daily of multiple sales. I'm sure this testimony has probably been in front of the committee before, it probably has not been in front of the people now in attendance. We are hoping through that to be able to focus as information on where to go to try to put out the fire.

Mr. CONYERS. The multiple sales would be recorded from dealers to, first, initial purchasers?

Mr. MURRELL. Right, and directed to our nearest available post of duty to where we could respond. When you see that name pop up two, three times, and we have made numerous criminal cases, which we have given you a list of, some of which we cannot discuss because they have not completed court action on, which shows that we have broken up theft rings and gun-running rings from just about every State in our region into Michigan, and primarily because Michigan has such tough laws.

Now, Mr. Barboza, when you talk about the regulation pertaining to the alcohol industry, the legal beverage industry, as opposed to what regulation and laws we have to operate under on the firearms industries, they are not at all similar, but the theft situation in distilled spirits, in this country, even with the tight security that we have, and joint custody with our locks on all of their warehouses and all of their systems, we still have thefts, particularly in interstate

shipment. It seems like the old saying goes, it's all right to steal whiskey and watermelon, now they have added guns.

Mr. CONYERS. Counsel Gekas?

Mr. GEKAS. As is my fortunate lot to follow at the end of everyone else's questioning, what I would like to do is to open the panel up to the other two gentlemen who accompany you. You're Mr. Mika from Detroit, is that right?

Mr. MIKA. I am.

Mr. GEKAS. I would like to put the testimony that we have received here into perspective in the context, first, of the general charge that is made that we have 20,000 laws already on the books, and they are not being enforced, and the specific charge that the Federal Gun Control Law is—makes all these illegal already, we do not need a new law, and, indeed, it's the responsibility and you should blame ATF for not sufficiently enforcing it. Now, with that general overview and those two general things, let's take a look and go over what we have talked about today, and in Washington, and let's see if we can focus it into the Detroit area. One of the problems is manpower. In addition to the Federal Firearms Act, or the Gun Control Act of 1968, what other laws do you administer? I think we should make that clear.

Mr. EDMISTEN. We enforce the laws relating to the Explosives Control Act, we enforce the laws relating to the manufacture and sale of illegal liquor and we have recently been assigned the task of enforcing the wagering laws, which, alone, is staggering, so we have four major laws that we are concerned with.

Mr. GEKAS. And tobacco?

Mr. EDMISTEN. Yes, sir.

Mr. GEKAS. Under each of those laws there are a number of Federal licenses; right?

Mr. MURRELL. Licensees and permittees.

Mr. GEKAS. Generally, for our purposes, let's call them licensees. So for example, in the alcoholic beverage there may be so many 100,000 alcoholic beverage people, dealers licensed by the Federal Government and it's your responsibility to administer the laws and to supervise that business; right?

Mr. MURRELL. Yes, sir.

Mr. GEKAS. The same in the situation of alcohol, there is a—of tobacco, there is a large number of licenses, right?

Mr. MURRELL. There is not such a large number of licensees, permittees, the actual producers, and all, in those two areas, but it goes on into the wholesale and retail trade, as far as whisky is concerned, the cigarette industry is relatively small and confined.

Mr. GEKAS. Now, let's take it into the firearms area. There are nationally 156,000 Federal firearms licensees and in the midwest region there are how many?

Mr. MURRELL. In the central there are 23,600.

Mr. GEKAS. What is your feeling—focus on the Detroit area, in those metropolitan counties, how many licensees are there, Federal firearms licensees in this area?

Mr. MIKA. I don't have the statistics right here in front of me.

Mr. MURRELL. I have them here. I think it's very interesting, particularly when you go about counting on firearms licensees—

Mr. GEKAS. Let's just take the total figure.

Mr. MURRELL. 1,798.

Mr. GEKAS. Almost 2,000, and growing, right?

Mr. MURRELL. It's holding fairly steady.

Mr. GEKAS. Nationally it's growing?

Mr. MURRELL. Here it's holding rather steady.

Mr. GEKAS. Now, what is your feeling on the percentage of licensees, Federal firearms licensees who are actually substantially engaged in the business of selling firearms? You have recommended to change the law to restrict the number of licensees. What is the figure that we want to restrict it down to to make it a manageable figure to regulate, number of licensees?

Mr. MURRELL. Could I give an example? Wayne County, a total of 768 licensees, 425 which operate out of residences, 343 which operate out of commercial facilities. That is less than—that is about 40 percent of the existing licensees.

Mr. GEKAS. OK.

Mr. MURRELL. Of course, Wayne being the biggest.

So it's the same ratio all the way through.

Mr. GEKAS. Just to make the point, there are a lot of people out there who are causing you a lot of administrative trouble and causing the Government a lot of expense and they only deal in a few firearms a year, if a few, if that number—

Mr. MURRELL. That is correct.

Mr. GEKAS. I yield, Mr. Chairman.

Mr. CONYERS. Gentlemen, we are indebted to you. I see ATF as a beleaguered agency charged with the administration of four major laws that is totally understaffed and needs a lot more attention. We know that there are Federal laws needed to supplement what we have now and we begin to perceive that a new body of regulations, unfortunately for those that don't like bureaucracies, need to be developed here in terms of really helping us, as Counsel Barboza suggested, get a much firmer grip on a very dangerous problem, without affecting the citizenry. There are administrative, regulatory, corrections that could be made, that would have a very, I think, significant impact on the problem that brings us all here to Detroit today.

We are grateful for your testimony, all of you gentlemen, and you can count on us supporting your efforts to devise a piece of legislation that will help you discharge your very difficult responsibilities. Thank you for coming today.

Mr. MURRELL. Might I add if there is anything that the committee needs from the Detroit area, we will be glad to supply it.

Mr. CONYERS. We have enjoyed good cooperation from ATF on the national level and all the local areas that we have been in. Thank you.

[The prepared statement of Mr. Murrell follows:]

STATEMENT OF FRED H. MURRELL, REGIONAL DIRECTOR, CENTRAL REGION, BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS, DEPARTMENT OF THE TREASURY

Mr. Chairman and Members of the Committee: I am the regional director for the central region of the Bureau of Alcohol, Tobacco & Firearms, U.S. Department of the Treasury. The central region is made up of the States of Michigan, Ohio, Indiana, Kentucky and West Virginia. The region has a population of

approximately 31,000,000 (31 million) people, with Michigan being the second largest State in the region and Detroit is the largest metropolitan area in the central region.

As the committee is aware, the Bureau is made up of two primary Divisions, Regulatory and Criminal Enforcement. We have the responsibility of regulating the alcohol, tobacco, firearms and explosives industries. The responsibility of the Criminal Enforcement Division is to enforce criminal violations in these areas. I will speak of the regulatory functions and Mr. David Edmisten, assistant regional director, criminal enforcement will cover our activities in that area.

During calendar year 1974 the excise taxes collected in the central region by our Bureau amounted to 2 billion dollars. We have 192 inspectors on board in the region with 13 of them being stationed in Michigan, 11 in Detroit and 2 in Kalamazoo. Of this compliment about 2½ man years are devoted to on-premises supervision. The balance is available to take care of the rest of our responsibilities. It would appear that with 192 inspectors on board, Michigan does not have a fair distribution of manpower, but due to requirements of law, about 133 of these inspectors are assigned to on-premises supervision at distilled spirits plants throughout the region.

That leaves 51 inspectors and 8 area supervisors to conduct original application investigations pertinent to the various permits and licenses; conduct compliance investigations of explosive licenses and permittees; to perform revenue audits and inspections of certain types of claims for refunds filed by various taxpayers; to conduct inspections relative to consumer and trade practice complaints and conducting compliance inspections of licensed firearms dealers. As you can see our inspectors have a wide variety of assignments. (Attachment No. 1)

Attachment No. 2 consisting of four pages to my statement gives a breakdown in detail of the firearms licenses in the region by State. In Michigan we have 5,665 total dealers; 4,994 firearms licenses, 559 for ammunition only, 80 gunsmith only and 32 pawnbrokers. In addition, we have 11 manufacturers of firearms and 255 manufacturers of ammunition, for a total of 266. We also have 16 importers licenses in Michigan and 213 collectors licenses, for a grand total of 6,160 licenses. In the region as a whole we have a total of 23,620 licenses, which averages out to one license for each 1400 residents region wide.

Page 2 of the attachment gives a breakdown by county of the six counties which make up Metropolitan Detroit. These are Wayne, Monroe, McComb, Oakland, St. Clair and Washtenaw. This shows 1,798 licenses in the metro Detroit area, of which 848 are operated out of commercial premises and 950 operate from residences.

On page 3 of the attachment is a record since 1969 to date showing the number of new licenses applied for each year, renewals and discontinued licenses.

With all the frustrations from lack of adequate personnel and funding, we have one distinction in the central region, we do not have a licensee in the region that we have not investigated prior to the issuance of the license. We were able to accomplish this from the start by using our special agent manpower to supplement our inspection strength. However, without help pretty soon it will be hard to maintain this distinction.

I have read and reviewed the proposed changes in the law as put before this committee by the Treasury Department. If these proposals become law it would put us in a much better position to contend with the firearms traffic in the central region. A fair estimate of the reduction in firearms licenses of about 40 percent, maybe more, would be possible.

Thank you Mr. Chairman. Now I would like to turn the testimony over to Mr. Edmisten.

EXHIBIT 1.—AFT—CENTRAL REGION—DISTRIBUTION OF REGULATORY ENFORCEMENT FIELD PERSONNEL

State	Authorized positions	On board	Position vacancies	Area supervisors	On-premises	Other
Indiana.....	26	25	1	1	14	10
Kentucky.....	126	123	3	4	99	20
Michigan.....	17	14	3	1	5	8
Ohio.....	29	26	3	2	12	12
West Virginia.....	3	3	0	0	2	1
Total.....	201	191	10	8	132	51

EXHIBIT 2.—LICENSEES UNDER CHAPTER 44, TITLE 18, UNITED STATES CODE, IN THE CENTRAL REGION AS OF MARCH 31

	Ohio	Indiana	Michigan	West Virginia	Kentucky	Totals
<b>Dealers:</b>						
Firearms.....	4,550	3,202	4,994	1,841	3,237	17,824
Ammunition.....	846	725	559	338	1,362	3,830
Gunsmith.....	93	72	80	20	24	289
Pawnbrokers.....	63	22	32	18	84	219
Total dealers.....	5,552	4,021	5,665	2,217	4,707	22,162
<b>Manufacturers:</b>						
Destructive devices.....	1	1	1	1	3	3
Firearms.....	22	6	11	2	75	44
Ammunition.....	300	171	255	96	75	897
Total manufacturers.....	323	178	266	99	78	944
<b>Importers:</b>						
Destructive devices.....			1			1
Firearms.....	5	7	15			27
Total importers.....	5	7	16			28
Collectors.....	135	73	213	14	51	486
Total licensees.....	6,015	4,279	6,160	2,330	4,836	23,620

Mr. CONYERS. Our next witness is—I think I should say this now that she is in the room: we will now call the first lady of the Detroit Common Council, as our next witness. Miss Erma Henderson is a longstanding friend of the chairman of this subcommittee, she has done a great amount of work, first of all, as a citizen, secondly, as a community and civic leader, and now she serves with great distinction on the City Council of Detroit, where she has given distinguished leadership.

I am very pleased to have her as the first witness and perhaps the only witness that will testify from the Detroit City Council. We have your prepared statement, Miss Henderson, which we can see you gave thoughtful attention to before submitting it to this subcommittee. We are going to incorporate it into the record at this point, which will leave you free to refer to those parts you choose and then to make the other comments that somehow are hard to fit between the lines of a formal paper. Welcome to the subcommittee and you may proceed in your own way.

**TESTIMONY OF ERMA HENDERSON, MEMBER, DETROIT CITY COUNCIL, AND EQUAL JUSTICE COUNCIL, INC.**

Ms. HENDERSON. Thank you, Mr. Conyers; to this honorable body of Congressmen, I am delighted to be present this morning to have the opportunity to address you. I am delighted also because it's my first opportunity to also address such an honorable body with regard to my views in relation to your Subcommittee on Crime and particularly as it relates to gun control.

As you just said, I am Erma Henderson and I am a concerned Detroit councilwoman and executive director of the Equal Justice Council, which is a citizens organization that is involved in the criminal justice system. I am also a member of the Michigan Committee on the National Council of Crime and Delinquency.

PLTF 100745

I have carefully read and listened to thousands of words that have been used on the pros and cons of gun control, having examined numerous police reports. I share with you a deep concern about the rising death rate in our city, State, and Nation. I hope that the findings of these hearings will result in some concrete directions for action on the part of our Congress. Many factors will have to be taken into consideration while we are looking at gun control as a deterrent to crime.

America, unfortunately, has become a violent nation, even our national anthem boasts about the rockets red glare and bombs bursting in the air. At an early age our children are introduced to American heroes and Indian fighters, the minutemen, the soldier of fortune, the cowboys, and the super cops, all toting guns. You know, I think about our television screen, which promotes, for the most part, the most accurate way to kill, and most youngsters learn that before they are able to speak very good English.

Not unlike automobile and steel production, the manufacturing of guns for foreign and domestic use is one of America's major industries.

The American Rifleman's Association has one of the strongest lobbies in Washington, so while we are talking about gun control, let's not kid ourselves, controlled by whom? If we are not willing to tackle organized crime, the dope runners, the gun runners, the hit men, and government involvement in illegal activities under the guise of national security, then citizen efforts and programs to bring about gun control will have no effect on the lessening of crime in our cities.

Let's look at some facts. In an article by Mark K. Benenson, in 1966, despite the Sullivan Law, it was noted that unlicensed handguns accounted for 83 percent of all gun crime in New York City.

In 1967, in New York City, of the 746 total homicides, 277 were from knives, 205 were from handguns, 165 by physical force, and 68 from blunt instruments.

In May, 1968, New Jersey attorney general Sills announced that the 1966 State gun law was a success because firearms were used in 44 percent of all murders in New Jersey as compared to the 60 percent that were used nationwide.

But according to the FBI figures, prior to the State Gun Control Act, from 1962 to 1966, the percentage was 39.5 percent. Obviously, gun control did not deter the increased commission of violence.

The firearm, readily identifiable, becomes the focus of public attention as the answer to the increasing homicide rate, rather than the socioeconomic factors, such as frustrations, tensions, and alienation our society creates in people because of racism, unemployment, and unequal treatment of every facet of living. It is too simplistic to blame the gun for social conflict crimes in our cities. The gun is only one weapon. There are knives, tire irons, chains, karate sticks that choke and kill, and what have you; as you can see in New York City in 1967, more people were killed with knives. Emotions and hopes suggest that tightening up on handguns will reduce crime but the basic causes of crime in our society are too deep rooted to be affected by what weapon the perpetrator chooses to use.

HEARINGS  
BEFORE THE  
SUBCOMMITTEE ON CRIME  
OF THE  
COMMITTEE ON THE JUDICIARY  
HOUSE OF REPRESENTATIVES  
NINETY-FOURTH CONGRESS  
FIRST SESSION  
ON  
FIREARMS LEGISLATION

These hearings are in 8 parts. Part 1 (Washington) February 18, 20, 27, March 5, 6, 13, 20, 26, and April 9; Part 2 (Chicago) April 14 and 15; Part 3 (Detroit) June 9 and 10; Part 4 (Cleveland) June 16; Part 5 (Denver) June 23; Part 6 (Atlanta) July 21; Part 7 (New York) July 25; Part 8 (Washington) May 14, July 17, 23, 24, September 24, and October 1 and 9, 1975

Serial No. 11

Part 6

Atlanta



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1930

May I commend you for your statement as one of the finest that we have heard anywhere during the course of our hearings across the United States. I am sure your constituents say and feel, that as long as you are a member of the honorable body in which you serve, that the people of this State indeed do have a lobbyist representing them. Thank you very much for appearing.

Mr. SCOTT. Thank you.

[Applause.]

Mr. CONYERS. Our next witnesses are John L. Piper, Mr. Robert P. Lane and Mr. Durwood C. Russell. Mr. Piper is the Assistant Regional Director for Criminal Enforcement, Bureau of Alcohol, Tobacco, and Firearms, Department of Treasury; Mr. Lane is a special agent in charge in Atlanta, and Mr. Russell is in charge of the South Carolina Bureau of Alcohol, Tobacco, and Firearms in his position with the U.S. Department of the Treasury.

Welcome gentlemen.

We have before us a member here whom I am not able to identify.

Mr. PIPER. Mr. Flynn, with Regulatory, Bureau of Alcohol, Tobacco, and Firearms.

Mr. CONYER. All right. Chief of Field Operations, Regulatory Division.

Gentlemen, we have a statement from ATF which we will incorporate in the record. The staff has advised me that you have an exceptionally good prepared statement.

We are confronted with a time problem so I will ask you to summarize. As you move along, please keep in mind a question that is uppermost in this subcommittee's mind; what are you doing to interfere if not break up the so-called southern connection in the flow of handguns in particular into the northeastern region of these United States?

Welcome, and you may begin in your own way.

TESTIMONY OF JOHN L. PIPER, ASSISTANT REGIONAL DIRECTOR, CRIMINAL ENFORCEMENT, BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS, SOUTHEAST REGION; ACCOMPANIED BY DURWOOD G. RUSSELL, ACTING SPECIAL AGENT IN CHARGE, BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS, COLUMBIA, S.C., DISTRICT OFFICE, SOUTHEAST REGION; AND ROBERT P. LANE, SPECIAL AGENT IN CHARGE, BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS, ALANTA, GA., DISTRICT OFFICE, SOUTHEAST REGION

STATEMENT OF JOHN L. PIPER, ASSISTANT REGIONAL DIRECTOR (CRIMINAL ENFORCEMENT), BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS, SOUTHEAST REGION.

BIOGRAPHY

Mr. Piper was born in Casper, Wyoming in 1924.

In 1955 Mr. Piper was employed by the Department of the Treasury, Bureau of Alcohol, Tobacco, and Firearms in Denver, Colorado. His employment with ATF has included the cities of Denver, Colorado, Cheyenne,

1931

Wyoming, Omaha, Nebraska, Chicago, Illinois, and New York City. In New York City, for a period of six years, he was Chief, Enforcement and Assistant Regional Commissioner for New York and New England. For the past three years he has been Assistant Regional Director, Criminal Enforcement, Atlanta, Georgia.

STATEMENT

Mr. Chairman and members of the committee: I am John L. Piper, Assistant Regional Director, Criminal Enforcement, Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, currently assigned to the southeast region, Atlanta, Georgia.

Our enforcement area covers the seven southeastern States of Georgia, North and South Carolina, Florida, Mississippi, Alabama, and Tennessee, with a district office in each of these States. We have a staffing of 420 special agents in these district offices, all of whom work under the regional office in Atlanta.

I have with me today two of these district office supervisors. Mr. Robert P. Lane, special agent in charge in Atlanta, Georgia and Mr. Durwood G. Russell, acting special agent in charge from Columbia, South Carolina.

To go immediately to the heart of the firearms problems in the south, we have 33,864 licensed dealers. Many of these dealers, both legally and illegally, are supplying firearms which end up in major cities in the north.

Mr. Russell is here to give you a complete picture of this gun traffic from South Carolina to various locations in the United States.

Mr. Lane will answer any questions you have concerning Project I in Atlanta, the firearms problem in Georgia and the interstate firearms theft project.

My exhibits include a breakdown on Project I in Atlanta and Miami, along with statistics on the work we have done in the firearms area.

BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS

Southeast Region

EXHIBITS

- A—Federal firearms licenses, Southeast Region.
- B—Explosives licenses, Southeast Region.
- C—Manufacturers of firearms, Southeast Region.
- D—Investigations of firearms licensees conducted in Southeast Region, investigations of explosives licensees conducted in Southeast Region.
- E—Criminal enforcement activities—Southeast Region July 1, 1972 through July 1, 1975.
- F—Criminal enforcement activities—Southeast Region—District offices July 1, 1972 through July 1, 1975.
- G—Firearms and explosives violations, court action on criminal cases presented July 1, 1972 through July 1, 1975.
- H—Interstate theft project—Southeast Region.
- I—Project I—Miami, Florida.

EXHIBIT A.—FEDERAL FIREARMS LICENSES, SOUTHEAST REGION

Year	New	Renewals	Total
1969.....	22,024	4,938	26,962
1970.....	11,392	1,501	26,393
1971.....	3,888	24,095	27,983
1972.....	4,337	24,114	28,451
1973.....	4,109	23,932	28,041
1974.....	4,399	24,267	28,666
1975.....	1,817	10,263	15,170
Total licenses issued in Southeast Region as of 1975.....			33,864

<sup>1</sup> As of June 1975.

PLTF 100747

EXHIBIT B.—EXPLOSIVES LICENSES, SOUTHEAST REGION

State	Manufacturers	Dealers
Alabama.....	20	37
Florida.....	10	57
Georgia.....	15	45
Mississippi.....	1	27
North Carolina.....	10	52
South Carolina.....	2	30
Tennessee.....	16	61
<b>Total.....</b>	<b>74</b>	<b>309</b>

EXHIBIT C.—Manufacturers of Firearms, Southeast Region

Alabama.....	1
Florida.....	13
Georgia.....	6
Mississippi.....	1
North Carolina.....	4
South Carolina.....	0
Tennessee.....	4
<b>Total.....</b>	<b>29</b>

EXHIBIT D.—CONDUCTED BY CRIMINAL ENFORCEMENT IN THE SOUTHEAST REGION

Fiscal years ending	Original application Investigations	Compliance Investigations
Investigations of firearms licensees		
June 30, 1970.....	4,168	7,617
June 30, 1971.....	5,567	13,096
June 30, 1972.....	6,039	11,238
June 30, 1973.....	5,459	6,532
June 30, 1974.....	5,726	6,243
June 30, 1975.....	5,030	4,772
<b>Total.....</b>	<b>31,989</b>	<b>49,498</b>
Investigations of explosives licensees		
June 30, 1971.....	447	290
June 30, 1972.....	387	708
June 30, 1973.....	184	793
June 30, 1974.....	145	277
June 30, 1975.....	112	146
<b>Total.....</b>	<b>1,275</b>	<b>2,214</b>

EXHIBIT E.—CRIMINAL ENFORCEMENT ACTIVITIES—SOUTHEAST REGION FOR PERIOD JULY 1, 1972 THROUGH JULY 1, 1975

Fiscal year	Total cases	Arrests	Title I	Title II	Title VII	Title XI	Liquor
1973.....	2,443	2,446	120	239	48	28	2,008
1974.....	1,927	2,187	229	286	63	24	1,505
1975.....	1,720	2,070	338	285	87	35	975
<b>Total.....</b>	<b>6,090</b>	<b>6,703</b>	<b>687</b>	<b>810</b>	<b>198</b>	<b>87</b>	<b>4,488</b>

EXHIBIT F.—CRIMINAL ENFORCEMENT ACTIVITIES—SOUTHEAST REGION FOR PERIOD JULY 1, 1972 THROUGH JULY 1, 1975

Fiscal year	Arrests	Title I	Title II	Title VII	Title XI	Liquor
<b>Alabama:</b>						
1973.....	392	9	37	5	9	381
1974.....	333	55	42	7	15	295
1975.....	373	47	76	13	14	205
<b>Total.....</b>	<b>1,098</b>	<b>111</b>	<b>155</b>	<b>25</b>	<b>38</b>	<b>881</b>
<b>Florida:</b>						
1973.....	124	18	17	2	4	43
1974.....	129	32	21	4	9	30
1975.....	130	38	18	4	3	8
<b>Total.....</b>	<b>383</b>	<b>88</b>	<b>56</b>	<b>10</b>	<b>16</b>	<b>81</b>
<b>Georgia:</b>						
1973.....	666	25	40	3		552
1974.....	635	42	69	27		423
1975.....	460	72	42	29	10	223
<b>Total.....</b>	<b>1,761</b>	<b>139</b>	<b>151</b>	<b>59</b>	<b>10</b>	<b>1,198</b>
<b>Mississippi:</b>						
1973.....	216	7	15	3		221
1974.....	143	13	8	1		148
1975.....	189	33	15	6		77
<b>Total.....</b>	<b>548</b>	<b>53</b>	<b>38</b>	<b>10</b>		<b>446</b>
<b>North Carolina:</b>						
1973.....	508	22	46	21	11	438
1974.....	486	40	86	17		336
1975.....	490	44	75	14	4	302
<b>Total.....</b>	<b>1,484</b>	<b>106</b>	<b>207</b>	<b>52</b>	<b>15</b>	<b>1,076</b>
<b>South Carolina:</b>						
1973.....	218	26	35	3	4	138
1974.....	212	25	39	4		91
1975.....	269	84	43	9		55
<b>Total.....</b>	<b>699</b>	<b>135</b>	<b>117</b>	<b>16</b>	<b>4</b>	<b>284</b>
<b>Tennessee:</b>						
1973.....	322	13	49	11		235
1974.....	249	22	21	3		182
1975.....	159	20	16	12	4	105
<b>Total.....</b>	<b>730</b>	<b>55</b>	<b>86</b>	<b>26</b>	<b>4</b>	<b>522</b>

EXHIBIT G.—Firearms and explosives violations, court action on criminal cases presented, period covered July 1, 1972 through July 1, 1975

Number of cases presented.....	2,568
Number of cases declined.....	526
Number of indictments returned.....	1,744
Number of dismissals after indictment.....	297
Number of defendants pleading or found guilty.....	1,341

EXHIBIT H.—Interstate theft project, Southeast region

Jacksonville, Fla.....	60 Firearms stolen. 4 Recovered. 6 Defendants (ATF & Tampa Police Department).
Jacksonville, Fla.....	468 Firearms recovered. 1 Defendant (ATF & Miami Police Department).
Charlotte, N.C.....	275 Firearms stolen. 251 Firearms recovered. 2 Defendants.
Nashville, Tenn.....	37 Firearms involved in a title I case—none recovered. 2 Defendants.

1 Alcohol, Tobacco and Firearms and Federal Bureau of Investigation in the Southeast Region for the period July 1, 1972 through July 1, 1975.

PLTF 100748

EXHIBIT I.—Project I, Miami, Fla.

Total handguns received.....	632
Number of handguns traced.....	436
Number of Saturday night specials.....	304
Number of Alcohol, Tobacco, and Firearms criminal investigations initiated as a result of Project I.....	531
Number of Alcohol, Tobacco, and Firearms criminal cases recommended for prosecution.....	11
Number of persons arrested <sup>1</sup> .....	150

<sup>1</sup> This figure also includes local arrests.

STATEMENT OF DUBWOOD G. RUSSELL, ACTING SPECIAL AGENT IN CHARGE, BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS, COLUMBIA, SOUTH CAROLINA DISTRICT OFFICE, SOUTHEAST REGION

BIOGRAPHY

Mr. Russell was born in Farmville, North Carolina on November 13, 1926. On March 16, 1962, Mr. Russell was employed by the Bureau of Alcohol, Tobacco, and Firearms as a Special Investigator assigned to the Richmond, Virginia post of duty. In 1969, he was promoted to the position of Criminal Enforcement Analyst assigned to the Philadelphia Mid-Atlantic Regional Office. On March 5, 1971, Mr. Russell was promoted to the position of Area Supervisor for the Baltimore area. In this capacity, he was responsible for the criminal enforcement activities of the Bureau of Alcohol, Tobacco, and Firearms in the States of Maryland and Delaware, and the Bureau's participation in the Organized Crime Strike Force in the Baltimore area. On June 23, 1973, Mr. Russell was promoted to the position of Criminal Enforcement Coordinator in the Planning and Procedures Division, ATF Bureau Headquarters, Washington, D.C. On July 21, 1974, Mr. Russell was promoted to the position of Assistant Special Agent in charge of the Columbia, South Carolina District Office. On April 8, 1975, he was designated Acting Special Agent in charge of the Columbia, South Carolina District Office due to the pending retirement of the Special Agent in charge of that State. He is currently serving in this capacity.

STATEMENT

Mr. chairman and members of the committee: I am the Acting Special Agent in charge of the Columbia, South Carolina District Office of the Bureau of Alcohol, Tobacco, and Firearms, U.S. Department of the Treasury. In this capacity, I am responsible for all matters under the jurisdiction of criminal enforcement of the Bureau of Alcohol, Tobacco, and Firearms in the State of South Carolina.

As evidenced by ATF Project I (Identification), the State of South Carolina is one of the leading illicit suppliers of handguns, cheap handguns to northern States.

As an example, the New York City Police Department requested the Bureau of Alcohol, Tobacco, and Firearms to trace approximately 1,970 handguns they had received, recovered, or seized for any criminal activity during a six month period. Of the 1,970 handguns traced, the major source of these guns into New York City were the following six (6) States:

South Carolina.....	500
Florida.....	273
Georgia.....	214
Virginia.....	169
Texas.....	83
North Carolina.....	80

This survey also revealed that of the firearms traced, over 60% were of the variety commonly known as Saturday night specials.

At the present time there are approximately 3,448 firearms licensed dealers in the State of South Carolina. During the year 1974, approximately 200 fire-

arms licensed dealers either went out of business, changed ownership, or did not renew their firearms license. Thus far in 1975, the number of dealers gone out of business is approximately seventeen (17).

Prior to the passage of the new State firearms law by the 1975 South Carolina General Assembly, South Carolina basically had no gun law at all, and the ones in force were not or could not be enforced.

When the Gun Control Act of 1968 came into being, a South Carolina State law already existed requiring a dealer in handguns to purchase a State handgun license, however, this law was not enforced. This was evident during the Bureau of Alcohol, Tobacco, and Firearms' contact with the various dealers throughout the State. In many instances, even the persons responsible for the sale of the license did not know of the existence of such a law.

On June 22, 1973, a law was approved in effect that no licensed dealer shall sell any pistol or other handgun which has a die-cast frame or receiver which melts at a temperature of less than eight hundred degrees fahrenheit. This law was unenforceable as it was necessary to test each and every firearm suspected of not meeting this criteria. In addition, the manufacturers of cheap handguns could overcome this law by adding a small amount of higher quality alloy to the frame or receiver of the gun, thereby raising the melting point of the firearm in excess of the 800 degrees fahrenheit level set by State law.

Since the above law could not be, or was not enforced by the State, South Carolina remained virtually with no gun law at all until the 1975 legislature passed a gun control law.

On June 17, 1975, South Carolina Governor James B. Edwards signed a law that prohibits the sale of more than one pistol to any one person in a period of 30 days and limits purchases of pistols to residents of the State of South Carolina. This new legislation also empowers law enforcement officials to inspect the premises of licensed dealers for illegal handguns, without warrants. Violators of this new law face fines of as much as \$2,000.00 and jail terms up to two years.

There is no doubt that these laws were passed by the South Carolina State Legislature following widespread national publicity (60 minutes) that cited South Carolina as a chief source of handguns used by criminals elsewhere in the United States, including New York City.

The legislation finally passed by the General Assembly was much weaker than the proposals made by Governor Edwards and the State's Attorney General Daniel McLeod. They had asked for a ten-day waiting period between an application to purchase a handgun and the date of purchase. This, they held, would have allowed the State law enforcement division (SLED) to determine the fitness of applicants to own handguns, and might provide for a cooling-off period for persons intent on committing crimes of passion.

It should be noted here that the Bureau of Alcohol, Tobacco, and Firearms Special Agent in Charge, Louis F. Fisher, assisted the South Carolina Attorney General Daniel McLeod in drafting the new South Carolina State Gun Control Law, even though all of its provisions were not passed into law. In addition, Special Agent in Charge, Mr. Fisher, and the Assistant Special Agent in Charge of the Columbia, South Carolina District Office, appeared, upon the request of the State's Attorney General, at the committee hearing at the State capitol wherein the proposed laws were discussed.

During the period, 1973, South Carolina Bureau of Alcohol, Tobacco, and Firearms Special Agents perfected 77 criminal cases involving firearms violations. During 1974, the number was 105 cases and thus far in 1975, 86 cases have been perfected involving firearms violations.

Also, during 1973, South Carolina Bureau of Alcohol, Tobacco, and Firearms Special Agents perfected 2 criminal cases against firearms dealers. During 1974, 7 like cases were perfected, and thus far in 1975, 9 criminal cases against firearms dealers have been perfected for prosecution.

As a rule in perfecting firearms cases, we have found new cases involving a conspiracy between the dealer(s) or purchaser(s). The primary method of operation varies in degrees, however. In most cases an out-of-State purchaser presents temporary identification such as a South Carolina voter registration (often obtained the same day) or a South Carolina driver's license, also often obtained in one day.

It is prevalent to find that a convicted felon or an out-of-State purchaser will pay a local derelict a small sum of money to make the firearm purchase. The scheme varies, but the object is always the same, get the handgun(s).

We have found too, that the dealer(s) is not always blameless. In their apparent zest for the money derived from these sales, they are often eager to accept identification that is not always valid. For instance, we have found where some dealers have accepted a social security card for identification, when it is a known fact that no address exists on these cards. In order to obtain handguns, we find that a large number of those persons prohibited from possessing firearms, i.e., convicted felons, etc., often do not hesitate to falsify the Treasury Form 4473.

It is most apparent that a vast number of handguns have traveled interstate from South Carolina to other States and cities. For instance, in fifteen (15) cases investigated by South Carolina special agents, a total of 39,531 guns were involved. (For these cases, see attachment #1.)

As of this date, several cases of the type mentioned, but not necessarily of the same magnitude as in attachment number 1, are currently under investigation for prosecution.

One of our investigations, that appears to be significant in this field, deals with an unscrupulous federally licensed South Carolina firearms dealer. The facts developed in this case indicated that this dealer transported firearms from his business to the State of North Carolina where they were subsequently sold to North Carolina residents. This investigation involved approximately eighty-five firearms in which the dealer falsified his records to cover up the unlawful sales by using the names of deceased persons as the actual purchasers of the firearms in the State of South Carolina.

#### THE GREENVILLE PROJECT

In November, 1974, the decision was made by the U.S. Department of Justice and the Bureau of Alcohol, Tobacco, and Firearms to conduct a survey to examine licensed firearms dealers' records in a large metropolitan area. Due to the vast influx of firearms from the southeast region to northern cities, the logical location for such a project was the southeast region. Thus, Greenville, South Carolina was selected for the survey because of the heavy illicit firearms traffic in and through that area, as evidenced by past investigations and Project I. Herein, the survey, code named the "Greenville Project" was born.

The intent of the pilot "Greenville Project" was (1) to determine the number of times convicted felons purchased handguns from dealers in that area by making false statements on Treasury Form 4473, (2) to determine whether such a project, implemented nationally, would have a meaningful impact on reducing the number of handguns in the possession of felons, and (3) to determine what additional resources would be needed to implement the project nationally, if warranted.

Subsequently, Greenville Special Agents copied firearms transaction records at seventeen licensed locations in and around Greenville. The records showed a total of 2,537 handguns sold to 2,047 purchasers during the period May 1, 1974 to and including October 31, 1974.

The Bureau of Alcohol, Tobacco, and Firearms headquarters personnel prepared a card on each purchaser, showing name and date of birth. The cards were then sent to the FBI identification section for a criminal record search. Of the 1,047 names submitted, 215 had arrest records in FBI files. Approximately seventy-three of them had felony convictions.

On or about March 1, 1975, Greenville Special Agents launched an intensive investigation of each of the felon purchasers. These special agents searched and recorder a multitude of court records: Initiated numerous intra-regional and inter-regional collateral investigations; interviewed countless arresting officers, court officials, attorneys and witnesses, and in the end, perfected cases against twenty-six convicted felon purchasers, and one unlicensed dealer, all in less than six weeks. It should be noted that with the assistance of the United States Attorney's office in Greenville, the twenty-six convicted felons were selected and "weeded" from the original seventy-three convicted felons

found to be in violation of the Gun Control Act of 1968. The group represented the very core of criminal activities in the Greenville area. Comprised of murderers, rapists, burglars, fences for stolen goods, etc., their FBI records read similar to a laundry list, each subject having a history of violence.

During the afternoon of April 15, 1975, beginning at precisely 5:30 p.m. and continuing until after midnight, the Greenville Special Agents led teams of State, city and county officers on a series of raids which resulted in the arrest of all but five of the defendants. During this same period, two defendants were arrested out-of-State by the Bureau of Alcohol, Tobacco, and Firearms, one in Jacksonville, Florida and one in Hartford, Connecticut. As Fingerprints and handwriting samples were taken, regional office and Bureau headquarters fingerprint and handwriting experts were present, on the spot to analyze and furnish their conclusions in writing in order to expedite this segment of the investigation.

After the arrests and without let-up, the Greenville Special Agents conducted the necessary followup investigations, i.e., interviews, collateral requests, etc. Upon completion of these cases, the facts were presented to a Federal grand jury who presented a true bill of indictment in each case.

The "Greenville Project" brought out some most interesting facts.

#### NON-FELONS

There were 147 purchasers who had criminal records, but had no felony convictions.

#### MULTIPLE PURCHASERS

Only four of those who made multiple purchases were considered significant diverters.

#### PROFILE OF 27 FELON PURCHASER DEFENDANTS

The average age is 30 years, the youngest 22 and the eldest 63. Sixteen are white and eleven are black, a 60-40 ratio. The white-black ratio of Greenville is 68-32.

#### QUALITY OF FIREARMS PURCHASED BY DEFENDANTS

The twenty-seven (27) defendants purchased a total of thirty-five (35) handguns. Seven (7), or 20% were valued at more than \$85.00. Nine (9) or 26% were valued at \$50.00 to \$85.00; and nineteen (19) or 54% were valued a less than \$50.00.

#### FELONS NOT TO BE PROSECUTED

There were forty-one (41) convicted felon purchasers who were not charged because of the nature of crimes committed (such as liquor law violators), the date of convictions (some were 30-40 years ago), and other factors, such as the age of the felon at the time of last conviction, all of which lacked prosecution appeal.

With the exception of court action, the "Greenville Project" has been concluded.

#### FLORENCE PROJECT

On June 6, 1975, Florence, South Carolina Bureau of Alcohol, Tobacco, and Firearms Special Agents and U.S. Deputy Marshals arrested a total of seven firearms dealers and three employees of firearms dealers. These arrests climaxed three months of undercover investigations pertaining to out-of-State residents purchasing pistols from local licensed firearms dealers. During this undercover investigation, handguns were purchased from seven dealers and three employees of the dealers. These cases have been presented to the Federal grand jury.

Significant Firearms Cases Conducted in South Carolina Involving Interstate Traffic of Handguns to Northern States Since Enactment of the Gun Control Act

Case and defendants	Number of firearms involved
SC-941-FFA—James Ernest Baker, Lindsay Jack Robbins. During 1968, Robbins, a licensee, and Baker, a nonlicensee, conspired to dispose of approximately 9,400 firearms that were purchased in the Greenville, Spartanburg, Rock Hill, and Columbia areas to North Carolina residents, who, in turn, disposed of the firearms to residents of New York and New Jersey. On June 15, 1970, both defendants were sentenced to 5 yrs probation each.	9,400
SC-1051-T-I—John Edward Lezan, James Pruitt. During 1969 and until January 1970, Lezan, a licensee, sold 4,400 handguns to James Pruitt, Casar, N.C., a nonlicensee, and Pruitt disposed of the firearms in North Carolina and other northern States. On Sept. 14, 1970, Lezan was placed on 3 yrs probation. Pruitt prosecuted in North Carolina.	4,400
290401731524J—Alton Stegall, Randall Sauls, Jr. In February 1970, the above 2 individuals falsified a certified copy of a firearms license by altering a valid copy and reproducing it on a Xerox machine. Stegall used the alias of James Guy Wilson and purchased 1,000 handguns in Greenville and Matthews, N.C., and sold them to Bobby Thomas Ward, Drexel, N.C., who disposed of them.	1,000
SC-1448-T-I—Joseph Lemoyne Tompkins, et al. From June 1, 1970 to May 16, 1971, Joseph L. Tompkins, a licensed firearms dealer and owner of the Golden Strip Hobby Center, Simpsonville, S.C., illegally sold approximately 20,000 handguns, 14,000 to Bobby T. Ward and other North Carolina residents. Also involved was Blakely Roberts, Greenville, S.C. a licensed firearms dealer. Tompkins received a 2-yr prison sentence and \$5,000 fine. Roberts received 5 yrs probation. Seizures of the above weapons were made in New York and North Carolina and most often in connection with crimes of murder, armed robbery, and assault.	20,000
290201730517W—Daniel Williams, Donald Ezell Flowers. In August 1972, Donald Flowers of Sumter, S.C. purchased 17 handguns for Daniel Williams, a resident of New York City. Williams was arrested on Aug. 27, 1972, in Fayetteville, N.C., as he was transporting the firearms to New York City aboard a Greyhound bus. On Feb. 23, 1973, Flowers was sentenced to 2 years, suspended and placed on 3 years probation. On Apr. 20, 1973, Williams was sentenced to 2 years, after service of 6 months, placed on probation.	17
290201720552A—Jacob Fleming. Jacob Fleming, a resident of Sumter, S.C., purchased 38 firearms that were apparently resold in New York City. Three of the firearms were used in various crimes in the city of New York, two were used to fire into a New York City police car, wounding a policeman, and the third used in a New York City bank robbery.	38
SC-1497-T-I—Alfred Cain, et al. In May 1972, Alfred Cain and Anthony Cain, along with Jessie Cain, New York residents, came to Columbia, S.C., and hired Columbia residents to purchase firearms for them which were to be transported back to New York City. Information available indicated the Cains were connected with a militant group in New York City and that the firearms purchased in South Carolina were for use by militants. Alfred Cain received 5 years; Anthony Cain received 5 years; James Belton, 4 years, and James Seabrooks 2 years.	20
260201730001B—Larry Eugene Searcy, Dean Ledbetter, et al. Firearms were purchased in Greenville, S.C., and transported to North Carolina and then to New York City. As of January 1973, New York City police had seized at least 122 of these firearms. They were used in crimes of violence in New York. This case was tried in the Western District of North Carolina in July 1973 and the following sentences were given: Bobby J. Scates, Larry E. Searcy, Chester Ray Looney, Henry and Dean Dean Ledbetter, all North Carolina and South Carolina residents, and Edwin Acevedo and German Rosairo, New York City residents, each received 5 years in prison.	3,576

Significant Firearms Cases Conducted in South Carolina Involving Interstate Traffic of Handguns to Northern States Since Enactment of the Gun Control Act—Con.

Case and defendants	Number of firearms involved
290201730568U—William Hoyle Benton. During February 1973, Benton, a resident of Matthews, N.C., fraudulently obtained a South Carolina driver's license and purchased 44 firearms from a licensed dealer in Rock Hill, S.C. Benton transported these firearms to North Carolina where they were sold at a profit.	44
290103730011S—Irael Green. During the early part of 1973, Israel Green, the common-law husband of Sarah Brown, Charleston's No. 1 narcotics dealer, purchased eight handguns at Charleston, S.C. by falsifying Forms 4473, inasmuch as he is a convicted felon (murder) currently on probation from New Jersey court for carrying a concealed weapon. This case was not successfully prosecuted because the agents were unable to secure court records of the conviction of Green. The above information was supplied to the probation office for a possible revocation of probation.	8
290105730002Cg—Bennett Wesley Cook. Bennett Wesley Cook, a resident of New York City and an alleged member of the Black Liberation Army purchased two handguns in Charleston, S.C., and transported them to New York City. One of the firearms was recovered after New York City police engaged in a gun battle with four negro males of the Black Liberation Army. Received 1 year.	2
290401731551W—Edward Abbott, Sylvia K. Abbott. This lengthy investigation was completed on Apr. 25, 1973. Both Abbotts are licensed dealers in firearms at Greenville, S.C. This investigation revealed that they were illegally selling firearms to out of State residents, convicted felons, and other persons prohibited from receiving firearms under the Gun Control Act. Numerous persons were hired by Edward Abbott to sign forms 4473 for fictitious purchasers. The investigation has revealed that some of the weapons acquired from Abbott have gone into the Philadelphia, Pa., area and also into North Carolina, Virginia, New Jersey, and New York.	1,000
290104730006M—James Brown. Plead guilty (rule 20). Walter Johnson/aka Elmore Thompson. During April 1973, the above individuals, residents of New York City, purchased approximately 12 firearms at Charleston, S.C., and transported them to New York City. One Enforcer Carbine with a silencer attached and three handguns purchased at Charleston have been recovered in New York City and were involved in a crime of kidnapping. The subjects are alleged to be associated with a group known as the Black Mafia in Harlem.	12
290312731023S—Wei H. Chen, Wai Fal Goon, Jung H. Leung, Chung Ling Tsang, Isiah Hamlin. Durling December 1973, Isiah Hamlin, a South Carolina resident, purchased firearms for above Chinese individuals, residents of New York City. After purchase of firearms, they went to Hamlin's residence where the serial numbers on each firearm were ground off. The firearms were then hidden in the air-conditioner of a New York registered 1969 Pontiac. The Chinese defendants then left the area proceeding north. They were arrested when they crossed into North Carolina. Hamlin was arrested by Bureau of Alcohol, Tobacco, and Firearms special agents the following day. Further investigation revealed the Chinese subjects are alleged to be members of a Chinese New York street gang called "Ghost Shadows". Additional intelligence indicates that since Jan. 1, 1973, 27 Chinese subjects who either are gang members or are connected with members of Chinese gangs have been arrested by the New York City Police Department and found to possess weapons with obliterated serial numbers. Also, Boston police recently arrested seven members of the "Ghost Shadow" gang and found a quantity of weapons with obliterated serial numbers. An unspecified number of Chinese subjects have been arrested by local police in the States of Vermont and Florida with weapons with obliterated serial numbers. The New York groups are affiliated with gangs bearing the same name in other cities that have large Chinese populations. Each gang operates separately under its own leadership with no central head. The weapons are used by Chinese street gangs in connection with robberies, extortion, gang homicides, etc.	6

*Significant Firearms Cases Conducted in South Carolina Involving Interstate Traffic of Handguns to Northern States Since Enactment of the Gun Control Act—Continued*

Case and defendants	Number of firearms involved
290304731049S—Lawrence Halcond, alias Ray Finch, alias Larry Williams alias Frank Brown. During late 1972 and early 1973, Lawrence Halcond, a resident of Brooklyn, N.Y., came to South Carolina and had local residents purchase eight handguns and eight boxes of ammunition which Halcond transported to New York. Halcond was arrested Nov. 1, 1973, at his Brooklyn residence charged with the South Carolina violation, and held under \$10,000 bond. He has a long criminal record and is an exheroin addict. Case pending. Halcond is to appear in U.S. District Court in Columbia, S.C.	8
Total number of firearms involved in above captioned cases	39,531

STATEMENT OF ROBERT P. LANE, SPECIAL AGENT IN CHARGE, BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS, ATLANTA, GEORGIA DISTRICT OFFICE, SOUTHEAST REGION

BIOGRAPHY

Robert P. Lane was born in Washington, D.C. on March 19, 1922. He entered service with the Bureau of Alcohol, Tobacco, and Firearms in June, 1951. He has served in field and supervisory positions in the States of Florida, South Carolina, Tennessee, and Georgia. He has served as Special Agent in Charge, Atlanta, Georgia, since January, 1965.

STATEMENT

Mr. Chairman and Members of the Committee: I am Robert P. Lane, Special Agent in Charge, Atlanta, Georgia. My responsibilities relate to the supervision of personnel who enforce the laws in the State of Georgia for which the Bureau of Alcohol, Tobacco and Firearms is responsible.

There are 5726 Federal Firearms Licensees in Georgia, about 1200 of these licensees are in metropolitan Atlanta. There are twelve Special Occupation Tax holders in Georgia—dealers in Title II weapons (also manufacturers).

There are approximately 760 handgun dealers licensed by the state of Georgia.

PROJECT I ATLANTA

Project I was implemented on May 21, 1973, in Atlanta, Georgia, with the cooperation of the Atlanta Police Department and was carried on for a period of eight months with the termination of the Project in January, 1974. A total of 264 criminal investigations were conducted by ATF Special Agents resulting in 38 criminal cases being made and 43 persons being arrested. The cases prepared for prosecution were directed toward violence prone felons. Twenty stores on the fringe of the transitional business and commercial sections of downtown Atlanta and located within a half mile of one another were the sources of the majority of firearms. The typical firearms outlets identified in the Project are noted below.

Type business	Number of stores	Percent firearms sold
Pawn shops	9	43
Variety store	1	24
Sporting/gun shop	2	15
Army/Navy stores	5	10
Discount/hardware	3	8

Principal customers were in the lower economic strata. The typical firearm used in the violation was a short barrel .22 caliber revolver of U.S. manufacture. In 40% of the cases made the felon purchased the firearm direct from the licensee. Approximately 80% of the firearms traced originated in the metro-Atlanta area.

The "variety" store listed above received a compliance investigation and approximately fifty forms 4473 were incomplete or the form was filled out improperly. A criminal case was prepared involving the variety store.

Characteristics of the type of firearm sold by this store are noted below.

Type:	Number
Revolvers	33
Automatics	1
Derringers	1
Origin:	
U.S.A.	30
Germany	3
Brazil	2
Calibers:	
.22	19
.32	5
.38	10
.25	1

The barrel length of the firearms varied from 1½ inches to 4 inches with the majority having barrel lengths of 1¾ to 2 inches.

COURT DISPOSITION OF PROJECT I CASES

TITLE I CASES

- 2103 0973 0135Z, Montana Bryant, 4-5-74 RG; 2 years CAG.  
 2103 0973 0136C, Preston Slaton, 4-5-74 PG; 3 years CAG; sent. susp. 2 years probation.  
 2103 0973 0211S, Robert L. Nash, 4-5-74 PG; 6 months CAG.  
 2103 1073 0126Y, Bell Loan (Alfred Schwartz), 2-5-75 PG; 3-28-75 sent. 1 year each count (4) to run concurrent; sent. susp. to 1 year probation & \$250.00 fine each counts 1 & 3.  
 2103 1073 0187V, Asa V. Vancey, 6-21-74 PG; 1 year and 1 day CAG, sent. susp. to 1 year probation.  
 2103 1073 0188Y, Grover Owensby, pending.  
 2103 1173 0084K, Walter Hawkins, 5-17-74 PNG, JVG; 3 years CAG, sent. susp. to serve 6 months and be placed on probation 18 months.  
 2103 1173 0102R, Joe Lee Bishop, 4-1-74 PG; 5 years CAG, sent. susp. to 5 years probation.  
 2103 1273 0010H, Robert L. Binns, 4-5-74 PG; 3 years CAG, sent. susp. 2 years probation.  
 2103 1273 0022N, Eddle B. Jones, pending.  
 2103 1273 0057B, Henry Thomas, 5-9-74 PG; 5 years CAG; sent. susp. to serve 6 months, 3 years probation to submit to drug treatment on release.  
 2103 1273 0058E, Thomas C. Payne, indicted 6-4-74.  
 2103 0274 0011R, Cecil H. Brown, 9-18-74 PG; 2 years CAG; sent. susp. 4 months to serve, probation 3 years.

TITLE II CASES

- 2103 0773 0044K, Silas S. Jamison, Ronald R. Cook, as to each: 12-14-73 PNG, JVG; 2 years CAG sent. susp. 3 years probation with provision they possess no firearms.  
 2103 0174 0048G, Jerald J. Dorsey, 7-25-74 PG; 3 years CAG.  
 2103 0174 0049K, Kenneth Stafford, 6-17-74 PG; 10 months CAG to run conc. with present state sentence.  
 2103 0174 0056Z, Earnest A. Wilson, 6-7-74 PG; sentenced CAG under Youth Corrections Act.  
 2103 0174 0061G, Henry J. Mason, 9-18-74 PG; 2 years CAG sent. susp. 3 years probation.  
 2103 0274 0021P, Emory L. Sawyer, Stephan W. Perry, as to Sawyer: 6-5-74 dismissed by U.S. Attorney. As to Perry: pending.  
 2103 0374 0009W, John H. Moreland, 5-7-74 indicated.

## TITLE VII CASES

- 2103 1073 0014P, James E. Clowers, 1-28-74 indicted; prosecution deferred 1 year from 9-27-74.  
 2103 1073 0069A, Hardy Blash, pending.  
 2103 1073 0189B, Raymond M. James, 5-7-74 closed without prosecution.  
 2103 1173 0036X, Eddie L. Parker, 5-30-74 PG; 2 years CAG.  
 2103 1173 0037A, Ollie D. Moses, 3-11-74 PG; 3 months CAG.  
 2103 1173 0073H, Roy Woods, 4-5-74 PG; 2 years CAG to run consecutive to state sentence.  
 2103 1173 0085N, Frankie Thomas, 4-16-74 indicted.  
 2103 1273 0009N, Willie Richardson, 7-29-74 PG; 2 years CAG sent, suspended 6 months CAG, 2 years probation.  
 2103 1273 0011L, Ronnie Corbin, 7-29-74 PG; 2 years CAG to begin expiration present state sentence.  
 2103 1273 0025Y, Willie Gaines, 5-17-74 PNG; 10-6-74 JVG, 12-24-74 judgement of acquittal granted.  
 2103 1273 0027E, William Bronson, 9-6-74 PG; 2 years CAG sent, suspended 5 years probation.  
 2103 0174 0012R, Leo Blount, Jr., 9-18-74 PG; 1 year CAG.  
 2103 0174 0023T, Carlton S. Redding, 4-74 indicted.  
 2103 0174 0027F, Willie F. Hood, 9-10-74 indictment dismissed by judge.  
 2103 0174 0031K, Henry Miller, 6-4-74 indicted.  
 2103 0174 0007F, James C. Maloyd, pending.

## TITLE I AND II CASES

- 2103 1173 0106D, Willie Thomas, 7-29-74 JVG; 7 years CAG.

## TITLE I AND VII CASES

- 2103 1073 0068X, Richard A. Drain, 6-21-74; PG; 2 years CAG, time served 74 days; sent. susp. 2 years probation. Willie Drain, 6-21-74 JVG; 18 months CAG sent. susp. 18 months probation.

## INTERSTATE FIREARMS THEFT PROGRAM

On September 1, 1973, the Interstate Firearms Theft Program was expanded into a Nationwide Project. Our Special Agents contacted 143 terminal transport managers in Georgia and solicited their cooperation. Each was given a poster to display warning against interstate firearms thefts. They were also furnished with a supply of Forms 46, Report of Theft or Loss of Firearms, to be used in reporting thefts.

Since the inception of the program, our Special Agents have conducted 49 investigations of theft involving from one to 65 firearms. Further, the Georgia District Office has entered into NCIC a total of 278 firearms reported stolen.

## SIGNIFICANT FIREARMS CASES

The following are resumes of some of the more significant firearms cases made in Georgia since the inception of the Gun Control Act.

(2107-1174-25220) *U.S. vs. Clyde Messer*—On December 9, 1974, Clyde Messer, Route 1, Young Harris, Georgia, was arrested for Title I violations. Messer, who is not a Federally licensed firearms dealer, had previously sold firearms to undercover Special Agents. Also, 40 firearms and 2,350 rounds of ammunition were seized as a Federal search warrant was executed at the Messer residence at the time of arrest. Over 100 firearms were known to have been bought by Messer since July, 1973. None of these firearms were among those seized. Messer admitted to selling between 300 to 400 firearms since July, 1973. He also admitted purchasing some firearms from a dealer in Butler, Alabama, and falsifying the Forms 4473 at the time of purchase. A collateral investigation was initiated concerning the violation.

Clyde Messer entered a guilty plea in U.S. District Court and received a sentence of three years probation.

(2106-0173-1524H) *U.S. vs. John Talmadge Attaway, Jr., et. al.*—From November 16, 1972, until February 8, 1973, undercover officers purchased

various firearms from T. J.'s Sporting Goods, 850 Broadway, Columbus, Muscogee County, Georgia. The firearms included sawed off shotguns. John Talmadge Attaway, Jr., the owner of the business made numerous statements regarding firearms transactions. Attaway sold firearms and ammunition to the undercover officer and provided false identification and on some transactions requested no identification.

On February 8, 1975, Attaway and Emmett Hanson, the Manager of the business, were arrested. A Federal Search Warrant was simultaneously executed on the business. Four hundred and forty-six Title I and Four Title II firearms along with 22,597 rounds of ammunition were seized from the business.

Upon entering the premises, officers saw an electric hack saw, which was in operation cutting the barrel from a single barrel shotgun. This saw was photographed while still operating.

The principal, John Talmadge Attaway, Jr., and his manager, Emmett Hanson, were arrested at this time pursuant to Federal arrest warrants. Attaway immediately stated that he was cutting the barrel from the shotgun in order to make black jacks and that a new legal length barrel had been ordered for the one he was cutting. He later changed his story to one of making weights for fishing nets after four additional barrel ends were found on the premises.

The investigation resulted in the seizure and forfeiture of 437 firearms along with 22,597 rounds of handgun ammunition.

Both Attaway and Hanson entered guilty pleas in U.S. District Court. Attaway received a sentence of four years C.A.G. and Hanson received four years probation.

*GN-18,975—U.S. vs. Ronnie Wayne Fenton, Edward Henry Boles, Russell Lee Wear*—In December, 1970, and January, 1971, Ronnie Wayne Fenton, Edward Henry Boles and Russell Lee Wear were arrested for receiving and selling approximately 81 firearms which had been stolen from interstate shipments received by United Parcel Service in Atlanta, Georgia.

Fenton was an employee of United Parcel Service at the time the firearms were removed from interstate shipment. In December, 1970, Fenton sold undercover agents several of the firearms that had been stolen from the shipment.

On August 23, 1972, Fenton pled guilty and received six months C.A.G. and two and a half years probation. Wear pled Nolo Contendere and received three years probation. Boles pled guilty and received two years probation.

*Ga. S-10,007 (T-I&T-II) U.S. vs. Walter Earl Cannon, Jr.*—On August 31, 1970, Walter Earl Cannon, Jr., had on display at his place of business in Dublin, Georgia, a large quantity of firearms. He stated to ATF Special Agents that they were not for sale and were for display only. He also stated that he was aware of the Federal requirements concerning a dealer in firearms or a gunsmith, and if he decided to engage in the business as a dealer in firearms he would apply for a license.

During August and September of 1971, undercover agents purchased five firearms from Cannon, one of which was a NFA machine gun. Cannon offered to sell other firearms to the undercover agents. On September 10, 1971, Cannon was arrested on charges of engaging in a firearms business without having a license. Seventy three firearms were seized. He was also charged with illegally possessing and/or transferring several NFA firearms. In March, 1972, Cannon pleaded guilty to violations of the GCA of 1968 in U.S. District Court and was placed on three years probation.

Mr. PIPER, Mr. Chairman, we have 420 special agents to police 33,864 licensed dealers and with that comment, I will go right to Mr. Russell of South Carolina.

Mr. RUSSELL, Mr. Chairman and members of the committee my name is Durwood G. Russell. I am the acting special agent in charge of the Columbia, S.C. District Office of the Bureau of Alcohol, Tobacco, and Firearms, U.S. Department of the Treasury. In this

capacity, I am responsible for all matters under the jurisdiction of criminal enforcement of the Bureau of Alcohol, Tobacco, and Firearms in the State of South Carolina.

As evidenced by ATF project I, which stands for identification, the State of South Carolina is one of the leading illicit suppliers of handguns, cheap handguns to northern States.

Out of a total of 1,970 handguns requested to be traced by the New York City Police Department, the major source of these guns into New York City were six States, the State of South Carolina led these States with 500 handguns.

This survey also revealed that of the firearms traced, approximately 60 percent were of the variety commonly known as Saturday night specials.

At the present time, there are approximately 3,450 licensed dealers in the State of South Carolina.

Prior to the passage of the new State firearms law by the 1975 South Carolina General Assembly, South Carolina basically had no gun law at all, and the ones in force were not or could not be enforced.

On June 22, 1973, a law was approved in the State of South Carolina in the effect that no licensed dealer shall sell any pistol or other handgun which has a die-cast frame or receiver which melts at temperature of less than 800 degree Fahrenheit. This law was unenforceable as it was necessary to test each and every firearm suspected of not meeting this criteria.

In addition, the manufacturers of cheap handguns could overcome this law by adding a small amount of higher quality alloy to the frame or receiver of the gun, thereby raising the melting point of the firearms in excess of the 800-degree-Fahrenheit level set by State law.

Since the above law could not be, or was not enforced by the State, South Carolina remained virtually with no gun law at all, until the 1975 legislature passed a gun control law.

On June 17, 1975, South Carolina Governor James B. Edwards signed a law that prohibits the sale of more than one pistol to any person in a period of 30 days and limits purchases of pistols to residents of the State of South Carolina. This new legislation also empowers law enforcement officials to inspect the premises of licensed dealers for illegal handguns, without warrants.

There is no doubt that these laws were passed by the South Carolina State Legislature following widespread national publicity, that was the 60 Minutes program some time ago on television. This 60 Minutes program cited South Carolina as a chief source of handguns used by criminals elsewhere in the United States, including New York City.

The legislation finally passed by the general assembly was much weaker than the proposals made by Governor Edwards and the State's Attorney General Daniel McLeod. They had asked for a 10-day waiting period between an application to purchase a handgun and the date of actual purchase. This, they held, would have allowed the State Law Enforcement Division (SLED) to determine the fitness of applicants to own handguns, and might provide for a

cooling-off period for persons intent on committing crimes of passion.

It should be noted here that the Bureau of ATF, special agent in charge, at that time, Mr. Louis F. Fisher, assisted the South Carolina attorney general, Mr. McLeod, in drafting the new South Carolina State gun control law, even though all of its provisions were not passed into law.

In addition, special agent in charge, Mr. Fisher and the assistant special agent in charge, appeared upon the request of the State's attorney general, at the committee hearing at the State capital, wherein these gun laws were discussed.

As a rule in perfecting firearms cases, we have found few cases involving a conspiracy between the dealer and purchaser. The primary method of operation varies in degrees, however. In most cases an out-of-State purchaser presents temporary identification such as a South Carolina voter registration, which can be obtained in one day, or a driver's license, which also can be obtained in one day.

It is prevalent to find that a convicted felon or an out-of-State purchaser will pay a local derelict a small amount of money to make the firearms purchase. The scheme varies, but the object is always the same, get the handgun.

We have found too, that the dealer is not always blameless. In their apparent zest for the money derived from these sales, they are often eager to accept identification that is not always valid. For instance, a social security card as identification when we know in fact there is no address on a social security card.

It is most apparent that a vast number of handguns have traveled interstate from South Carolina to other States and cities.

For instance, in 15 cases investigated by the South Carolina special agents, a total of 39,531 guns were involved, and these cases are cited as part of an attachment and, Mr. Chairman, I believe you do have those cases as cited.

Mr. CONYER. We do and we will incorporate them into your statement.

Mr. RUSSELL. Thank you, sir.

In furtherance, in November 1974, the decision was made by the U.S. Department of Justice and the Bureau of ATF to conduct a survey to examine licensed firearms dealers' records in a large metropolitan area. Due to the vast influx of firearms from the southeast region to the northern cities, the logical location for such a project was the southeast region. Thus, Greenville, S.C., was selected for the survey because of the heavy illicit traffic in firearms through that area, and this was also as evidence by project I and numerous investigations that had been conducted in that area.

Herein, the survey that we code named "Greenville Project" was born.

The intent of the pilot Greenville project was:

One: To determine the number of times convicted felons purchased handguns from dealers in that area by making false statements on Form 4473, which is the Treasury document.

Two: To determine whether such a project, implemented nationally, would have a meaningful impact on reducing the number of handguns in the possession of felons; and

Three: To determine what additional resources would be needed to implement the project nationally, if warranted, upon what we found in the Greenville project.

Subsequently, Greenville special agents copied firearms transaction records at 17 licensed locations in and around Greenville, S.C. The records showed a total of 2,537 handguns sold to 2,047 purchasers during the period May 1, 1974, to and including October 31, 1974.

Of the 2,047 names submitted, for criminal record check, 215 had arrest records in FBI files. Approximately 73 of them had felony convictions.

On or about March 1, 1975, Greenville special agents launched an intensive investigation of each felon purchaser and in the end, perfected cases against 26 convicted felon purchasers and one unlicensed dealer, all in less than six weeks. It should be noted that with the assistance of the U.S. attorney's office in Greenville, S.C., the 26 convicted felons were selected and weeded from the original 73 convicted felons found to be in violation of the Gun Control Act of 1968. The group represented the very core of criminal activities in the Greenville area, comprised of murderers, rapists, burglars, fences for stolen goods, and so forth, their FBI records read like a laundry list, each having a history of violence.

During the afternoon of April 15, 1975, beginning at 5:30 p.m. and continuing until after midnight, Greenville special agents led teams of State, city, and county officers on a series of raids which resulted in the arrest of all but five of the defendants and I might add, all defendants have been arrested.

During the same period, two defendants were arrested out of State by ATF, one in Jacksonville, Fla., and one in Hartford, Conn.

Upon completion of these cases, the facts were presented to a Federal grand jury who presented a true bill of indictment in each case.

The Greenville project brought out some most interesting facts: There were 147 purchasers who had criminal records, but had no felony convictions; 27 defendants purchased a total of 35 handguns; 7 of these handguns, or 20 percent, were valued at more than \$85; 9 or 26 percent, were valued at \$50 to \$85 and 19, or 54 percent, were valued at less than \$50.

There were 41 convicted felon purchasers who were not charged because of the nature of the crimes committed, such as their conviction was liquor law violations, and some of these convictions were 30 or 40 years old and so forth, and other factors, such as the age of the defendant and health.

With the exception of court action, the Greenville project has been concluded.

Just recently, on June 6, 1975, our Florence, S.C., Bureau of Alcohol, Tobacco and Firearms special agents along with U.S. marshals arrested a total of seven firearms dealers and three employees of firearms dealers. These arrests climaxed 3 months of undercover investigations pertaining to out-of-State residents purchasing handguns from local firearms dealers. During this undercover investigation, handguns were purchased from seven dealers

and three employees of the dealers. These cases have been presented to a Federal grand jury.

Mr. Chairman, prior to my leaving the office last Friday, I received a memorandum, a letter from the attorney general for the State of South Carolina, Mr. Daniel R. McLeod. This letter was addressed to Mr. William R. Griffin, Regional Director, Bureau of Alcohol, Tobacco and Firearms, Atlanta, Ga., who is the ATF Regional Director for the Southeast Region.

I respectfully request that this letter be entered into the record, if it be your desire, and I believe the letter has been presented to a member of your staff.

Mr. CONYERS. Without Objection, that will be done.

[The letter referred to follows:]

THE STATE OF SOUTH CAROLINA,  
ATTORNEY GENERAL,  
Columbia, July 18, 1975.

MR. WILLIAM N. GRIFFIN,  
Regional Director,  
Bureau of Alcohol, Tobacco and Firearms,  
Atlanta, Ga.

DEAR MR. GRIFFIN: It is my understanding that some of the Regional and National officials of your Department will appear before various Congressional Committees which are considering the strengthening of various Federal Firearms Laws. In this connection, I wish to submit my endorsement of procedures looking to this objective and to commend the Bureau of Alcohol, Tobacco and Firearms of the Columbia District Office for its aid in enabling me to appear before Legislative Committees of this State with the same objectives in mind.

The vast abuse of wholesale firearms purchases in this State was called to my attention by the local Special Agent in Charge, Mr. Louis F. Fisher, now retired. I was appalled at the information he related to me and dismayed that South Carolina appeared to be the focal point for the procurement of large numbers of firearms which were purchased here and moved into other states for distribution. It was obvious that our statute was grossly defective and that it did not provide for a method of effective enforcement. With the assistance of Mr. Fisher and other Agents from the local Office, as well as from the Regional Office in Atlanta, Georgia, I was able to prepare a suggested statute for the Legislative Committee. Mr. Fisher and the officials named appeared before the Committee as witnesses, at the Committee's request, and presented persuasive reasons why a better approach was needed.

We have achieved some degree of minimal success but we have made a landmark stride by at least curtailing the number of weapons which an individual may purchase at a single time. Our existing statutes were modified in other particulars but I consider the change referred to as being very important. We are still lacking in enforcement procedures but I am optimistic that this may be achieved in the future.

Added impetus was timely made by the showing of a television documentary in which Mr. Fisher appeared and which served to make the public, and particularly Legislative Members, aware of the problem which this State faced. It has been met in part by the statutory changes but the most forceful conclusion which is apparent to me is that a handful of Federal officers are effectively maintaining surveillance within the scope of Federal laws, whereas in South Carolina there is no concentrated enforcement policy. This, I think, is the most inherent defect in South Carolina's existing procedures.

I have been profoundly impressed by the expertise of the Federal enforcement officials and their willingness to aid this State in combating a problem which concerns the entire Country. I hope very much that complimentary legislation that may be needed in Federal and State areas can be speedily procured to control an intolerable condition in this Nation.

Very truly yours,

DANIEL R. McLEOD,  
Attorney General.

Mr. RUSSELL. Thank you, sir.

Mr. Chairman, I appreciate very much being able to appear at this hearing, and I would be pleased to answer any questions that you or the committee members may have concerning my presentation, and I thank you, sir.

Mr. CONYERS. Thank you for some excellent analysis of what your people are doing.

Who is going to proceed next?

Mr. PIPER. Mr. Lane.

Mr. LANE. Mr. Chairman, I am Robert Lane, Special Agent in Charge here in Atlanta, Ga.

Today, there are 5,726 Federal firearms licensees in Georgia; about 1,200 of these licensees are in the Metropolitan Atlanta area.

In connection with the firearms effort by the Bureau of Alcohol, Tobacco and Firearms, Project I was implemented on May 21 of 1973. There were four cities that were selected. Atlanta was one of the four. This project was carried on for approximately 8 months here in Georgia. During this time, a total of approximately 800 weapons were seized by the police department in the city of Atlanta.

Mr. CONYERS. Mr. Lane, could you just briefly describe Project I in terms of what its objective was?

Mr. LANE. Well actually it was a program set out by the Bureau headquarters and the purpose of the project was to (1) identify distribution sources of firearms to determine if patterns exist, such as diversion by specific firearms dealers or importers, losses and thefts from dealers or shipments, burglary rings and fencing operations, No. (2) was to develop investigative leads for selected firearms enforcement on a national scale, and its third (3) objective was to evaluate and improve our capabilities in firearms tracing and evaluation as a means of assistance to our field agents and State and local law enforcement agencies.

That was the proposed project.

Mr. CONYERS. It applied to what area?

Mr. LANE. This was with the city of Atlanta Police Department. Now we did take in a few guns from the metropolitan area too, police department from De Kalb County, but basically it was from the city of Atlanta Police Department.

They made these guns available. We gathered the necessary information relative to the individuals arrested, the series numbers; traces were run on these firearms; there were a total of 264 criminal investigations conducted by our agents, as a result of this, resulting in 38 criminal cases being made and 43 persons being arrested.

Now some facts relating to this particular project. The cases prepared for prosecution were directed toward violence-prone felons. In connection with where these guns were purchased, there were 20 stores on the fringe of the transitional business and commercial sections of downtown Atlanta, located within a half a mile area of one another. These were the major sources of the firearms and the typical firearms outlets identified in the project are, or basically there were nine pawnshops, one was a variety store; now the nine pawnshops supplied 43 percent of the weapons sold, the variety

store alone was 24 percent. There were two sporting goods shops, gun shops in the locale that supplied 15 percent. There were five Army-Navy stores which supplied 10 percent and three discount hardware stores which supplied 8 percent.

Principal customers were in the lower economic strata. Now the typical firearm used in the violation relative to the gun pickups by the city of Atlanta Police Department were short barrel .22 caliber revolver of U.S. manufacture. In 40 percent of the cases made, the felon purchased the firearm direct from the licensee. Approximately 80 percent of the firearms traced originated in the metro-Atlanta area. So the weapons were available here in Atlanta.

The variety store just referred to received a compliance investigation and there were a large number of their Forms 4473 that were incomplete and, incidentally, this variety store did relinquish its firearms license.

Now, as to the characteristics of the types of firearms sold by this store, it was noted that of the total of 35, 33 were revolvers, one was an automatic, and one was a derringer, and the origin of manufacture of these weapons, 30 were manufactured here in the United States, three were from Germany, and two were in Brazil.

As far as caliber, 19 of these firearms were .22 caliber; five were .32 caliber; 10 were .38 caliber, and one was a .25 caliber.

Mr. CONYERS. Mr. Lane, would you permit us to interrupt for just a moment for Counsel Barboza to raise a question, precisely on that point?

Mr. LANE. Yes.

Mr. BARBOZA. You pointed out, as I understand, that in 40 percent of the cases where felons purchased guns, those purchases were from licensed firearms dealers. Do you have any evidence that this might be a trend across the country, that the large percentage of illegal buys are from legally licensed dealers?

Mr. LANE. Well I would say possibly—I could only speak for Georgia, I would say—I would say with the current laws the way they are, that—and I think it was expressed previously—that it is not difficult to get a weapon from a licensed dealer.

Mr. BARBOZA. In other words, a criminal does not have to rely on the underground to acquire his firearms; he can just go into a dealer's premises and purchase a gun?

Mr. LANE. Speaking for this locale, I would say that would be the situation.

Mr. BARBOZA. Thank you.

Mr. CONYERS. Mr. Gekas.

Mr. GEKAS. To expand on that just a touch further, the reason that criminals, or felons we should say, can go into pawnshops and variety stores and buy handguns—that is in violation of the handgun control act, isn't it?

Mr. LANE. That is correct, as a felon.

Mr. GEKAS. And the reason they can do that undetected is because there is no prechecking of a firearms purchaser prior to the sale of the gun?

Mr. LANE. That is correct.

Mr. GEKAS. And the expanded program that the President has proposed which would decrease the number of dealers and increase

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the number of special agents would be helpful in spotting such purchases by felons, but only after the sales have been made, isn't that right?

Mr. LANE. That is correct, but we would be in a much better position to carry out the current firearms laws with fewer dealers to contend with and with more agents to supervise the actual paper work you might say, the 4,473 and such, that the dealer is responsible to carry out.

Mr. GEKAS. The important point is that rather than preventing a purchase by a felon, you would be merely more easily able to detect it after the purchase has been made?

Mr. LANE. That is correct.

Mr. CONYERS. And what we want to do is to prevent that sale from ever being made.

We are alarmed by this 40 percent figure and it seems to me that what we can do in terms of shaping legislation that would operate to reduce 40 percent of the guns being bought from legally licensed dealers before the fact, would be more important than just finding out that statistic after the fact.

It seems to me that we are trying to look at our legislation from that point of view, and this statistic that you bring us is extremely—

Mr. LANE. Well as the current legislation is set up, that is correct; the violation occurs and then we investigate you might say.

Now actually, the current dealer has no way other than the word of the individual purchasing the weapon to determine whether or not he does have a record as a felon.

Mr. GEKAS. I wonder if I might address a question to the special agent from South Carolina. As I understand your statement, the proposed bill of the Governor of South Carolina and the Attorney General would have imposed a waiting period to enable checking of firearm purchasers?

Mr. RUSSELL. Yes, a 10-day waiting period is what they proposed, yes, sir, but it was defeated.

Mr. GEKAS. Oh, it was defeated?

Mr. RUSSELL. Yes, sir, it was defeated.

Mr. CONYERS. May I yield to our colleague, Congressman Mann.

Mr. MANN. Well, I didn't particularly want to interrupt at this point, but I had in mind exploring these specific subjects.

In the first place, let's agree that the ATF has no particular use of the 4473's except to file them away.

Mr. LANE. Is that a statement or are you asking me a question?

Mr. MANN. A little of both.

Mr. LANE. Oh, well actually I would say with adequate personnel to handle the tremendous number of dealers we have today, I feel we could accomplish more than we have in that we would be better able to stay with the dealer, you might say, to see who is purchasing the weapons. When you make an individual aware, a licensee aware that you will be by his shop to check his books, he in turn is going to be more concerned about his sales, you might say.

Mr. MANN. Yes, on the other hand, he is not likely to be an expert on identification, in terms—

Mr. LANE. That is correct.

Mr. MANN. Of whether or not the felon is a felon.

Mr. LANE. There is identification involved, plus whether or not he is a felon.

Mr. MANN. The 40 percent that you uncovered really resulted from information incidental outside, informants, accidental type information, is that correct?

Mr. LANE. No, this part of this survey after the trace, revealed as we traced it back that actually these individuals went to licensed dealers and made these purchases.

Mr. MANN. All right. We talk about the possibility of additional agents to assist with that problem, it seems to me that if we are going to make adequate use of the 4473 and the FBI records, for example, on felons that we are just kidding ourselves if we think spot checks are going to do much, no matter how many people we have got spot checking.

Don't you think we need to computerize the whole operation and have a comparative run on all purchases?

Mr. LANE. Well if you can depend on your computers possibly yes, but as far as getting to the dealer you might say, if we can get a direct contact with the dealer, I feel that we can possibly do a better job—and not knocking computers—but, would a Federal computer be set up in such a way with cross backs and such to where it would actually serve us. If one could be set up to serve the field, I would say yes.

Mr. MANN. It could deal with various other things too like multiple gun sales and certain other motivations that might be coming along instead of already existing.

Mr. LANE. That is correct.

Mr. MANN. Now to be a little bit cynical about this situation, this 40 percent figure doesn't disturb me quite so much because I would suggest that if we do have an effective system of preventing purchases by felons from licensed dealers that they will buy them somewhere else.

Mr. LANE. Well, I won't argue with you on that.

Mr. MANN. There is nothing wrong with losing one loophole of course.

Mr. LANE. Well, actually, it is a case where we are making the best effort we can under the current regulations to make certain that the law is being abided by by all individuals.

Mr. MANN. We aren't really, because ATF could have done a lot more in the way of checking, in the way of budget requests for that matter.

Mr. LANE. That is correct.

Mr. MANN. And we need to check these things in advance.

Mr. LANE. That is correct.

Mr. MANN. Mr. Davis has admitted that there are many capabilities that the agency had under its current powers that it had been unable to carry out because of lack of funds and lack of personnel, but he wasn't getting our attention in that regard.

Mr. LANE. Yes.

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Mr. MANN. The waiting period problem, will that create any problems with your procedures under the dealership licensing system that exists now?

Mr. LANE. I could not foresee, you say in the event there were a mandatory waiting period?

Mr. MANN. Yes.

Mr. LANE. I don't foresee any problems as far as our work, it could possibly reduce the number of purchases.

Mr. MANN. Yes, it probably would. Of course, what you might do with the records during that waiting period would again depend upon your capability, of personnel and equipment?

Mr. LANE. That is correct.

Mr. MANN. And your relationship with law enforcement agencies I think would also contribute to this.

Mr. Russell, why, what was the major argument that defeated the 10-day waiting period proposed in South Carolina?

Mr. RUSSELL. I attended the committee hearings, Mr. Mann, and one gentleman stated that he felt that his constituents, if they wanted to purchase a gun, they should be able to purchase it today and it never was resolved at that committee meeting, and I do not know exactly why they finally did not pass that. I only attended that committee meeting.

Mr. MANN. Now I am curious and, Mr. Chairman, I will try to be brief, but Mr. Lane, I have glanced at the Georgia law, I don't think I know all of its provisions but I don't find anything, any strict Georgia requirement, with reference to the sale of weapons. I do see a dealer licensing system which that is all it is, just a system.

How do you account for the—admittedly South Carolina had no system—but how do you account for the—I don't think the system makes all the difference—how do you account for the situation in Greenville vis-a-vis Atlanta. Why weren't 1,200 handgun sales being made in Atlanta instead of Greenville?

Mr. LANE. I am not saying that there couldn't have been local sales of guns being made in Georgia, at least those have not come to our attention. I don't believe there have been that many.

Mr. MANN. But there doesn't even seem to be a recordkeeping department in the Georgia—

Mr. LANE. Well actually, relative to the State of Georgia licensing, yes. The only thing that I am aware, to our knowledge there are 760 handgun dealers licensed by the State of Georgia. I think that basically the control under State law is the licensing of handgun dealers and there are 760 of those, that is an estimate on our part, that we received from the State.

As far as there being apparently more from South Carolina than from Georgia, I couldn't tell you. I know during the fifties and sixties there was quite a migration of individuals up to the larger northern cities for economic reasons. Now whether there were more that migrated out of South Carolina than Georgia, and you might say had contacts up North and came back South on vacations and such and picked up weapons and carried them back, I wouldn't know if that was one of the reasons; but, we have not come across the multisales in Georgia as were observed in South Carolina.

Mr. MANN. Mr. Russell, do you have any idea why the difference?

Mr. RUSSELL. No, sir; I do not, other than that it was extremely easy in South Carolina to get handguns. In those cases that I cited and they are still ongoing but not necessarily the same magnitude as those investigated, but it appears that they would just come across the line, get a motel, and either establish some identification that would not necessarily satisfy me but possibly would satisfy the dealer, and they would load up and head back.

Mr. MANN. I think there was an atmosphere of general laxity with reference to gun control laws.

Mr. RUSSELL. Yes, sir.

Mr. MANN. And crimes in general and why drive an extra 150 miles.

Mr. RUSSELL. When they had Utopia in South Carolina.

Mr. MANN. I have heard it described as the first State coming down I-85 that had the least gun control laws and so perhaps there was a lot to that.

Mr. RUSSELL. That is right, sure, why go any further, they'd just stop off.

Mr. MANN. Thank you, Mr. Chairman, I have got some more but I'll drop in later.

Mr. CONYERS. Well, you raised one point or at least you caused an observation from Mr. Lane whom I think I heard say they didn't have any evidence of multiple gun sales going on in Georgia?

Mr. LANE. On the scale that was uncovered in South Carolina.

Mr. CONYERS. I see, a relative answer.

Mr. LANE. Yes.

Mr. CONYERS. Well, let me remind you at this point of a statement that was made by Congressman Andrew Young of Georgia in connection with a debate on the formation or continuation of the House Select Committee on the Central Intelligence Agency last week in which he pointed out that there was some dealer in guns who was a supplier to other countries operating out of Georgia to insurgent units in other places not inside the United States, who operated with a free hand in connection with a law enforcement agent because he was known to have connections with the Central Intelligence Agency.

Have you ever heard of allegations relative to this statement?

Mr. LANE. Well, we may have possibly made a case against that individual.

Mr. CONYERS. Then this matter is not new to you?

Mr. LANE. If it is the same individual and group that he refers to, like I say, I don't know to what extent I am permitted to go, but—

Mr. CONYERS. It sounds like a pretty big operation going on.

Mr. LANE. Well, we have, we have made cases under circumstances similar to what was described.

Mr. PIPER. Mr. Chairman, we have a pending case on that subject, if that's the same one, and we are kind of in a bind about testifying as we're in process of taking depositions and this type of thing.

Mr. CONYERS. I understand. Very well.

You may continue, sir, with your testimony, and thank you for permitting this extended interruption for questions.

Mr. LANE. Well, going back to this Project I, actually summing up, the barrel length of the firearms varied from 1½ to 4 inches with the majority having barrel lengths of 1¾ to 2 inches.

Now I noted roughly as far as court disposition of these Project I cases, up to date we have had approximately 14 of the 38 cases made in which the individual prosecuted did receive a period of time in custody of the attorney general.

Now relative to other projects, there has been an interstate firearms theft program. Actually prior to the program in Georgia, we did make investigations relative to interstate theft and there was one company that there was quite a bit of that being carried on, I think as many as 81 firearms and we did become involved in that particular thing, but since the inception of the program here in Georgia, our agents have conducted 49 investigations of theft involving from 1 to 65 firearms in each case, and further, the Georgia District office has entered into NCIC a total of 276 firearms which had been reported stolen, relative to this interstate firearms theft program.

In our text we did cite, I think, five cases which have been made and I won't go into that unless you ask for it.

This pretty much concludes my testimony and certainly I want to express my appreciation for the opportunity.

Mr. CONYERS. You are more than welcome.

Mr. Flynn, do you care to add anything to our discussion?

Mr. FLYNN. I have nothing to add, sir, unless there are some questions that I might be able to answer.

Mr. CONYERS. Project I covered what period of time, Mr. Lane?

Mr. LANE. From May of 1973 into January of 1974, approximately 8 months.

Mr. CONYERS. It is suggested it would be nice if we had a continuing project going on in all the regions, wouldn't it? It would really unearth a lot more investigations and prosecutions.

Mr. LANE. The reason I understand that it was discontinued was that they had just certain tracing capabilities and they could only handle four city projects at one time and we were the original—one of the original four and after that, they took four other cities and had to discontinue ours.

Mr. CONYERS. Mr. Russell, would you say that the program, 60 Minutes, that revealed the southern connection as it were in South Carolina gun availability had a major impact on the passage of State legislation in South Carolina?

Mr. RUSSELL. Yes, sir, I would say it did.

Mr. CONYERS. How was that program received in the State by the citizenry and among the public officials and among the media? Was there much controversy and discussion about this program?

Mr. RUSSELL. Yes, sir, very much so. There was a lot of discussion. Many people told us that they saw the program and they were astounded, you know, that they were not—they did not realize there was such a problem, you know, normal citizens, and they became aware of it.

Mr. CONYERS. And that, in effect, increased the pressure upon the State Legislature to act?

Mr. RUSSELL. I would say so, yes, sir.

Mr. CONYERS. Thank you very much.

Let me yield now to my colleague, Mr. Mann, for any further questions he might have.

Mr. MANN. Thank you, Mr. Chairman. I recall the testimony that there were 5,000 something licenses—

Mr. LANE. 5,726.

Mr. MANN. And under the Georgia State law there were 700 and something, now how do those two figures relate?

Mr. LANE. Well, actually I am not overly familiar with the handgun dealers in Georgia. It is basically I think a law which reads that if you deal in handguns you will get a license and as you are well aware, under the Federal firearms license law, ammunition dealers, this includes pawnbrokers and such as that, and that I think is a much wider scope. You have a greater description of a firearms licensee, it encompasses more individuals than your simple handgun dealers licensed in Georgia.

Mr. MANN. I would be surprised if only 700 and something of those 5,000-sold handguns.

Mr. LANE. Well, you have got a point there I believe. You have a number of, you might say, rural dealers who may not be involved in handguns.

Mr. MANN. I just wonder—I wouldn't imagine that Georgia would permit you to merely have a Federal license and sell without a State license nor would the Federal Government permit a person to operate under a State license without a Federal license.

Mr. LANE. Well, that is probably true. Now there hasn't been the correlation that there has been under the liquor licensees which runs pretty much hand in hand, exchange back and forth. They are both fairly independent, you might say, types of licenses, and you don't have that correlation like you have on a State liquor license and a Federal liquor license.

Mr. MANN. This raises an interesting point. As a prosecutor, I sometimes found that you could make a liquor case in the State court, Federal court, either one, or both, and that is generally true now of gun law violations, isn't it?

Mr. LANE. Pretty much. Now the Georgia, under your so-called gangster type weapons, title II, their law is identical to the Federal law, machine guns, sawed-off shotguns and such as that, they have a law identical to ours.

Mr. MANN. Have you had many cases of that nature in the last 12 months?

Mr. LANE. Have we?

Mr. MANN. Yes.

Mr. LANE. We have had cases and the State has had cases.

Mr. MANN. Which court do you usually choose?

Mr. LANE. Actually most of our cases go into Federal court.

Mr. MANN. I know there is a tendency to do that, unless you get a tough State judge—

Mr. LANE. Yes; that is correct.

Mr. MANN. I know that under the ATF recordkeeping system at the present time that there are records kept from the manufacturer down to the dealer, where guns go, where guns are shipped. Is there a requirement under the Federal law now that they report thefts of interstate carriers of shipments or does that show on any record in case you have to trace such a gun—well, that gun was manufactured at such and such a time and shipped by Overnite and our records show that the shipment never arrived and was presumably stolen. Do you find that out after the fact or do you get it before?

Mr. LANE. Well, actually you might say it is after the fact. The way the interstate theft program is set up now, the transporter, in the event it is theft from interstate, submits a card to Bureau headquarters in Washington. They fill the card out and then headquarters in turn notifies us of the theft of the shipment. Now in a number of instances, we have asked the transporter to call us direct and they will call us direct.

Mr. PIPER. Mr. Mann, if I could just enlarge on a little. Since June 30, 1975, ATF has received reports of loss or theft of 1,479 reports involving 10,800 firearms. That is from interstate thefts.

Mr. MANN. Since what date?

Mr. PIPER. Since June 30, 1975, as of that date. This was the initiation of the project up to that period.

Mr. MANN. That would be the whole 7 years?

Mr. PIPER. Yes.

Mr. MANN. Now I realize that we will be talking in relative terms when I ask these questions, because if we do things like computerize or have waiting periods we substantially change the figures that I am going to ask you about, but first how many of the additional 500 officers is this district going to get?

Mr. LANE. It is my understanding, Mr. Piper can probably answer it better, but it is my understanding we will not get any of the 500.

Mr. PIPER. We are losing 70 special agents, Mr. Mann, to the major cities in the north.

Mr. MANN. Cleaning up the Greenville situation provided that much extra people, did it?

[Laughter.]

Mr. LANE. Actually, I would say this, as far as Georgia we have 93 men. Staff-wise we are probably one of the largest and that is the result of the large liquor problem that used to exist. With the current problem of wagering which takes a tremendous number of man-hours to enforce.

Mr. MANN. You just recently got that primary duty?

Mr. LANE. That is correct.

Mr. MANN. When did you get it?

Mr. LANE. Actually it was passed the latter part of December and we took it over the first of this year and this past May, we made our first large case in Georgia.

Mr. MANN. You said it was passed and I don't know all of the laws that are passed, but how did ATF come by this gambling, wagering responsibility?

Mr. LANE. I will say it was passed in that the jurisdiction was given to the Bureau of Alcohol, Tobacco and Firearms.

Mr. MANN. By whom? The Department?

Mr. LANE. The Treasury Department, yes.

Mr. MANN. Did they have a separate division prior?

Mr. LANE. Intelligence had it and in addition, the wagering law was changed, the tax itself was changed and the percent of profit, income tax, which a person must submit to Internal Revenue was changed. Those two percentages were changed. The license itself as a gambler was changed and increased and the amount of tax an individual paid was decreased 10 to 2 percent.

Mr. MANN. Well, given those additional duties and admitting that the alcohol situation probably is leveling off in the last few years, do you need additional men, Mr. Piper?

Mr. PIPER. We have so many licenses, Mr. Mann, as I said, 33,800 odd licensees, I think if we are going to enforce the firearms laws, we should at least maintain the manpower we have or add to it. In the regulatory area, they only have 52 men down there and they are tied up on liquor, and therefore we do all the compliance work and we receive no help from regulatory at all.

Mr. MANN. Who is regulatory?

Mr. PIPER. Mr. Flynn is in charge of that operation; it is the other half of the house, and they just don't have the manpower to do the compliance and this type of thing. Mr. Flynn can probably tell you more about that than I, but I believe he told me the other day they had made a study and they need 150 men to take over the compliance aspect of the license; that would be our shortage in manpower.

Mr. MANN. Do you now try to maintain a schedule on special licensees?

Mr. PIPER. Yes, we do. We do an initial workup on all licensees. We don't issue a license in the southeast region without a background on the licensee and our record in that respect is good. We have done about 31,000. The recalls is another matter. We just don't have the manpower to go back and see the guy once he is licensed.

Mr. MANN. You don't have a schedule for doing that?

Mr. PIPER. We do have in the sense that we have priority dealers who we feel should be looked at. We go back and recontact them but I believe it is about 14 percent recalls.

Mr. MANN. Thank you, Mr. Chairman.

Mr. CONYERS. Yes. Counsel Chris Gekas.

Mr. GEKAS. I am sure you gentlemen are aware that the 16 cities project identification have just recently been off, the last phase was just recently completed, and three of the cities of the Northeast were New York, Boston, and Philadelphia and doing some rough computation the other day, it has been demonstrated from those statistics, that about 60 percent of the guns that were traced, in those three cities, came from four Southeastern States including South Carolina, Florida, Georgia, and Virginia and I think roughly in that order, although I am not certain; so the origin of the problem of handguns in the Northeast or eastern cities is the South-

eastern States. I think that has been very clearly established even here today.

Now, of the 500 agents, I understood one of you to say that you will be getting no new agents.

Mr. PIPER. We are losing 70 special agents in transfers to the major northern cities because of the impact of hiring new people. You have to have a 1-on-1 situation on a training-type thing. We are moving 70 experienced special agents to 10 designated major cities.

Mr. MANN. Excuse me, is that supposed to be temporary because of the training situation?

Mr. PIPER. No, sir, that is permanent; our staff is being reduced.

Mr. GEKAS. Let me make sure if I understand you; is that a net loss then of 70 agents or will new agents be hired to fill those slots?

Mr. PIPER. Sure, that is a net loss. We are losing 70 special agents. They are reducing our staff. We can hire, once our attrition drops below that staffing, then we can hire back to it, but our staffing is being reduced by 70 special agents.

Mr. GEKAS. They are going to reduce your slots?

Mr. PIPER. Yes, sir.

Mr. GEKAS. By 70.

Mr. PIPER. They are.

Mr. GEKAS. I understood from the Washington Bureau of ATF that the concept of fighting gun use in the 10 large metropolitan areas would include the sending of strike forces out to those areas of the country which are identified as sources of guns; is that something that is a part of the program that you gentlemen have heard of?

Mr. PIPER. Of course, that was the type thing that was set up in the Greenville project; that was initiated by the national office; they sent people down to direct the project but we furnished the manpower. I haven't heard of this strike force concept; no.

Mr. GEKAS. Well, I think to move on just to clear up one other area. I think it was Mr. Russell in his statement who discussed the method by which illegal purchasers obtain handguns in South Carolina and includes presentation of false identification, including social security cards.

When we were in Denver there was a situation of someone testifying about a situation about someone selling a felon who was just released from the State penitentiary who went to a store outside of Denver and used proof of his residence in the State of Colorado, his prison discharge papers, and one of the ways around that kind of situation as listed here, discussed or described in Mr. Russell's report where you say that it is prevalent to find that a convicted felon or a nonresident purchaser would pay a local derelict a small sum of money to make the firearms purchase.

Now if we, if the subcommittee and then the Congress, decided to establish some kind of system of prechecking of retail sales, one of the ways that criminals and nonresidents would get around it would be this, wouldn't it, to go to South Carolina and then pay someone, a resident or a derelict as you call it, to go in and buy the weapon for him, even if there was a precheck procedure; that sale

would be, would appear to be, valid. Indeed, would be legal, wouldn't it?

Mr. RUSSELL. If he had no prior felony conviction, it could very easily be so. Now—but we have got to remember that most of these things are almost spontaneous. We have found so many where the transactions are made in one day, whereas if the man talked to a local derelict and said I'll give you \$2 to buy me a gun; if this derelict knows that his name is going to be submitted for a record check, I doubt very seriously if he would go through with it; he may; but as I say, so many are spontaneous that if you arrived in a town, cruised the pool halls or wherever these people are, on the street, he finds him, he gives him a couple of dollars and we have found this, he'll actually write down the description of the firearms he wants; he'll go to the stores; he will look in the case; he will get exactly the description of the gun, write it on a piece of paper; the derelict goes to the man and says this is the gun I want. The man delivers the gun, the derelict signs the 4473, and so forth, the man pays him, he brings it out, walks down two blocks or one block or maybe in front of the store and he gives the man the gun and the man is off and gone. That is, it is just so common, a common practice.

Mr. GEKAS. The word "spontaneous" is a bit misleading I think. The sense that I got from the situation that you described that the person who went into the store and described it went through a very elaborate procedure. In other words, he came down into South Carolina intent on getting a handgun and this is the way he did it.

Mr. RUSSELL. Yes, sir.

Mr. GEKAS. So the spontaneity involved would be just in locating which derelict.

Mr. RUSSELL. Yes, that's right. I don't mean just the gun right then but it takes reconnaissance, a little planning, and then it's done.

Mr. GEKAS. Well, I think one of the things we have to be concerned about is not drawing up a law that just changes the method of illegal acquisition of handguns. If we establish prechecks of retail sales, well then the criminals and nonresidents would just go around it a different way and what it suggests, I guess in theory at least, is that there has to be some subsequent controls and regulations of transfers, at least in theory; wouldn't you agree with that?

Mr. RUSSELL. Yes, sir.

Mr. CONYERS. Mr. Barboza.

Mr. BARBOZA. Mr. Lane, Mr. Mann engaged you in a discussion of dealer qualifications; presently under the existing law, there are five qualifications for a dealer; he must be 21 years of age, not be prohibited from transporting or shipping firearms, not be in willful violation of the Gun Control Act, and not have failed to disclose material information, and he must have premises within the particular State in which he intends to do business in. Is there a requirement that a federally licensed firearms dealer comply with all State and local laws prior to acquiring a Federal firearms license?

Mr. LANE. I think, now I am not positive, but it is normally that it will not be in conflict with State law normally.

Mr. BARBOZA. It is not a requirement.

Mr. LANE. No.

Mr. BARBOZA. That he have obtained the requisite State or city license?

Mr. LANE. To my knowledge, it is not.

Mr. BARBOZA. It is a violation if he sells firearms in violation of city or local ordinances?

Mr. LANE. To my knowledge, it is; that is correct.

Mr. BARBOZA. So then you have mentioned also that there is difficulty in making compliance inspections, so that there is no guarantee that an individual who possesses a Federal firearms license and fails to obtain the required city or State licenses is not indeed engaged in the sale of handguns. I don't have the State or city ordinance for the State of South Carolina or for Georgia, but I do believe you said that it was required that they obtain a license to sell handguns.

Mr. LANE. That is my understanding. It is just a simple license that if you engage in selling handguns, you have a license.

Mr. BARBOZA. A firearms dealer then could be selling handguns without the required State license.

Mr. LANE. That is correct.

Mr. BARBOZA. Have you run across in any of your compliance inspections, any licensed firearms dealers who have indeed sold handguns in violation of the State laws in either Georgia or South Carolina.

Mr. MANN. As far as making such cases.

Mr. LANE. Actually we have made no cases, no.

Actually we are probably more intent when we go into a place to make certain that they were complying with Federal regulations; there are so many, that we probably don't become involved as to whether or not State law is being complied with too.

Mr. BARBOZA. What kind of premises do firearms dealers have?

Mr. LANE. Well actually—

Mr. MANN. Excuse me, let me interrupt you. The point you were just on, you know, I have a sneaking suspicion that the Internal Revenue Service makes available to the State tax commission any problems they find on income taxes, is there any reason you shouldn't obtain from the State of Georgia a list of their handgun licensees and use it as a cross check as you go about your business advising them of any obvious violations?

Mr. LANE. I think provisions could be made for that. We have this disclosure act where you have to be extremely careful relative to information that you disclose relative to occupational tax stamps and such.

Now—

Mr. MANN. You know, there is honor among thieves.

Mr. LANE. Yes.

Mr. MANN. We don't tell tales on any people, that is not our business, but isn't it about time we started doing that?

Mr. LANE. I can say this. There has been no—

Mr. MANN. Coverup.

Mr. LANE. No, there has been no agreement between the State of Georgia and ATF relative to this, does this individual hold a State as well as a Federal.

Mr. MANN. It wouldn't take much, I am sure they would be glad to give you their list.

Mr. LANE. Well actually, you know, there used to be that working agreement relative to liquor license which worked extremely well, and I think with the proper legislation and such, maybe you could cross-reference relative to Federal and State licenses.

Mr. MANN. Well, even though Georgia I am sure does a good job at law enforcement, I doubt if their gun division, gun licensing division has many inspectors to go around and find out who is selling guns without a license.

Mr. LANE. That's correct.

Mr. MANN. And yet you have a good many people involved in walking into those establishments every day and you can see whether or not they are selling handguns and can see whether or not they are on the Georgia list. If they are, a little phone call will tell Georgia that maybe this is a violator. Would that bother your conscience?

Mr. LANE. As long as it didn't bother the law, it wouldn't bother my conscience, I will say that. I have no objection.

Another thing we do have, we have quite a transition of new licensees in Georgia alone. We gain about—we don't actually gain because you lose licensees too but there is about 50, approximately 50 new licensees each month that you have to investigate applications and that is time consuming there too, not only must you go by relative to compliance but you have got all of these new people coming in.

Mr. MANN. I understand. Thank you.

Mr. BARBOZA. Mr. Lane, with respect to the number of firearms being manufactured in the United States and being sent to various areas of the country, the chairman sent a letter to 34 handgun manufacturers requesting certain information on their dealers—the dealers who purchase firearms from them. Do you have any idea of the number of licensees who engage in purchasing large quantities of firearms from manufacturers in the State of Georgia? These are licensed dealers, jobbers I assume they call them, who merely buy from manufacturers and resell to licensed firearms dealers.

Mr. LANE. I am afraid I didn't catch all of that question, but is it basically individuals, licensed dealers buying and reselling?

[Interruption due to live action TV broadcast, again.]

Mr. BARBOZA. Reselling, wholesaling firearms.

Mr. LANE. Well, actually you have some individuals that do sell to other licensees. Like you'll have a large outlet, say in Macon, perfectly legal. They in turn will sell to lesser dealers quantity-wise in Georgia.

Mr. BARBOZA. Do you make any special effort to identify these large distributors?

Mr. LANE. We are normally aware of them. We are aware.

Mr. BARBOZA. How would you compare the inspection of the smaller dealers with the inspection of the larger dealers?

Mr. LANE. Well, they are more frequent, like such as these actual pawnshops in Atlanta where we know a tremendous number of guns come out of these shops. These people will receive much more frequent compliance investigations than an individual in a rural area

who we know is doing nothing but selling during hunting season and such as that.

Mr. BARBOZA. If we were to ask that you provide the subcommittee with information concerning wholesale distributorships in the Atlanta area or in the Greenville area, would you be able to do such a task?

Mr. LANE. Well, as far as the—we could get the information for you.

Mr. BARBOZA. Well, I won't hold you in suspense. We have information here which was gleaned from printouts of not only the Federal firearms dealers but from the responses of approximately 10 handgun manufacturers, answering the chairman's letter. We found that Alabama had 12, Florida 37, Georgia 21, Mississippi 9, North Carolina 13, South Carolina 10, Tennessee 16; what I am wondering is why such a low number for South Carolina? In looking through we find very few to South Carolina. We found a number of dealers in Dallas, Tex.; now guns may be shipped from Dallas, Tex., to wholesalers in South Carolina or into Atlanta. So, guns may be traveling from manufacturers in the northeast to a wholesaler in the southwestern part of the country and then back east to the southeast?

Mr. LANE. I would say it is more of a jobbing situation you know as you have in other items, a jobbing situation, where you have one individual that deals in quantities and then lets out to other lesser dealers.

Mr. BARBOZA. That does though, doesn't it, raise some problems for regulatory enforcement, because there may be large quantities of firearms entering Dallas, Tex., for resale in other cities. So, in terms of your own resources, wouldn't it be important to have a large number of agents in areas where there are large quantities of guns, to know how many guns are going into that area and how many are leaving that area?

Mr. LANE. It would be extremely important to have that information to start with, that an individual say is receiving firearms from this Texas outlet into Georgia and certainly it would get our attention immediately.

Mr. BARBOZA. Another issue that Mr. Mann brought up, concerning carriers of firearms, right now there is no requirement that a carrier report thefts, it is a voluntary situation, isn't that correct?

Mr. LANE. It started, yes, on a voluntary basis.

Mr. BARBOZA. It still is voluntary, isn't it?

Mr. LANE. That is correct.

Mr. BARBOZA. Does ATF have a list of firearms carriers in the various areas of the country, or in a region?

Mr. LANE. Each State made up and was furnished a list of all transporters, not necessarily all transporters would carry firearms but we had, I think it was 140 some odd that were contacted and also we contacted say, the headquarters here in Atlanta, that also had offices in other States.

Mr. BARBOZA. How many other carriers would carry firearms besides this 140?

Mr. LANE. This would be difficult to say.

Mr. BARBOZA. Do you have any idea of how many people are engaged in carrying firearms in the country or in your region?

Mr. LANE. Well, I couldn't say, but our special agents contacted 143 terminal transport managers in Georgia and solicited their cooperation, so we contacted just about every terminal in Georgia relative to this program.

Mr. BARBOZA. Do you have any requirement that a carrier report to you that he is engaged in transporting firearms or that the manufacturer report to you the names of the carriers who are shipping his firearms?

Mr. LANE. No. Each was given a poster to display warning against interstate firearms theft. They are also furnished with a supply of Form 46, Report of Theft or Loss of Firearms, to be used in reporting thefts. That is what I said, they are mailed to the Bureau headquarters in Washington and they in turn would notify us, but we have also gotten phone calls relative to these thefts.

Mr. CONYERS. Of course, displaying a poster might be a good way of advertising who is running the guns; right?

Mr. LANE. Well, that is true. A lot of these thefts were internal you might say, within the group itself.

Mr. BARBOZA. Well, let's construct a situation in which we could determine who is carrying firearms. What if there were a requirement that shippers and manufacturers report the names of the carriers of their firearms to ATF, and that the carriers report, perhaps once or twice a year, and indicate the fact they are carrying firearms, then you would know—not only have a cross-check from the manufacturers' submission, but also you would know precisely who is carrying firearms in the country.

Mr. LANE. That is correct.

Mr. BARBOZA. What if we further required that carriers maintain a list of the serial numbers of the firearms they transport in their main offices and on the vehicle carrying the firearms. What if they also were required to maintain a list of the persons engaged in either handling firearms or transporting the firearms so that there would be a check on the pilferage of firearms by the employees. Would that kind of an approach aid you in getting a better handle or better understanding of the firearms thefts, and, of course, requiring that shippers report all firearms thefts to ATF?

Mr. LANE. Well, I am not being critical of the terminals as such, but basically that material transfers from one group to another so quickly, as far as recordkeeping, it's extremely difficult for them to maintain records. It appears to be.

Mr. BARBOZA. It wouldn't require keeping of records but merely reports. The manufacturer would provide a list of serial numbers. It is unlawful to transport a handgun that has an obliterated serial number. In effect, how would a trucker know if he were violating a law now if the handguns are in a box? If he were told by the manufacturer that this is a list of the firearms you are going to carry and, in addition to this, you are required to record the people who will be handling them in the course of travel from me to the person who is on the receiving end. That is not much of a burden, is it?

Mr. LANE. I am not being critical, no, but you say not much of a burden. The reason I say that is a lot of selling guns and they change clerks about every other week and those individuals, we are supposed

to be informed relative to the Federal regulations, and it is a tremendous task.

Mr. BARBOZA. There is no requirement now? It is a voluntary thing in your region, for dealers to report employees who are engaged in the sale of firearms?

Mr. LANE. Well, actually when you have a corporation, the individuals involved in selling have to be identified and that is what I was saying, they change clerks so quickly, say out of the firearms—

Mr. BARBOZA. Could you tell us how they are identified?

Mr. LANE. By name and position.

Mr. BARBOZA. Is that information sent to your region or to AFT?

Mr. LANE. Well AFT gets it, it is actually supposed to be in connection with the license, when they apply for license, who will handle the weapon.

Mr. BARBOZA. But there is no requirement that they update that?

Mr. LANE. That is correct. Technically it is supposed to be kept up to date, but unless we go by and make a compliance investigation, because they change clerks so often, that it gets lost on the way you might say.

I will say this that under the new explosive law, they are required to report thefts of explosives.

Mr. CONYERS. Well I think counsel's line of questioning is interesting in this regard. If it is important to know who the clerks are in the dime store that is selling the guns, we sure ought to know who the interstate shippers are going in and out of State. We may be countenancing, merely by not asking the name, rank, and serial number of these shippers, wholesale transfers of hundreds of thousands of weapons annually that merely asking might be averted. Now, on the other hand, it is sort of interesting to me that if this requirement applied to sales personnel in the department stores and so forth and and they are changing clerks so frequently that it is a running administrative problem. I am just beginning to wonder how much those clerks, the sales persons, know about the weapons that they are selling in terms of what they can do, how they are maintained, how the forms should be filled out, what kind of ammunition should be used, and how the weapon should be handled. It seems like this is an important area for those of us who are trying to get a handle on the dimensions of this enormously complex subject. Within the regulatory scheme and within the legislative process, we could become a lot more effective.

Now I realize that everything we say is conditioned upon ATF being developed in terms of its resources so they can do this. I am not suggesting for a minute that all of these additional responsibilities be absorbed by your existing staff, but there is a legislative question. If reducing the number of homicides and accidents with handguns are as important an objective as we say it is, then we must be prepared to make these changes and then furnish the necessary resources for those charged with enforcement of these laws and regulations to do the job.

Mr. LANE. I understand, I am not positive, Mr. Piper can possibly answer better himself, but I understand that it's to be arranged that a complete trace will be made of firearms from the manufacturer

out to the States and most of your manufacturers are I think in New York, New England, most of your larger, I believe that is correct, aren't they in the process of running this trace from point of origin to final destination.

Mr. BARBOZA. But then if that is after the fact, after the gun has been used in a criminal sense, this does not get to the issue of deterring illegal sales, knowing where the firearms are being sold and shipped in the country.

Mr. LANE. Well that is correct, I was just—in relation to your question relative to tracing through shippers. I believe they are in the process of setting that up.

Mr. CONYERS. Well, gentlemen, I am going to have to terminate this discussion. You have been very helpful. I applaud the diligence of the southeast region and I cannot yet quite understand why in the face of all of the increased understanding about the southern connection and the problems that are only recently becoming more and more public and more understandable that you are confronted with a reduction in force, while at the same time nationally AFT is receiving a manpower increase. It seems to me that we are going to have to examine that with Rex Davis who appears before us with some regularity during the course of these proceedings.

Mr. LANE. It appears that the source of irritation is here and it is going to take some manpower to remove the source of irritation at this point in order that you do have fewer guns up in the larger 10 metropolitan cities.

Mr. GEKAS. One quick question. In the course of project identification for New York, Philadelphia and Boston, did you gentlemen do collateral investigation whereby you went out and polled the 4473's for the guns that were involved in the project I in the north and then do further investigations on the purchaser to determine residence and prior criminal history?

Mr. LANE. You mean here in Atlanta?

We sent what is called the Form 5000 up, they sent it back to us with information relative to the dealer. We went to the dealer, from the dealer we went to the individual, and interviewed them.

Mr. GEKAS. For Project I?

Mr. LANE. Yes, and checked their police records.

Mr. GEKAS. In all cases?

Mr. LANE. Well, actually we had a criteria. I could read it if you would like.

Mr. GEKAS. No, no.

Mr. LANE. The Assistant U.S. Attorney—it is actual felons who you might say are dangerous to the public with a gun in their hand. We limited it to that. We had 200 and some odd investigations out of 700 and something traces.

Mr. GEKAS. All right, just to finish up, do you have those files, did you maintain copies of those investigative reports?

Mr. LANE. Those Form 5000 would be on file and to the best of my knowledge, the other information relative to individuals naturally on whom cases were being made which I think is in the record, where we identified them by a number, a case number.

Mr. GEKAS. So they can be retrieved?

Mr. LANE. So those can be retrieved.

Mr. GEKAS. Is that the case in South Carolina?

Mr. RUSSELL. I would think so.

Mr. LANE. That is correct.

Mr. GEKAS. Thank you.

Mr. CONYERS. Gentlemen, we are in your debt. Keep up the good work.

Mr. LANE. Thank you very much.

Mr. PIPER. Thank you.

Mr. CONYERS. Our final witness before luncheon recess is Councilman Morris Finley who has evidenced a continued concern in this subject. We welcome him to the witness table at this point.

We note that you have a prepared statement and will enter it in the record at this point.

[The prepared statement of Mr. Finley follows:]

PREPARED STATEMENT OF MORRIS FINLEY, COUNCILMAN, ATLANTA, GA.

I am Morris Finley. I am a lifetime resident of the city of Atlanta and a member of the Atlanta City Council. I represent the fifth (5th) district of the city—the major part of which is located in De Kalb County. My district, gentlemen, is sometimes called a ghetto. It is a community of severe poverty and high incidence of crime and violence. Within this district is a public housing development known as East Lake Meadows which houses more than 5000 citizens—80% of whom are dependent on public welfare.

Gentlemen, let me express to you my appreciation for this opportunity to appear before you. Now, I have tried to say that my district has some of all of the negative attributes that a community can have. It is amazing that it has held together as well as it has. However, I am not here to talk about the negative. I want to use this occasion and this opportunity to accentuate the positive.

Let me begin by making it clear that I would like to live in a community void of all handguns—including those carried by police. We must never lose sight of the fact that there are cities, London, England, for example, in which such weapons are in rare use. When I talk about this subject, I take pleasure in pointing out the fact that there are black communities in this country distinguished by their peace and tranquility in the absence of guns, jails, and police.

Numerous studies have shown that persons of socio-economically depressed backgrounds are more prone to commit anti-social acts than are persons from more affluent backgrounds. Such anti-social acts are too often manifested in handgun abuse. Social depression is a natural outgrowth of economic expression which all too often leads to an attempt to better one's conditions through anti-social means involving handguns.

Many, and perhaps most crimes are in some way economically motivated—that is, the criminal's basic motivation is related to income and thus to his standard of living. The obvious exception to this are crimes of passion where emotion overwhelms reason, and crimes committed by the insane.

Former Attorney General Ramsey Clark in his book entitled, *Crime in America*, stated that of most serious crimes listed in the F.B.I. index of serious crimes; robbery, burglary, and larceny motivated, are the most frequent in urbanized areas. Since violence or potential violence is likely to be incidental to obtaining income that is derived from such crimes, it may be concluded that a high percentage of the indexed crimes involve some form of property, including money. Thus, most crimes considered serious by the F.B.I. involve economic motivations.

Having made the above observation, it appears reasonable to assume that crime may be reduced by increasing the opportunities and income that an individual can obtain from legal employment. This point is further emphasized in numerous statistical observations pointing to the fact that there are more violent crimes among the poor and ill-educated than among the wealthy and

well-educated. Victimization rates are also eight to ten times higher for ghetto dwellers than for the more affluent.

The crime and homicide problem facing the society cannot be eliminated by simply and solely making acquisition of a handgun more difficult, or registration mandatory. This legislative undertaking must continue. However, the problem is deeper than that. We must get to the roots of the failure of our society to provide adequate employment, educational and recreational opportunities to its masses. Until this problem is confronted, attacked and resolved, handgun legislation will only achieve part of its intended purpose.

The way of attacking the crime problem in Atlanta and the rest of the Nation is by reducing and eliminating the conditions that are leading our citizens to crime. This can be done by providing more and better employment opportunities, better and more opportunities for education and improving recreation.

I appeal to you, gentlemen of the Congress, in your broadest legislative responsibility, to use your power and authority to address the need of our people so very apparent at this time.

Mr. CONYERS. By entering your statement in the record in its entirety, that will allow you to make any additional comments you may wish.

TESTIMONY OF MORRIS FINLEY, ATLANTA CITY COUNCIL

Mr. FINLEY. Thank you.

Mr. Chairman, members of this distinguished congressional hearing panel, I am Morris Finley. I am a lifetime resident of the city of Atlanta and a member of the Atlanta City Council. I represent the Fifth District of the city, the major part of which is located in DeKalb County. My district, gentlemen, is sometimes called a ghetto. It is a community of severe poverty and high incidence of crime and violence. Within this district is a Public Housing Development known as East Lake Meadows which houses more than 5,000 persons, over 80 percent of whom are dependent on Public Welfare.

Gentlemen, let me express to you my appreciation for this opportunity to appear before you. Now I have tried to say that my district has some of all of the negative attributes that a community can have. It is amazing that it has held together as well as it has. However, I am not here to talk about the negative. I want to use this occasion and this opportunity to accentuate the positive.

Let me begin by making it clear that I would like to live in a community void of all handguns, including those carried by policemen. We must never lose sight of the fact that there are cities—London, England, for example—in which such weapons are in rare use. When I talk about this subject, I take pleasure in pointing out the fact that there are black communities in this country distinguished by their peace and tranquility in the absence of guns, jails, and police.

Numerous studies have shown that persons of socioeconomically depressed backgrounds are more often prone to commit antisocial acts than are persons from more affluent backgrounds. Such antisocial acts are too often manifested in handgun abuse. Social depression is a natural outgrowth of economic expression which all too often leads to an attempt to better ones condition through antisocial means involving handguns.

Many, and perhaps most crimes are in some way economically motivated—that is, the criminal's basic motivation is related to in-

# FIREARMS LEGISLATION

## HEARINGS

BEFORE THE

SUBCOMMITTEE ON CRIME

OF THE

COMMITTEE ON THE JUDICIARY

HOUSE OF REPRESENTATIVES

NINETY-FOURTH CONGRESS

FIRST SESSION

ON

FIREARMS LEGISLATION

These hearings are in 8 parts. Part 1 (Washington) February 18, 20, 27, March 5, 6, 13, 20, 26, and April 9; Part 2 (Chicago) April 14 and 15; Part 3 (Detroit) June 9 and 10; Part 4 (Cleveland) June 16; Part 5 (Denver) June 23; Part 6 (Atlanta) July 21; Part 7 (New York) July 25; Part 8 (Washington) May 14, July 17, 23, 24, September 24, and October 1 and 9, 1975

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(II)

CONTENTS

Witnesses—

Anop, Victor M., executive director, Gun Owners' Action League, Southboro, Mass.....	Page 2365
Prepared statement.....	2387
Beame, Hon. Abraham B., Mayor of New York City.....	2205
Prepared statement.....	2212
Buckley, John J., sheriff, Middlesex County, Mass.....	2317
Prepared statement.....	2343
Carver, John D., executive director, Massachusetts Council on Crime and Corrections, Inc.....	2319
Prepared statement.....	2341
Codd, Hon. Michael J., commissioner of police, New York City.....	2175
Prepared statement.....	2182
Connelie, William G., superintendent of the New York State Police Department.....	2184
Prepared statement.....	2196
Del Tufo, Robert J., first assistant attorney general, State of New Jersey.....	2184
Prepared statement.....	2200
Di Grazia, Hon. Robert J., commissioner of police, Boston, Mass.....	2164
Prepared statement.....	2172
Fink, Hon. Stanley, chairman, New York State Assembly Committee on Codes.....	2214
Prepared statement.....	2217
Fitzgerald, William F., supervisor of firearms, Records Bureau, Massachusetts Department of Public Safety.....	2184
Prepared statement.....	2204
Fox, Hon. John, former judge for the State of Massachusetts.....	2345
George, Thomas, assistant regional director, Regulatory Enforcement, Bureau of Alcohol, Tobacco, and Firearms.....	2295
Goodwin, M. L., acting regional director, North Atlantic Region, Bureau of Alcohol, Tobacco, and Firearms.....	2295
Prepared statement.....	2282
Gressey, Howard D., general counsel, Disarm, Inc.....	2322
Prepared statement.....	2343
Hogan, Hon. William F., chairman, Committee on Public Safety, Massachusetts House of Representatives.....	2214
Lennox, Ian, executive director, Citizens Commission on Crime, Philadelphia, Pa.....	2325
Maloney, Peter J., deputy inspector, New York City Police Department.....	2184
Prepared statement.....	2199
Metaksa, Tanya R., representing the Connecticut Sportsmen's Alliance of Niantic, Conn.....	2365
Prepared statement.....	2408
Morrisey, Harry T., assistant regional director, (Criminal Enforcement), Mid-Atlantic Region, Bureau of Alcohol, Tobacco, and Firearms.....	2295
Prepared statement.....	2287
Potter, Lillian K., executive director, Handgun Alert, Inc., Providence R.I.....	2314
Preiser, Gerry, Federation of Greater New York Pistol and Rifle Clubs.....	2246
Talbot, Hon. Gerald E., member, Maine House of Representatives.....	2214
Volk, Franklin R., chairman, Special Committee on Firearms Legislation, New York State Conservation Council.....	2246
Prepared statement.....	2256

Additional material —	
	Page
Bingham, Hon, Jonathan B., a Representative in Congress From the State of New York, Prepared statement.....	2163
Koch, Hon. Edward L., a Representative in Congress From the State of New York, prepared statement.....	2160
Rangel, Hon. Charles B., a Representative in Congress From the State of New York, prepared statement.....	2158
"Speaker's Summary of the Gun Laws," the Commonwealth of Massachusetts.....	2222
Appendixes —	
Appendix 1.—Correspondence between G. Marie Wilt, Research Institute, Wayne State University and Timothy J. Hart, assistant counsel, Subcommittee on Crime, with enclosed article entitled "Homicide—An Overview".....	2413
Appendix 2.—Statement of James Mullarkey, president of Northeastern States Council of Sportsmen Inc.....	2420
Appendix 3.—"Handgun Control in Massachusetts: a Report to the Governor".....	2421
Appendix 4.—"Homicide Analysis—New York City—1973".....	2434
Appendix 5.—"Tokyo—One City Where Crime Doesn't Pay".....	2462
Appendix 6.—Correspondence.....	2521

## FIREARMS LEGISLATION

NEW YORK, N.Y.—FRIDAY, JULY 25, 1975

U.S. HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON CRIME OF THE  
COMMITTEE ON THE JUDICIARY,  
*Washington, D.C.*

The subcommittee met, pursuant to notice, at 8:30 a.m., in the U.S. United Nations Mission Building, the Honorable John Conyers, Jr. [chairman of the subcommittee] presiding.

Present: Representatives Conyers and McClory.

Also present: Maurice A. Barboza, counsel; Timothy J. Hart, assistant counsel; and Constantine J. Gekas, associate counsel.

Mr. CONYERS. The subcommittee will come to order.

Good morning. The hearings on firearms regulations of the Subcommittee on Crime of the House Committee on the Judiciary continues this morning in the city of New York.

This is the final regional hearing that the committee will be holding in connection with the subject of firearms regulations, having been in several other parts of the country.

On behalf of the subcommittee, I am very pleased to be in the city of New York, to hear testimony from not only the mayor and the police commissioner, distinguished legislators, and others, but we are also going to be hearing from other officials and law enforcement representatives from the general Northeast region.

This has been an extremely important set of hearings, probably the most important we have undertaken. I am proud and privileged to have with me the ranking minority member of this subcommittee, the gentleman from Illinois, Mr. Robert McClory.

Before I yield to him for his opening comments, I would just add that this subcommittee is working now toward a bill of its own. There have been many introduced since our hearings have begun.

The administration has recently moved toward some legislation on this subject. The U.S. Senate is now engaged in constructive and important work which we hope will measure with our own activities. It seems clear to me that the Congress of the United States is now moving toward some new action that would implement and make better operationally the Gun Control Act of 1968. It is in that spirit that this subcommittee comes to New York City to discuss with outstanding law enforcement agents, leaders, citizens, rifle organizations, and other sportsmen the kinds of questions that we know should be given careful consideration as we move toward a final legislative result. I yield now to my good friend from Illinois, Mr. Robert McClory.

Mr. McCLORY. Thank you, Mr. Chairman.

## ASSISTANCE TO STATE &amp; LOCAL LAW ENFORCEMENT AGENCIES

During FY 1975 ATF in the Mid-Atlantic Region referred 312 violations not within the Bureau's jurisdiction to other law enforcement agencies; sixty-three percent (63%) of these referrals were to state and local law enforcement agencies.

In addition, of the 547 gun and explosives cases made by ATF in Mid-Atlantic Region during FY 1975, 136 cases were perfected jointly with state and local police.

Examples of the type referrals made to state and local police are as follows:

1. On March 18, 1975, information was received from an ATF informant that Michael Louis Corbett, Scott Edward Gilmer and Michael Andrew Truslow, all of Staunton, Va., had stolen a quantity of explosive materials from A. J. Conner, General Construction Co., Staunton, Va. on or about January 30, 1975. Further investigation revealed that the above subjects stole the explosives for the purpose of blowing up a Virginia State Police undercover agent and his informant in retaliation for drug cases made by them. Corbett, Truslow and Gilmer, after being advised of their rights, all admitted this was the reason for stealing the explosives. On April 2, 1975, this information was related to Virginia State Police, along with copies of statements of the three men.

2. On March 9, 1975 Police Officer Theodore Staab, Baltimore, Maryland, pursued fleeing suspects from robbery scene. Officer Staab was shot by one of the robbers using a sawed-off shotgun. Staab received serious stomach and chest injuries, but was able to fire at his assailants. The assailant abandoned the sawed-off shotgun at the scene. Spectators at the scene refused to aid the wounded officer and unidentified members of the crowd stole the sawed-off firearm and the policeman's handgun.

Baltimore detectives investigating case had only sketchy descriptions of the assailants/robbers.

On March 17, 1975, ATF Special Agents, Baltimore, through confidential informants obtained names and descriptions of the assailants and details regarding the crime, and referred it to the Baltimore Police who arrested the assailants.

3. In January 1975 information was referred to the Penn Central Railroad Security Office, Baltimore, Md. relating to the theft of 80 to 100 cases of cigarettes from a freight car destined for New Jersey. Additional information was also referred relative to the number of individuals in the burglary ring and a description of the ring leader and his vehicle. Penn Central confirmed the theft and the information was additionally referred to the Maryland State Police and to the Anne Arundel County, Maryland Police. As a result of this referral the state and county arrested three individuals.

4. An ATF Special Agent received confidential information that a Trenton, New Jersey resident, Joseph F. Zebrowski, was selling drugs from his home. The subject, a convicted felon, and member of the Breed Motorcycle Gang, was also known to be in possession of a hand gun purchased prior to enactment of GCA.

The ATF informant, working in cooperation with the Mercer County, New Jersey Organized Crime and Narcotics Strike Force, made several purchases of drugs from the subject. On December 5, 1974, New Jersey State Police and Mercer County Detectives executed a State search warrant on Zebrowski's residence. Drugs and marijuana were seized by the County. A revolver and a motorcycle with an obliterated serial number were seized by the State.

5. As a result of information and evidence furnished by a Special Agent, Baltimore Post of Duty, to West Virginia State Police, the following results have been obtained. Thirteen burglaries, one Post Office robbery, two thefts from mails and two interstate automobile thefts have been solved. The West Virginia State Police have arrested ten defendants presently charged with 26 felonies. Two of the defendants were on parole from murder convictions when arrested.

ATF Special Agents conducted formal training sessions ranging in length from two hours to one week for 4,048 state and local law enforcement officers during FY 1975.

## ATTACHMENT 6

## FIREARM TRACING REQUESTS RECEIVED IN MID-ATLANTIC REGION FROM LOCAL AND STATE POLICE, CALENDAR YEAR 1974

State	Number of requests	Number of separate police departments requesting traces
Delaware.....	32	3
District of Columbia.....	66	1
Maryland.....	368	31
City of Baltimore Police Department.....	(49)	
County of Baltimore Sheriff's Department.....	(26)	
Maryland State Police.....	(20)	
New Jersey.....	1,213	181
Newark Police Department.....	(20)	
New Jersey State Police.....	(122)	
Pennsylvania.....	2,075	158
Philadelphia Police Department.....	(1,064)	
Virginia.....	1,435	91
Richmond Police Department.....	(57)	
Total.....	5,189	462

<sup>1</sup> Includes 993 from Project I.

Note: 54 percent of all firearm trace requests received by ATF Bureau Headquarters were submitted by State, County, and local law enforcement agencies.

## STATEMENT OF HARRY T. "STEVE" MORRISSEY, ASSISTANT REGIONAL DIRECTOR (CRIMINAL ENFORCEMENT), MID-ATLANTIC REGION, BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS, DEPARTMENT OF TREASURY

Mr. Chairman and Members of the Committee: I am the Assistant Regional Director for Criminal Enforcement responsibilities in the Mid-Atlantic Region and under the jurisdiction of the Bureau of Alcohol, Tobacco and Firearms, Department of Treasury. My office is located in Philadelphia, Pennsylvania.

I introduce my colleague, Mr. Thomas George. He is the Chief, Field Operations for Regulatory Enforcement responsibilities in the Mid-Atlantic Region and under the jurisdiction of our Bureau. His office is also located at Philadelphia.

Before continuing, please accept the regrets of our Regional Director, Mr. Marvin Shaw. A previous commitment prevents his appearance before you at this particular time and place. Mr. Shaw is interested in the work of this Committee. He pledges that assistance and information available from our files and associates.

The Committee has previously learned much about our Bureau's organization, manpower, responsibilities, trials and accomplishments on a national level, with some local input through our Director and ATF officials from our Bureau's Headquarters and one or more of our other Regions. I now point out certain different data concerning my Region.

The Mid-Atlantic Region encompasses five states and the District of Columbia. The states are Delaware, Maryland, New Jersey, Pennsylvania and Virginia. This accounts for an overall land area of 160,687 square miles with an overall population of approximately 29 million people. Within our Region, we have three cities that rank within the top ten largest cities in the United States—Baltimore, Maryland; Philadelphia, Pennsylvania; and Washington, D.C. Attachment Number Two to this statement includes a breakdown of the population by state and the District of Columbia.

The Mid-Atlantic Region has 118 Inspectors under our Regulatory Enforcement operation. This force serves under 8 Area Supervisors located throughout the Region in such cities as Philadelphia, Newark, Union, Baltimore, Pittsburgh and Richmond.

calendar year 1974, the Federal excise taxes collected on tobacco, liquor and wine in our Region amounted to 1.4 billion dollars.

Attachment No. 2 also indicates a total of 14,788 firearms licensees and a total of 733 explosives licensees and permittees in the Mid-Atlantic Region, with a majority of the total licensees located in the state of Pennsylvania. In our Region, the Regulatory Enforcement operation, primarily through Inspectors, has completely assumed responsibility for the application and compliance inspections associated with commerce or licensing in firearms and explosives. This is in addition to their other responsibility to investigate the revenue aspects of the federal occupational and excise tax provisions for tobacco and liquor products, and the federal wagering statutes. More important, this frees our Criminal Investigators to concentrate full time to constructive criminal investigation, prosecution and related activities.

On the Criminal Enforcement side, we have 202 Special Agents throughout the Mid-Atlantic Region. This includes three Special Agents assigned full-time to the Justice Department's Strike Force Offices in the three cities of Newark (New Jersey), Philadelphia and Pittsburgh (Pennsylvania). This criminal investigative force works under four District Offices which are located at Falls Church, Virginia; Philadelphia, Pennsylvania; Richmond, Virginia; and Union, New Jersey. There is a Special Agent in Charge of each state in the Mid-Atlantic Region with the exception of Delaware and Maryland. These two states are under the Special Agent in Charge for our Washington (Falls Church) District Office. Attachment Number One includes our Post of Duty breakdown under each District Office, along with the cities or counties assigned to each post.

Let us now turn attention to some Criminal Enforcement accomplishments within my Region during Fiscal Year 1975. We arrested a total of 548 individuals for violation of one or more of the federal laws under ATF jurisdiction. In all, 803 defendants were recommended by us for federal prosecution. Most involved violation of those federal laws pertaining to firearms. Attachment Number Three to this statement gives a breakdown on the type of cases involved, by District Office.

We are also actively engaged in the Significant Criminal Enforcement Program—Armed and Dangerous. This program was started in December 1974 on a Bureau-wide basis and was implemented for the purpose of establishing a uniform nationwide program for the enforcement of the federal firearms and explosives laws.

The Bureau's SCEP has two major goals. The first is to investigate those significant violators in which there is a paramount federal prosecutive interest. The second is to assist state and local officers, as appropriate, in the enforcement of state and local firearms and explosives laws.

The principal objective of this program is to identify person or persons who are currently and actively engaged in felonious criminal violations of the federal firearms and explosives laws, and concurrently engaged in other felonious criminal violations which provide a great threat to the public safety. It is selective criminal investigation and prosecution dictated by limited resources in terms of manpower, equipment and money. Limited resources have been a problem to our Bureau these past few years.

In my opinion, our Region has been very successful to date with this type of selective criminal enforcement. Since inception of the Bureau's SCEP, we have identified and actively investigated 202 persons who were targeted as significant criminals. Of these, we have arrested 104 and an additional 10 have been recommended for prosecution (to be arrested after indictment). Attachment Number Four gives a breakdown of these accomplishments by District Office.

How is the criminal getting guns? There is no single answer to this question for the sources are many. We are involved with a Bureau program known as Project I, tracing of firearms received by a particular police department, usually over a three-month period. Through this project, we identify the source of handguns used in street crimes; and, for ATF and the local law enforcement agency involved, we develop intelligence regarding illicit firearms dealers, firearms theft rings and other suppliers of handguns to the criminal element.

During July, August and September of 1974, we completed a Project I survey in cooperation with the Philadelphia Police Department. A total of 993 firearms were reported by Philadelphia to our Bureau for tracing. Of these, 422 or 42 percent could not be traced because of age, incomplete records, or serial numbers had been removed. A detailed comprehensive report on the results of our Philadelphia Project I has been previously furnished this Committee.

One fact resulting from the Philadelphia study is that of the 571 firearms we did complete ATF tracing, a total of 131 or 23 percent were determined to be

stolen. This percentage is high when compared to the stolen firearms category resulting from similar studies throughout the United States (10 percent). More important, theft of firearms is a prime source of firearms for street criminals.

To shut off or minimize this source of handguns, ATF has implemented a National Firearms Security Program. This public education program encourages firearms dealers and the citizenry to secure their firearms to prevent theft and to record serial numbers to facilitate tracing in the event of theft or loss.

Public Service Announcements carrying this message have been enthusiastically received and frequently broadcast by TV and radio during the past two months. A newspaper and poster public education campaign has also been instituted.

In addition, ATF inaugurated its Interstate Firearms Theft Program about 18 months ago. In this program, we have contacted all commercial carriers who transport firearms to encourage improved security measures at terminals and on board delivery vehicles. We have asked the carriers to report gun thefts to ATF as soon as possible after occurrence to enable effective investigation. This program has been moderately successful and has resulted in the recovery of 1000 stolen firearms and the prosecution of 53 defendants nationwide; 12 defendants in my Region. This results from some 1500 reports of thefts involving 10,800 firearms.

On May 12, 1975, we initiated a Project I study in cooperation with the Police Department in the District of Columbia (Washington, D.C.). The results to date are incomplete. We have received over 500 individual firearms reports from the District Police. Preliminary tracing results indicate the source of most are dealers in the District and the two states of Maryland and Virginia.

We have also initiated investigative action on a local basis to detect possible sources of firearms to "street" criminals. Two examples of such efforts within the Mid-Atlantic Region are what we refer to as Project Oklahoma and Project 17.

Project Oklahoma is a special project in the Washington, D.C. area, relating to identification of licensed firearms dealers in areas or counties in and around Washington with lenient local firearms laws or regulations. Selected dealers are being investigated to determine the volume of illegal purchases being made by prohibited persons, such as convicted felons. All Firearms Transaction Records at such dealers are being examined for the past six months to determine multiple purchases, known convicted or suspicious persons purchasing firearms, suspicious addresses and so forth.

In this project, which was begun in May 1975, we have concentrated thus far on dealers in four counties in Northern Virginia which are under the jurisdiction of our Washington District Office (Loudoun, Prince William, Fauquier and Rappahannock). We have eliminated dealers who sell only long guns (shotguns and rifles) and have concentrated on those who also sell handguns. The results so far have been very impressive. We have identified 52 such dealers to this point. Of the first 1100 forms examined involving sales of handguns, approximately 50 percent involved multiple sales, i.e., purchases of more than one handgun from the dealer by the same person. One person purchased 16 handguns from one dealer in a six-month period, and other sales were found involving 13, 12, 11, 8 or a lesser number per purchaser. As this project continues, we expect to find similar patterns at other dealers, and we anticipate a number of criminal prosecutions of the violators involved. Further investigation of purchases on a selected basis will be made to determine the disposition of the handguns, particularly large multiple purchases. Preliminary indication is that some of these multiple purchasers are reselling the firearms to anybody on the street.

Project 17 was so named because it involved violations of Titles I and VII of the Gun Control Act of 1968. It was determined through investigation that a large number of persons, residents of Philadelphia, had gone to the same dealer in Delaware County, Pennsylvania to purchase firearms of all types; i.e., shotguns, rifles and handguns. The reason for this was to circumvent the stringent Philadelphia gun law which requires a criminal record check, fingerprinting, photographing and similar action before a person can purchase any firearm, and which therefore would have barred purchases by these persons, most of whom were convicted felons, and many of whom had extensive criminal records. We selected at random 114 Firearms Transaction Records and we determined that 28 of the purchasers had extensive felony records which prohibited them from possessing any firearm under federal law. Most, if not all, currently had reputations for continuing crime on the streets. These 28 violators were arrested in December 1974 and were charged with falsification of purchase records and/or possession of firearms by prohibited persons.

All of the 28 have been indicted; most of them have pleaded guilty and have been sentenced to probation.

Like our ATF associates throughout the United States, we are meeting commitments to Congressional intent that we assist state and local law enforcement in the battle against crime and violence in the streets. The above accomplishments reflect this fact. Of the 547 gun and explosive cases made by our Special Agents during Fiscal Year 1975, 136 cases were perfected jointly with state and local police officials.

Additional support is reflected in our referral of 312 significant violations to other law enforcement agencies during Fiscal Year 1975. A few examples are outlined in Attachment Number Five to this statement.

Also in Fiscal Year 1975, our Special Agents throughout the Mid-Atlantic Region conducted formal training for a total of 4,048 state and local law enforcement officers involving some 97 different independent agencies.

Finally, during Fiscal Year 1975, we received and acted upon a total of 5,189 individual firearms tracing requests from 462 state and local police agencies throughout our five states and the District of Columbia. Most of these firearms were involved in some type street crime. A breakdown of this tracing request action by state is reflected in Attachment Number Six.

I have read and reviewed the proposed changes in the law as put before this Committee by the Department of Treasury, also the proposals by President Gerald Ford. If the proposals become law and fact, we will be in a much better position to contend with our overall responsibilities, particularly legitimate and illegal traffic in firearms.

Thank you, Mr. Chairman. Now can we answer any questions you gentlemen may have?

UPDATING OF OFFICE JURISDICTIONS FOR ORGANIZATION MANUAL

The following list of District Office and Post of Duty jurisdictions is submitted in accordance with your request of January 14, 1975 and the instructions in the Assistant Director's (Administration) memorandum of January 10, 1975.

The name of the District Office and Post of Duty designates the location of the headquarters of that office unless otherwise indicated.

NEW JERSEY DISTRICT OFFICE—LOCATED AT UNION, N.J.

POD	Counties
Atlantic City-----	Atlantic, Cape May.
Camden-----	Burlington, Camden, Cumberland, Gloucester, Salem.
Trenton-----	Mercer, Monmouth, Ocean.
Union I-----	Bergen, Essex, Hudson, Passaic, Union.
Union II-----	Middlesex, Morris, Somerset, Sussex, Warren, Hunterdon.

PHILADELPHIA DISTRICT OFFICE

Doylestown-----	Bradford, Bucks, Carbon, Lackawanna, Lehigh, Luzerne, Monroe, Montgomery, Northampton, Pike, Sullivan, Susquehanna, Wayne, Wyoming.
Erie-----	Cameron, Crawford, Elk, Erie, Forest, McKean, Mercer, Potter, Venango, Warren.
Harrisburg-----	Adams, Bedford, Blair, Centre, Clinton, Cumberland, Dauphin, Franklin, Fulton, Huntingdon, Juniata, Mifflin, Perry, Snyder, Union, York.
Philadelphia I-----	Chester, Philadelphia (South).
Philadelphia II-----	Delaware, Philadelphia (North).
Pittsburgh-----	Allengheny, Armstrong, Beaver, Butler, Cambria, Clarion, Clearfield, Fayette, Greene, Indiana, Jefferson, Lawrence, Somerset, Washington, Westmoreland.
Reading-----	Berks, Columbia, Lancaster, Lebanon, Lycoming, Montour, Northumberland, Schuylkill, Tioga.

POD	Counties	Cities <sup>1</sup>
<b>RICHMOND DISTRICT OFFICE</b>		
Bristol-----	Buchanan, Dickenson, Lee, Russell, Scott, Smyth, Tazewell, Washington, Wise.	Bristol, Norton.
Charlottesville-----	Albermarle, Buckingham, Culpepper, Cumberland, Fluvanna, Greene, Madison, Orange.	Charlottesville.
Danville-----	Charlotte, Franklin, Halifax, Henry, Patrick, Pittsylvania.	Danville, Martinsville, South Boston.
Lynchburg-----	Amherst, Appomatox, Augusta, Bath, Campbell, Highland, Nelson, Rockbridge, Rockingham.	Buena Vista, Harrisonburg, Lexington, Lynchburg, Staunton, Waynesboro.
Norfolk-----	Accomac, Gloucester, Isle of Wight, James City, Mathews, Middlesex, Northampton, Southampton, York.	Chesapeake, Franklin, Hampton, Newport News, Norfolk, Portsmouth, Suffolk, Virginia Beach, Williamsburg.
Richmond-----	Amelia, Brunswick, Chesterfield, Dinwiddie, Charles City, Greensville, Hanover, King William, Louisa, Lunenburg, Mecklenburg, New Kent, Nottoway, Powhatan, Prince Edward, Prince George, Spotsylvania, Stafford, Surry, Sussex, Southampton.	Colonial Heights, Emporia, Fredericksburg, Hopewell, Petersburg, Richmond.
Roanoke-----	Bedford, Bland, Alleghany, Botetourt, Carroll, Craig, Floyd, Giles, Grayson, Montgomery, Pulaski, Roanoke, Wythe.	Clifton Forge, Covington, Galax, Radford, Roanoke, Salem.
<b>WASHINGTON, DISTRICT OFFICE (LOCATED AT FALLS CHURCH, VA.)</b>		
Baltimore, Md-----	Anne Arundel, Baltimore, Carroll, Frederick, Harford, Howard.	Baltimore.
Washington, D.C. (located at Falls Church, Va.)-----	Calvert (Md.), Charles (Md.), Montgomery (Md.), Prince Georges (Md.), St. Mary's (Md.).	Washington, D.C.
Wilmington, Del-----	State of Delaware, Cecil (Md.), Caroline (Md.), Dorchester (Md.), Kent (Md.), Queen Anne (Md.), Somerset (Md.), Talbot (Md.), Wicomico (Md.), Worcester (Md.).	None.
Winchester, Va-----	Alleghany (Md.), Garret (Md.), Washington (Md.), Clarke (Va.), Frederick (Va.), Page (Va.), Shenandoah (Va.), Warrent (Va.), Berkeley (W. Va.), Grant (W. Va.), Hampshire (W. Va.), Hardy (W. Va.), Jefferson (W. Va.), Mineral (W. Va.), Morgan (W. Va.), Pendleton (W. Va.).	Do.
Falls Church, Va-----	Arlington, Fairfax, Fauquier, Loudoun, Prince William, Rapahannock.	Alexandria.

<sup>1</sup> Independent political subdivisions.

ATTACHMENT 2  
MID-ATLANTIC REGION FIREARMS, EXPLOSIVES, POPULATION STATISTICS

1. Number of licensees and permittees by State	Firearms licensees	Explosives licensees and permittees	Percent of total firearms	Percent of total explosives
Pennsylvania-----	6,599	(385)	44.6	(52.5)
Virginia-----	4,351	(123)	29.4	(16.8)
New Jersey-----	1,726	(123)	11.7	(16.8)
Maryland-----	1,731	(83)	11.7	(11.3)
Delaware-----	336	(7)	2.3	(1.0)
District of Columbia-----	45	(12)	.3	(1.6)
Total-----	14,788	(733)	100.0	(100.0)

2. Number of firearms licensees in Newark, N.J.----- 11
3. Number of firearms licensees in Metropolitan Newark, N.J. (Essex, Hudson and Union Counties)----- 239
4. Number of firearms licensees in Pittsburgh, Pa----- 209
5. Number of firearms licensees in Philadelphia, Pa----- 112
6. Population of States (1970 census):

	Number	Percent of region
Pennsylvania-----	11,793,909	40.9
New Jersey-----	7,168,164	24.9
Virginia-----	4,648,494	16.1
Maryland-----	3,922,399	13.6
District of Columbia-----	756,510	2.6
Delaware-----	548,104	1.9
Total-----	28,837,580	(1)

<sup>1</sup> 14.2 percent of national population.

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	Number
<b>7. Population of metropolitan areas:</b>	
City of Newark, N.J.	381,930
Newark metropolitan area (Essex, Hudson, Union Counties)	2,084,681
City of Philadelphia	1,950,098
City of Camden, N.J.	102,551
Philadelphia metropolitan area (Pennsylvania counties—Philadelphia, Bucks, Montgomery, Chester, Delaware; New Jersey counties—Camden, Gloucester, Burlington, Mercer; Delaware—New Castle County)	5,510,739
City of Pittsburgh	520,117
Pittsburgh metropolitan area (Allegheny, Westmoreland and Washington Counties)	2,192,944
District of Columbia	756,510
(Virginia counties—Fairfax, Prince William, Stafford, Loudoun, Fauquier; Maryland counties—Montgomery, Prince Georges, Howard, Anne Arundel, Charles, Baltimore)	1,512,900

1 Washington, D.C., totals are a combination of the Washington and Baltimore metropolitan areas, as reported in the attached almanac copy.

## 212 U.S. Counties and Metropolitan Areas

### HALF OF U. S. COUNTIES SHOW DECLINES

About half of the nation's counties lost population in 1970-1972. Because of a net migration out of rural areas, another one-fourth of the counties showed a slow growth rate. About two-thirds of the counties showing population drops in the 1970's also had lost population between 1940 and 1960.

The 1970 Census showed Los Angeles County held its position at the head of the nation's more than 3,000 counties. The county had a total of 7,034,657. It displaced Cook County, Ill., which includes much of Chicago, in the 1960 census. Cook County, now no. 2, has a population of 5,493,529.

Wayne County, Mich., which embraces much of Detroit, was 3d with 2,667,604. Kings County, which is Brooklyn Borough, N. Y., was 4th with 2,492,610. Queens County, which also is part of N. Y. City, was 5th with 1,637,174.

Queens County oust out Philadelphia County, the same as the city, for the 6th position. Philadelphia County is one of the 4 counties in the list of 10 largest to lose population in the last 10 years. The others are Kings County, N. Y., and Allegheny County, Pa., and Manhattan Borough comprising New York County.

A newcomer to the list of the 10 largest counties is Harris County, Tex., which includes Houston. No. 7 on the list now, it was No. 12 in 1960.

### 25 LARGEST COUNTIES

	1972*	1960
Los Angeles, Calif.	7,034,657	6,034,771
Cook (Chicago)	5,493,529	5,129,225
Wayne (Detroit), Mich.	2,667,604	2,666,297
Kings (Brooklyn), N. Y.	2,492,610	2,427,319
Queens, N. Y.	1,637,174	1,369,573
Philadelphia	1,950,098	2,602,512
Harris (Houston), Tex.	1,741,912	1,219,159
Cuyahoga (Cleveland), O.	1,721,350	1,447,495
Allegheny (Pittsburgh)	1,637,174	1,424,567
New York (Manhattan)	1,571,233	1,674,299
Brook, N. Y.	1,411,701	1,424,615
Kentco, N. Y.	1,455,638	1,363,171
Orange (Anaheim), Calif.	1,420,248	793,925
Midsex (Cambridge), Mass.	1,366,255	1,233,742
San Diego, Calif.	1,352,254	1,035,011
Dallas, Tex.	1,277,321	951,227
Dade (Miami), Fla.	1,267,792	919,747
King (Seattle), Wash.	1,145,633	935,014
Suffolk, N. Y.	1,127,000	624,764
San Francisco, N. Y.	1,113,471	1,044,636
Alameda (Oakland), Calif.	1,077,184	722,729
Santa Clara (S. Jose), Cal.	1,066,421	647,515
Montgomery, Ala.	1,034,249	1,004,041
Maricopa (Phoenix), Ariz.	979,257	653,510
St. Louis, Mo.	951,671	763,532

### RICHEST COUNTY IN U. S., 1970

In 1970 the richest county in the U. S. with \$9,650 or more population was Montgomery County, Md., with a median income of \$16,710. Fairfax County, Va., ranked 2d with \$12,797 and Howard County, Md., 3d with \$14,423. In the Pennsylvania group, Montgomery County, Pa., ranked 2d with a median income of \$12,747. Delaware County, Pa., with a median income of \$11,622, ranked 50th. Rankings below the first 50 included Bucks County, Pa., \$11,630; Chester County, Pa., \$11,609; Burlington County, N. J., \$11,393; Camden County, N. J., \$10,890; Gloucester County, N. J., \$10,620; Phila. County, \$9,256. Lower Merion in Montgomery County had the highest median income in the County, \$19,269, followed by Cheltenham, \$17,250, and Upper Merion, \$14,100.

In Delaware County, Swarthmore led the municipalities with a median income of \$17,500 followed by Birmingham Twp., \$17,000.

### NEW YORK LEADS METROPOLITAN AREAS

The New York Metropolitan Area retained 1st position in 1972 with a population of 9,110,609 (provisional) despite the removal of New York & Suffolk counties from the New York Standard Metropolitan Area. The 1970 New York Standard Metropolitan Statistical Area was 11,571,099. The 2 Long Island counties became the nation's 8th ranking SMSA with a population of 2,597,300.

The Chicago SMSA moved past Los Angeles-Long Beach into 2d place with a provisional population of 7,024,700. Los Angeles SMSA was 3d with 4,999,600. Philadelphia & Detroit SMSA's retained 4th & 5th places.

The 1972 population estimates of the 268 U.S. SMSA's showed a slowing down in growth, particularly those areas of 2 million or more persons. The largest SMSA's, N.Y. & Los Angeles, were estimated to have lost population between 1970 and 1972. Among the top 5 SMSA's, Chicago, Philadelphia and Detroit gained population.

The Office of Management & Budget defines a Standard Metropolitan Statistical Area as a central city of at least 25,000 population surrounded by a suburban area which brings the population to at least 50,000. The Phila. SMSA includes Phila., Bucks, Chester, Delaware & Montgomery counties in Pa. and Burlington, Camden & Gloucester counties in N.J.

### 25 LARGEST METROPOLITAN AREAS

	1972	1970
1* New York, N.Y.-N.J.	9,110,609	11,571,099
Chicago, Ill.	7,024,700	6,977,611
Los Angeles-Long Beach	6,999,600	7,041,980
Phila., Pa.-N.J.	4,977,603	4,973,915
Detroit, Mich.	4,428,900	4,423,751
Boston, Mass.	3,417,000	3,376,328
San Francisco-Oakland	3,131,800	3,129,782
Washington, D.C.-Va.	2,924,500	2,622,355
New York, N.Y.	2,597,300	2,597,300
Houston-Fort Worth, Tex.	2,586,600	2,573,253
St. Louis, Mo.-Ill.	2,339,300	2,410,492
Pittsburgh, Pa.	2,192,944	2,192,944
Baltimore, Md.	2,105,600	2,077,010
Houston, Tex.	2,105,600	1,979,316
Newark, N.J.	2,092,000	2,057,458
Cleveland, O.	2,045,500	2,063,729
1* Minneapolis-St. Paul, Minn.-Wis.	1,995,800	1,965,391
Atlanta, Ga.	1,623,600	1,595,517
Anchorage-Sitka-Ana-Port, Alaska	1,527,300	1,421,233
San Diego, Calif.	1,445,100	1,357,354
Milwaukee, Wis.	1,421,200	1,403,594
Seattle-Everett, Wash.	1,399,400	1,424,605
Cincinnati, Ohio-Ky.-Ind.	1,391,400	1,385,103
Buffalo, N.Y.	1,353,100	1,346,211
Miami, Fla.	1,331,000	1,267,792

### Other SMSA's in Pa., Del. & N. J.

1† Northeast, Pa.	431,500	431,692
Jersey City, N.J.	410,600	407,839
Allentown-Bethlehem-Erion, Pa.-N.J.	407,900	594,302
**New Brunswick-Perth Amboy, N.J.	395,600	583,012
Wilmington, Del.-N.J.-Md.	512,400	489,493
**Long Branch-Asbury Park, N.J.	478,600	451,849
1†York-Clifton-Pocono, Pa.	464,300	460,732
Harrisburg, Pa.	422,100	410,503
York, Pa.	338,500	329,540
Lancaster, Pa.	329,900	325,079
Trenton, N.J.	318,300	254,116
Ginghamton, N.Y.-Pa.	305,700	307,871
Reading, Pa.	291,200	224,297
Erie, Pa.	271,000	263,444
Johnstown, Pa.	267,400	227,672

†Change in area. \*Title change.

\*\*New SMSA, merger of 2 SMSA's.

†Not complete.

# **FIREARMS LEGISLATION**

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## **HEARINGS**

BEFORE THE

**SUBCOMMITTEE ON CRIME**

OF THE

**COMMITTEE ON THE JUDICIARY**

**HOUSE OF REPRESENTATIVES**

**NINETY-FOURTH CONGRESS**

**FIRST SESSION**

**ON**

**FIREARMS LEGISLATION**

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These hearings are in 8 parts. Part 1 (Washington) February 18, 20, 27, March 5, 6, 13, 20, 26, and April 9; Part 2 (Chicago) April 14 and 15; Part 3 (Detroit) June 9 and 10; Part 4 (Cleveland) June 16; Part 5 (Denver) June 23; Part 6 (Atlanta) July 21; Part 7 (New York) July 25; Part 8 (Washington) May 14, July 17, 23, 24, September 24, and October 1 and 9, 1975

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**Serial No. 11**

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**Part 8**



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CONTENTS

	Page
Hearings held on—	
May 14, 1975	2539
July 17, 1975	2581
July 23, 1975	2617
July 24, 1975	2693
September 24, 1975	2745
October 1, 1975	2795
October 9, 1975	2899
Witnesses—	
Bennett, James V., president, National Council for a Responsible Firearms Policy	2618
Prepared statement	2624
Brownman, Harold L., Assistant Secretary of the Army	2832
Prepared statement	2828
Campbell, James S., board member, National Council to Control Handguns	2636, 2923
Prepared statement	2640, 2918
Carter, Harlon B., executive director, Institute for Legislative Action, National Rifle Association	2848
Prepared statement	2844
Corbett, Jack, chairman, National Coalition To Ban Handguns	2723
Prepared statement	2720
Corrigan, Richard L., director, Federal Affairs Division, National Rifle Association	2848
Davis, Rex D., Director, Bureau of Alcohol, Tobacco, and Firearms, Department of the Treasury	2581, 2597, 2698,
Dellums, Hon. Ronald V., a Representative in Congress from the State of California	2545
Gainer, Ronald L., Acting Director, Office of Policy and Planning, Department of Justice	2800
Prepared statement	2795
Harrington, Hon. Michael J., a Representative in Congress from the State of Massachusetts	2539
Prepared statement	2540
Kerschner, William, owner of Bill's Gun Shop, Leesport, Pa.	2573
Kukla, Robert J., author of "Gun Control"	2714
Prepared statement	2708
Lichtman, Phil, president, Semmerling Corp.	2677
Prepared statement	2680
Macdonald, Hon. David R., Assistant Secretary of the Treasury	2693, 2748
Prepared statement	2698, 2745
McKay, Hon. Gunn, a Representative in Congress from the State of Utah	2560
Morgan, Charles T., director, Washington Office, American Civil Liberties Union	2951
Murphy, Hon. John N., a Representative in Congress from the State of New York	2901
Prepared statement	2899
Parker, Michael, general counsel, Institute for Legislative Action, National Rifle Association	2848
Quarberg, Owen D., detective sergeant, Utah County Sheriff's Department	2562
Rollinger, Col. Jack R., director, Civilian Marksmanship	2832
Ruger, William B., president, Sturm Ruger and Co.	2673

PLITE 100774

Witnesses—continued	
Serr, Harold A., former Director, Bureau of Alcohol, Tobacco, and Firearms, Department of the Treasury.....	2618
Prepared statement.....	2627
Shields, Nelson T., executive director, National Council To Control Handguns.....	2923
Prepared statement.....	2918
Smith, Hon. Virginia, a Representative in Congress from the State of Nebraska.....	2588
Snyder, John M., Director of Public Affairs, Citizens Committee for the Right To Keep and Bear Arms.....	2739
Prepared statement.....	2730
Steinberg, David J., executive director, National Council for a Responsible Firearms Policy.....	2618
Prepared statement.....	2619
Welles, Edward O., executive director, National Council to Control Handguns.....	2636
Prepared statement.....	2640
Additional material—	
"A Brief Case for Handgun Control and Doing Something About It Now" (National Council To Control Handguns).....	2926
Fromme's Gun Sold as Surplus By Government, from the Washington Star, Sept. 7, 1975.....	2752
History of handgun used by Lynette Fromme in attempt to assassinate President Gerald R. Ford at Sacramento, Calif., on Sept. 5, 1975.....	2754
McClory, Hon. Robert, a Representative in Congress from the State of Illinois, letter dated July 15, 1975, to Mark Borinsky, chairman, the National Council to Control Handguns.....	2669
Statements of Representatives of the Bureau of Alcohol, Tobacco, and Firearms Relevant to the Bureau's Resources.....	2760
The Army Civilian Marksmanship Program (National Board for the Promotion of Rifle Practice) memorandum dated September 24, 1975.....	2964

APPENDIXES

Appendix 1—Correspondence, statements, and articles relating to firearms legislation.....	2964
Appendix 2—	
H.R. 9780.....	3035
H.R. 9022.....	3054
H.R. 9763.....	3089
H.R. 10442.....	3158
H.R. 40.....	3222
H.R. 354.....	3238
H.R. 465.....	3265
H.R. 638.....	3269
H.R. 1601.....	3282
H.R. 1685.....	3298
H.R. 2313.....	3324
H.R. 2360.....	3341
H.R. 267.....	3342
H.R. 2433.....	3345
H.R. 2911.....	3365
H.R. 3154.....	3379
H.R. 3391.....	3395
H.R. 3504.....	3358
H.R. 3772.....	3404
H.R. 4758.....	3406
H.R. 5379.....	3409
H.R. 6778.....	3411
Appendix 3—Additional correspondence and statements submitted for the record.....	345

FIREARMS LEGISLATION

WEDNESDAY, MAY 14, 1975

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON CRIME OF THE  
COMMITTEE ON THE JUDICIARY,  
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:15 a.m., in room 2237, Rayburn House Office Building, Hon. John Conyers, Jr. [chairman of the subcommittee] presiding.

Present: Representatives Conyers, Hughes, McClory, and Ashbrook. Also present: Maurice A. Barboza, counsel; and Constantine J. Gekas, associate counsel.

Mr. CONYERS. The subcommittee will come to order.  
Today, the Subcommittee on Crime of the House Judiciary Committee continues hearings on firearms legislation. What we have been attempting to do is to increase our modest knowledge of the effects of the efforts of the Government to control firearms violence. In this regard, we are privileged to hear from two of our colleagues in Congress this morning, Congressman Harrington, as well as the gentleman from California, Ron Dellums. Additionally we will have Mr. Owen Quarnberg of the Utah County Sheriff's Department who will be accompanied and introduced by our colleague, Gunn McKay. Finally, we will have a gun shop owner from Leesport, Pa., Mr. William Kerschner, who will be introduced by his Member in the Congress, Gus Yatron.

I welcome now Michael Harrington, who serves with great distinction in the Congress on the National Relations Committee and the Government Operations on Intelligence, the CIA Committee.

Congressman Harrington brings a great background and has been before the Judiciary Committee with increasing frequency over the last several years. I welcome him as a colleague and as a personal friend. I note that his prepared statement is before the subcommittee and will be introduced into the record at this point, which will then free Congressman Harrington to make his presentation in whatever manner he chooses.

Welcome, Mr. Harrington, you may begin.

TESTIMONY OF HON. MICHAEL J. HARRINGTON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MASSACHUSETTS

Mr. HARRINGTON. Mr. Chairman, thank you for the efforts of rehabilitation that you have just afforded me, and my appreciation particularly to Ron Dellums who was patient in letting me precede him

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commendation that you do not penalize the innocents for the sins of the guilty; that you do not infringe upon the rights of law-abiding citizens in order to curb the lawbreaker; that you concentrate on criminal control and not on control.

Mr. Chairman, as I mentioned in my remarks, I want to file the statement of Mr. Wood and Mr. Flebig. They make the same points I do, but much more

2506

Generally, I feel that the regulation of criminal conduct should be a matter for legislative enactment by the several states. However, should this Subcommittee find that federal legislation is necessary, I would propose that strong sanctions be imposed for the commission of substantive crimes. Since we are considering the specific area of firearms control, I propose that a mandatory prison sentence be provided for the use of any firearm in the commission of a crime of violence. Such imprisonment should be for a term of not less than 10 years, with parole during that term prohibited. In addition, I favor the death penalty for premeditated murder or a killing during the perpetration of a robbery. These sanctions if rigorously applied would, I am sure, have a dramatic impact on the incidence of violent crime and would be far more effective than prohibiting or regulating the possession of firearms; in fact, I doubt that further prohibition or regulation of firearms, whether they be pistols, rifles or shotguns, would have any appreciable effect on the commission of crimes of violence. This has been our experience with the Federal Firearms Act of 1968, which has been totally ineffective. This act has, however, served as an irritant to the public generally. To be effective in any degree as deterrent to crime, the prohibition of firearms would have to be total and rigorously enforced against every citizen in the country, and I hope that such action is not contemplated by this Subcommittee. In my opinion, even total prohibition of firearms would be ineffective as a crime control measure since it is aimed at things rather than conduct.

Respectfully yours,

J. D. WOOD.

STATEMENT REGARDING GUN CONTROL LEGISLATION; VIEWPOINT OF RESIDENTS OF ALLIANCE, NEBR.

Alliance, Nebraska, is a community of approximately 8,000 persons. It is located in the Western portion of the state, near the Nebraska-Wyoming border. It is basically a farm-ranch community but has some overlying influences from the Burlington Northern Railroad and from 2 small to medium sized manufacturing plants.

The general feeling we believe we sense in Alliance, Nebraska, is one of opposition to any additional gun control legislation. The 1968 Gun Control Act was passed with promises that it would cut down on gun related crimes and accidents. It has not. Members of the community who supported the gun control idea at that time no longer do. The community, being less than 100 miles from Wounded Knee, South Dakota, was incensed by the incident wherein one Robert Onco, an American Indian Movement sympathizer, was pictured by the national press in jubilant possession of an obviously illegal Russian made fully automatic rifle and nothing, from a practical standpoint, was done about it. Another gun related assault, well publicized in the community, by a felon with a wholly illegal pistol, went uninvestigated and unpunished by the ATF and the Federal courts.

The general feeling is that the 1968 Gun Control Act did not deter criminals and did work to the detriment of the ordinary, working class Alliance resident. One substantial reason for this feeling is that the ordinary person in this community cannot purchase guns or ammunition in Denver, Cheyenne or Rapid City, all those cities being considerably closer to Alliance than Omaha and Lincoln, and all being used by Alliance citizens for shopping centers.

Handguns are not generally feared or hated in Alliance and its trade territory. Hunting deer with handguns is legal and is practiced by local residents to a degree. An active pistol club is recognized and well thought of by the residents of this town. There is no general agreement as to the exact definition of a so called "Saturday Night Special" handgun and no appreciable feeling that even cheap, short barreled handguns should be outlawed. There appears to be no community crime problem involving that type of gun.

There exists a definite feeling that a citizen should be allowed to own a handgun for defensive purposes if he wants to. There is expression of the idea that the average citizen, if properly equipped and trained with a handgun, would discourage crime. There exist some plans for a police or gun club sponsored training course in the use of handguns, free to the public with the emphasis on women.

It is the feeling of the undersigned that the community of Alliance, Nebraska, is concerned about crime on the local, state and national levels and would

the member. Indiscriminate leniency and probation have encouraged lawless conduct: for example, the Lindberg Law was effective in reducing the incidence of kidnapping. Although I do not advocate harsh or oppressive treatment of criminals, I am of the strong opinion that the rights of society have been too much subordinated to the interests of the convicted individual defendant.

2507

welcome some workable solution, but generally does not support restrictive gun legislation as a workable, or even sensible, solution to the crime problem.

The above reflects the viewpoint and the assessment of the community viewpoint by the undersigned and is his personal viewpoint only.

Mr. CONYERS. We would now like to recall our friends from ATF: Mr. Davis, Mr. Dessler, and Mr. Keathley.

TESTIMONY OF REX D. DAVIS, DIRECTOR, BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS, DEPARTMENT OF THE TREASURY—  
Resumed

Mr. DAVIS. Mr. Chairman, in the previous testimony this morning, I indicated we had instituted Project Identification in 16 major metropolitan areas throughout the United States, and identified them, and I think the committee would be interested in some of the overall figures that relate to this.

For example, out of those 16 cities, to date, there have been submitted for tracing 10,617 guns used in crimes in those cities. Now, out of this, we were able to successfully trace to the first purchaser 7,815 or 74 percent.

We feel that is a very good figure in terms of tracing.

Mr. CONYERS. Is this, sir a specific program of ATF?

Mr. DAVIS. I am sorry this chart does not have any relevance to what I am talking about at the moment. I do hope to sort of sum up, if I can, in just a few minutes.

Mr. CONYERS. Fine.

Mr. DAVIS. Now for the breakdown of these guns that were submitted to us, as being used in crime in these 16 cities for the purpose of our, for this project only and as a measure, we classified Saturday night specials in a way that included three factors: one, \$50 or less in value; the barrel length, 3 inches or less; and .32 caliber or less—and if a weapon met all three of these categories, we classified it as a Saturday night special only for the purpose of this project.

So, I might say that we feel this is a very strict definition, probably one of the strictest measures we have seen, but we did want to be rather conservative in this project.

Now, the class of guns that we broke down to three classes, in other words, those that cost \$10 or more, those that cost \$50 to \$100, and those that cost less than \$50, these are all retail prices, so the breakdown was 26 percent of those guns that were submitted to us for tracing were valued at more than \$100; that 18 percent were valued between \$50 and \$100, and that 56 percent were valued at less than \$50.

It might be interesting for the committee to know the kinds of guns used in crime in these major cities. For example revolvers accounted for 76 percent of all those guns submitted to us for tracing by the police, and pistols accounted for 24 percent of the total.

About 71 percent had a barrel length of 3 inches or less, 29 percent over 3 inches. The caliber of the weapons: 61 percent of these guns were .32 caliber or less and 39 percent of them were over .32 caliber.

So to take then the total criteria that a total of 3,486 guns, 45 percent of all of those that were successfully traced could be categorized as Saturday night specials for the purpose of this project, again with the caveat, this is a very strict definition.

Mr. CONYERS. Mr. Davis, during what period of time did this tracing activity take place?

Mr. DAVIS. Yes, sir, we took them, four cities at a time, and I think generally the time period was about 3 months, 3 to 6 months in each city.

Mr. CONYERS. In 1973 or 1974?

Mr. DAVIS. It started in 1974.

Mr. CONYERS. And it covered major cities of the United States?

Mr. DAVIS. Yes, sir; 16 major metropolitan areas located geographically throughout the United States, so it gives a very good cross section when we think of gun usage in crimes.

Mr. CONYERS. Do we have a summary of that report in our record? Staff indicated we do.

Mr. DAVIS. This is the final summary. We have just presented the last 4 of the 16 cities and we are just now at the point of consolidating all of the figures.

I might point out to the committee, as we proceed, we hope we have made our surveys more sophisticated so that in some cases—in 8 cities, I believe, it was for at least not the first 4—we did consider pawnshops as a separate category but for the last 12 we did, so we have the figures on that basis so some of the figures do not run throughout but at least we think the sample is sufficiently large in every case to give a pretty accurate idea.

Mr. McCLORY. May I inquire for clarification, Mr. Davis, you are referring to the memorandum or a statement that you have. Will that be made available to the committee?

Mr. DAVIS. Yes sir. It is not ready.

Mr. McCLORY. And also may we have for our personal use reproduced copies of the charts?

Mr. DAVIS. Yes sir. We have one or two updated then, and we will get those to you.

Mr. CONYERS. Mr. Barboza, just briefly.

Mr. BARBOZA. Were the guns that were traced actually used in criminal activities?

Mr. DAVIS. Yes they were. In every case they were used. They were guns that were acquired by the police department. I suppose in some cases, for example, that there would be a gun recovered by a body in a homicide or something of that sort but in every case they were used.

Mr. ASHBROOK. I thought your testimony was that last year there were 33,000 guns traced, that 60 percent were referred to you by police departments?

Mr. DAVIS. These are two separate programs. In our general tracing program we have any law organization who wants a gun traced and we will do that. In the 33,000 we are not talking about the same time period but at least some of the 10,000 would be included in the 33,000, but in the case of Project Identification, in every case, the guns are recovered by the police.

Mr. ASHBROOK. Excuse me. Thank you.

Mr. BARBOZA. Director, there was an attempt to categorize the guns according to whether they were actually used or being carried at the time the crime was committed?

Mr. DAVIS. In the case of the 33,000 guns that we traced in 1974?

Mr. BARBOZA. I am referring to the project here. Were these guns used in crime?

Mr. KEATHLEY. All the guns in this project were seized or came into the possession of police departments as a result of crime; where they do provide us with the crime itself, we are working on a computer printout showing what the individual gun was used in.

In an instance where it was abandoned on the street or the police may not have known what crime could have been committed with it, we would have no way of getting a handle on that.

Mr. BARBOZA. Do you know if these guns were, for example, illegally possessed by a felon prior to confiscation by police or is it clear that they were used actually in crimes such as robbery, et cetera?

Mr. KEATHLEY. They are all supposed to be involved in crimes. To what degree of crime they would be involved in would be up to the individual police department which furnished us with a request for trace.

Mr. BARBOZA. The mere possession, would that be a crime?

Mr. KEATHLEY. If it were a crime locally, it could be. We did specify we wanted to trace guns which were involved in street crime.

Mr. BARBOZA. I am wondering if you know whether or not some of these guns would be more readily used in certain kinds of crime, such as street crime, where the criminal may carry a very small pistol with him at all times and use it whenever the situation might arise? In addition, can you identify those kinds of weapons purchased with a conscious intent to buy the gun, say a .38, where the individual intends to rob a pharmacy and might believe that he needs defense against an equally potent gun?

Mr. DAVIS. We will attempt to give you some kind of breakdown on these 10,000. From our general tracing program, you will recall that most of the guns used in crime or at least we traced, suspected of being used in crime, are purchased relatively recently by the individual which means to us there is an indication that the purchase was made for the purpose of committing crime; in the high percentage of the crime they are acquired so that they may be used.

Mr. GEKAS. When you say recent purchased, you mean purchased from retail license dealers?

Mr. DAVIS. Yes; we determine the date of sale from the dealer and this would be the time of the frame reference.

Mr. GEKAS. To say that a little differently, would not that mean a lot of the guns used in crime, 50 percent are less than 4 years old?

Mr. DAVIS. I do not have that figure at hand but I am fairly certain that was the indication that we have that they were about half of them were purchased within the last 4 years and then the percentage, as I recall the figures, the percentage starts high, the same year, and then as you go back in time, it starts falling off.

Mr. McCLORY. Could I interrupt, Mr. Chairman?

I notice in the previous chart there was a reference to a large number of guns, as I recall, purchased from unlicensed dealers.

Now, what about that, what about tracing those guns, what percentage of guns are purchased from unlicensed dealers?

Mr. DAVIS. Well, sir we have no real way to tell that except through projects such as our Greenville Project. This would involve a multiple purchase of guns by an individual who turns around and

sells them to other individuals without complying with the Federal law.

Occasionally, we will, of course, make cases on these kind of individuals for violating Federal law, by selling guns without a license but we do not have any firm figures on the volume of this.

Mr. McCLORR. There are no guns going from the manufacturer to an unlicensed dealer and then being marketed, these are all, these are sales that occurred subsequent to the sale by the licensed dealer?

Mr. DAVIS. Yes, sir, that is through a licensee that can only legally sell to another licensee if it involves some interstate shipment.

Now, there is nothing to prevent a manufacturer from selling to an individual. I think, however, the practice is that they do not.

Mr. GEKAS. Mr. Davis, could we amplify a bit on that. The point is unlicensed dealers means people who have made multiple purchases from licensed dealers and then they sell them illegally, just by the fact that they are dealing with a substantial number of weapons or they cross State lines with the guns and sell them and as I read your phase 1 project report, it suggests that a large proportion of the guns in New York City came from that kind of multiple purchase by an unlicensed dealer across State lines which is a violation of the Gun Control Act and then sold on the streets of New York?

Mr. DAVIS. Yes, very much. Of course, in the case of New York, both cases in which we had made before the project and afterwards showed that there were certain dealers in South Carolina who were a source of large numbers of handguns and they were doing exactly as you described. And then of course later the cases we made through the undercover agents. At least it was evident they knew these guns were being purchased for resale.

Mr. GEKAS. Could we tie that point up by the Greenville project chart? Right there, where it says 2,047 purchasers, possible unlicensed dealers over to the right. This demonstrates the possibility of multiple purchases by an unlicensed dealer where you say 34 percent of the guns were bought by 15 percent of the total purchasers and that is just to put it, set it in concrete, the figures.

Mr. DAVIS. Yes. Now in the case of Greenville, there were 324 persons identified as having purchased 875 guns.

Now, of that four were considered to be significant unlicensed dealers. One of these, for example, had dealt in 74 firearms in the 6-month period we had tested and we have made a case against him, he pled guilty to charges of dealing without a license on June 5, 1975, then he received 5 years' probation. So, I think this very amply illustrates the activity and then when you tie that into the initial 10-day period reporting on multiple sales we have 53 instances in these 11 cities in which there was more than one gun sold to the same person.

Now, the most significant was one in the District involving a sale of seven firearms to the individual and as I indicated, we interviewed him after telling him his constitutional rights, he admitted he was in the business of reselling without a license so we think there is ample evidence that there is large-scale activity going on of this kind.

Mr. GEKAS. It is a black market of firearms across State lines that violates the 1968 Gun Control Act but is, I suppose, in large measure undetectable unless you go back and start auditing sales transactions.

Mr. DAVIS. Yes; and, of course, I should point out to the committee that there is actually nothing illegal about an individual going in and buying 50 or 100 handguns, it is quite appropriate under Federal law.

We hope that the requirement now by regulation will by reporting these multiple sales will have an impact against these unlicensed dealers.

Mr. BARBOZA. How do you intend to use the information you have collected?

Mr. DAVIS. Given the fact of our somewhat limited manpower, probably we will actually investigate only those that involve a significant number of guns. For example, in this case where the D.C. resident bought seven then we would follow up and ask if you have a legitimate purpose in this.

Mr. BARBOZA. Would you say that seven would be a significant number?

Mr. DAVIS. Of course it depends somewhat on local conditions, on manpower, what the urgency of what we are doing is at the time and things of this kind.

Mr. BARBOZA. An individual could circumvent that program, could he not, by simply buying one gun from a dealer and then going to another and subsequently going to eight or nine dealers?

Mr. DAVIS. There is no question about that. The only thing is it is our feeling that the more dealers he has to go to, the more obvious he becomes and the more time consuming but there is no question he could do that.

Mr. BARBOZA. This does tie into the issue of whether or not federally-licensed firearms dealers should be reduced in number. The committee and you might discuss some of the ways it could prevent this circumvention of the multiple sales requirement perhaps by requiring an individual, upon purchase of a firearm, to fill out some kind of notification of purchase. The form would be signed, sent to Washington, and perhaps put in a computer. That would be one method, would it not, for quickly and efficiently identifying multiple purchasers?

Mr. DAVIS. There would be no question about it and I think that the previous testimony the President's message on crime as referred to and the fact that it contained a recommendation for a waiting period.

Now, obviously, a waiting period that included, with a report say to the chief law enforcement of that area, that also included the number of guns involved, certainly I think this would act as a deterrent because the individual would be very reluctant to have the sheriff or chief of police notified that this individual was buying 10 handguns so, again, this would be an added bar.

Mr. BARBOZA. Under that structure, the dealer would be submitting the forms to the police department and there would not be any guarantee, because of maybe resources problems, that the police department would either process those forms or even notify you.

Mr. DAVIS. Our requirement that the dealer would report to us, as is presently done and then if the President's proposal on a waiting period were adopted by Congress, then you would have the two things working together and certainly, it would be an added deterrent.

Mr. BARBOZA. Those systems, the system I outlined whereby ATF is notified of every sale would be a little more foolproof, would it not?

Mr. DAVIS. Yes, I think it would and there, of course, it would be quite possible so that then you could not circumvent the provision by going to many dealers because there could be a matchup by name so that would take care of that.

Mr. BARBOZA. Mr. Chairman I had a couple of questions concerning the concealability of firearms, but I do not know if I should raise them, at this point.

Mr. CONNERS. Hold them up. Do you process forms under the new regulations of multiple sales as soon as they are received? Would, for example citizen X, who just bought 150 guns, gets a friendly visit from an ATF representative and who says, knock, knock, who is it? ATF. We want to talk to you about 150 guns you just bought from Joe's Pawnshop yesterday and he says, Look, fellows I don't want to tell you anything. What is ATF's responsibility?

Mr. DAVIS. Well, sir, we get lost. Obviously, the individual has not violated any laws. More than likely, if you have a hypothetical case, where an individual bought 150 guns, we might not even approach him but we might put him under surveillance. For example, let's assume in checking this individual, we find that he does have maybe a history of becoming engaged in criminal activity, so we have a very strong idea he is actually selling, then we probably put him under surveillance. We might introduce an undercover agent who said, I heard you have some guns and could I buy one?

Mr. GEMAS. On the waiting period for sending out notification to the chief of police of the residence of the purchaser, we have some State laws currently in effect, in California and Washington, for example, where there is such a procedure required as a matter of State law. In both California and Washington, before firearms purchase can be made, there is a waiting period, it is sent to the Central Bureau of Sacramento and to the residence of the purchaser and the final results of the project I think are very interesting. I think they show the substantial percentage of the handguns used in crime in Los Angeles and in Seattle originated within those two States, that is, the Los Angeles guns and the Oakland guns came from California, 80 percent or so, and the Seattle guns came from Washington, which shows, demonstrated at least tentatively that this waiting period and sending out of the forms is not preventing criminals from acquiring weapons.

Mr. DAVIS. I think that is an accurate statement; however, I would point to New York and Michigan. Now, if you look at the project figures, only 4 percent of the guns used in crime in New York came from the State of New York. If you look at the Detroit area, only 8 percent of the guns used in crime in Detroit came from Michigan; 19 percent from Ohio; 9 percent from Kentucky; and 9 percent from Mississippi. So I think what this points up, either a citywide or statewide waiting period is easily avoided by just going to another State.

Mr. GEMAS. If your State law is not enforced so that they will catch the illegal firearm purchaser, then you can buy your gun in that State and if you are a criminal, you do not have to worry about being caught, that seems to be the situation in California and Washington.

In Michigan and Detroit and New York City and State, however, the enforcement of those guns' programs are much more strict and efficient. Therefore it is difficult for a criminal to acquire a gun so what do they do, they go to the next most convenient source of supply which is maybe Virginia, South Carolina, Georgia; so I think that rather than inconsistent, the analysis of the comparison between New York and Detroit, Michigan and Seattle and Washington is consistent because it has to do with the type of law and the character of the enforcement of law.

Mr. DAVIS. Yes; of course, for example, the State of Pennsylvania had a waiting period, my understanding, by some legislative enactment, it is now nullified, but they had a 5-day waiting period and the form had to go to the State police. Obviously, even the mail to and from, so the waiting period became very useless under those kind of circumstances.

Mr. BARBOZA. Mr. Chairman, to build on what counsel has developed, Mr. Director, what if the subcommittee were to recommend regulations which would provide for an owner's identification card, and in addition to that, the ATF required to publish a list of cities, counties, and States which require either registration, permits to purchase, or a license to purchase, which would be distributed to all licensed dealers within a particular State so that a licensed dealer, if he were, say, a dealer just outside of Chicago, would be aware that Chicago requires a permit to purchase and registration of firearms. If a resident of the city of Chicago entered his premises with a license which indicated he was a resident of that city the dealer would be able to check the list and determine the conditions under which he could sell the gun. He would say, I cannot sell you a gun until you have secured a Chicago permit, or in the case of a city which requires registration, he would say, I can sell you a gun but I must notify the City of Chicago that you purchased it.

Would such a system of alerting dealers to sister-city requirements aid jurisdictions in enforcing their sister jurisdiction's laws?

Mr. DAVIS. Well, of course there is really two approaches here. One is the identification or I guess you could call it a permit to purchase or an identification card. Presumably it would have to carry a picture on it.

This would overcome one problem that we have presently because under our law a person identifies himself with what is a commonly accepted means of identification.

Again, to refer to Pennsylvania, because I am aware of it, they do not have a picture on the driver's license in the State of Pennsylvania, yet that is acceptable under our law so it becomes very easy for a person to sell or borrow a driver's license for the purpose of identifying himself to obtain a gun, so that then you would have a uniform system of identification which would clear up that big problem.

Now, under existing law substantially what you have indicated does exist. We are required by law to publish what we call our 608 Form each year, as we put out a supplement which contains all of the laws throughout the United States for the information of the dealers so that they can check to make sure the sale is not barred.

Mr. BARBOZA. Yes; but we must distinguish between that book of regulations and city ordinances because with a list an individual would not be required to pick up a thick book and read the statute. He would immediately know a permit is required for the city of Chicago. It would take 1 minute to make that determination. This system would not necessarily have to be combined with a licensing system because even if the licenses were issued on January 1, 1976, and the State or city enacted legislation requiring a permit system 2 months later, the license would have to be sent back, and that would be a bureaucratic nightmare. To publish a list of cities which have this particular kind of law and to supply it to dealers and say that you may not sell a gun to a person who resides outside of your city where it is prohibited by that city its laws would be of assistance to cities like Chicago where citizens buy guns in suburban communities to avoid tough city ordinances.

Mr. DAVIS. I am quite sure that we could prepare such a list under existing law and obviously under existing law, we probably could not require the dealer to have the purchaser comply with the law of the city, so to attain that kind of a system would require legislation.

Mr. CONYERS. Thank you very much. Your presentation generated a great deal of questions which may raise the specter of your having to come back one more time.

Mr. DAVIS. Well, sir, it is always a pleasure. I have my formal presentation I would assume would only take about 15 to 20 minutes longer and then, of course, I would be very happy to answer any questions the committee has.

Mr. CONYERS. As I have indicated, your testimony is based upon which these hearings have gone forward. We are really grateful to you and all of your associates in terms of the great amount of cooperation.

Mr. DAVIS. Thank you very much, Mr. Chairman. Will I continue?

Mr. CONYERS. Please do.

Mr. DAVIS. Again, this project identification summary of the 16 metropolitan areas, we have already indicated that those jurisdictions having, such as New York, having a very strict city law as well as a State law and then the area such as Michigan, where they have a very strict State law, there is clear indication that guns used in crime come from other areas.

In the case of New York, it is 20 percent. It is a very interesting thing, I think, we are getting indications for example, that both Virginia and South Carolina are sources.

Mr. GEKAS. How many from South Carolina?

Mr. DAVIS. Twenty percent and 6 percent from Virginia but we are finding that both Virginia and South Carolina are sources for guns used in crime in the northern metropolitan areas.

It is interesting that North Carolina which lies between the two and does have a State law that is strict is not a source so, again, it points out that areas where there are weaker gun laws become sources for guns in areas that have strong laws.

We have further breakdowns, in which we will provide the committee, as I have already indicated, the studies show that pawnshops

are, seem to be a major source of guns used in crime in metropolitan areas.

Just for example, to give you a quick rundown on some of them, for example in Dallas, Tex., where we have received 654 guns for tracing, 195 of them were passed through pawnshops. In Denver, where we have received 190, 63; in Kansas City, 311 received and 45 passed through pawnshops; in Oakland, 245 received and 77.

So, in other words, for the total, the total received—10,617 guns were received for tracing by the police department, 797 or 23 percent passed through pawnshops and it is also interesting to note that a large percentage of those passed through pawnshops could be classed as Saturday night specials.

Mr. GEKAS. I have just one question to clarify. The pawnshops suggests used guns but because they were traced by your project, that means that the guns that were sold were new guns, right?

Mr. DAVIS. Not necessarily, because under our requirements, a pawnshop owner must still have a transaction form when he received a gun that is pawned.

Mr. GEKAS. But was not yours traced, it went from the manufacturer through the wholesaler, through the dealer, so to get it in project I, to the point of identifying the pawnshop it would have had to have been something that originated with the manufacturer; therefore, the figures are primarily of new guns, coming from pawnshops.

Mr. DAVIS. That would be an accurate statement and, of course, most pawnshops are dealers and, of course, the license they acquire permits them not to only take guns in pawn but to deal with them.

Mr. GEKAS. Since the percentage of guns you could trace back to pawnshops suggest it would be new guns and suggests the pawnshops deal with new weapons as regular firearms dealers, that suggests also there must be substantial number of guns counting for the substantial portion of guns used in crime that are untraceable because they are used so that they may come into a pawnshop dealer and go out after a transaction form is recorded, be used in crime and come back into the tracing system but you will not be able to identify the pawnshop as the source because you will not be able to take it from the manufacturer through the distributor to the pawnshop.

Mr. DAVIS. Very accurate statement. I think it is interesting, to point out to the committee that the American official, the consular official that was kidnaped in Mexico and killed, the evidence was acquired by an ATF agent who surveyed pawnshops in a given area and found out that this individual had sold 2 guns, 1 included the murder weapon and then through a series of events we were able to show this was convincing evidence that led to the successful prosecution of the individuals who kidnaped and murdered that consular official.

Mr. GEKAS. As the Director of the Bureau, Mr. Davis, do you see any reason why pawnshops should be dealing in firearms? Perhaps I should say is there a justifiable reason why they should not be considered as legitimate firearms dealers?

Mr. DAVIS. Well, I would suspect that there are none. I think it would be very difficult to discriminate against pawnshops in terms

of dealing. Of course, we do have a different fee for pawnshops at the present time. For example, a dealer who wishes to, a pawnshop dealer who wishes to deal in guns must pay \$25 as compared to \$10 for the ordinary dealer so there is already some discrimination in this area.

Mr. CONYERS. Would there be some public purpose served or would there be some inconvenience to our citizens at large if on a legal and constitutional basis pawnshops were removed from this considerably troublesome area? Would the rights of pawnshop dealers be infringed upon? They could do everything they are doing now but the traffic, at least in handguns would be prohibited.

Mr. DAVIS. I do not have any statistics showing what part of a pawnshop business is related to guns but I am sure that it would make a somewhat small percentage of the total business they do. I do not have any idea of what the economic impact would be if they were excluded.

Mr. GEKAS. And yet a very significant quantity of the guns are traced through pawnshops so your feeling is that the small percentage of their business is causing a big percentage of the problems?

Mr. DAVIS. As I mentioned earlier, in the general project, we found that so. I think it does represent, it does present somewhat of a problem. I think I can wrap up now and—

Mr. GEKAS. Let me finish this point. It is so terribly important.

Historically, as dealing in American statutory history, pawnshops have been regulated because they are traditionally outlets for stolen guns and most all of the States require almost daily or weekly reporting which is then checked against reports of stolen guns so pawnshops have been carefully regulated because of their association with various types of criminal activities.

Mr. DAVIS. That is correct. As you know, many metropolitan police departments have pawnshop squads.

Mr. CONYERS. It is a problem that is increasingly troubling this subcommittee. There is an inordinate relationship to gun traffic and criminal activity in which guns are involved?

Mr. Barboza has some further development on this pawnshop question.

Mr. BARBOZA. Mr. Director, the Chairman has asked whether or not there would be any constitutional problems with prohibiting pawnbrokers from acquiring licenses to sell firearms?

Has there been any study of this question by the Bureau or the Justice Department?

Mr. DAVIS. There has not been specifically with respect to that but Mr. Dessler may know of some legal question.

Mr. DESSLER. We have looked into it in a general way and we have not been able to find a comparable Federal statute where a particular business has been prohibited.

Now, there are some State statutes that would prohibit types of businesses from being conducted, not pawnshops though, and there is a substantial constitutional question involved and I think that if a proper finding could be made that a particular business or type of business causes a particular problem, there would be a basis for the courts upholding the constitutionality of barring a particular

type of business but you would have to have a strong basis in a congressional record or congressional base.

Mr. BARBOZA. Do you think a basis could be found from the statistics ATF has accumulated?

Mr. DAVIS. It is possible, of course, to increase the fee to the point where it would no longer be economical.

Now, again, we may have some question as to the relationship of the fee to the other businesses, where it is really in fact a discriminatory fee, et cetera.

Mr. BARBOZA. The Senate recommended in 1968 that the fee be \$250 but it was compromised down to \$25 as you know so that has been tried.

Mr. DESSLER. The other factor that is for consideration, if you would prohibit, to what extent are you pushing the problem underground so that they might be dealing not in the open.

On the other hand—

Mr. CONYERS. You mention the pawndealers might go underground?

Mr. DESSLER. That is a possibility.

Mr. CONYERS. I think we could take care of that problem.

Mr. GEKAS. It is an enforcement problem.

Mr. DESSLER. What I am saying is, are we in a better position in enforcement ways by stringently controlling the operation, in other words, reducing the pawnshop dealers that deal by way of license fees or by complying with more compliance regulations or more control.

Mr. DAVIS. If we had the resources, for example, it would be very easy for us to require that a pawnshop be visited by an ATF representative once a month and so really, you could focus the control aspect of it more.

Mr. CONYERS. But that is all taxpayers' money just to facilitate the sale of handguns. We have found places where there are more handgun dealers licensed than liquor store licenses, both of which may be subject to some more careful scrutiny in whatever relationship that might suggest. But, you know, we have to at some point begin to question why all this convenience to people who want to buy a used handgun, especially out of pawnshops, when we know that there is no great problem in legally purchasing these weapons as it is.

In view of the fact that ATF so clearly needs additional resources, I do not see any purpose in deploying them to merely patrolling pawnshops. I mean we are going to need a congressional response to justify the case for continuing this as part of your operation in terms of firearms regulations. It should really have been done a long time ago.

Mr. GEKAS. One question suggests another so that the subcommittee might be able to deal with the constitutional question in its report should it decide to prohibit pawnshop dealers of firearms, what are the specific constitutional problems for the Federal legislature prohibiting pawnshops.

Can you take that under consideration?

Mr. DESSLER. It is a difficult question. As I say, we are not aware of any comparable statute where the Federal Government has pro-

hibited a particular type of operation within a business. It is something that is rather novel and rather new and that is why I think it presents some substantial questions which we have not been able to explore.

Mr. CONYERS. Wait a minute. You are prohibiting a lot of things. What is so new about that?

What about the police power, and the authority to regulate the health, welfare, and safety of our citizenry? Maybe it is new, I just never thought of it as being particularly novel.

The same question comes up about bombs and bazookas and anti-tank weapons; nobody is still arguing you have got a right to them. We prescribe a lot of things and businesses are restricted in the regular order of national legislation when these matters are seen to be detrimental.

We have the taxing power on one hand and we have other very large and very sensitively to be used authority, but it just does not seem without any investigation that this is novel.

You do it all the time and in dealing with city ordinances, State laws, and Federal laws.

Mr. DESSLER. I am referring to on the Federal level a Federal statute which would prohibit a particular type of business, a particular type of business to deal in a particular product.

Now that is the type. I recognize that the Federal Government does regulate businesses but I am referring to prohibiting a legitimate business from engaging in a particular activity, with respect to a particular product.

Mr. CONYERS. Narcotics, drugs, is not that an area that we regulate very, very stringently?

Mr. DESSLER. Yes, we do.

Mr. GEKAS. Firearms as a matter of fact, it is prohibited for somebody under a certain age to be a firearms dealer because there is a feeling of a relationship between the age of someone and kind of a presumptive ability to conduct the business.

Mr. DAVIS. We would be happy, Mr. Dessler I am sure would volunteer to prepare an opinion.

Mr. CONYERS. We need all of the help we can get. We realize that we are treading into some very difficult constitutional areas now. I know that is the point you are making and we think that something is in order and as you know, the more we get into the question of firearm regulation we are continually surprised. I suppose we are not to be surprised any more to find there has been very little previous study done in these areas.

Many of these questions are asked almost in the first instance when we thought they had been examined by someone somewhere before.

Mr. BARBOZA. Mr. Chairman, Mr. Davis, concerning pawnbrokers recently you instituted a new classification system for dealers, firearms' manufacturers, pawnbrokers and others. I have an ATF print dated April 22, 1975 which indicates several apparent pawnbrokers who are classified by the number of O-1 which means dealer in firearms other than destructive devices or ammunition for firearms other than destructive devices. I note that number 2-S, is a pawnbroker's classification.

I am wondering, for example why an apparent pawnbroker, Herdon's Loan Office, Los Angeles, Calif., is classified as O-1 or dealer?

Would you check into these discrepancies to determine whether the proper fees are being paid by these persons?

Mr. CONYERS. Will counsel suspend? We have an indication that a record vote is taking place on the floor so we will recess for approximately 15 minutes.

[Whereupon, the subcommittee recessed at 11:35 a.m.]

AFTER RECESS

Mr. CONYERS. The subcommittee will come to order and we will resume the testimony of our witness, Mr. Davis.

Mr. DAVIS. Thank you, Mr. Chairman.

It may be of interest to the committee to report on a Project Identification which we instituted in the District of Columbia. We appeared before the House District Committee chaired by Mr. Diggs and he in his capacity is concerned about the crime rate in the area because of the Bicentennial Year and so we have indicated to him that we would introduce a Project Identification that is only 60 days old but at least some of the early results will be of interest.

In this are not only the Metropolitan Police Department but 10 other jurisdictions in this metropolitan area which are providing guns that they obtain, as used in street crime in the area.

So far, we have received 400 requests of guns to be traced from this area and we have completed the trace on 278. Of that 278, 212 are hand guns, 75 are rifle shotguns and starter pistols and other types of weapons. Of those that we have completed to date, about 27 percent of them meet the 3-part criteria as being Saturday night specials.

Again, I know the committee is familiar with the fact that the District of Columbia has a registration law in effect in the District and again, I think the early returns carry out the concept that in such areas, the guns come from other places.

Now, those gun that were actually seized in the District of Columbia proper, that is 187 handguns, we have traced 127 to those, 83 percent came from Virginia or Maryland where the laws are obviously not as strict. That is approximately 105 of the guns. Now, of the 127 which we have traced, 30 percent of those were used in what we would consider major crimes: Assault, robbery, murder, they included 8 murders and 15 armed robberies, so about 30 percent of those so far have been in that category. And we will give the committee written summary of that.

Mr. GEKAS. Mr. Chairman, I wonder, there are some things this subcommittee is interested in, having to do with the commission of murder, some of the arguments is crime of passion account for a substantial percentage of homicides and if possible, since it is right here in this area that you are studying, if you could take the firearms that you traced through that are involved in these serious offenses of murder and homicide and identify the percentages of crimes of passion, murders, the crimes of passion between acquaintances and relatives and then go a step further and perhaps the Metropolitan Police could do this and ascertain the percentage in which offenders and victims of prior felony convictions so that we would have some statistics to show indeed crimes of passion do occur between acquaintances, relatives and the like but that a substantial

OTHER THAN DESTRUCTIVE DEVICES. I note that number 2-S, is a pawnbroker's classification.

I am wondering, for example why an apparent pawnbroker, Herdon's Loan Office, Los Angeles, Calif., is classified as O-1 or dealer?

2610

proportion of those crimes of passion involve offenders with criminal records and victims with criminal records and if you could do that—

Mr. DAVIS. I am sure we can rely on the cooperation of the District of Columbia Police Department for this area.

Well, Mr. Chairman, earlier, this was something referred to earlier, of the over 10,000 guns that were submitted to us for tracing in our Project Identification, from 16 major cities, the street age of that number, 2,476 or two-thirds were sold after the 1968 Gun Control Act. In other words in the last 7 years so this gives the committee some concept in the age of these weapons.

If I could, Mr. Chairman, I might sort of sum up the testimony to date by referring to this chart and what we tried to do here is to visually portray all of the sources of guns that are used in crimes and this represents, in our view at least, the total picture and after talking about them then I would like to advise the committee of what we are doing, what we can do under existing law and what we are doing to try to close off these sources.

We start up here, with the source being an unscrupulous dealer where there are sales to those that are prohibited so that represents a source.

Another major source is the falsification by the purchaser, either using false identification or falsely affirming that he is not prohibited under Federal law. In this case, the dealer is not a party presumably, although he could be in some cases.

We were discussing this morning illegal sales and, of course, this is probably major source of weapons to unlicensed individuals, sold to persons in violation of Federal law.

Another area is individual sales. Here, where an individual sells to another, obviously he does not check to determine whether he is proscribed from selling and so that probably is a major source.

We have illegal manufacturing which is another source, for example, the conversion of M-1 carbines to fire automatic to M-2 carbines which is a violation of Federal law.

We have mentioned earlier pen guns that are converted and sometimes as in the case of Detroit, they had converted 1,500 of these guns to fire regular ammunition, so it can be of a considerable sized source.

Smuggling we put down to complete the picture but from all of our information, this is practically no problem because our suspicion is that it all goes the other way.

I had not mentioned our guns to Mexico program I do not think but we do know that there is a considerable traffic in firearms between the United States to Mexico and that it is very closely related to the narcotics traffic, where guns are taken down or traded or sold in exchange for narcotics.

Mr. BARBOZA. Director, has there been any cooperation between your Bureau and the Drug Enforcement Administration on this problem?

Mr. DAVIS. Yes. I might say that in our program, guns to Mexico, we are of course working with the Mexican authorities and at their request we try to help them. They see this as a very major problem

Pontian Police could do this and ascertain the percentage in offenders and victims of prior felony convictions so that we have some statistics to show indeed crimes of passion do occur between acquaintances, relatives and the like but that a substantial

2611

agency in the Treasury, and of course with DEA to the extent that there is this relationship with narcotics.

Mr. BARBOZA. How deeply involved is DEA? I am asking this question because the subcommittee has oversight of the Drug Enforcement Administration, and I was wondering if they are involved so substantially that it might be appropriate to go into it.

Mr. DAVIS. Right. They are, as you are aware, they are very active in the narcotics area and to the extent, as I say, there appears to be this relationship between the smuggling of guns with narcotics, we actively work with them and if they discover guns, they refer it to us.

Mr. CONYERS. We are very interested in that connection. I might point out that the ranking minority member of this subcommittee serves on the select committee that is currently investigating the CIA, FBI, and many of our other intelligence agencies.

Mr. DAVIS. I am afraid ATF also.

Mr. CONYERS. And we are interested in that relationship and I was just wondering, do you have any connection with the Central Intelligence Agency?

Mr. DAVIS. No, sir, we have a liaison relationship where occasionally we will exchange, they will ask us to check a name for them and it is a very tenuous relationship.

Mr. CONYERS. What about the earlier problem of the Department of Defense or our military establishment selling new model weapons to dealers within this country, which would sometimes go outside of our shores and the return to domestic commerce?

Mr. DAVIS. Yes, sir. We have, since the Gun Control Act, we work closely with the military. Unfortunately, within the first year or two after passage of the act, there were cases where military surplus, automatic weapons, for example, were not completely deactivated and they were sold as junk scrap for example, several tons of it; by reason of the way they were deactivated, they could be, several guns could be, put together.

Now, since that time, we have stopped that practice so that that no longer remains a problem.

Mr. CONYERS. Should we have any intelligence about the military and their release of any kind of weapons whatsoever that may get back into commerce?

Mr. DAVIS. Sir, I am sure the committee is aware of the civilian marksmanship program carried on by the Department of Defense.

Now, I know that at one period, they were selling not only carbines but also .45 automatics.

Mr. CONYERS. And M1's.

Mr. DAVIS. M1's, yes, sir; and my understanding is that Mr. Keathley can verify that but I understand they still sell long guns.

Mr. KEATHLEY. They still sell long guns.

Mr. OWENS. Long guns can only be sold to active members and recognized clubs.

Mr. CONYERS. In what quantity?

Mr. OWENS. I have no idea.

Mr. DAVIS. I would guess it would have to be in the thousands.

If the committee is interested, we have an evaluation of the guns to Mexico program in which we think that the evidence is very con-

clusive that there is a direct relationship between gun traffic and narcotics and we would be happy to provide the committee with a summarization of that finding, if the committee desires.

And then the next point, I would like to make with is what we are doing with this overlay in trying to stop these various sources.

In the case of dealers, of course, we rely on compliance inspections and we have strong reasons to believe that the dealer is violating Federal law, we will use undercover investigations such as we did with the dealers in South Carolina and then, of course, gun tracing provides a very good clue as to which dealers represent the greatest hazards.

If we find an unusually large number of guns being sold to a dealer, then we will look at it more closely. It does not necessarily mean or it is not even presumptive that he is violating Federal law, but certainly, we raise the question.

Now, some of the areas that have been proposed, one is reduction of the number of dealers and the President's message on crime has focused on this point. By reducing the number of dealers, of course, it makes our compliance program much easier and since only those people commercially engaged in the business of selling would be licensed.

Mr. CONYERS. Pardon me sir. We do have a record vote, so could we interrupt and suspend these proceedings for approximately 15 minutes.

Mr. McCLORY. Mr. Chairman, I do not know that I can come back. I will be involved in the next matter on the floor so I am very interested in this next stage of your testimony, what you can do without additional legislation and what potential of additional legislation would be in the tracing operation and in other areas.

Mr. CONYERS. Is it your preference that we do not continue?

Mr. McCLORY. No, I think you should continue but I will just have to examine your testimony in that respect.

Mr. CONYERS. Let's hold anything else until we come back.

The subcommittee will recess.

[Whereupon, the subcommittee recessed at 12:20 p.m.]

#### AFTER RECESS

Mr. CONYERS. The subcommittee will come to order. We resume the testimony of Mr. Davis.

Mr. DAVIS. Thank you, Mr. Chairman.

One of my colleagues pointed out to me, while the committee was in recess, the Department of Defense, the civilian marksmanship program, sends a notification to ATF of every individual who wishes to purchase one of their guns and then we, through our field offices, make a quick check to determine whether that individual is qualified under Federal law so we do have that kind of cooperative relationship.

Mr. CONYERS. The question is how many?

Mr. DAVIS. We can determine that and give it to you.

And then continuing and moving to the falsification problem by the purchaser, again, we rely on compliance and inspections of the dealers' records and spot checking transactions forms to determine if they are properly made out and again, gun tracing, many times

provides us with information as to when this occurs and then we investigate the purchaser, if there is an indication that he has falsified the Federal forms.

In the case of the illegal sales activity, as we have indicated to the committee, one way we have tried to combat this is through the reporting of sales as of July 1 of this year. We do, of course, make undercover investigations in which our agents, if they have reason to believe an individual is engaged in unlicensed sale of guns, we will make the appropriate approach and, of course, the normal criminal investigation we carry on is effective in this area.

Now, the individual sales: Under existing law, there is no prohibition against the sale of guns and certainly, at this point in time, there is no effective way we can stop this.

Mr. CONYERS. Do you have any intention to promulgate regulations that might begin to cover this very sensitive area?

Mr. DAVIS. Under existing law, there is no statutory basis upon which to promulgate regulations.

Again, the administration's bill that will follow the President's message on crime may address itself to this in its final form.

Again, I have already mentioned the fact of those pen guns which are readily converted or convertible to standard ammunition, coming under the controls as of July 1 of this year and, again, we use undercover investigations and that involves criminal investigations to detect and apprehend people who are illegally manufacturing.

As I have already indicated, smuggling is not a problem except maybe on a very limited basis and, of course, the U.S. Customs Service is actively working on the smuggling problem and we work very closely with them in this area.

I might point out there are a number of countries in South America and the Caribbean who have complained about the traffic of firearms from the United States to those areas, specifically Jamaica, as well as the Mexican authorities.

Mr. CONYERS. Jamaica has some pretty strict gun laws.

Mr. DAVIS. Yes, and at least it is their belief and I suspect it is substantiated that there is a traffic of guns from the United States into Jamaica to contravene those laws.

Mr. CONYERS. And maybe into the other islands.

Is that some general pattern, Mexico, the islands?

Mr. DAVIS. Yes, sir. I do not like to talk about specific cases but, for example, our agents, working together with Customs, arrested four Nicaraguans in California who were amassing a cache of guns and ammunition to take into Nicaragua to support the revolution, so there seems to be a pattern.

Now, the theft question is one, of course, as I have pointed out, we feel is not only a great problem at this time but as we are successful in closing off avenues of acquisition, we feel the criminal may turn increasingly to theft to acquire guns so we have paid close attention to this area.

I have mentioned the interstate theft problem or program to try to stop thefts in interstate commerce and now we have this public education program which has just been initiated, encouraging private owners of guns to properly secure them and report their theft and things of this kind.

We have made a survey of dealers. Those licensed dealers in our Midwest region which includes Illinois and some of the adjoining States and on the basis of that and extending the results nationally, we believe that about 35,000 guns per year are stolen from dealers, either by employees embezzling or theft or by breaking in and we feel we do not have the resources at this time to require a dealer theft reporting program because of the lack of manpower to follow up.

Mr. BARBOZA. Director, is there a requirement now that would require dealers to record the names of employees who are engaged in the receipt of firearms?

Mr. DAVIS. Yes, sir, there is, and if a licensed dealer has an employee that is engaged in the receipt or sales, then that person should be qualified under Federal law.

Mr. BARBOZA. Are there any requirements either by regulation or by law which would require the dealer to record the names of individuals who are engaged in the receipt or disposition of firearms in the business?

Mr. DESSLER. In the business. In the case of the corporation the law does require the application to state that the individuals are not prohibited from transporting or receiving in interstate commerce but not in the case of individual proprietorship.

Mr. BARBOZA. So, for example, if I worked for Johnson's Sporting Goods Shop, and I am not a Federal licensee, could I sell firearms on behalf of the licensee?

Mr. DESSLER. As an employee, yes.

Mr. BARBOZA. And that information, information concerning my name and my address and my background, is not required to be recorded by the dealer himself?

Mr. DESSLER. That is correct.

Mr. BARBOZA. So that if an ATF agent were to come into Johnson's establishment and ask Mr. Johnson who is engaged in the sale of firearms and ammunition, you would have to rely on what he tells you; there are no records?

Mr. DESSLER. Yes.

Mr. BARBOZA. Would that in any way assist you?

There is one case where an individual worked for a department store, bought and sold firearms over the counter, and through his connections, consummated personal deals in the parking lot. He was convicted of selling 11 guns without a dealer's license.

Mr. DAVIS. In discussing the 35,000 guns stolen from dealers, there is an indication that quite a large number of them are single thefts, the kind an employee might be involved in or maybe by shoplifting and I think it stands to reason that a person with a felony record would be more likely to ignore the requirements of the Federal law so that if the same limitation were placed on the employees of licensees, that would avoid that problem.

Mr. BARBOZA. Without incriminating any friends, I knew when I was a kid because they for the most part respected the law. Some of us worked in a supermarket, receiving goods, and I know of a few kids who took little things that they might happen to like for their girl friends—dolls and other novelties that the store might happen to sell. I am just wondering if that kind of innocent theft does not

occur in greater proportions among persons without criminal histories than it does among persons with criminal backgrounds. Sometimes employees have the misguided notion they are entitled to more than their salaries. I would think handguns would be a commodity susceptible to that kind of pilferage.

Mr. DAVIS. The more effective the law is, the greater desirable weapons are, then of course the incentive is more for an employee to steal a gun and then go outside and sell it to somebody, obviously it would become greater, so to answer your question, it would be of assistance and of course, obviously the employee would be less likely to do it, if he realized that there could be a check on him.

Mr. CONYERS. At this point and because a quorum call has been indicated again, I think perhaps we ought to, I know that I have engagements now that will intrude on the rest of the day and I do not know how much further we can go on.

There is still a number of areas we can discuss.

Mr. DAVIS. Mr. Chairman, I think as far as we are concerned that we have covered our prepared presentation and so that we are at the pleasure of the subcommittee from now on to answer questions.

Mr. CONYERS. Well we are going to strive to have you come back. There are a number of things that I know that you could be very, very helpful with. I would like to observe that a former member of the judiciary committee and a colleague of mine, Gerry Waldie, a former representative from California, who has served with distinction on this committee, is in the hearing room and I would like to acknowledge his presence.

We welcome you back to your old stomping grounds.

On that note, the committee will be adjourned.

Thank you.

[Whereupon the subcommittee adjourned.]

## FIREARMS LEGISLATION

WEDNESDAY, OCTOBER 1, 1975

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON CRIME OF THE  
COMMITTEE ON THE JUDICIARY,  
*Washington, D.C.*

The subcommittee met, pursuant to notice, at 10:04 a.m., in room 2237, Rayburn House Office Building, Hon. John Conyers, Jr. [chairman of the subcommittee] presiding.

Present: Representatives Conyers, Mann, Danielson, Hughes, McClory, and Ashbrook.

Also present: Maurice A. Barboza, counsel.

Mr. CONYERS. Good morning. The subcommittee will come to order. We are very pleased to have as our first witness, Attorney Ronald Gainer, Acting Director of the Office of Policy and Planning, the U.S. Department of Justice, accompanied by Attorney Karen Skrivseth.

Mr. Gainer has distinguished himself in a great deal of activity in connection with the Department of Justice in the Appellate Division. And he served as Deputy Chief and now Chief of the Legislative and Special Projects Section of the Criminal Division of the Department of Justice and he has been very instrumental in working on the formulation of firearms regulation legislation.

It is on the assumption that he is the principal draftsman of this administration proposal H.R. 9022, that we welcome him before the subcommittee and hope to learn everything that it is possible to determine in connection with the thinking that has gone into this proposal.

We should note before we begin that this represents the culmination of any number of attempts to get the Attorney General here in person. And, in view of the fact that it is apparent that we are not going to have the chief law enforcement officer before the subcommittee, we move toward our present witness.

We have your prepared statement. We thank you for submitting it in advance of your appearance. It will be put into the record at this point and that will free you to begin your discussion with this subcommittee.

[The prepared statement of Ronald Gainer follows:]

### STATEMENT OF RONALD L. GAINER

Mr. Chairman, members of the subcommittee, I have been requested to discuss with you today the provisions of H.R. 9022, a bill introduced by Congressman McClory on behalf of the Administration. The bill would amend the Gun Control Act of 1968.

I need not recite to you the statistics concerning the proportion of violent crime that is accomplished through the use of handguns. At this stage of your hearings, you gentlemen are keenly aware of the extent of the problem. You are also aware of the difficulties in attempting to achieve a solution. While there appears to be a developing consensus that something must be done by the Congress about the criminal misuse of handguns, the form that such action should take remains in issue.

H.R. 9022 does not propose a ban on the possession of handguns. Nor does it propose a system of licensing owners of handguns or of registering the handguns in private possession. It does contain, however, a series of provisions which in themselves constitute relatively minor extensions of the existing federal laws, yet which, in combination, afford a realistic hope of achieving a significant reduction in the scope of the problem.

H.R. 9022 is designed to help reduce the problem of criminal use of handguns through a combination of four general measures: first, by assuring that dealers' licenses may be obtained only by bona fide firearms dealers; second, by requiring that dealers take certain steps before selling a handgun in order to assure that persons seeking to purchase handguns are lawfully entitled to do so; third, by prohibiting absolutely the manufacture and sale of cheap, unreliable handguns commonly known as Saturday Night Specials; and fourth, by undertaking measures to increase the effectiveness of enforcement efforts.

The first of the four measures is intended to restrict dealers' licenses to those actually conducting a firearms business and to assure that their business is conducted lawfully.

Today, anyone with ten dollars and a felony-free record can become a federally licensed firearms dealer. Moreover, those licensees who choose to do so may then operate in violation of the law with little realistic chance of being detected. Given the fact that there are now approximately 150,000 federally licensed firearms dealers, the likelihood of an unlawful dealer's being discovered through routine inspections is minimal. Treasury agents are able to visit each dealer's place of business approximately once every ten years, and during that visit have time to review an average of only four or five randomly-selected sets of records.

Part of the problem is that today there is only one class of federal firearms dealers' license. Yet many dealers wish simply to sell ammunition as a service to their customers. Others are interested only in handling long guns for hunters and marksmen. The current law does not even require that the licensee really be in the business of buying and selling firearms. Indeed, many persons presently obtain license as a convenient means of circumventing some of the general purposes of the 1968 Act, and they may do so lawfully. The 1968 Act was not intended to be a voluntary licensing system for anyone willing to pay a ten dollar fee for the privilege of purchasing weapons from persons in another state. It was designed to require certain conduct by persons in the business of buying and selling firearms, and it was intended as a strict limitation on interstate sales. The Treasury Department has emphasized in the past the need for a change in the requirements for obtaining a dealers' license so that only a bona fide dealer may obtain one. H.R. 9022 includes a series of provisions that will accomplish the Treasury Department's objective.

Specifically, the bill would establish various classes of licenses and would impose a scale of fees calibrated to the need for routine inspections of those holding particular kinds of licenses. The dealers' fees would range from a high of \$500 for a pawnbroker dealing in handguns as well as long guns, to a low of \$25 for a retailer selling only ammunition.

The Secretary of the Treasury, prior to issuing a license, would be required to review the genuineness of the applicant's intent to engage in a bona fide business, the capitalization of the business, the applicant's business experience, and other factors relevant to establishing that the applicant is in fact intending to engage in the firearms business. Such provisions are similar to those currently enforced with regard to applicant's desiring to engage in commerce involving alcoholic beverages. These provisions should enable the Bureau of Alcohol, Tobacco and Firearms more carefully to screen applicants for firearms licenses, particularly those who wish to deal in handguns, and the increased fees should provide a source of revenue that will more closely approximate the actual administrative and inspection costs of an adequate supervisory program.

The bill would also give the Secretary of the Treasury wider discretion in imposing penalties on dealers who have been found in violation of existing provisions. Currently, the Secretary is limited to revoking a dealers' license. Under H.R. 9022 the Secretary would also have available the ability to suspend the license or to impose a civil penalty of up to \$10,000, depending upon the gravity of the violation. The bill also provides for review of such administrative determinations in order that any arbitrary action may be avoided or corrected.

The second measure in the proposal would impose a series of restrictions upon dealer sales of handguns. It is designed to cut off the supply of handguns to persons with felony records or persons who for other reasons may not lawfully possess handguns under existing laws.

The 1968 Act prohibits sales by dealers to persons whose possession would be illegal under state law or published local ordinance applicable at the place of sale, delivery, or other disposition. Despite this prohibition, many cities of those laws because neighboring jurisdictions permits their dealers to sell handguns without regard to the laws of the central city. The 1968 provision prohibiting such sales has not been enforced because it cannot be enforced. H.R. 9022 is designed to make the current prohibition more enforceable by requiring handgun dealers to take steps to avoid inadvertent sales to persons who cannot lawfully possess handguns.

Under the 1968 Act dealers are required only to obtain and file a written statement by the purchaser of a firearm setting forth his name, age, and place of residence, and asserting that he is not a member of a class barred from acquiring a firearm. The 1968 Act does not require any effort by the dealer to determine whether the purchaser legally can own a firearm. There is no requirement for checking the data supplied by the purchaser and no provision for delaying delivery of the firearm.

Under H.R. 9022, handgun dealers would be required to take a series of steps to verify that a prospective purchaser is legally entitled to possess a handgun. No handgun could be sold to anyone who does not appear personally at the dealers' place of business. The prospective buyer would have to fill out a form setting forth his name, age, and place of residence, and the place where the handgun is intended to be kept. He would also be required to affirm that his receipt of the handgun would not be in violation of any law applicable at the place where he intends to keep it, and, if a permit is required under local law at the place where the handgun is to be kept, he must attach to the form a copy of his permit. This latter provision is designed to assist the dealer in verifying that the ultimate disposition of the handgun—its possession at the place intended—is lawful. The prospective buyer, moreover, would have to affirm not only that he is not among the disqualified classes of individuals listed in current law, but that he does not intend to transfer the handgun to a person barred by any law from possessing the weapon. This provision is designed to provide a provable charge against "strawmen" who purchase handguns with intent to sell or transfer them to third parties whose possession would be unlawful. Finally, the prospective purchaser would have to establish his identity through means required by the Secretary of the Treasury, and, in order to facilitate checking of the information supplied, would have to set forth the name of the chief law enforcement officer in any locality where the purchaser resides and where the handgun is to be kept.

To assure an opportunity for verification of the information supplied by the prospective buyer, the dealer is required to wait a period of up to 14 days before the sale of the handgun may be completed and the weapon delivered to the purchaser. The 14-day delay may, in itself, have some salutary effect. Surveys have indicated that there is a strong temporal correlation between handgun purchasers and illegal handgun usage indicating that many handguns are purchased for the express purpose of engaging in criminal activity; a "cooling-off period" may therefore occasion some benefit by delay in acquisition alone. The principal purpose of the 14-day period, however, is to provide an opportunity for ascertaining the accuracy of the information supplied by the would-be purchaser. The dealer is required to check through the local police—who would request an FBI "name check" of the purchaser—to establish whether he has a record of felony convictions or other disability that would disqualify him from purchasing a handgun. When the dealer receives from the local police the results of their criminal

records check and a statement to the effect that the purchaser is not disqualified from possessing a handgun in the locality where he intends to keep the weapon, he may complete the transaction absent any reason to believe that the purchaser is acting as a "strawman" on behalf of disqualified individuals.

The local police are not specifically required by the legislation to give their full cooperative efforts in ascertaining the accuracy of the prospective buyers' statements. However, since assuring that persons with criminal records do not obtain handguns would be of direct and material interest to local police authorities, it is expected that virtually all municipalities will readily elect to take full advantage of the screening opportunities provided by the bill. Similarly, while the bill does not specifically require that the local police request an FBI name check of prospective buyers, it clearly would be in their interest to do so. A 1974 review of 2,000 purchase forms in the files of 12 dealers in one state revealed that 187 purchasers would have been identified as felons by a simple FBI name check and thus would have been found ineligible to purchase firearms. It is expected that local police would welcome the opportunity to take advantage of this simple screening technique.

It should be noted that, as is the case under existing law, the records of handgun transactions would be kept by the handgun dealers. The bill provides for no central registry.

In addition to providing a greater potential for preventing unlawful handgun sales, the bill also contains two new criminal provisions designed to aid in the enforcement of federal and local handgun control laws. The first would prohibit shipping firearms into or through a state where the shipment would violate state law or shipping firearms in interstate or foreign commerce in violation of a law of the place of sale, delivery, or other disposition. This provision is similar to various other provisions in the federal law, and is designed to aid local law enforcement authorities by stopping illegal shipments in transit rather than having to wait for their arrival and mass distribution.

The second new criminal provision is one of particular importance. A recent study has indicated that although only two to seven percent of all handgun purchases are in violation of the law, approximately 58 percent of multiple purchases by single buyers are in violation of law. To help stem the problems suggested by the study, the Department of the Treasury recently has promulgated regulations requiring that dealers report multiple firearms sales. While this should provide assistance in tracing unlawful handgun purchasers, a change in the existing statutes would be particularly helpful.

Accordingly, H.R. 9022 would prohibit the sale to, or the purchase by, an individual of more than one handgun in any thirty-day period. This provision, in combination with the screening provisions previously referred to, should make it difficult for gun runners to make large purchases of handguns; the numerous trips to different areas and the evasive tactics that would be necessary to circumvent the legislation would make such illicit businesses economically unprofitable. For legitimate purchasers who have occasion to buy more than one handgun in a thirty-day period, however, exceptions to the prohibition would be provided under regulations established by the Secretary of the Treasury. This would permit multiple sales involving security agencies, estates, collectors, and others in similar special situations.

The third means by which H.R. 9022 would seek to reduce the problems caused by criminal use of handguns is by the elimination of the availability of the Saturday Night Special.

As the term is generally used, "Saturday Night Special" refers to a cheap, highly concealable, inaccurate handgun that often is as inherently dangerous to the possessor as it is to the citizenry as a whole. It is of no value to a hunter. It is of no value to a competitive target shooter. It is usually of no value even to a self-respecting weekender "plinker". It is of far less value than a rifle or shotgun to a person who wishes to defend his home against a criminal intruder.

The only real value of a Saturday Night Special is to frighten and to kill. Indeed this is the use that has been made of it. In 1974 the Bureau of Alcohol, Tobacco and Firearms traced 4,537 handguns found to have been used in crimes in four major cities and found 70 percent of them were classifiable as Saturday Night Specials.

A substantial step in meeting the problems of Saturday Night Specials was taken by the Congress in enacting that portion of the 1968 law which bans the

importation of such weapons. That step turned out to be insufficient, however, because although the law banned importation not only of completed weapons but of frames and receivers, it did not ban the importation of the other parts necessary to make Saturday Night Specials and did not ban their domestic assembly and manufacture. H.R. 9022 would seek to eliminate this loophole in the existing law by banning not only importation but the domestic manufacture, assembly, and sale of Saturday Night Specials.

There is, of course, a difficulty in defining with precision the kinds of handguns to be banned. Several possibilities have been explored. H.R. 9022 employs a variation of the factoring system designed by the Department of the Treasury to effect the current statutory ban on importation of handguns that have legitimate sporting purposes.

This system, which was developed by the Department of the Treasury in consultation with several groups interested in the problems involved, has been modified in the bill in order to make the standards more effective from both a law enforcement and a sporting perspective.

Under the system set forth in the bill, in order to avoid falling within the prohibited category of handguns a pistol must have a manually operated safety, a height of at least four inches, and a length of at least six inches; a revolver must have a safety device sufficient to assure that the weapon will not fire if dropped, an overall frame length of at least 4½ inches, and a barrel length of at least four inches. These basic standards will assure that no handgun may be produced or sold without basic safety features and without sufficient size to reduce the likelihood of concealability. In addition, however, a handgun passing the basic standards must be found to possess such additional features as enable it to accumulate a specified total number of points. Under the provisions of the bill, points are given for length beyond the minimum required, the use of stronger and safer materials in frame construction, each ounce of weight, additional safety features, and the existence of various items such as adjustable sights and target grips. The general purpose of these requirements is to assure the safety and legitimate sporting utility of handguns that are being imported, manufactured and sold.

It should be noted that, unlike the system developed by the Department of the Treasury after passage of the 1968 Act to flesh out the "sporting purposes" test, the factoring system just discussed is included within the proposed statutory framework itself. This should assure that extensions or modifications of the standards cannot take place simply by administrative action, but must await specific action by the Congress.

The fourth means by which the bill seeks to reduce the problems occasioned by the criminal use of handguns is a somewhat more direct one. The bill would facilitate prosecution of felons found in possession of guns, and would insure the incarceration of those found guilty of using a gun in the course of another criminal offense.

The 1968 Act made it unlawful for felons and certain other persons to receive, possess, or transport firearms "in commerce or affecting commerce." The Supreme Court, in a divided opinion in *United States v. Bass*, held as a matter of statutory interpretation that in each case there must be a clear nexus between the possession and the interstate commerce. In practice this means that if a convicted felon is found to be carrying a handgun he may not be prosecuted unless the government can prove, for example, that he was carrying the weapon from one State to another. For all practical purposes, therefore, there is currently no effective federal prohibition against a felon possessing a firearm. The "receipt" portion of the statute does not provide an effective alternative, since it requires proof not only that the weapon was transported in interstate commerce but that it was received by the felon after 1968, and establishing both the date of the receipt and the venue of the receipt has presented major prosecutorial problems. The consequence of this Court interpretation has been to weaken considerably the effectiveness of the 1968 Act.

H.R. 9022 would remedy this problem by striking the language found to be ambiguous and by substituting in its stead a congressional finding that possession or receipt of a firearm by members of the statutorily prohibited classes constitutes itself a general burden on commerce. This would obviate the need to establish in every case a direct connection with interstate commerce. The rising rate of crime committed with firearms, and the special danger inherent in the possession of firearms by members of the proscribed classes of individuals,

clearly would justify such a congressional finding. A similar finding adopted by the Congress with respect to the current loansharking statute was found by the Supreme Court in *United States v. Perez* to constitute a constitutionally supportable basis for the exercise of federal jurisdiction.

The 1968 Act also provided for special penalties to be imposed upon persons who use a firearm to commit another federal offense. The statute directs that, upon conviction, a court impose a sentence of between one and ten years imprisonment for a first offender, and between two and twenty-five years imprisonment for a second offender. The statute does not, however, prohibit the court from suspending execution of the sentence to imprisonment if the defendant is a first offender. Consequently there is today no mandatory minimum sentence that must be imposed for an offender who has not previously been convicted under the same statute.

The Administration has submitted to the Congress an amendment to the Criminal Justice Reform Act, now pending as H.R. 3907 and as S. 1, which would impose a mandatory penalty upon persons convicted of using a firearm in the commission of a federal crime. The need for such a provision, however, is immediate. Accordingly, H.R. 9022 contains a provision that would make mandatory the imposition of a term of imprisonment for anyone using a firearm in the course of a crime. This would increase the certainty of sentences in such instances pending the congressional consideration and passage of the broader, more integrated provisions of the Criminal Justice Reform Act.

In addition to the provisions contained in H.R. 9022, there are other means of seeking to make more effective the federal efforts against firearms violators. Principal among them is the Administration proposal to establish special handgun task forces in the nation's eleven largest cities—task forces that will concentrate federal investigative resources upon the underground networks that have provided black market sources of weapons for use in crime. Under the proposal, the Department of the Treasury's Bureau of Alcohol, Tobacco and Firearms will increase the number of its agents by more than 50 percent; a total of 500 new agents will be assigned fulltime to stem the unlawful traffic in handguns in the designated metropolitan areas. The House Appropriations Committee has not yet scheduled hearings on the necessary funding, but it is hoped that such hearings may be held later this month.

The passage of the proposals contained in H.R. 9022, and their enforcement by an increased contingent of Treasury agents, will not eliminate the problem of the criminal misuse of handguns. But it will help to reduce the seriousness of the problem. It has the potential for saving lives and for reducing the level of fear in our cities. It offers the prospect of making progress in an area where progress has been very difficult to achieve. It warrants the careful consideration of this Subcommittee and of the Congress as a whole.

**TESTIMONY OF RONALD L. GAINER, ACTING DIRECTOR, OFFICE OF POLICY AND PLANNING, DEPARTMENT OF JUSTICE, ACCOMPANIED BY KAREN-SKRIVSETH, ATTORNEY, OFFICE OF POLICY AND PLANNING**

Mr. GAINER. Mr. Chairman, I might point out that though I have been a principal participant in the various examinations of alternative solutions to the firearms problem. I was not the principal draftsman of this particular version of the bill. Ms. Karen Skrivseth had a great deal to do with it, and I was a participant in all stages of the drafting of this bill and in the prior discussions that led to it.

Perhaps it might be helpful to the committee if I would simply paraphrase some of the statements that appear in the prepared testimony and indicate in outline form to you the essential features of what is included in H.R. 9022.

Mr. CONYERS. Would it be inappropriate, sir, to ask if you give us a background of the planning that went into this or give me some idea of how long you have been working on this in your end of it.

Mr. GAINER. I am not quite sure I know what you mean by my end of it. I suppose it started in 1972 when the Criminal Division was asked by Henry Petersen to start evaluating the possibility of developing some solution to the criminal law problems created by the ready availability of handguns.

There was a committee established at that time within the Division. There later was an intradepartmental committee established at the time Mr. Richardson was Attorney General. That committee held several meetings and made some draft proposals that were aborted with the so-called Saturday night massacre.

With the merry-go-round of Attorneys General and Deputy Attorneys General that the Department has seen in the past few years, it has been rather difficult coming to the present stage. We are pleased, however, finally to have a bill for consideration by the Congress.

When the present Attorney General was confirmed, he indicated his strong interest in proposing measures for dealing with the problems caused by handgun misuse and he established a departmental committee to explore the problem. The departmental committee worked very closely with representatives from the Department of the Treasury, with other law enforcement agencies interested in the problem, and with various offices within the Department of Justice that had an interest in it, either from the absent constitutional aspect or from the prosecutive aspect or from the law enforcement and investigative aspect.

Over a period of time, that committee discussed various approaches to the problem, including the approach of a regionalized proscription on the use of handguns that would be triggered by rises in the crime rate in particular metropolitan areas, an approach the Attorney General thought held some promise.

The Department's committee considered, I suppose, 20 or 25 kinds of approaches to the problem. After it was decided what approach would be taken by the Department and by the administration as a whole, we worked very closely with representatives from the Bureau of Alcohol, Tobacco and Firearms in the Department of the Treasury in coming forward with this particular draft.

In the course of the general weighing of the alternative approaches available, three representatives from the Department, myself included, had been designated by the Attorney General to talk to interested private organizations and groups. We did so. I suppose we talked to 2 or 3 dozen in all. We found a great variety of views as to what would be an effective approach, what would be a proper approach. There was some overlap, and some very strong divergences of opinion, as I am sure you are keenly aware.

That, in essence, is the nature of the consideration the Department has given the problem over the past few years.

Mr. CONYERS. Well, I appreciate that. Can you describe that further so that we have an understanding of this development of a proposal.

Who were the other representatives who talked to the private organizations? What were the approaches considered and how were they discarded, you know, what happened? How did the developmental process take place in terms of arriving here, if you can elaborate just a little bit more.

**EXHIBIT 30**

## FEDERAL FIREARMS ACT OF 1976

MAY 6, 1976.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. CONYERS, from the Committee on the Judiciary,  
submitted the following

## REPORT

together with

## SEPARATE, ADDITIONAL, AND MINORITY VIEWS

[To accompany H.R. 11193]

The Committee on the Judiciary, to whom was referred the bill (H.R. 11193) to amend title 18 of the United States Code to provide for more effective gun control, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment strikes out all after the enacting clause and inserts in lieu thereof a substitute text which appears in italic type in the reported bill.

## PURPOSE

H.R. 11193 would reduce the rapidly-increasing number of fatalities resulting from the commission of violent person-to-person crimes with firearms by prohibiting the manufacture, sale, and transfer of substandard handguns by Federal licensees, establishing standards governing the sale of handguns to qualified persons, promoting uniformity in application and enforcement of State and local firearms control laws; and strengthening existing provisions of Federal law with respect to providing support to Federal, State and local law enforcement officials in their fight against crime and violence.

## I. SCOPE OF COMMITTEE CONSIDERATION

*A. Legislation Referred*

The Subcommittee on Crime of this Committee, having legislative and oversight jurisdiction of several areas relating to crimes of property and violence, was referred more than one hundred bills addressing themselves to the problem of increasing numbers of gun-related crimes. These proposals contemplate a broad and diverse range of

methods attacking this complex problem, including: increasing penalties for the commission of firearms-related crimes [see, e.g., H.R. 462, H.R. 3391, H.R. 3627, H.R. 3757, H.R. 3772, H.R. 4758, H.R. 5237, H.R. 5379, H.R. 5538, H.R. 6056, H.R. 9022, H.R. 9763]; imposing a waiting period upon prospective purchases of handguns [see, e.g., H.R. 9022, H.R. 10442]; prohibiting the importation, manufacture and assembly of certain types of handguns [see, e.g., H.R. 267, H.R. 1685, H.R. 2433, H.R. 3773, H.R. 6778, H.R. 9022, H.R. 9763, H.R. 10442]; providing for the registration of privately-owned handguns [see, e.g., H.R. 626, H.R. 1685, H.R. 9763]; providing for the registration of privately-owned firearms [see, e.g., H.R. 354, H.R. 2433]; providing for the licensing of handgun owners [see, e.g., H.R. 9763]; prohibiting the importation, manufacture, sale, purchase or receipt of handguns, with certain exceptions [see, e.g., H.R. 638, H.R. 2911, H.R. 3504]; and prohibiting the importation, manufacture, sale, purchase, receipt, transportation or possession of handguns, with certain exceptions [see, e.g., H.R. 40, H.R. 1601, H.R. 2313, H.R. 3154, H.R. 9780].

The Subcommittee thus found itself faced with an enormous task. Because the referred legislation varied so markedly in concept and content, its members felt duty-bound to measure all approaches against the scope and extent of the problem. A fact and issue oriented methodology was adopted to accomplish this, as articulated in the remarks of Representative John Conyers, Jr., the chairman of the Subcommittee, opening the first hearing:

The extent to which we determine the firearms laws should be strengthened will depend upon our findings with respect to these questions: whether firearms, particularly handguns, play a significant role in accidental deaths and in the commission of serious felonies; whether the present availability of firearms in the Nation contributes significantly to the use of these weapons in the commission of serious felonies; whether making it more difficult or more costly for an individual to acquire or illegally use a firearm, or reducing their availability, would reduce the amount of firearms violence. If the answers to these questions suggest the need for stronger firearms laws, then we must decide: Which of the proposed approaches would achieve the goal of maximizing the reduction of firearms violence and be both reasonable and responsive to other legitimate, though less important, needs of our citizens? [Federal Firearms Legislation, hearings before the Subcommittee on Crime of the Comm. on the Judiciary, 94th Cong., 1st Sess., pt. 1, at 2-3 (1975); hereinafter cited as "Hearings".]

#### B. Scope of Subcommittee Activities

On February 6, 1975, the Subcommittee conducted an organizational meeting to discuss an agenda for the first session of the 94th Congress. The Subcommittee decided to conduct hearings on gun control as its first order of business. From February 18 through October 9, the subcommittee conducted 24 days of hearings on legislative proposals to amend the Gun Control Act of 1968.

Rather than focusing its inquiry into the gun-crime problem on a particular bill, the Subcommittee sought to determine the effectiveness of the Gun Control Act during the years since 1968 in reducing

traffic in firearms. While the Subcommittee did not consider specific legislative proposals, it did seek testimony from public witnesses and congressional sponsors in each of the broad categories of bills in order to examine generally the extent to which these proposals could improve Federal firearms enforcement and control. In addition, sponsors of legislation to repeal the Gun Control Act also appeared as witnesses before the Subcommittee. The Subcommittee's purpose in proceeding in this manner was to develop a complete record from which it is essential to an understanding of the gun-crime problem could be used to draft a Subcommittee bill.

The Subcommittee's hearings were conducted in eight phases: Phase I includes hearings conducted in Washington from February 18 through April 9; Phases II through VII include hearings held in various parts of the United States; and phase VIII includes hearings held in Washington from May 14 through October 9. Following its hearings phase, the Subcommittee conducted ten markup sessions beginning on October 29 and ending on November 20, when it voted to report H.R. 11193, the "Federal Firearms Act of 1975," to the Committee.

During its Washington hearings, the Subcommittee heard testimony from Members of Congress; police chiefs; David R. Macdonald, Assistant Secretary of the Treasury; Rex D. Davis, Director of the Bureau of Alcohol, Tobacco and Firearms; Ronald L. Gainer, Acting Director, Office of Policy and Planning, Department of Justice; the National Rifle Association; gun dealers and manufacturers; citizens' organizations for and against gun control; and the Director of the Office of Civilian Marksmanship, Department of the Army.

#### C. Regional Hearings

In order to determine the extent of the firearms problems in major cities and the effectiveness of Federal, State and local laws in reducing firearms violence and the illicit traffic in firearms, the Subcommittee undertook a series of regional hearings. The purpose of the hearings was to examine local conditions and the role which firearms play as a cause of urban violence. In addition, the hearings served as a means of determining the legitimate uses of firearms in different regions of the country.

A total of 8 regional hearings were conducted during the spring and summer on the following dates: Chicago, April 14 and 15; Detroit, June 9 and 10; Cleveland, June 16; Denver, June 23; Atlanta, July 21; and New York City, July 25. With the exception of New York City, each hearing was televised gavel-to-gavel by local public television stations as a means of providing thousands of interested citizens an opportunity to view the Subcommittee's efforts to study local firearms problems and five ways to address this highly emotional issue.

During the regional hearings, the Subcommittee attempted to review the following issues: the percentage of homicides and other crimes committed with firearms, particularly handguns; the effectiveness of State and local gun laws in controlling firearms abuse and their unlawful possession and sale; the effectiveness of the Gun Control Act in aiding State and local law enforcement agencies in their efforts to stop the illicit traffic in firearms; the lawful purposes for which fire-

arms are used in the various regions; and the level of citizen support for stricter firearms control.

The subcommittee heard testimony from 200 witnesses during the course of its hearings; a total of 167 witnesses testified as part of the regional hearings. Because of the large number of persons wishing to testify and the diversity of opinions, the subcommittee scheduled panels of experts and citizens' groups in each city. The most significant panels consisted of medical doctors, judges, state rifle and pistol associations, gun collectors, criminal justice researchers, marksmen, handgun hunters, police chiefs, and citizens' groups supporting and opposing gun control legislation. In addition, all seven of the regional directors of the Bureau of Alcohol, Tobacco and Firearms presented testimony on firearms problems plaguing their jurisdictions.

The Subcommittee was honored to have received testimony from the following mayors: Richard J. Daley, Chicago; Coleman Young, Detroit; Robert Blackwell, Highland Park; Ralph J. Perk, Cleveland; Maynard Jackson, Atlanta; and Abraham D. Beame, New York City. Testimony was received also from various state legislators and city council members.

#### *D. Legislative Proposals of Subcommittee Members*

In order to stimulate discussion on a legislative solution to the gun-crime problem and narrow the focus of the hearings, Chairman Conyers, on July 17, circulated a draft gun control bill to members of the Subcommittee. The bill would establish a National Handgun Tracing Center within the Bureau of Alcohol, Tobacco and Firearms; require persons who own, possess or purchase handguns to report such fact to the Tracing Center and obtain a Federal license; prohibit the manufacture and sale of concealable handguns; and plug numerous loopholes in the Gun Control Act revealed by the Subcommittee's hearings.

On July 29, Representative Robert McClory, the ranking minority member of the subcommittee, introduced a gun control proposal on behalf of the Administration. The bill was welcomed by the Subcommittee as a positive signal that the Administration supported measures to reduce the gun-crime problem and increase the effectiveness of the Gun Control Act of 1968.

The bill, H.R. 9022, contains provisions which would close several glaring loopholes in the 1968 Act. In addition, it would, among other things, increase fees and qualifications for firearms licenses; increase the time allotted to the Secretary to approve license applications; prohibit the manufacture and transfer of "Saturday Night Specials"; require a 14-day waiting period prior to the sale of handguns by licensees to non-licensees; and prohibit the sale of more than one handgun to a non-licensee during any 30-day period.

On September 22, Representative McClory introduced a bill modeled after legislation he has advocated since 1968 to require the registration of handguns. The bill, H.R. 9763, would establish a national registration system to be administered by the States; establish a system for the licensing of persons owning, possessing and purchasing handguns; ban the manufacture and sale of "Saturday Night Specials"; and prohibit the multiple sale of handguns by dealers to non-licensees. In

addition, the bill contains provisions, which are similar to the Administration's bill and the Subcommittee draft bill, to correct deficiencies in the Gun Control Act of 1968.

On September 23, Chairman Conyers, declaring that, "short of an outright ban on the possession of handguns, there appears to be no way legally to prevent the acquisition of these weapons by criminals and by the generally law-abiding person who may at some time be driven to use them in assault," introduced H.R. 9780, which would ban the manufacture, sale, and possession of handguns. The bill would exempt from its provisions police, the Armed Forces, private security guards and licensed pistol clubs. Persons surrendering their handguns to the Federal government would be eligible to receive a tax credit equal to the fair market value of the weapon.

On October 30, Representative William Hughes, a member of the subcommittee, introduced a bill similar to H.R. 9763. The bill, H.R. 10442, would require a 21-day waiting period and a police criminal record check prior to the transfer of any handgun sold by a licensed dealer to a private citizen. In addition, the bill would establish a National Handgun Tracing Center to serve as a repository of registration records compiled by State registration systems funded by the Federal government. The Center would assist Federal, State and local law enforcement agencies in tracing handguns and other firearms used in the commission of crimes.

At its concluding markup session on November 20, the Subcommittee voted to report the legislative alternatives contained in a Subcommittee print of November 19, as amended, subject to technical, conforming and clerical changes by the staff.

On December 16, on behalf of the Subcommittee, Chairman Conyers introduced H.R. 11193, which was referred to the full Committee for its consideration. The bill closes acknowledged loopholes in the Gun Control Act of 1968 by increasing license fees to make the Federal regulatory system cost-effective; imposing additional qualifications upon prospective licensees; prohibiting the transfer by a dealer of any handgun within 21 days unless the prospective purchaser has been subjected to a criminal record check by State and local law enforcement authorities; prescribing mandatory penalties for the use or carrying of a firearm in the commission of a Federal felony; and establishing a National Handgun Tracing Center within ATF to ascertain patterns of commerce in an effort to curb the illicit trafficking of firearms.

#### *F. ATF Hearings and Investigations*

In order to gauge the effectiveness of the Gun Control Act, Chairman Conyers directed a letter dated March 10, 1975, to Rex D. Davis, the Director of the Bureau of Alcohol, Tobacco and Firearms (ATF). The letter sought to obtain current information concerning the administration and enforcement of the 1968 gun law, including the following: forms, publications, annual reports, a description of the functions and responsibilities of key ATF personnel, the number of ATF employees stationed in Washington and in each regional and district office, the total manpower assigned to firearms, the estimated costs of registration, copies of surveys concerning guns used in crime,

computer printouts of firearms licensees for each State; and the names and addresses of firearms manufacturers.

Director Davis testified before the Subcommittee on March 20 and 26; April 9; and July 17. In addition, he accompanied the Assistant Secretary of the Treasury in his two appearances before the Subcommittee on July 24 and September 24. During the course of these hearings, the Subcommittee attempted to determine the loopholes in the Gun Control Act; the quality of the Treasury Department's commitment to enforcing the Act; the level of resources committed to regulatory and criminal enforcement; and the potential alternatives for increasing the ability of the Federal government to aid State and local governments in their efforts to control the illicit traffic in firearms.

The ATF hearings generated hundreds of requests for information. The Subcommittee staff categorized and summarized this information in memorandum form and transmitted it to the Director of ATF on May 9 and August 28. The Bureau was extremely cooperative with the staff and provided most of the information requested.

In addition to correspondence and testimony before the Subcommittee, visits were made to ATF offices by members of the Subcommittee and staff. The staff interviewed regional ATF personnel in the Washington area and in the various cities in which regional hearings were conducted.

#### *F. Manufacturers Inquiry*

As a result of information provided by ATF concerning the location of firearms manufacturers, Chairman Conyers directed letters to 34 federally licensed firearms manufacturers identified as producing handguns. The letters, which were sent on April 3 and April 28, requested detailed information concerning the production, distribution, and sale of handguns; the location of production facilities; the length of time in business; the number and kinds of handguns produced since 1968; the names and addresses of distributors; the number of handgun thefts from production facilities and interstate carriers; and the types of security procedures employed to prevent thefts. A total of 24 manufacturers responded to the inquiry. Eleven manufacturers, representing approximately 60 percent of annual domestic handgun business, responded satisfactorily to the inquiry.

Based upon the information received as a result of the letter to manufacturers, the staff was able to compile statistics and a map showing the locations of handgun manufacturers and their distributors. This information reveals the concentration of firearms sales in various parts of the United States. In addition, ATF inspections of the records of a sampling of manufacturers who failed to adequately respond to the Subcommittee's letter revealed that at least two manufacturers were in violation of the record-keeping requirements of the Gun Control Act. One of the manufacturers was being prosecuted at the time for his violations, and the other was found to be in technical violation of the regulations promulgated under the Act. The latter's violations were not serious enough to justify criminal prosecution.

#### *G. Inquiry Concerning the Interstate Transportation of Firearms*

In order to determine the extent to which firearms are stolen in interstate commerce, Chairman Conyers directed a letter dated June 30, 1975, to the Chairman of the Interstate Commerce Commission. The Commission's response stated that firearms thefts are not required to be reported, with minor exceptions, and that security precautions are not prescribed for the transportation of firearms.

#### *H. Inquiry into the Administration and Costs of State and Local Gun Laws*

In a letter dated April 21, 1975, Chairman Conyers requested the Comptroller General of the United States to review the various gun control systems contained in the bills pending before the Subcommittee. These systems included licensing, registration, and permits for the sale of firearms. As a result of this request, a review was conducted of the gun control laws of Massachusetts, New York, Illinois and New Jersey. The Subcommittee staff, with the assistance of GAO analysts, conducted a preliminary survey of the procedures, costs and manpower necessary to administer the various systems.

In a letter of July 30 to Maurice J. Cullinane, the Chief of Police of the District of Columbia, Chairman Conyers requested detailed information concerning the District's firearms registration program. The request sought, among other things, the number of handguns registered by year; the number of "Saturday night specials" registered; and the number of handguns seized yearly by District of Columbia police. Most of the information requested was received on September 3. In order to evaluate the information provided, on September 17, the staff interviewed representatives of the Gun Control Section and of the Operations Planning and Data Processing Division of the Metropolitan Police Department.

#### *I. Committee Consideration*

On February 3, 1976, the Committee began consideration of H.R. 11193 as reported by the Subcommittee. Over the course of eight meetings, the Committee debated and voted on 42 separate amendments to the bill. Proposals rejected by the Committee included: prohibition of the manufacture, sale, transfer and private possession of handguns, with certain limited exceptions; prohibition of the manufacture and sale of handguns; centralized Federal registration of handguns; Federally-mandated State handgun registration programs; Federal standards for voluntary State-enacted handgun registration systems; providing the Secretary of the Treasury discretionary authority to prohibit future manufacture, sale and transfer of handguns found to have no sporting or defensive utility; striking the improved licensee qualification and fee schedule amendments from the bill; and striking all amendments save those to the mandatory sentencing provisions of the Act [sec. 924(c)]. Twenty-two recorded votes were taken. On March 2, the Committee, upon motion by Representative Tom Railsback, recommitted H.R. 11193 without instruction to the Subcommittee for further consideration by a recorded vote of 17 to 16.

On March 24, the Subcommittee favorably reported an amendment in the nature of a substitute to H.R. 11193 with an amendment by a recorded vote of 5 to 2. The substitute, offered by Chairman Conyers, embodied all amendments made to H.R. 11193 by the Committee prior to recommittal with the exception of the amendment prohibiting the manufacture, sale and transfer by Federal firearms licensees of concealable handguns, originally offered by Representative Martin Russo. In its place, the Subcommittee adopted an amendment offered by Mr. McClory prohibiting the manufacture, sale and transfer by Federal licensees of handguns failing to meet established minimum size and safety prerequisites and which do not attain minimum qualifying scores based on objective factors such as frame construction, caliber, weight and sporting and safety features. The amendment was agreed to by a recorded vote of 4 to 3.

On April 13, the Committee adopted a substitute amendment to the amendment in the nature of a substitute with an amendment. The substitute amendment was introduced by Mr. Railsback and agreed to by a recorded vote was 26 to 6. Amendments to the substitute offered by Mr. Hughes and Representative John Ashbrook were agreed to by voice vote. By a recorded vote of 20 to 12, the Committee favorably reported the substitute amendment, as amended.

By recommending H.R. 11193 the Committee has attempted to answer in a thorough and dispassionate way the question posed by Chairman Conyers at the outset of the Subcommittee's hearings. The findings and recommendations this committee makes, upon review of H.R. 11193 and the exhaustive record supporting it, are grounded in two fundamental considerations: whether the need to further regulate access to firearms, particularly handguns, compellingly outweighs continued free access to firearms, and to what extent the Federal Government must go to provide effective regulation.

## II. HISTORY OF FEDERAL FIREARMS LEGISLATION

The legislation considered by the Subcommittee would amend chapter 44 of title 18 of the United States Code—the Gun Control Act of 1968 [Pub. L. No. 90-618, 82 Stat. 1213]. Although the Gun Control Act was the first comprehensive step toward regulating interstate trafficking in handguns per se, substantial concern over gun-related crime has been a traditional subject of Congressional attention.

A bill banning interstate commerce in handguns was first introduced in both houses in 1915. Congress first exercised its constitutional power of taxation in the firearms field by levying a 10 per cent manufacturer's excise tax on those commodities in 1919 [Revenue Act of 1918, ch. 18, § 900(10), 40 Stat. 1057, 1122; compare 26 U.S.C. § 4181]. Included in that legislation's history are expressions of concern over handguns as a potential public safety problem. Under those provisions, the Congress first vested the Department of the Treasury with the authority to regulate interstate commerce in firearms. No fewer than a dozen bills seeking to restrict the flow of handguns interstate were introduced in 1924, and in 1927 the receiving by private individuals of firearms capable of being concealed on the person through the United States mail was prohibited by law [Act of June 25, 1928, § 1715, 62 Stat. 781, 18 U.S.C. § 1715 (1970)].

Gangsterism and increasing violent crime rates during the middle years of the Depression resulted in the passage in 1934 of laws making it a Federal crime to rob a Federally-insured bank, assault a Federal agent, or engage in interstate flight to avoid prosecution for specified State felonies. In the same year, the Department of Justice began an intensive campaign to broaden Federal control over firearms, an effort which produced the immediate antecedents of the Gun Control Act.

The National Firearms Act of 1934 (NFA) [ch. 757, 48 Stat. 1236], created Federal jurisdiction for intrastate as well as interstate transactions in certain types of firearms, particularly the "tommy gun"—a popular contemporary euphemism for the Thompson submachine gun—by imposing a tax upon traffic in machine guns, sawed-off shotguns, silencers and other, less-common types of ordnance. A Department-proposed Federal handgun registration scheme was deleted during consideration in the House. Propagated as title II of the Act [§§ 201-07, 82 Stat. 1227-36], the NFA has been in effect ever since, and embodies the only Federal firearms registration statute [see Hearings, pt. 1, at 291].

Developing congressional attention to virtually unrestricted interstate firearms transactions between private citizens, a growing and largely unregulated industry, and the need to delegate additional regulatory authority to the executive matured with the enactment of the Federal Firearms Act of 1938 (FFA) [ch. 850, 52 Stat. 1250], wherein the Congress sought to check the free flow of more common types of firearms by prohibiting certain classes of persons from possessing them, establishing a fee-supported licensing system of manufacturers, importers, and dealers (the fee schedule for such licenses was \$25, \$25, and \$1, respectively), and vesting enforcement authority in the Department of the Treasury, which was in turn delegated to the Internal Revenue Service. Historically, the FFA was especially significant for two policy-related reasons: first, the Congress set forth several categories of individuals who, by definition, were unfit to possess firearms; and second, it sought to assist State and local efforts at tighter control by making both dealer and customer liable to criminal sanctions if both were aware of, and still violated, local law.

After the Secretary of the Treasury promulgated initial regulations under the FFA in 1939, there was no significant activity at the Federal level until the Secretary proposed additional regulations in 1957, immediately after an upturn in the importation of foreign-manufactured rifles and new and military surplus handguns. These regulations called for serialization of all firearms and changes in Federal dealer record-keeping requirements, including the requirement that they be maintained permanently. Regulations finally adopted required dealers to maintain records for 10 years and .22 caliber rifles were exempted from the serialization requirements.

A Senate bill introduced in the 85th Congress prohibiting the importation of firearms originally manufactured for military purposes was defeated, but a measure prohibiting the importation of weapons the United States had sent abroad under its foreign-assistance act was enacted [Mutual Security Act of 1958, Pub. L. 85-477, ch. II, § 205(h), 72 Stat. 267, 22 U.S.C. § 1934(b) (1958), as amended, 22 U.S.C. § 1934(b) (1970)].

Hearings of the Senate Subcommittee to Investigate Juvenile Delinquency during the middle '60's concerning the circumvention of prohibitions on mail-order firearms transactions and the assassination of President John F. Kennedy with a World War II foreign mail-order rifle stimulated renewed congressional interest in reducing firearms violence. Although a bill covering mail-order traffic in rifles and shotguns and one embodying President Johnson's request for increased firearms regulation died in committee in the 87th and 89th Congresses, a bill increasing licensing fees and strengthening Federal regulation of dealers, establishing minimum-age requirements for handgun and long gun purchases and prohibiting handgun sales to out-of-State residents was reported by the Senate Judiciary Committee [S. Rep. No. 1097, 90th Cong., 2d Sess. (1968)] as part of the Omnibus Crime Control and Safe Streets Act of 1968 [Pub. L. No. 90-351, 82 Stat. 197]. The proposal passed both houses and was approved within weeks of the assassinations of Senator Robert F. Kennedy and Dr. Martin Luther King [title IV, 82 Stat. 225].

The more recent assassinations touched off renewed debate in both houses as to the effectiveness of particular provisions of the new law. Discussion centered chiefly in two areas: increased penalties, with prohibitions on suspended sentences or probation for second offenders, for commission of felonies with firearms; and extension of title IV to the licensing of gun owners. On October 22, 1968, both houses approved H.R. 17735 (Gun Control Act of 1968), which provides mandatory sentencing for persons using firearms to commit Federal offenses; extends the prohibition on the acquisition of firearms and ammunition by certain classes of "high risk" persons [See H. Rep. No. 1577, 90th Cong., 2d Sess. (1968) at 2-9] [§ 902, 82 Stat. 233, 18 U.S.C. § 924(b)] and amends the registration sections of the NFA [Int. Rev. Code of 1954, §§ 5841, 5851] which had been overturned by the Supreme Court, *Haynes v. United States*, 390 U.S. 85 (1968), on January 29 on Fifth Amendment grounds.

It is important from a historical standpoint to underscore the common themes which traditionally found expression in congressional consideration of this issue and which were finally codified when the Act was approved. First, the handgun, as a primary implement in the commission of violent crimes and a potential threat to public safety, has been the consistent subject of public concern in the firearms area, despite the emotional attachment to the "tommy gun." Second, Congress has consistently sought to regulate the flow of firearms into private hands by prohibiting certain types of firearms transactions; defining by law certain kinds of firearms it thought unfit for private possession because of their potential danger, despite their arguable potential for legitimate usage; and preventing certain classes of persons from possessing firearms. Third, the congressional powers to tax and regulate interstate commerce were used both to regulate who could traffic in and receive firearms, and in what manner, and to reach intrastate transactions which could affect interstate commerce. Fourth, delegable powers to enforce firearms laws and regulate the commerce in them have always been vested in the Secretary of the Treasury. Fifth, whatever its intent as expressed in the legislative history, Congress cast in concrete its oft-expressed desire, to the fullest

extent possible, "to provide support to Federal, State and local enforcement officials in their fight against crime and violence" when it passed the Act in 1968 [§ 101, 82 Stat. 1213].

Finally, activity in the Congress since the passage of the Act has further sharpened the focus upon the handgun as an instrumentality deserving Federal attention. In 1973, the Senate passed a bill which would have applied to domestically-produced handguns the same minimum criteria that the Department of the Treasury uses to determine whether foreign handguns are fit for importation under the "sporting purposes" test of the Act [§ 102, 82 Stat. 1225, 18 U.S.C. § 925(d)(3)]. Although the bill was not reported by this Committee, it brought to the fore public attention to the cheap, easily concealable "Saturday Night Special," a term attached to the type of handgun most often purchased in Detroit during the 1967 disturbances. In the 93rd Congress as well, more than 130 firearms-related bills were introduced, and they were as disparate and wide-ranging as those referred to the Subcommittee in this Congress. Then, as now, the overriding concern was the handgun.

### III. THE NEED FOR FEDERAL ACTION

FIGURE 1.

MURDER AND NONNEGLIGENT MANSLAUGHTER  
[All rates are calculated on a basis of 100,000 inhabitants]

Year	Total		All firearms			Handguns		
	Number	Rate	Number	Rate	Percent of total	Number	Rate	Percent of total
1964	9,300	4.9	5,115	2.7	55.0	3,627	1.9	39.0
1965	9,900	5.1	5,742	3.0	58.0	NA	NA	44.0
1966	10,970	5.6	6,582	3.4	60.0	4,827	2.5	48.0
1967	12,160	6.1	7,734	3.9	63.6	5,837	3.0	48.0
1968	13,720	6.9	8,973	4.5	65.4	6,860	3.4	50.0
1970	14,870	7.3	9,462	4.7	64.5	7,482	3.7	51.0
1971	17,670	8.6	10,392	5.1	65.4	8,263	4.1	52.0
1972	18,550	8.9	11,503	5.6	65.1	9,012	4.4	51.0
1973	18,526	9.3	12,280	5.9	67.0	10,340	4.9	54.0
1974	20,600	9.7	14,008	6.6	68.0	11,124	5.3	54.0
Percent change, 1964-74		+102.0		+144.4			+178.9	+38.5

### ROBBERY

Year	Total		Armed percentage	With gun (estimate)		Percent of total
	Number	Rate		Number	Rate	
1964	111,750	58.4	57.0	40,130	21.0	35.9
1965	118,900	61.3	58.0	43,445	22.4	36.5
1966	153,420	78.3	58.0	56,060	28.6	36.5
1967	202,050	102.1	58.0	73,829	37.3	37.8
1968	261,730	131.0	60.0	98,934	49.5	39.0
1970	348,380	171.5	62.0	116,235	57.6	39.0
1971	385,910	187.1	65.0	138,272	68.1	40.9
1972	374,560	179.9	66.0	155,742	76.6	41.6
1973	382,680	182.4	66.0	159,118	75.8	41.6
1974	441,290	208.8	66.0	197,257	93.1	44.7
Percent change, 1964-74		+259.3	+15.8	+343.3		+24.5

## AGGRAVATED ASSAULT

Year	Total		With gun		Percent of total
	Number	Rate	Number	Rate	
1964	290,940	105.0	30,141	18.9	15.0
1965	213,090	109.9	36,225	19.4	17.0
1966	232,890	119.1	44,249	22.5	19.0
1967	254,490	128.6	53,443	27.0	21.0
1968	283,720	142.0	65,256	32.7	23.0
1969	307,850	152.5	73,884	36.6	24.0
1970	331,480	163.1	79,555	39.2	24.0
1971	364,920	176.9	91,230	44.2	25.0
1972	389,000	186.8	97,250	46.7	25.0
1973	416,270	198.4	108,230	51.6	26.0
1974	452,720	214.2	114,991	54.0	25.4
Percent Increase, 1964-74		+94.5		+186.0	+69.3

Source: FBI uniform crime reports (1964-74).

Handgun crime in the United States has grown to near-epidemic proportions in the past eleven years. While the incidence of serious crimes generally has increased 55 percent since 1968, the use of handguns in crimes of violence has grown at a rate far disproportionate to that of general rate increases by offense since 1964.

As Figure 1 above shows, the national criminal homicide rate per 100,000 population doubled between 1964 and 1974. By comparison, the firearms homicide rate increased two and one-half times and the handgun homicide rate nearly tripled. Percentage use of handguns in total murder and non-negligent manslaughter offenses grew by almost a third during the same period. Similarly, the firearms robbery rate increased 343 percent, while the total robbery rate increased 259 percent. The percent increase in the rate of aggravated assaults committed with firearms was double the percent increase recorded for total offenses. The criminal homicide statistics clearly establish the fact that the handgun is the weapon of choice.

Moreover, there is no reason to suspect that such is not the case with armed robbery and aggravated assaults, in spite of the fact that categorical national statistics do not go to that level of detail. Firearms were employed in 45 percent of all 1974 robberies and in 68 percent of all armed robberies. The Bureau of Alcohol, Tobacco and Firearms (ATF), the agency primarily responsible for Federal firearms law enforcement, processed a total of 33,184 firearms trace requests in calendar 1974; 24,027, or 72 percent, involved handguns. Of the total, 19,012 were submitted for tracing in connection with violations of Federal, State or local law. Of that number, 1,024, or 5 percent, of the firearms were used in robberies. More than 60 percent of those were handguns: 35 percent were traced to five handgun manufacturers alone.

The 1974 figures on firearms use in aggravated assault, which show that firearms assaults comprised one-quarter of the total, do not project the immediate significance of the role that handguns play in crimes of violence. The fact that the other three-quarters of total assaults are initiated with other weapons does not mean that firearms use in that class of offense is not serious; rather, there is evidence that, because of their incipient lethality, firearms more often than not turn aggravated assaults into criminal homicides. A recent comparative study of reported weapons attacks and homicides revealed that assaults begun with guns were five more times likely to result in death than those undertaken with knives or personal weapons. A compre-

hensive analysis of homicides in Detroit over a three-year period disclosed that, by the end of the third year, knives had displaced handguns as the single class of weapons most often used in serious assaults and that the decline in handgun usage in assaults was matched by a proportionate increase in handgun homicides [Hearings, pt. 3, at 1220-21:1235].

Criminal use of handguns is primarily an urban phenomenon. Forty-five percent of all 1973 handgun homicides were committed in the Nation's 57 largest cities, and the average handgun homicide rate per 100,000 population in the 20 most populous cities that year was triple the national average. One-fifth of the total population resided in those cities that year. The problem of handgun abuse, however, is much more diffused than might be expected. Of the 20 most populous cities in 1973, New York—which reported the highest number (N=810) of handgun homicide offenses—ranked 14th in handgun homicide rate per 100,000 population, although it is the Nation's most populous city. Handguns were used in 48 percent of all reported New York criminal homicides. Chicago, the next most populous city, ranked 5th; handguns accounted for 64 percent of total offenses. Cleveland, 11th-ranked in population, recorded the highest 1973 handgun homicide rate and handguns were used in 73 percent of all criminal homicides there. Memphis ranked 7th in handgun homicide rate, despite being ranked 17th in population, reporting a handgun percentage-use rate of 62 percent. When those 57 cities are grouped by region, neither total number of reported handgun homicides, average rate of handgun homicides per 100,000 population nor average percentage use of handguns correspond to total population ranking. Southern cities, ranked third of four regions in total population, lead cities in the other three regions in both handgun homicide rate and percentage use of handguns in total offenses at 59 percent. Northeastern cities rank third of four in both categories, despite being the most populous region. Only in Western cities does total population rank match average rate and percentage-use statistics. As a region, the South showed the largest percentage increase in firearm homicides in 1974 over 1973; only the West experienced an actual decrease.

Handgun violence has spread as private ownership of handguns has increased. By 1968, Americans had acquired 27.9 million handguns; ATF estimates that some 40,142,777 handguns had entered the private sector by the close of 1974 [Hearings, pt. 1, at 264]. Thus, the total civilian handgun population has grown by a third since the enactment of the Act—a greater gain than reported in the previous ten-year period, which had shown the greatest rate of growth since 1899. "Project Identification," a recently-completed ATF survey of handguns seized in connection with the commission of serious crimes pursuant to trace requests received from law enforcement agencies in 16 major cities, found that the overwhelming majority of criminally-used handguns entered the stream of commerce after 1968. Over a period of two years, a total of 7,815 handguns were successfully traced from 10,617 submitted trace requests; 66 percent were found to have a "street age" of 7 years or less, meaning that they had been sold initially after the Act's effective date [Hearings, pt. 3, at —]. Almost 60 percent of those handguns used in crimes were 5 years old or less. Persuasive evidence exists which points to a positive correlation between sheer availability of handguns and increasing criminal

use of them. Case-by-case analyses of conflict-motivated homicides occurring in Detroit in 1972 and 1973 [Hearings, pt. 3, at 1228-29] and a survey of inmates confined to a Michigan correctional facility for non-crime-related homicide convictions [*Id.* at 1110] both demonstrated that, in nearly all cases, the weapon used was a handgun which had been previously acquired and was present either on the person or in the residence of either the attacker or victim. In 1974, 72 percent of all criminal homicides occurred as a result of intra-family disputes or altercations between relatives or acquaintances. A December, 1975, public opinion survey conducted by Louis Harris Associates, Inc., disclosed that 47 percent of all American households have at least one firearm in them.

That effective handgun control cannot be achieved through purely State and local initiatives is a point that was emphasized continually throughout the Subcommittee's hearings. Its investigative record clearly demonstrates that handgun commerce is extremely fluid, respects no jurisdictional boundaries and, as such, escapes the reach of individual States and political subdivisions. The most dramatic evidence of the mobility of handguns eventually used in crime in interstate commerce was provided by ATF's "Project Identification." Each of the 7,815 handguns for which total histories could be determined was traced either to initial point of retail sale in the same State as the project city being surveyed or, if that initial point was outside the State, to the first retail transaction inside the State. When this process was completed, ATF concluded:

\* \* \* It is apparent that . . . , with a few exceptions, the percentage of out-of-State purchases is directly proportional to the strength of the local firearms regulations.

\* \* \* [T]he strength of firearms regulations or enforcement of those regulations in differing project cities is directly proportional to the percentage of crime guns that were purchased in another State. It also appears that a significant factor concerning the strength of a local ordinance is whether or not a prior permit or authority to purchase is needed. This means that regulations requiring after the fact notification do not have the same deterrent effect on potential handgun purchasers as do regulations requiring prior purchase permits.<sup>1</sup>

In 5 cities requiring permits or approval for purchase as a prerequisite to handgun acquisition—New York, Detroit, Boston, Kansas City and Charlotte, North Carolina—no fewer than 57 percent of the criminally used handguns seized came from out-of-State retail sources. Out-of-State percentages for each of these cities were 96 percent, 92 percent, 65 percent, 65 percent and 57 percent, respectively. The remaining 11 cities drew at least a majority of surveyed handguns from in-State retail sources. Leading them was the city of Dallas, with 87 percent sold within Texas' borders; moreover, handguns originally sold in Texas were used in crimes in 12 of the other 15 cities. The States with fewest restrictions on handgun sales—Florida, Georgia, Ohio, South Carolina, Texas and Virginia—supplied criminally-used handguns to at least 5 other cities. Handguns from Georgia and Texas traveled as far west as Oakland and as far north as Detroit. Florida,

<sup>1</sup> *Project Identification*, Advance Report, Bureau of Alcohol, Tobacco & Firearms, U.S. Dep't of the Treasury (Wash., D.C.; 1972) at 16.

Georgia, South Carolina and Virginia supplied New York with 45 percent of the handguns used in crimes there during the survey period; South Carolina was the primary single source, 20 percent having been sold there initially. Similarly, those 6 States sent Detroit 23 percent of its surveyed crime guns; Ohio was the largest single source at 19 percent. Handguns originally sold in at least one of 46 States and the District of Columbia turned up in New York crimes during the survey period; 41 States and the District of Columbia supplied all but 8 percent of the total number of handguns seized and surveyed in Detroit.

#### IV. WEAKNESSES IN FEDERAL FIREARMS REGULATION

The principal goals of the Gun Control Act are three:

(1) to eliminate the illicit interstate traffic in firearms and ammunition that frustrates State and local efforts to regulate firearms possession and ownership;

(2) to deny access to firearms to defined classes of "high risk" individuals most likely to misuse them, including: minors, convicted felons and fugitives from justice, narcotics abusers, and persons who have been adjudged as mental defectives or who have been committed to mental institutions; and

(3) to end the importation of all surplus military firearms and all other firearms unless certified by the Secretary of the Treasury as "particularly suitable for or readily adaptable to sporting purposes" [§ 925(d)(3)].

The Act seeks to accomplish these objectives by grafting onto the existing commercial firearms system Federal controls aimed at identifying and weeding out sources, at all levels of interstate commerce, of firearms which contribute to firearms violence. Rather than imposing independent Federal requirements reaching every firearms transaction, the Act's regulatory system relies almost entirely upon the cooperation of manufacturers, importers and dealers with Federal, State and local law enforcement officials to achieve its purposes.

As the Act approaches its eighth anniversary, the Committee finds that attempts to achieve these objectives have been thwarted by:

(1) weaknesses in the Act itself—some inherently so and some which have proved so in practical application, and

(2) a lack of commitment, both in principle and application of resources, to effective enforcement of the Act at the Federal level and to providing meaningful assistance to States and political subdivisions in their battles against illicit firearms trafficking.

The obstructions that each of these factors has thrown in the path toward full realization of the Act's objectives are discussed below.

##### A. WEAKNESSES IN EXISTING LAW

###### *Controlling Interstate Firearms Traffic Through Industry Regulation*

The unbridled flow of firearms into and around the United States and the States' inability to reach beyond their own borders to regulate these highly mobile and dangerous commodities prompted Federal entry into the area of firearms regulation in the first place. Congress adopted the Act when it became clear that existing prohibitions on the receipt through the mails of firearms capable of being concealed on the person and requirements that manufacturers, importers and

dealers obtain Federal licenses were not sufficient to stem the flow of firearms to criminals and permit effective policing of interstate transactions in firearms. The fact that the Federal Firearms Act had failed to do this was stated in the report accompanying S. 3633, whose provisions eventually became Title I of the Act:

The existing Federal controls over interstate and foreign commerce in firearms are not sufficient to enable the States to effectively cope with the firearms traffic within their own borders through the exercise of their police power. Only through adequate Federal control over interstate and foreign commerce in firearms, and over all the persons engaged in the business of importing, manufacturing, or dealing in firearms, can this problem be dealt with, and effective State and local regulation of firearms traffic be made possible. The title would have the effect of channeling interstate and foreign commerce in firearms through federally licensed importers, manufacturers, and dealers, thereby prohibiting the commercial mailorder traffic in firearms to unlicensed persons. This will enable the States to more effectively control firearms traffic within their own jurisdictions under the police power granted to them by the Constitution. [S. Rep. No. 90-1501, 90th Cong., 2d Sess. (1968) at 23.]

Fundamental flaws in the 1938 law included nominal license fees and an absence of business-related license qualifications, both of which encouraged rather than discouraged entry into the trade for purposes other than actively carrying on business activities, plus a lack of restrictions on commercial activities most likely to contribute to unlawful acquisition and use of firearms and ammunition beyond the reach of State and local control. While the Gun Control Act required better record-keeping by Federal licensees and essentially outlawed interstate transactions by private persons, it perpetuated these flaws. Today, practically anyone of majority who is not a prohibited person and who "has . . . premises from which he conducts business or from which he intends to conduct business within a reasonable period of time" [§ 923(d)(1)] can obtain a Federal dealer's license for \$10. Owing to this, coupled with an already unmanageably large dealer population in 1968 and with only 45 days to apply limited Federal resources to each new or renewed license application, the number of licensees, many of whom are not engaged in the licensed activity, now is so large that it defies regulation.

H.R. 11193 rectifies this situation by: incrementally increasing license fees; establishing separate license categories for wholesale and retail dealers in firearms, gunsmiths and ammunition retailers; setting forth reasonable qualifications for prospective licensees; granting the Secretary authority to suspend licenses for cause and to compromise or mitigate liability with respect to suspended or revoked licenses; and giving the Secretary additional time to dispose of license applications.

In so doing, the Committee does not mean to imply that it seeks to reduce mathematically the present volume of dealers to match available Federal resources; to characterize these amendments as having that purpose is inaccurate. Rather, they represent an effort to displace decades of permissiveness by requiring, for the first time in

the history of Federal firearms regulation generally, licensing fees, standards and regulatory authority which reflect both the status of the industry itself and the goals of decentralized regulation monitored at the Federal level. In short, these amendments would have the effect of maximizing the potential for proper Federal compliance and enforcement efforts while propagating the concept of minimum Federal interference in State, local and legitimate business affairs.

#### LICENSE FEES

Increasing license fees and minimum standards for license applicants, supported by the Administration as well as the Committee, has two purposes: to make the regulatory system cost-effective and to eliminate from the industry those license-holders who are not actively engaged in it for serious business purposes. It is these licensees who are least likely to fully comply with the requirements of Federal, State and local law—thus increasing the likelihood that they become, either deliberately or unwittingly, major sources of criminally-used firearms—and who, by their sheer numbers, diminish the potential effectiveness of Federal enforcement and assistance initiatives.

Revenues collected from licensed dealers on the basis of a \$10 annual fee do not come close to sustaining the cost of processing applications, investigating new applicants and providing publications to dealers, let alone total administrative costs and expenditures for regulatory enforcement activities. Under questioning by Mr. Ashbrook, Mr. William T. Drake, Assistant Regional Director for Criminal Enforcement of ATF's Midwest Region, estimated that, at the bare minimum, the ratio of expenditures to revenues received is better than 10 to 1:

Mr. ASHBROOK. I guess I might, in a way, violate my ground rules when I would ask a question that relates to some legislation, but would you feel free to comment on whether or not the frequency and the numbers of dealers is probably based generally on the legislation which allows so easily a dealer to become a dealer by basically just a \$10 fee.

I mean, does that, in any way, develop enough money, in your opinion, to take care of the administration in the field?

You have indicated, Mr. Drake, that there are many, many checks that—and I couldn't believe really when I saw all you do in the way of questions and all of the investigations while it is not supposed to be for profit or raise enough funds, do you have any indication at all of the cost of administration as against the receipts that come from the registration fees?

Mr. DRAKE. Yes, sir, we can estimate with 31,918 dealers at \$10 per license, somewhere in the area of \$320,000.

Mr. ASHBROOK. Right. And how would that relate to the cost of your administrative responsibilities generally in the same area?

Mr. DRAKE. If you will give me a moment, I do have something on that.

Our most recent estimate for an original application runs us about \$70 which does not include overhead costs, that is merely a direct cost for such things as office time per license, the cost of an FBI check, the cost of the forms; the publication No. 603 that we give every dealer runs around \$70 per licensing and that does not count overhead cost and does not count the leave time and does not count the travel time.

Mr. ASHBROOK. So as a part of the staggering burden which you and the chairman mentioned in your colloquy and that Mr. Conyers thought was almost hopeless and you looked upon it as a large challenge, that some of it would be in that particular area.

Mr. DRAKE. Yes.

Mr. ASHBROOK. And cutting down the number of dealers obviously would reduce some of that burden both in the sense of manpower and in the sense of the cost involved.

Mr. DRAKE. We have another figure.

Just to maintain the license we feel runs around \$35 to \$40 per year, just to maintain the licensee.

Mr. ASHBROOK. And for the record, there is no additional payment by the dealer after he pays his original \$10 fee, is there?

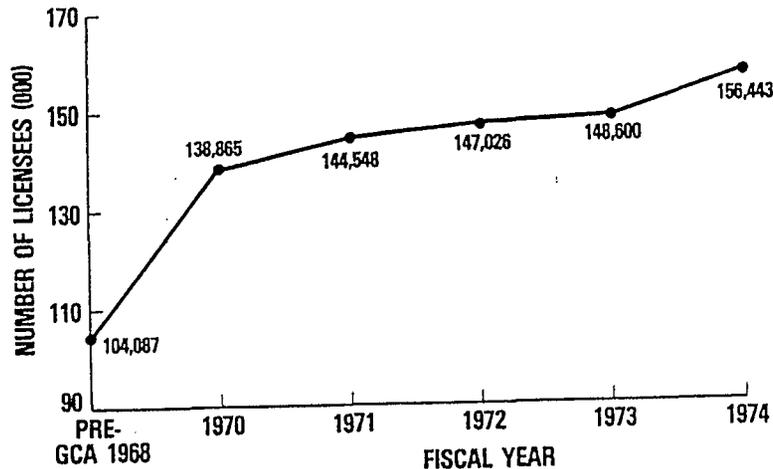
Mr. DRAKE. No, sir, every year there is a renewal.

Mr. ASHBROOK. There is a renewal?

Mr. DRAKE. Of \$10 again.

Mr. ASHBROOK. Thank you. [Hearings, pt. 2, at 673.]

## NUMBER OF FIREARMS LICENSES ISSUED ANNUALLY



Source: Bureau of Alcohol, Tobacco and Firearms

FIGURE 2

As Figure 2 illustrates, the total Federal licensee population was in excess of 104,000 at the time that the Act took effect—a phenomenon traceable to the fact that the licensing fees and qualifications of the Federal Firearms Act were even less stringent. Until late 1968, a Federal firearms dealers license could be obtained for \$1. Despite the fact that the dealer fee was increased nominally to \$10 and additional qualifications were imposed by the new law, the total number of licensed dealers has grown steadily since it became effective, with marked increases in fiscal years 1970 and 1974. As of the close of the first quarter of fiscal 1975, the total number of licenses issued by the Bureau had reached 156,443; of these, 144,362 were dealer licenses.

The Committee has studied the exhaustive evidence uncovered by the Subcommittee on the status of these licenses and is persuaded that the permissiveness of the Act in assessing unrealistic dealer license fees and adopting inadequate minimum standards for prospective firearms dealers is primarily responsible for the disturbing overgrowth in total non-business dealer licenses outstanding. Bureau Director Rex D. Davis estimated that approximately 30,000, or slightly more than one-fifth, of all currently-licensed dealers are actually seriously engaged in the retail firearms business [Hearings, pt. 8, at —.] Mr. Andrew Molchan, the president of the National Association of Federally-licensed Firearms Dealers, told the Subcommittee in Chicago that an estimate of 20,000 to 25,000 “might be pushing it” [Hearings, pt. 2, at 567]. The Subcommittee received testimony from Bureau regional directors for all seven regions which strongly reinforces these general observations. For example, Mr. Billy L. Gaunt, director of the Southwestern region, told the Subcommittee in Denver that, besides the fact that 29 percent of licensed dealers handled only ammunition, about 30 percent operated from their homes, not deriving “any substantial income” from their operations [Hearings, pt. 5, at 1705]. In the Midwest region, the Chicago office reported that the nine-county area under its jurisdiction had 1,685 dealers; over half, or 845, operated out of private residences [Hearings, pt. 2, at 669]. That region also informed the Subcommittee that frequently-stated reasons for obtaining a Federal dealer’s license included:

1. Low fee of \$10 for firearms dealer license.
2. Easy qualifications—storefront business premises not necessary; no capital investment required; no trade connections necessary.
3. Nominal recordkeeping requirements.
4. Purchase of personal guns at a significant savings.
5. Publicity.
6. Certain wholesalers are requiring all purchasers to obtain Federal Firearms Licenses, even for purchases involving parts or ammunition manufacturing supplies.
7. Suburban Licensees—Sales to residents of Chicago due to less restrictive or nonexistent requirements on purchasers of firearms in suburbs (non-residents).
8. Public apprehension and fears—increase in sales in weapons—the applicant figures he can make a profit if he opens up a firearms business in his locality.
9. Many obtain licenses to enable them to sell ammunition in conjunction with other businesses they operate (service stations, grocery stores, etc.)—especially true in rural areas.

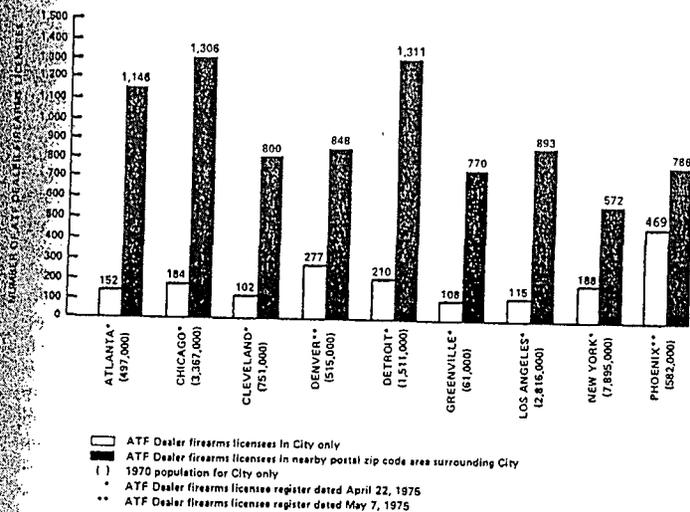
10. Gives easy access to interstate purchases. [*Id.* at 644.]

The existing high level of licensed dealers in 1968, most of whom renew yearly, and the steadily-increasing number of new applications annually since then strain the Bureau's limited resources to the breaking point [*see* discussion, Pt. IV (3), *infra*]. Since 1968, ATF has received an average of 24,000 original applications for new licenses in addition to renewal applications. The Act requires that background investigations of each applicant be conducted to determine eligibility. In fiscal 1974, ATF received a total of 152,142 license applications—24,231 were new and the remaining 127,911 were for renewal of existing licenses; that year, special agents and inspectors combined conducted a total of 27,483 application investigations—meaning that 124,659 renewal applicants, or 98 percent of the total, were not investigated prior to renewal. According to figures supplied by ATF, the same situation has reoccurred every year since the Act's adoption. In that same fiscal period, ATF issued licenses to 148,600 or 98 percent of all applicants, and expended 14 percent of available special agent and inspector man-days conducting application investigations and compliance inspections. Out of total man-days spent on such activity from fiscal 1970 through the second quarter of fiscal 1975, 58 percent was devoted to application investigations—a total of 50,641 man-days. The net result has been that ATF has devoted 14 percent, on the average, of its total annual special agent and inspector man-hours available for firearms enforcement activity to processing applications, and almost all of it is devoted to new applicants.

#### QUALIFICATIONS

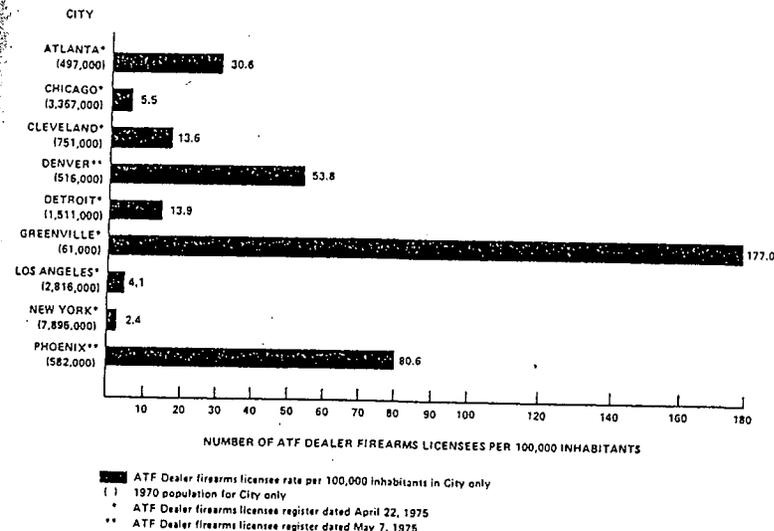
The Committee bill adds requirements that license applicants notify local law enforcement officials of the fact that application for a Federal license is being made and that all appropriate State and local laws have been complied with. It also requires that the applicant has, and agrees to maintain, sufficient, on-premises security to assure safe storage of firearms and ammunition.

The Act contains no requirement that license applicants comply with applicable State and local law as a precondition to the award of a license—yet another instance where the law fails to implement its objective of providing real assistance to those jurisdictions. For example, the Subcommittee staff learned that the city of Chicago has 184 Federally-licensed firearms dealers within its borders. City firearms ordinances require dealers in handguns to obtain a separate, "dangerous devices" license; while some 32 Federal dealers actively trade in handguns, only 6 have acquired city licenses. In an interview in Cleveland, the Special Agent in Charge of that district office reported that it is a common practice for handgun purchasers to order weapons at gun stores in the city and arrange to take delivery in the suburbs to avoid police permit requirements. The Gun Registration Division of the District of Columbia Metropolitan Police Department reported that there is little or no coordination between the Bureau and them regarding questionable license qualifications. Recently, a District resident was denied a city firearms license on the grounds that he intended to conduct business from an apartment in a residential area not zoned for commercial activity; that person holds a Federal firearms dealer's license.



SOURCE: Prepared by the staff of the Subcommittee on Crime of the House Committee on the Judiciary.

FIGURE 3



SOURCE: Prepared by the staff of the Subcommittee on Crime of the House Committee on the Judiciary.

FIGURE 4

Figures 3 and 4 illustrate the effect on urban geographic licensing patterns of local laws applicable to firearms dealers. From computer printouts of Federal dealer information supplied by ATF, the Subcommittee staff analyzed licensee groupings around nine major cities, selected on the basis of geographic diversity. All cities shown require firearms dealers to obtain licenses or permits of some type and establish dealer accountability for sales, usually to the local police. Figure 3 portrays the relative numbers of Federal dealers within city boundaries and outside city boundaries in suburban locations. In all of the cities surveyed, suburban jurisdictions had less stringent laws with respect to dealer licensing and firearms sales. As can be seen, cities with more stringent laws—such as Chicago, Cleveland, Detroit and New York—show a much higher proportion of dealers close to, but outside of, jurisdictional limits. In all cases, the number of dealers in the suburbs outweigh substantially the number within city limits. Figure 4, which illustrates the number of dealers per city per 100,000 population, gives an indication of the impact that such laws have upon dealer concentrations. Again, cities located in States with relatively stringent licensing and sales requirements and with tough laws themselves show a drastically lower per-population number of Federal dealers.

#### ADDITIONAL LICENSE CATEGORIES

The bill establishes separate license categories for wholesale and retail dealers in firearms, gunsmiths and ammunition retailers as individual classes of "dealers". Moreover, it adds to the Act separate definitions of each class of activity to identify each distinct activity and guard against overlap.

#### WHOLESALE AND RETAIL FIREARMS DEALERS

Creating separate license categories for wholesale and retail firearms dealers will, in the Committee's estimation, provide ATF with a better opportunity to monitor high-volume transactions which may result ultimately in illegal sales or gun-running. As it stands, the Act makes no such distinction. All licensees are exempt from the general prohibition on shipping, transferring or receiving firearms or ammunition interstate [§§ 922 (g) and (h)]; all that is required to complete such transactions between licensees is that the transferee license-holder furnish the transferor a certified copy of his Federal license, signed in ink by him [Treas. Reg. § 178.94]. This not only encourages the interstate flow of firearms, but makes such monitoring practically impossible. Such a distinction, according to testimony received by the Subcommittee from both wholesale and retail dealers, would be welcomed by the established industry because it would bring Federal regulation into line with well-established practices. [See Hearings, pt. 6, at 2098-99, and Hearings, pt. 5, at 1806]

Of the 32 active handgun manufacturers in the United States, the four largest—who accounted for 55 percent of the total 1974 domestic handgun production of 1,894,872 units—already have in place regional

distributorship systems through which retail dealers must obtain their products. The fact remains that any Federally-licensed dealer may legally buy firearms or ammunition from a manufacturer, thus increasing the number of firearms shipments in interstate commerce. The greater the number of interstate firearm shipments, the greater the chances are for those shipments to be lost or stolen. For the most part, only firearms manufacturers and wholesale dealers have a need to ship large quantities of firearms in interstate commerce. Retail dealers normally restrict sales to private parties, and these kinds of sales are restricted by statute to persons residing in the same State, with very limited exceptions.

Figure 5 is a photograph representation of a large-scale map utilized by the Subcommittee staff to plot the geographic distribution of handgun manufacturers and distributor-dealers, using licensee computer printouts supplied by ATF and lists of distributors provided by fourteen manufacturers. The staff was able to determine that at least 302 dealer licensees distribute handguns for two or more manufacturers. The majority of these distributors—152—could be identified as dealing with only two of the manufacturers, and only 17 deal in five or more brands of handguns. A very small percentage of the existing dealer population—probably not more than 1 percent—can be categorized as "wholesalers"—those dealers who function as intermediate high-volume handgun supply points through whom most orders from legitimate retail dealers are processed and filled. If required to obtain distinctive licenses, wholesalers could supply conveniently the type of transaction information which would enable the Bureau to identify large-scale traffic areas where investigatory resources could be put to best use. State and local law enforcement agencies have indicated that transmittal of such information would aid them immeasurably in the allocation of their own resources. The obverse is also true. On the basis of current licensee information, it is practically impossible for ATF to separate this valuable source of information from a total dealer population in excess of 145,000.

In testimony in Atlanta, Mr. Robert Kittrell, a reputable firearms dealer from Greenville, South Carolina, highlighted the utility of making such a distinction:

Mr. BARBOZA. You indicated that you thought there was a need to create new classifications for licenses. What would you think of requiring that a wholesale dealer's license be substantially different from a dealer's license and requiring a wholesale dealer's license in firearms and a retail dealer's license in firearms and a dealer's license in ammunition, which would be lower than the other two. Wholesale firearms dealers and retail firearms dealers could also sell ammunition as a part of their privilege under the licenses required?

Mr. KITTRELL. Very definitely a step in the right direction. That would reduce tremendously for instance the workload on ATF and put them in a position to offer better law enforcement throughout their program [Hearings, pt. 6, at 2098.]



SOURCE: Prepared by the staff of the Subcommittee on Crime of the House Committee on the Judiciary.

FIGURE 5

#### AMMUNITION RETAILERS

Persons who sell ammunition exclusively now must obtain the same license as persons who sell handguns, rifles and shotguns, as well as ammunition. By definition, dealers who sell only ammunition at retail are subject to the same record-keeping and compliance provisions as firearms dealers, thus increasing both the burden on them and the regulatory and criminal enforcement burden that ATF must bear. Seven months after the effective date of the Act, ATF estimated that approximately 25,000 of 86,956 license applicants for Federal dealership intended to sell only "sporting ammunition." The Bureau now estimates that that figure has stabilized and that ammunition retailers alone represent nearly a third of all in-business dealers currently licensed. Mr. Kittrell also underscored the seriousness of the problem created by this deficiency in the Act with respect to seasonal ammunition dealers:

Mr. MANN. There is great concern about the proliferation of dealers albeit noncommercial type dealers who want to be able to buy wholesale, how would you change the dealership system?

Mr. KITTRELL. Well, to begin with, you cannot—the fact that we have got, I think the figure reported here today was some 3,500 dealers in South Carolina. This is not really a true figure, what they are speaking of is 3,500 Federal firearms licensed holders. Bear in mind that this same license is used by every Mom and Pop grocery store that sells shotgun shells. You have got the same situation with every crossroads hardware store than sells a half a dozen guns a year to farmers. To begin with, we need to look at the licensing system itself in my opinion. We need various degrees of licenses, various types of licenses. Licenses are being issued right now today in the Greenville area which has been spotlighted as being so notorious, they are being issued at the rate of 10 to 1, better than 10 to every 1 that is revoked. There has got to be something wrong with the system somewhere. [Hearings, pt. 6, at 2095.]

#### GUNSMITHS

Similarly, by definition gunsmiths are required to secure dealer licenses, although the type of activity engaged in is generally distinct from normal retail operations [§ 921(a)(11), Treas. Reg. § 178.11]. H.R. 11193 sets forth a separate license category for gunsmiths, assesses a lower fee than for dealers and provides that dealers may engage in gunsmithing without further license.

#### FIREARMS SECURITY

The added requirement that all Federal license applicants have and agree to maintain on their premises, in accordance with reasonable regulations promulgated by the Secretary, sufficient security to assure safe storage of firearms and ammunition responds to evidence that thefts from licensees contribute substantially to the illegal firearms population. Subcommittee inquiries of handgun manufacturers disclosed that few appear to have established plant and employee secu-

rity systems and even fewer keep accurate records of thefts, loss or pilferage. Director Davis estimated that more than 5000 handgun thefts occur somewhere in the commercial chain annually and that, due to incompleteness of records, the actual yearly figure is probably much higher [Hearings, pt. 1, at 254-55]. When ATF initiated an interstate firearms thefts survey by soliciting voluntary reports from licensees, firearms thefts in interstate commerce were running at a thousand per month; utilizing these reports, the FBI's NCIC registry of stolen firearms and their own tracing capability, ATF was able to reduce reported monthly thefts by about two-thirds [Hearings, pt. 1 at 385-86]. This security requirement, together with an amendment which requires all licensees to report promptly such incidents within 48 hours of discovery, will in the Committee's estimation help to eliminate a significant source of illegal firearms.

#### POWER TO SUSPEND LICENSES

H.R. 11193 gives the Secretary authority to suspend current licenses for cause and to compromise or mitigate liability at any time with respect to violations occasioning such suspensions or revocations. The Subcommittee record has persuaded the Committee that this additional regulatory tool is necessary to ATF's ability to police licensee activities on a day-to-day basis; the power to revoke licenses alone is not sufficient by itself to permit immediate action against violators of Title I's provisions. The Bureau indicated in its submissions to the Subcommittee that significant numbers of perfected Title I cases are not taken into court because they "lack prosecutorial appeal"—meaning a general reluctance to prosecute such violations. Due in large part to the lack of adequate standards for licensees, the absence of suspension power and the relatively short period of time allotted for consideration and disposition of applications, a negligible number of applications have been denied and an infinitesimal number have been revoked. Of 748,782 total applications received from fiscal 1970 through fiscal 1974, only 8,436, or 1.1 percent, were rejected; 86, or .012 percent, were revoked [see Hearings, pt. 1, at 321, 327-29]. The amendment contains provisions which would preserve the due process rights of licensees against whom any such action is undertaken.

#### 2. Denying Firearms to Prohibited Persons

The Act makes it unlawful for any person to sell or transfer a firearm to any other person who does not reside in the transferor's State [§ 922(a)(5)]. The Act further prohibits licensed dealers from selling or transferring firearms or ammunition to persons under indictment, fugitives from justice, narcotics addicts, mental incompetents and juveniles [§ 922(b)(1) and (d)]. The purpose of these limitations on firearms sales, which have proven to be easily circumventable, were succinctly stated during the Senate floor debate in 1968: \* \* \*

[T]his \* \* \* amendment does not significantly inconvenience hunters and sportsmen in any way. The people it does frustrate are the juveniles, felons and fugitives who today can, with total anonymity and impunity, obtain guns by mail

or by crossing into neighboring States with lax or no gun laws at all, regardless of the law of their own State. [114 Cong. Rec. 13647, 90th Cong., 2d Sess. (1968).]

The burden of identifying prohibited persons and denying them acquisition of new firearms and ammunition falls heavily upon each firearms dealer. Besides being required to keep accurate disposition records, dealers also must furnish to purchasers and retain a Firearms Transaction Record [ATF Form 4473] for each firearm sale. The form requires that the purchaser furnish, by checking boxes, sufficient corroborative information to indicate that he is a *bona fide* resident of the State and does not fall into a prohibited class. The purchaser is put on notice by the form that falsification of information subjects him to Federal criminal prosecution. Finally, the purchaser must certify by signature that he meets all Federal requirements for purchase and possession of the firearm being sold to him, and produce some form of identification.

Because of these limited requirements and the fact that the purchaser can accept delivery of the firearm or ammunition as soon as the form is signed, the prospects for falsification, use of inadequate identification or sale to a prohibited person, unwittingly or deliberately, are great. Add to that the number of firearms transactions that occur nationwide and the limited compliance and inspection resources of the Bureau and they become overwhelming.

H.R. 11193 improves existing law in several respects to greatly reduce the possibility of such occurrences. These improvements consist of: establishing an affirmative duty on the part of all transferors of firearms and ammunition to determine that the transferee is not prohibited from shipping, transporting, possessing or receiving firearms or ammunition; prohibiting the multiple sale of handguns; making it unlawful to transfer handguns if the transferor knows that Federal, State or local law will be violated; prohibiting dealer transfer of firearms unless applicable State and local laws have first been complied with; and prescribing a mandatory, 14-day waiting period for handgun purchasers, who must appear in person at the dealer's premises.

#### IDENTIFYING PURCHASERS

Falsification of form 4473 itself and production of manufactured identification required to corroborate identity, age and residence are perhaps the most serious contributors to illegal handgun sales. Since delivery of the weapon is practically simultaneous with completion of the form, the dealer is under no duty—and has virtually no opportunity—to make a conclusive determination that the purchaser is who he or she purports to be. Although the form requires the dealer to note the type of identification produced, there is no standard, enforceable requirement for positive identification. The Subcommittee took testimony to the effect that in some areas dealers have accepted social security cards (which state on their face that they are not to be used for identification purposes) and even a State prison inmate ID card. In Atlanta, the Subcommittee heard the Acting Special Agent in Charge of the South Carolina ATF branch office testify:

In most cases an out-of-state purchaser presents a temporary identification such as a South Carolina voter registration (often obtained the same day) or a South Carolina [temporary] driver's license, also often obtained in one day. [Hearings, pt. 6, at 1935.]

Reputable gun dealers must rely upon their own practices to make determinations of authenticity, and some favor the issuance of permanent firearms purchaser identification cards, either by Federal or State law, to relieve them of this burden. As Mr. Kittrell stated:

... this is what the South Carolina [Firearms] Dealers Association proposed to the South Carolina Legislature last year, but they did not act on it. The issuance of a permanent, or semi-permanent if you want to call it that, purchaser's permit, much in the form of a driver's license. [*Id.* at 2100.]

While conscientious dealers make individual attempts to assure that their purchasers are State residents and not prohibited persons, the opportunity remains for lax or unscrupulous dealers to do nothing and rely on the fact that, because of lack of frequent inspection of their records, they will escape detection and avoid prosecution. "Project Identification" generally established that 94 percent of the total number of surveyed handguns used in serious crimes were sold initially by retail dealers; only 6 percent were recorded as stolen. A more recent, detailed look at 300 of those handguns ("Project 300") revealed that 16 percent of the first retail purchasers produced invalid identification at the time of sale.

#### WAITING PERIOD

In the absence of a State of local waiting period, purchasers may now take immediate possession of weapons since the Gun Control Act makes no provision for checking backgrounds for criminal records or other disqualifying information. The results of "Project 300" showed that 6 percent of all first retail purchasers of criminally-used handguns had prior conviction records and 19 percent had criminal arrest records. A spot check of dealer records in Greenville, South Carolina ("The Greenville Project")—identified by Phase I of "Project Identification" as a principal source of handguns used in crime in New York City—uncovered similar findings: 3 percent of first purchasers had been convicted of crimes previously, and 10 percent had prior arrest records. Prior convictions included murder, rape, assault, armed robbery, house breaking, sale of narcotics (principally heroin) and grand larceny.

#### MULTIPLE SALES

Evidence gathered by the Subcommittee indicates that purchasers acquiring handguns under false pretenses often acquire them in large lots with intent to resell them illegally, often to out-of-State sources. "Project Identification" makes that fact clear. Testimony presented in Atlanta disclosed that, at various times over a five-year period, 22 South Carolina dealers and first purchasers were principals

in the sale of more than 89,541 handguns to in-State and out-of-State residents for either resale or transportation for resale to Northeastern States. [Hearings, pt. 6, at 1938-1940.] It is probably fair to say that this represents only the tip of the iceberg, since these cases reflect only detections and prosecutions. Of the handgun sales checked in "The Greenville Project," 34 percent of the weapons sold were purchased by 16 percent of the total purchasers. In "Project 300," 24 percent of the individual first retail purchasers of criminally-used handguns bought more than one. A recent Chicago study of 100 city dealer compliance audits conducted by ATF and selected at random for evaluation showed that, of multiple sale records reviewed, 58 percent of all handgun purchases appeared to violate the Act, as compared to a 1 percent estimated violation rate in transactions selected at random.

#### CARRIER REGULATIONS

As was noted in the previous section, loss or theft of firearms and ammunition from interstate carriers provides criminals with a virtually undetectable source of weapons, besides hampering the ability of enforcement officials to obtain an accurate picture of interstate gun trafficking. Although the Act prohibits common and contract carriers from knowingly transporting firearms in violation of its provisions [§ 922 (f)], there is nothing in present law which would enable ATF to easily collect information on illegal shipments or losses or theft in transit. In response to a letter from Mr. Conyers, the Director of the Interstate Commerce Commission stated that the only method of determining the extent of hijackings, losses and shortages is from reports supplied to insurance carriers who indemnify shippers. Examining such reports for the last complete reporting period (November 1, 1973–October 31, 1974), the Subcommittee found that claims for losses and theft from carriers of small arms and ammunition exceeded \$200,000.

It must be mentioned that that valuation does not include smaller consignments, because only carriers of items with annual operating revenues of \$1 million or more are required to file such reports with the Commission. To catch this "leakage", the bill amends the Act to prohibit common or contract carriers from shipping firearms or ammunition in violation of regulations to be established by the Secretary in consultation with the Secretary of Transportation designed to "assure safe and secure transportation" of those items. In addition, all such carriers and all Federal licensees are required to promptly report losses or thefts of firearms or ammunition from their vehicles or premises to the Secretary within 48 hours of discovery. The Committee believes that this information, coupled with an expanded and computerized tracing capability [see discussion, pt. IV (B) (2), *infra*], will enable ATF to speed up the process of detecting and apprehending firearms thieves and recovering and returning the stolen property to the rightful owner or consignee.

Because of the additional burdens placed on dealers by the requirements that firearm transfers to non-licensees not take place until all applicable State and local firearm laws have been complied with and

that purchasers furnish copies of required permits, licenses or registration certificates with purchase applications or provide local police in jurisdictions with their own waiting periods with notice of applications for purchase, the Committee has included a provision in the bill which would require the Secretary to supply all licensees, by State and at least twice annually, with an up-to-date listing of State and local laws applicable at the licensee's place of business.

Illegal secondary handgun transfers either by first retail purchasers or subsequent criminal consumers probably account for a significant number of handguns which ultimately are abused, if the records of prosecutorial activity in the Southeastern region and the other studies cited above are any indication. The extension of the ban on multiple sales and the affirmative duty on the part of a firearm or ammunition transferor to determine that the transferee is not a prohibited person to transactions between non-licensees is intended to deter illegal sales and aid in the apprehension and prosecution of persons who engage in illegal secondary transfers.

#### POSSESSION BY PROHIBITED PERSONS

The repeal of Title VII of the Omnibus Crime Control and Safe Streets Act and recodification of its prohibitions in section 922, with appropriate conforming amendments, will relieve the Government of the burden of demonstrating a nexus between interstate transportation of firearms or ammunition and their wholly intrastate receipt or possession by prohibited persons. [*See United States v. Bass*, 404 U.S. 336, 347-49 (1971).] As the Committee construes current case-law on the point of prohibiting the mere intrastate possession of firearms and ammunition by prohibited persons, this amendment—together with the amendment to the definition of interstate commerce in the bill—will have the effect of clarifying congressional intent to reach such acts and bring them under the Act's provisions. [*See Huddleston v. United States*, 415 U.S. 814, 833 (1974) and *Barrett v. United States*, — U.S. — (No. 74-5566, Jan. 13, 1976) at 6, 9, 13 (slip opinion).]

#### MANDATORY SENTENCES

Finally, to deter criminal use of firearms in general, the bill amends the mandatory sentencing provisions in existing law [§ 924(c)] to apply provisions prohibiting eligibility for probation or parole and suspended or concurrent sentences to first offenses involving the carrying or use of firearms in Federal "crimes of violence," as defined by the amendment. Under this amendment, persons convicted of such crimes must be sentenced to additional terms of imprisonment—1-10 years in the case of first offenses and 2-25 years in the case of second and subsequent offenses—where firearms are involved. Available evidence indicates that a large share of Federal crimes are committed by persons with prior criminal histories, and the Committee feels that Federal prosecutors and courts must be given this additional tool to justly punish those who commit crimes with firearms.

#### Eliminating Concealable Handguns

The Gun Control Act prohibits the importation of military surplus weapons and gives the Secretary authority to ban the importation of all non-sporting weapons [§ 925(d)(3)]. In adopting this provision, Congress acted upon the belief that a flood of relatively inexpensive, easily-concealed handguns from abroad were a major contributing factor to rapidly-increasing handgun crime rates.

H.R. 11193 codifies, with technological improvements, the regulations promulgated by the Secretary in 1969 to implement the import prohibition power in the "sporting purposes" test and extends them to prohibit the prospective manufacture, sale or transfer by Federal licensees of concealable handguns, whether of foreign or domestic origin.

The amendment defines "concealable handguns" as those which do not meet minimum size and safety prerequisites and which do not attain a minimum qualifying score under a flexible point system, based on such objective features as frame construction, caliber, weight, safety and sporting features. Having thus written a permanent but flexible standard into the law, the bill eliminates the discretionary, "sporting purposes" test and makes appropriate conforming amendments to circumscribe the trafficking in these weapons. Prohibitions upon the production by any means of concealable handguns will correct present deficiencies which permit remodification of these weapons to render them more capable of being concealed. The effect of this series of amendments will be that handguns manufactured 90 days after the effective date of the bill which fail to meet the minimum criteria may not be sold or transferred among or by Federal licensees, except to exempted agencies [§ 925(a)(1)]. Antique firearms and concealable handguns classified by regulation as curios or relics traded in by licensed collectors would not be affected by the amendment. Moreover, the amendment would permit continued sale or transfer of concealable handguns among non-licensees or resale by a non-licensee to a licensed dealer.

Figure 6 depicts the comparative distribution between foreign and domestic handguns in relation to the total number produced for the four years prior to the effective date of the Act and from then until the close of calendar 1974. The bar graph shows that the number of imported handguns had reached near parity with domestically-produced handguns by 1968, the final year before the Act took effect. It also shows that the prohibition on importation of "non-sporting" handguns had a significant effect upon importation figures in relation to domestic production. It also shows the weaknesses inherent in limiting the prohibition to imports alone and defining "firearm" to include the frame or receiver of any such weapon [§ 921(a)(3)(B)].

#### DOMESTIC PRODUCTION

The first defect simply permitted the domestic production and consumption of similar handguns to meet criminal demands. Of the 32 active handgun manufacturers, assemblers or combinations of both surveyed by the Subcommittee, at least 15 have been in business only

## HANDGUNS - FOREIGN &amp; DOMESTIC



FIGURE 6

Source: Bureau of Alcohol, Tobacco and Firearms, Washington, D.C., 20536

since 1968 or later and many of those firms sell no more than two or three basic handgun models. Moreover, in response to Subcommittee inquiries, ATF estimated that approximately 54 percent of all 1974 domestically-produced handguns would fail existing importation laws. More than 50 percent of that year's production by 22 manufacturers would not have been eligible for importation; only 5 manufacturers produced handguns which would all satisfy the existing minimum requirements for importation into this country [Hearings, pt. 1, at 354-35]. The Congress was warned of this phenomenon as early as seven months after the passage of the Act:

Another major problem that has become apparent in the operation of the recently enacted Federal firearms law relates to the proliferation of cheap, small caliber handguns, known commonly as "Saturday night specials." As you will recall, from the past hearings and debate on this subject, it was widely believed that this kind of handgun was coming to this country from foreign sources \* \* \*. The Gun Control Act now excludes from importation all firearms \* \* \* not particularly suitable or readily adaptable to sporting purposes. . . . Nevertheless, the problem sought to be solved has not only resisted solution, but has proliferated further. By embargoing all \* \* \* firearms not generally suitable for sporting purposes \* \* \* a new protected industry has been created in the United States. [Statement of Donald E. Santarelli, Assoc. Dep'y Atty. Gen., Admin. of Crim. Justice, Dep't. of Justice, in Firearms Legislation, Hearings Before the Subcomm. to Investigate Juv. Delinquency, Sen. Comm. on the Judiciary, 91st Cong., 1st Sess. (1969) at 52.]

The result, as can be seen in Figure 2, has been that domestic handgun production in fiscal 1974 more than compensated for import reductions, to the point that the number of total handguns produced in that year nearly equaled 1968 production.

## THE PARTS LOOPHOLE

The second defect has permitted manufacturers to import disassembled handgun parts other than frames or receivers for mating with domestically-produced frames and receivers for final assembly and sale in the United States. This has often resulted in greater economy as opposed to greater inconvenience. Since imported handgun parts other than frames and receivers are not subject to specific regulation under the Act, it is practically impossible to determine accurately how significant this loophole has been in terms of total handgun production. The total numbers of foreign handgun parts imported since the Act came into being [Fig. 6, *supra*] and the responses of domestic manufacturer/assemblers received by the Subcommittee both imply that it has been substantial.

## MODIFICATION OF IMPORTED HANDGUNS

Remodification of recently-imported handguns to render them more concealable and thus frustrate the whole purpose of the prohibition

has added a significant number of handguns to the total national population. At the Subcommittee's request, the Bureau made an effort to learn how substantial this practice is. Even with incomplete statistics, owing to the fact that it is difficult to trace such weapons beyond their entry into domestic commerce, ATF determined that "at least 26,300 imported German and Brazilian revolvers were altered to non-sporting configurations subsequent to their importation into this country." [Hearings, pt. 1, at 352-53.] The concealable handgun amendment's prohibition on any type of production of such weapons whether by alteration, modification or otherwise would eliminate this type of abuse.

The concealable handgun amendment is a balanced approach which would permit continued manufacture, importation, sale and transfer of handguns especially suited to sporting usage and, based on available evidence, would strike hard at the types of handguns used most often in violent crimes. "Project Identification" firmly establishes that small caliber, concealable handguns are preferred by criminals. Seventy-six percent of the total criminally-used handgun population surveyed were revolvers; 71 percent had individual barrel lengths of 3 inches or less; 61 percent were .32 caliber or less; and 56 percent were of low quality, having a market value of \$50 or less. The factoring system used in the amendment establishes standards which would eliminate low-quality, short-barreled revolvers and pocket-size pistols and establish qualification factors which are weighted against small, cheap handguns. For example, all new revolvers would have to be equipped with barrels at least 4 inches long. The fact that this requirement will not impinge unduly on enjoyment of handgun shooting sports is illustrated by the response of Mr. Kittrell, a handgun dealer of broad experience, to a question posed by Subcommittee counsel concerning minimum barrel length for target handguns:

Mr. BARBOZA. What about the barrel length of the weapon?

Mr. KITTRELL. It is hard to imagine anybody going into target shooting with less than a 4-inch barrel. [Hearings, pt. 6, at 2098.]

The Committee strongly believes that this amendment, if enacted into law and properly enforced, will result in a substantial reduction in the number of crime-suited handguns added to the private population annually, which now constitute a substantial proportion of some 2.5 million being introduced into interstate commerce every year. Its effectiveness will not be hampered in this respect because of its application only to new handguns, since "Project Identification" found that two-thirds of all criminally-used handguns studied had been produced and sold after the effective date of the Act.

#### B. WEAKNESSES IN ENFORCEMENT OF THE FIREARMS LAWS

##### 1. *Enforcing Agency: Bureau of Alcohol, Tobacco and Firearms*

All of the major Federal statutes for the control of firearms are administered or enforced by the Department of the Treasury, specifically by the Bureau of Alcohol, Tobacco and Firearms (ATF). A division of the Internal Revenue Service prior to 1972, ATF was

designated a bureau in that year and assigned to the general supervision of the Assistant Secretary for Enforcement Operations and Tariff and Trade Affairs.

The firearms control statutes enforced by ATF are (1) Titles I and II of the Gun Control Act of 1968, the latter being a revision and expansion of the old National Firearms Act of 1934; (2) Title VII of the Omnibus Crime Control and Safe Streets Act of 1968; and (3) the import provisions of the Mutual Security Act of 1954.

With the two exceptions of a 1973 departmental review and a recent independent research study,<sup>2</sup> no attempt has been made since the Gun Control Act's enactment to assess ATF's performance in implementing that legislation. Most important, there has been no substantial Congressional oversight of the agency in this respect. Aside from the need to consider the many pending proposals for additional legislation, therefore, the Committee recognized an obligation to examine in a thorough fashion the execution of existing law. In pursuit of this recognition, the Subcommittee held hearings to question in detail ATF officials at Washington headquarters. Furthermore, in an effort to gain a broader knowledge of the agency's structure and function, the Subcommittee also traveled across the country and listened to the testimony of agency personnel from all seven ATF regional offices as well as from a number of branch offices.

In addition to the public hearings conducted by the Subcommittee, both Committee members and staff have been in continuous touch with ATF Director Davis and other principal headquarters officials. Many of the questions raised during the hearings were answered or clarified as a result of these meetings and telephone discussions. Moreover, the Committee has received from ATF numerous documents and other material in answer to questions officially transmitted by Chairman Gonyers and other Subcommittee members.

Throughout the United States there are 20 district offices overseeing the criminal enforcement operations of the Bureau. A special agent in charge is the head of each of the district offices.

In addition to firearms regulations, the Bureau is responsible for the collection of tax revenues derived from the alcoholic beverage and tobacco industries, and the enforcement of Title XI of the Organized Crime Control Act of 1970 (explosives control).<sup>3</sup> In a further expansion of its jurisdiction, the Bureau has also been assigned the duty of enforcing the Wagering Tax Act of 1974.

Of the approximately 3,700 ATF employees, some 2,200 are classified either as "special agents" or inspectors, the remainder being support personnel and administrative staff. There were approximately 1,500 special agents and 700 inspectors as of June 30, 1975, operating out of seven regional offices and 20 district offices. The inspectors are concerned with the regulatory functions of the Bureau and the special agents with the so-called "criminal enforcement" functions. Although special agents are sometimes required to perform regulatory duties, inspectors do no criminal enforcement work.

<sup>3</sup> U.S. Treasury Department, *A Report Assessing the Implementation of the Bureau of Alcohol, Tobacco & Firearms*, January 1974; and Zimring, Franklin D., *Firearms and Federal Law: the Gun Control Act of 1968*, IV(1) *Journal of Legal Studies* 133 (1975).

<sup>2</sup> Responsibility currently shared with the FBI.

Theoretically, there are no ATF agents or inspectors "specializing" in liquor law implementation or firearms control. All are therefore expected to be able to function on an "as needed" basis with respect to any of the statutes under the Bureau's jurisdiction.

ATF PERSONNEL BY CATEGORY AND REGION (AS OF JUNE 30, 1974)

Location	Special agents	Inspectors	Other	Temporary	Total
Headquarters.....	35		416	53	504
North Atlantic.....	195	96	122	17	430
Middle Atlantic.....	194	109	173	11	487
Southeast.....	439	47	197	5	688
Central.....	176	180	160	10	526
Midwest.....	164	102	107	24	397
Southwest.....	161	48	96	19	324
Western.....	157	108	131	11	407
National.....	1,521	690	1,402	150	3,763

Besides substantial shortcomings in the Gun Control Act itself, the Subcommittee's oversight hearings have persuaded the Committee that effective enforcement of Federal firearms laws and meaningful assistance to States and localities suffer doubly from a lack of commitment, both in principle and allocation of resources, to such enforcement and assistance.

#### 2. Allocation of Available Resources and Use of Authority

Testimony of Treasury Department officials before the Subcommittee and the Subcommittee's own inquiries have persuaded the Committee that the problem most responsible for the failure of the Act to at least achieve the limited goals set for it by the Congress in 1968 is, apart from statutory deficiencies, extreme reluctance, if not total unwillingness, on the part of the Secretary and ATF to do everything they can with the resources they have.

Section 923(g) of the Act requires all Federal licensees to maintain accurate, permanent records of all dispositions of firearms and ammunition, regardless of the level of commerce; furthermore, that subsection requires licensees to "submit to the Secretary such reports and information with respect to such records and the contents thereof as he shall by regulation prescribe." In addition, section 926 authorizes the Secretary to "prescribe such rules and regulations as he deems reasonably necessary to carry out the provisions" of the Act.

In the Committee's opinion, one of the most effective tools that the Federal Government can provide to State and local law enforcement officials in "their fight against crime and violence"—the principal aim of the Act itself—is in the area of firearms tracing. From a random sample of tracing support provided to ATF special agents during October, 1974, headquarters tracing of criminally-used firearms helped identify the violator in 27.5 percent of the cases, assisted in the investigation in 73.5 percent of the cases and was instrumental in making a case against the alleged perpetrator of the crime in 42 percent of the survey cases [Hearings, pt. 1, at 295]. "Project Identification," which has provided ATF and this Committee the first true picture of

the flow of criminally charged handguns in interstate commerce and a profile of the types of handguns most preferred by criminals, was made possible only by the existence of a central tracing capability. Use of the Bureau's limited tracing capability in the interstate theft survey enabled ATF not only to detect, apprehend and make cases against 44 defendants for 22 separate theft incidents involving some 10,000 firearms, but also to recover and return 10 percent of those stolen weapons to the rightful owner [*Id.* at 385]. Since the inception of the firearms tracing program in October, 1972, 51 percent of the 60,465 total trace requests received through the end of 1974 came from State and local law enforcement agencies [*Id.* at 328].

Despite the demonstrated value of firearms tracing, neither the Secretary by policy nor the Bureau by implementation have utilized their existing authority to collect manufacturer, importer and dealer firearms disposition records to modernize and improve this capability. At present, the center employs 27 tracers and 2 code-a-phone operators to process all trace requests. Once a request is received, a tracer must first place a call to the manufacturer of the weapon involved, who then searches his serialization records to determine to whom the gun was transferred next in the commercial chain. The tracer must then telephone the distributor or dealer who took delivery from the manufacturer and then proceed either to the retail dealer or the first retail purchaser for an examination of their records as to who last possessed the weapon in question. At the very least, two separate inquiries are required and, in many cases, they exceed four or more. Because of this by-hand technique, non-expedited requests for traces may take up to two weeks to complete—valuable time when a firearms crime suspect is still at large. Automated data processing has been used in only two special instances—"Project Identification" and "Project 300"—and only then for classification and convenient retrieval of information already secured manually.

Mr. Conyers asked Mr. David R. Macdonald, Assistant Secretary for Enforcement, Operations and Tariff and Trade Affairs, why at least manufacturers' records had not been collected and computerized to assist ATF's firearms tracing operation. Mr. Macdonald replied:

Limitations attached to ATF tracing capabilities are due to clerical problems at the manufacturers' level. The manufacturer must make a manual search of his records of the dealer who took delivery from the manufacturer. To improve this process would require manufacturers and all of their licensees to forward records to a central location for computerization. Neither the Congress nor the Administration has supported *this kind of registration* to this point. In fact, Mr. Chairman, our guidance from Congress, particularly in our annual appropriations hearings, has led us to believe that the congressional attempt to centralize all firearms records must be more clearly evidenced before we would undertake that task. [Hearings, pt. 98 at — (emphasis added.)]

Subcommittee counsel put the question in more specific terms:

[Mr. BARBOZA.] Now, under the '68 Gun Control Act, we have been told that ATF has the authority to centralize manufacturer and dealer records.

Mr. MACDONALD. There is no question about that. The question was asked by Mr. Thornton, I believe, at the last meeting, whether we would do that without further congressional authorization, in the light of the legislative history of the Gun Control Act of 1968, and I said I thought it was our position, although I had no Administration instructions in this regard, that we would want some congressional approval of that before undertaking it. [*Id.* at —.]

Nothing in the history of this legislation could be construed to prohibit the collection and computerization of all licensee records, which is the only sort of information now collected under the Act which could even remotely be considered to be "registration" of individual firearms purchasers. The Committee believes that Mr. Macdonald's reliance upon indications from the Appropriations Committee that computerization of dealer records is not authorized by the Gun Control Act is inappropriate. It is not the function of the Appropriations Committee to lend guidance to an agency concerning the interpretation of an act of Congress.

ATF has asked firearms manufacturers to provide quarterly reports of production on a voluntary basis. This system, of course, has no force of law and its reliability must be questioned because there are no guidelines established to assure uniform reporting. Subcommittee inquiries made by staff for copies of those reports were rebuffed, on the grounds that they might constitute "industrial intelligence." If the responses that the Subcommittee received from certain handgun manufacturers to a request for information on production and distribution are any indication of the type of cooperation afforded to the Bureau, such voluntarily-submitted information is likely to be incomplete. Out of 32 active handgun manufacturers, 12 responded satisfactorily—many of those only after follow-up letters had been sent.

Under repeated questioning by Subcommittee members, Director Davis freely acknowledged the value of computerizing records on firearms dispositions by Federal licensees, even excluding records of first retail purchase. If the Bureau knew to what dealers handguns were being shipped and in what quantities, it would be a relatively simple matter to concentrate enforcement resources to assure that those dealers were not, and did not in fact become, sources of weapons for criminals [Hearings, pt. 1, at 262-63]. Further, if the Bureau knew the areas of the country to which, and the dealers to whom, handguns were being distributed, then supervision and control of those dealers would be an easier task [*Id.* at 286].

The Committee strongly feels that the Secretary's authority to collect and utilize firearms disposition records under sections 923(g) and 926 of the Act must be used to its fullest extent to expand and modernize the firearms tracing operation within the Bureau. Until this is done, the Act's potential to effectively regulate interstate firearms

commerce and provide maximum assistance to Federal, State and local law enforcement officials will never be realized.

Another area of concern involves a recent study of the Act's and the Bureau's effectiveness that found a vast discrepancy between handgun importation statistics for 1973 gathered by the Bureau and identical information kept by the Customs Bureau. When presented with this discrepancy by the Subcommittee, ATF re-audited their records and reported that a clerical error in multiplication of units from import manifests had caused an actual figure of 247,751 to become inflated to 400,700 units. [*Id.* at 268, 290-91]. More recently, Director Davis admitted that a discrepancy of some 60,000 units still persists.

Despite admitted authority to do so, ATF did not promulgate regulations requiring reporting of multiple sales of handguns until July 1, 1975 [Hearings, pt. 8, at —.]—even in the face of the Chicago survey, "Project 300" and "The Greenville Project." *supra.* ATF, again despite clear authority, has yet to effect a regulation requiring prompt reports of losses or thefts from Federal licensees.

In all, very little of substance has been done to develop data on the nature of interstate firearms commerce, legal and illegal, since the passage of the Act. The first departmental assessment of ATF performance was not undertaken until 1973, with no obvious results. Most of the noteworthy projects undertaken by the Bureau which have provided the Committee with some understanding of what has taken place since 1968 were begun either after the Bureau became independent outside of the Internal Revenue Service on July 1, 1972, or in anticipation of or during the course of the Subcommittee's oversight hearings. That the information generated in the past two years has yet to produce visible signs of resource allocation or concentrated enforcement policies through thorough compliance inspection programs in high-volume traffic areas is disheartening.

#### *9. Limited Resources*

It was clearly the intent of Congress in passing the Gun Control Act to prohibit the passage of firearms into the hands of "high risk" individuals through the channels of legitimate commerce. By requiring licensed dealers to ascertain certain basic information about prospective purchasers and to maintain records that are readily accessible to Federal agents, Congress attempted to use the existing commercial distribution system to effect its purpose. However, it is also clearly not possible, absent sufficient manpower, to maintain adequate checks on 150,000 dealers and annual firearms transactions in the neighborhood of 7 million.

ATF is presently unable to do justice to all of its tasks. Its attempts at firearms regulation, the most significant of these, are far from meeting the intent of the authorizing legislation. The funds to support realistic implementation have simply not been forthcoming during the seven years since the Act was passed. This is the case despite the fact that, in relation to the total ATF budget, firearms control activities have accounted for a rapidly increasing proportion.

The Bureau has been far from aggressive in its budget requests, in view of the extent of its responsibilities. Even so, those requests have frequently been drastically reduced on the departmental level and by

the Office of Management and Budget. At the Committee's insistence, budget information was supplied by ATF with the data contained in the following table:

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS—CHRONOLOGY OF BUDGET REQUESTS

	Fiscal year 1976		Fiscal year 1975		Fiscal year 1974	
	Man-years	Amount	Man-years	Amount	Man-years	Amount
Request submitted to Department.....	4,376	\$115,900,000	4,096	\$99,984,000	4,319	\$84,945,000
Changes due to Secretary's allowances:						
Program changes:						
Reduction of program increases.....	-180	-8,150,000	-3	-293,000		-824,000
Elimination of program increases.....	-113	-6,604,000	-85	-1,604,000	-59	-2,544,000
Total, program changes.....	-293	-14,764,000	-88	-1,897,000	-50	-3,368,000
Other changes.....		-136,000	+36	-2,537,000	-53	-739,000
Allowance by the Secretary of the Treasury (request submitted to OMB).....	4,083	101,000,000	4,044	95,550,000	4,216	80,838,000
Changes due to OMB allowance:						
Program changes:						
Reduction of program increases.....		-33,000				
Elimination of program increase.....	-110	-2,814,000	-107	-2,818,000	-193	-3,192,000
Reduction of programs below base.....	-35	-800,000			-486	-7,859,000
Total, program changes.....	-145	-3,647,000	-107	-2,818,000	-679	-11,051,000
Other changes.....		-78,000	-50	-1,409,000	-25	-787,000
Pay increase.....		+4,064,000		+3,077,000		
Allowance by OMB.....	3,938	101,339,000	3,887	94,400,000	3,512	69,000,000
Restoration of cut by adjustment to Department's allowance:						
Program changes: Program cuts restored.....					+293	+4,911,000
Other changes.....						-911,000
Request presented to Congress.....	3,938	101,339,000	3,887	94,400,000	3,805	73,000,000
Congressional cut.....			-2	-2,400,000		-750,000
Appropriated.....			3,885	92,000,000	3,805	72,250,000
Program supplemental.....						2,250,000
Pay increase supplemental.....				12,448,000		5,448,000
Total, appropriated funds.....			3,885	94,448,000	3,805	79,948,000

† Pending before congressional committees.

It is worth noting that the Bureau recently complied with a congressional request for an estimate of the resources necessary to "fully implement" the Act; the Bureau's estimate: \$278,154,000 and 9,506 positions, over and above the FY 1976 request. The resources to be devoted to firearms law enforcement are estimated at \$52,872,000 and 2,003 positions.

The reason for ATF expansion during the last eight years, aside from inflation and normal bureaucratic escalation, has been a tremendous increase in statutory jurisdiction, as has been pointed out already. Firearms regulation accounts for the great bulk of the general budget and manpower increases, comprising nearly 49 percent of the total agency obligations in FY 1975 and an estimated minimum of 51 percent in FY 1976.

In terms of ATF's general classifications of its functions as either "regulatory" or "criminal enforcement", the overwhelming preponder-

ance of the budget advance since 1968 has been on the criminal enforcement side. Before enactment of the Act the enforcement activities accounted for 54 percent of the Bureau's budget and regulation the remaining 46 percent. In FY 1975 the ratio was 68 to 32.

Because of the criminal enforcement demands of the Gun Control Act, since 1968 ATF has concentrated on adding "special agents", or criminal enforcement personnel, in lieu of inspectors, or regulatory enforcement personnel. The Committee has been persuaded by the testimony of ATF officials that a major weakness in current enforcement efforts has been in the compliance area and that the people needed for this work are inspectors, or regulatory enforcement personnel. A Treasury Department assessment of the agency's manpower needs, made in 1974, recommended an additional 210 regulatory personnel positions. Even though the functions of regulatory and criminal enforcement have been distinct administratively since 1972, a large share of available special agent man-days is devoted to regulatory enforcement activities. In calendar 1974, ATF allocated 1058 of 1570 special agents to firearms enforcement duty [Hearings, pt. 1, at 317]. Of a total of 100,082 agent and inspector man-days available for firearms duty that year, special agents consumed 10,754 of 14,016 man-days in application and compliance investigations alone [*Id.* at 310]. In view of the unique training and powers that special agents have [*Id.* at 320], the Committee believes that their time could be more profitably spent in criminal enforcement activities alone.

The Committee strongly supports provision of additional manpower for ATF. The bulk of additional personnel resources should be placed in regulatory enforcement to conduct application and compliance work, thereby freeing special agents to concentrate upon criminal enforcement.

More men and women and money to pay them will not solve all existing enforcement problems, however. The need for equipment and support services is just as great. The Subcommittee took testimony from each of the directors of ATF's seven regional offices during the course of its hearings. Besides uniform complaints of insufficient manpower to carry on full-scale regulatory and criminal enforcement activities and unnecessarily burdensome numbers of licensed dealers, the directors also complained of:

- (1) lack of floor and storage space [Hearings, pt. 8, at —];
- (2) antiquated passenger vehicles for which the cost of continued maintenance exceeded the cost of purchase for new ones and insufficient numbers of vehicles, requiring overloading and use of public transit [*Id.* at —];
- (3) insufficient funds for undercover firearms purchases as evidence [Hearings, pt. 2, at 650]; and
- (4) lack of sufficient data processing resources to fill trace requests and for statistical analysis purposes [*Id.*].

These inadequacies were expressed at the headquarters level as well. Limited automated data processing systems—which are shared with other components of the Department and other Federal agencies—contribute to two major problems. Limited availability and lack of suitable program designs hamper instant retrieval of current license in-

formation [Hearings, pt. 1, at 298-305] and prohibit the efficient storage of out-of-business dealer records [*Id.*]. Director Davis admitted that the availability of tracing for State and local law enforcement use had spread by "word of mouth" and that the Bureau is "afraid to" make a general announcement that the free service is available to any interested agency because, in his words, "we are saturated" due to the fact that the tracing process is manual, rather than automated [*Id.* at 329].

From internally-reduced budget requests, *supra* [see also Hearings, pt. 1, at 304-05] and similar testimony from regional directors also it is apparent to this Committee that a lack of commitment at policy-making levels to better allocation of resources and making firearms enforcement the first priority among Bureau duties is responsible for weaknesses in implementing existing law. Mr. Conyers made all of the testimony cited above available to Mr. Macdonald and invited him to return as a witness on September 24 to respond to each allegation. Mr. Macdonald said:

\* \* \* \* \*

Although I do not agree with all of their factual conclusions, I must say that I would have been disappointed in these commissioners had they not taken this position because it shows to us at Treasury that they are extremely interested in doing their job, and they want every asset that they can lay their hands on in order to do it as well as they possibly can, so it does not bother us at all that they are making that statement.

\* \* \* \* \*

In summary, Mr. Chairman, a review of the reports of our House Appropriations Subcommittee would appear to reflect general satisfaction with the funding level of ATF. Both ATF and the Treasury would like to operate on unlimited funds. A balanced view of the situation against the backdrop of the legislative history of the Gun Control Act of 1968, however, leads us to believe that the Congressionally approved budget limitations set in the years since the passage of that Act, even in hindsight, have shown a reasonable mixture of support for ATF with fiscal restraint. [Hearings, pt. 8, at —.]

From the Committee's perspective, a balanced view of the situation since 1968 indicates that the resources needed to fully implement the Act and put it on the road toward fulfillment of its objectives have by and large not been there and, where resources have been available, they have not been deployed effectively. Besides additional salaried positions, then, ATF must have the equipment and support services—particularly data processing equipment and personnel for firearms tracing—it needs to complete the job. More than that, the Bureau needs most of all the commitment and cooperation of its superiors:

#### V. CONCLUSION

The Committee finds that existing firearms laws have not been effectively enforced. As has been demonstrated, this is due to weaknesses in the Gun Control Act itself and the failure of both Congress and the

Executive to commit sufficient resources to convert into reality the Act's potential to regulate interstate firearms commerce to aid States and localities in their enforcement efforts, to deny firearms to prohibited persons and to eliminate concealable handguns.

By favorably reporting H.R. 11193, as amended, the Committee feels that it has discharged its responsibility for correcting the first deficiency. By directing the Secretary and the Bureau to do what they have had clear authority but lacked willingness to do, the Committee feels that, on behalf of the Congress, it has acted to resolve some of the difficulties involved in the latter. The Committee is confident that enactment of these amendments and implementation of these recommendations will result in improvements in the fight against firearms abuse and handgun violence.

#### VI. OVERSIGHT STATEMENT

In compliance with clause 2(1)(3)(A) of rule XI of the Rules of the House of Representatives, this report embodies the findings and recommendations of the Subcommittee on Crime, established under clause 2(b)(1) of rule X of the House Rules and rule VI(f) of the Rules of Procedure of the Committee on the Judiciary, made pursuant to its oversight responsibility over activities of the Federal Government related to the Prevention of Crime and its jurisdiction over appropriate Federal criminal laws, as codified in title 18, United States Code. Pursuant to its responsibilities under clauses 2(m)(1) and 2(m)(17) of the House Rules, the Committee has determined that legislation should be enacted as set forth in H.R. 11193, as amended.

#### VII. COST OF THIS LEGISLATION

##### A. COMMITTEE ESTIMATE

In compliance with clause 7(a)(1) of rule XIII of the Rules of the House of Representatives, the Committee estimate of the gain in revenues for a one-year period following the effective date of H.R. 11193, as amended, if enacted, would be approximately \$3,140,000.

The bill, if enacted, would provide for three specific new Government programs:

*Section 207*, amending § 922(f) of title 18, United States Code, and *section 210(a)*, which adds a new subsection (1) to § 923, would require all common and contract carriers of firearms or ammunition and all Federal licensees to report thefts of firearms or ammunition within 48 hours of discovery. The Bureau of Alcohol, Tobacco and Firearms (ATF) estimates that it will need five additional positions to establish a center to receive and store information on lost or stolen firearms and ammunition, at a cost of approximately \$75,000 for fiscal 1977.

*Section 210(c)*, which adds a new subsection (k) to § 923, would require the Secretary, through ATF, to provide all licensees with an up-to-date list of all State, county and city firearms laws applicable at each licensee's place of business at least twice annually. ATF now sends

such a publication to all Federal license holders upon award of license and once yearly thereafter. The Bureau estimates that an additional mailing of this publication to each licensee would cost \$135,000 in fiscal 1977 to cover additional printing and distribution costs. This estimate does not contemplate a reduction in the total number of licensees to whom Publication 603 is distributed.

Section 301, which creates a new subsection (s) under § 922, would in paragraph (3) (B) permit local law enforcement authorities conducting criminal record investigations of prospective handgun purchasers to request a name and identity check of each such purchaser of the FBI, which the FBI would have to return within 10 working days of receipt. In a letter to Chairman Conyers, Clarence M. Kelley, Director of the FBI, estimated that this procedure would result in a maximum of 6,000 additional requests per working day, resulting in the need for additional positions to cover extended night, and regular weekend, shifts. Director Kelley estimated that the current workload borne by the Name and Identity Check Division would increase by 20 percent. Using 330 existing positions as a base and taking into account the fixed costs of data processing involved in the increased workload, 15 additional positions would be required at a fiscal 1977 cost of approximately \$150,000.

The net cost for these three new programs mandated by the bill would be approximately \$360,000. In section 203, however, annual fees assessed against all Federal firearms licensees are increased substantially. ATF estimates that it will collect approximately \$5,146,200 in license revenues in fiscal 1977, an increase of \$3,497,060 over present revenue collection levels. (The Bureau estimate is based on a projected total of 103,800 licenses, as opposed to a current total of 157,470, which takes into account a reduction in the number of licensees due to increased minimum license qualifications [section 204].) When projected fiscal 1977 costs are subtracted from anticipated fiscal 1977 license revenues, the net gain in revenues is \$3,140,000.

In compliance with clause 7(a) (2) of rule XIII of the Rules of the House of Representatives, the Committee solicited and received from ATF a comparative estimate of the cost of new programs created by the bill. In addition to the specific cost and revenue totals outlined above, the Bureau estimates it would need 94 additional positions (80 special agents, 14 clerical and support personnel) and additional equipment and support services, at a total cost for fiscal 1977 of \$2,579,000, to investigate losses and thefts of firearms and ammunition from carriers and licensees. Since H.R. 11193, as amended, does not specifically require such investigations, the Committee's estimate does not include additional positions, equipment and services for investigative purposes. It should be noted, however, that the net gain in projected license revenues is sufficient to absorb such additional costs for investigation through fiscal 1981, if revenues remain constant and it is assumed that all factors in the Bureau's base estimate remain unchanged, except for normal annual inflation.

#### B. ESTIMATE OF THE CONGRESSIONAL BUDGET OFFICE

In compliance with clause 2(1)(3)(C) of rule XI of the Rules of the House of Representatives, the estimate and comparison prepared

by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974, as timely submitted prior to the filing of this report, is set forth below.

#### 1. Purpose of Bill

The intent of this bill is to reduce handgun violence through reasonable restrictions on handgun acquisition, possession and use. Specifically, licensing requirements for manufacturers, importers and dealers of firearms are strengthened, and licensing fees are substantially increased. A more centralized firearms information system is developed, along with standardization of serial numbers and a requirement to report all lost or stolen firearms or ammunition to the Secretary of the Treasury. Also, upon request, the Federal Bureau of Investigation must conduct identity checks on all handgun purchasers within ten days. This is an authorization bill that requires subsequent appropriation action.

#### 2. Cost Estimate

This bill mandates activities which will increase the operating expenses of the Federal Bureau of Investigation (FBI) and the Department of the Treasury. The additional costs will occur in the same year that budget authority is granted. In addition, this bill will generate increased revenues through higher licensing fees. The budget impact of these changes is presented below.

	Fiscal year—				
	1977	1968	1979	1980	1981
Authorization level.....	360	381	403	422	443
Costs.....	360	381	403	322	443
Increased revenue.....	3,500	3,500	3,500	3,500	3,500

#### 3. Basis of Estimate

This bill increases the licensing fees for importers, manufacturers, dealers, gunsmiths, and pawnbrokers of firearms and/or ammunition. While stricter qualification standards are projected to lower the number of licensees, the Department of the Treasury expects the increased fees to result in an additional \$3.5 million annually in revenues.

There are three sources of additional cost in this legislation—the FBI's identity checks on handgun purchasers, the semi-annual, rather than annual, publication and distribution of state and local firearms statutes, and the creation of a centralized information system for lost or stolen firearms and ammunition. An explanation of each cost element follows.

The FBI currently has about 330 people assigned to name checking activities. The bureau estimates that the checking of handgun purchasers could, at a maximum, increase the workload by 20 percent. Since much of the cost is for computer processing which is a fixed cost, only a 5 percent increase in personnel would be required. Assuming an average salary of \$10,000 for the additional people, this requirement could cost \$150,000 in FC 1977. This amount will increase slightly in later years due to incremental salary increases.

Increasing the publication and distribution of information on state and local firearm statutes results in some additional cost. Presently the task is accomplished annually. Increasing the mandate to a semi-annual one is assumed to cause no increase in personnel costs, but to double the present printing and distribution costs of \$135,000. This additional amount is adjusted for projected inflation in later years.

The Department of the Treasury estimates that five people will be needed to establish a center to receive and store information on lost or stolen firearms and ammunition. The operating expenses of this group are estimated to approximate \$75,000 in FY 1977, and increase slightly with inflation in future years.

#### 4. Estimate Comparison

The Department of the Treasury has projected a \$3.5 million increase in revenues—the estimate adopted in this analysis. In addition, the Department has estimated increased operating expenses of \$2.789 million. Essentially, the Treasury's estimates includes the printing and distribution costs for the state firearms statutes, as well as the information center expenses employed in this analysis. However, the Department has also assumed a substantial increase in personnel for the investigation of lost or stolen firearms and ammunition. Since the legislation contains no direct mandate to conduct such investigations, this analysis has not included the associated costs.

### VIII. OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE ON GOVERNMENT OPERATIONS

In compliance with clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives, the Committee states that no findings nor recommendations of the Committee on Government Operations were submitted to the Committee in a timely fashion to allow an opportunity to consider such findings and recommendations during its deliberations on H.R. 11193, as amended.

### IX. INFLATIONARY IMPACT STATEMENT

In compliance with clause 2(1)(4) of rule XI of the Rules of the House of Representatives, the Committee states that the enactment into law of H.R. 11193, as amended, will have no inflationary impact on prices and costs in the operation of the economy.

### X. SECTION-BY-SECTION ANALYSIS OF THE FEDERAL FIREARMS ACT OF 1976

This Act is to be cited as the "Federal Firearms Act of 1976." Section 101 sets out the Congressional findings of the Act with respect to the use of handguns in violent crime in the United States.

#### TITLE II

##### Section 201—Definition of a Firearm

Section 201 amends section 921(a)(3) of title 18 of the United States Code by adding at the end thereof a new subsection defining

as a firearm any weapon which, by the action of an explosive, expels a projectile that may remain attached to the weapon by a wire or other means. This provision would bring within the definition of a firearm the so-called Taser or electric rifle, which is designed to transmit an electrical charge, sufficient to stun a person, through wires connected to barbs that are fired from the weapon and which embed themselves in a victim's clothing or flesh.

This provision is not intended to conflict with a recent ruling of the Secretary of the Treasury declaring the Taser a "firearm" under chapter 44 of title 18 of the United States Code (Gun Control Act of 1968) and as "any other weapon" under chapter 53 of title 26 of the United States Code (National Firearms Act) [ATF Rul. 76-6]. It is expected that the transfer tax and registration requirements of chapter 53 made applicable to the Taser by virtue of this ruling would remain in effect, despite the fact that the Committee has not amended the National Firearms Act in this respect.

##### Section 202—New Definitions for Manufacturers, Dealers and Gunsmiths

Subsection 202(a) of the bill amends section 921 of title 18 by striking out paragraphs (11) and (12) and providing new definitions for the terms "dealer," "ammunition retailer," "gunsmith," and "pawnbroker."

Paragraph (11) of the amendment defines the term "dealer" as any person engaged in the business of selling firearms or ammunition at wholesale or retail and who may, without further license, engage in business as a gunsmith. Pawnbrokers and the new license categories established for ammunition retailers and gunsmiths are each considered dealers for the purposes of the bill and defined in paragraphs (12) and (13).

This subsection changes existing law by defining the terms "wholesale firearms dealer" and "retail firearms dealer." A "wholesale firearms dealer" means a person who purchases or otherwise acquires firearms or ammunition from licensed importers or manufacturers and sells, or offers for sale, firearms or ammunition to retail firearms dealers or other wholesale firearms dealers. A "retail firearms dealer" means any person who sells firearms or ammunition to persons not licensed under section 923 of this chapter. Neither term includes dealers in destructive devices.

Under existing law, the term "gunsmith" is not used; instead, the present section 921(a)(11)(B) of title 18 makes reference to specific functions that could be carried out by a gunsmith. These functions are deleted in the amended definition and used in the new definition of gunsmith in section 921(a)(13) of the amendment with the exception of two minor changes, which are explained in paragraph (13) of this section. A person who obtains a dealer's license need not obtain a gunsmith's license to engage in the repair of firearms.

Paragraph (12) of the amendment defines the term "ammunition retailer" as any person who is engaged in the business of selling firearms at retail and who is not otherwise a dealer.

Paragraph (13) of the amendment defines the term "gunsmith" as any person who is not otherwise a dealer and who is engaged in the business of repairing firearms or making, modifying, or fitting

barrels, stocks, or trigger mechanisms to firearms. The language of this definition is contained in the existing dealer definition (18 U.S.C. 921(a)(11)(B)) of title 18 with the exception of the addition of "modifying" and the deletion of "special" before "barrels."

This amendment acknowledges the unique character of the trade and would permit a gunsmith occasionally to build and sell custom firearms or make custom ammunition loads for firearms in small quantities without obtaining a manufacturer's, dealer's, or ammunition retailer's license. The Secretary should promulgate such regulations as are necessary to assure that gunsmiths do not engage in the large-scale production or sale of firearms without obtaining the appropriate licenses.

The Committee intends to preserve requirements that gunsmiths complete Firearms Transaction Records and keep permanent records of all firearms built and sold or repaired. Concealable handguns [*see* discussion, § 213, *infra*] submitted by exempted persons and agencies may be accepted for repairs at any time. No gunsmith, however, would be permitted by alteration, modification or otherwise to render a non-concealable handgun concealable, under the standards of the bill after its effective date.

Paragraph (14) of the amendment defines the term "pawnbroker" as any person whose business or occupation includes the taking or receiving, by way of pledge or pawn, of firearms other than destructive devices or ammunition for firearms, other than ammunition for destructive devices, as security for the payment or repayment of money. Under this provision, pawnbrokers wishing to engage in the sale of new firearms would be required to obtain either a retail or wholesale firearms dealers' license.

Subsection (b) of the bill amends section 921(a) of title 18 by redesignating paragraphs (13) through (20) as (15) through (22), respectively.

Subsection (c) of the bill amends section 922(a)(1) of title 18 by inserting "repairing" before "manufacturing." The effect of this amendment is to require that any person engaged in the business of repairing firearms possess either a gunsmith's license or a dealers' license under section 923 of title 18.

#### Section 203—Licensing Restructuring

Subsection (a) of the bill amends section 923(a) of title 18 by increasing the cost of firearms licenses and creating separate license classifications for wholesale and retail firearms dealers, gunsmiths, ammunition retailers, and importers and manufacturers of long guns and handguns, including rifles and shotguns.

Paragraph (1) of the bill strikes out sections 923(a)(1)(B) and (C) of title 18, which are the existing firearms and ammunition manufacturers' license fee provisions, and replaces them with the following:

Subparagraph (1)(B) of the amendment changes section 923(a) by establishing a separate license category for handgun manufacturers and by increasing the fee for this license, which also covers the manufacture of all firearms except destructive devices, from \$50 to \$500.

Subparagraph (1)(C) of the amendment changes section 923(a) by establishing a separate license category for persons engaged exclu-

sively in the manufacture of long guns and by increasing the fee for this license, from \$50 to \$200.

Subparagraph (1)(D) of the amendment changes section 923(a) by increasing the fee for persons engaged in the manufacture of ammunition other than ammunition for destructive devices from \$25 to \$200. Persons possessing one of the manufacturers licenses listed in subsection 923(a)(1) of title 18 or subsections 923(a)(1)(B) or (C) of the amendment made by this section of the bill may engage in the manufacture of ammunition without obtaining an additional license.

Paragraph (3) of the bill strikes out section 923(a)(2)(B), which is the firearms importer license fee provision, and replaces it with the following:

Subparagraph (2)(B) of the amendment changes section 923(a) by establishing a separate license category for handgun importers and by increasing the fee for this license, which also covers the importation of firearms other than destructive devices, from \$50 to \$500.

Subparagraph (2)(C) of the amendment changes section 923(a) by establishing a separate license category for persons engaged exclusively in the manufacture of long guns and by increasing the fee for this license from \$50 to \$200.

Persons possessing one of the licenses listed in section 923(a)(2)(A) of title 18 or section 923(a)(2)(B) or (C) of the amendment made by this section of the bill may engage in the manufacture of ammunition, except ammunition for destructive devices unless covered by their license, without obtaining an additional license.

Paragraph (4) of the bill strikes sections 923(a)(3)(B) and (C), which are the dealer and pawnbroker fee provisions, and replaces them with the following:

Subparagraph (3)(B) of the amendment changes section 923(a) by increasing the fee for persons engaged in the firearms business as pawnbrokers from \$25 to \$100. A pawnbroker may engage in the receipt, by way of pledge pawn, or sale of ammunition, new or second-hand, without an additional license, but would be required to obtain a separate license to sell new or used firearms obtained by any means other than pledge or pawn.

Subparagraph (3)(C) of the amendment changes section 923(a) by establishing separate license classifications for wholesale firearms dealers out of the existing dealer classification, which permits both wholesale and retail sales under one license for a fee of \$10. The fee for wholesale firearms dealers is \$125.

Subparagraph (3)(D) of the amendment changes section 923(a) by establishing separate license classifications for retail firearms dealers out of the existing dealer classification as explained in subparagraph (3)(C) above. The fee for retail firearms is \$50.

Subparagraph (3)(E) of the amendment changes section 923(a) by establishing a separate license category for persons engaged in the business of repairing and performing other work on firearms. Under existing law, a gunsmith would be required to obtain a dealers license, which would entitle the gunsmith to sell as well as perform repairs on firearms. A gunsmith who wishes to sell firearms, which he does not produce himself, at retail or wholesale under the amendment would

have to secure the appropriate license, which carries with it the authority to function as a gunsmith without obtaining a further license. The fee for gunsmiths is \$10; the same as under existing law.

Subparagraph (3) (F) of the amendment changes this section by establishing a separate license category for ammunition retailers at a fee of \$25.

Subsection (b) of the bill amends section 923(c) by inserting (1) after "(c)" and adding a new paragraph (2).

Paragraph (2) of the amendment requires the Secretary to inspect promptly the premises and records of manufacturers and importers seeking license renewals. When a license renewal is submitted by a manufacturer or importer, the Secretary should take prompt action to assure that these licensees are complying with the security standards established by section 204 of the bill and the recordkeeping provisions contained in section 923(g) of title 18. This provision is intended to assure that persons who are engaged in the production and importation of firearms maintain complete and accurate records concerning the acquisition and disposition of firearms. These records are critical to the tracing of firearms used in crime, since manufacturers, and importers are responsible for serializing firearms and placing them in the stream of commerce. If any one of these licensees fails to maintain adequate records, firearms tracing becomes impossible. During its hearings, the Subcommittee received information that at least two of the thirty-two handgun manufacturers in the United States were under investigation for not maintaining adequate records.

#### *Section 204—License Qualification Provision*

Section 204 of the bill amends section 923(d) (1) of title 18 to add additional qualifications for persons applying for licenses to import, manufacture, sell, pawn or repair firearms or ammunition.

Subparagraph (F) of the amendment requires an applicant to notify the chief law enforcement officer of the jurisdiction in which his premises are located of the fact that he has applied for a license and complied with the laws of the State and locality in which his business premises are located. The Secretary is required to provide applicants with a form on which this information would be reported to the law enforcement official. The Secretary could not issue a firearms license to any person who has not fully complied with the State and local laws of the place where his business will be conducted. While existing law [18 U.S.C. § 922(b)(2)] prohibits the sale of a firearm in violation of State or local law, it does not provide the Secretary with authority to deny a license to an applicant who has not complied with these laws. For example, where a jurisdiction requires a person to obtain a license to sell handguns, the Secretary could not issue a Federal license until the prerequisite State or local license is obtained.

Paragraph (G) of the amendment requires, as a prerequisite to the issuance of a license, that an applicant demonstrate to the Secretary that he has adequate security devices or personnel, or both, to assure the security of firearms, firearms parts or ammunition stored on his business premises, including warehouse facilities. The applicant must also agree to maintain such devices or personnel, or both, in a satisfactory manner before the license can be awarded. The Secretary is em-

powered to prescribe reasonable regulations to govern the security of these premises. In drafting the regulations, the Secretary should take into consideration the nature of the licensed activity, the geographic location, the quantity of firearms or ammunition to be stored on the premises, and the expense to the particular operation of installing security devices and hiring personnel. The Committee would expect that the standards contained in the regulations concerning manufacturers, importers and wholesalers, who may stock large quantities of firearms and ammunition on their premises would be higher than those applied to retail dealers.

#### *Section 205—Extension of Limit on Action on License Applications*

Section 205 of the bill amends section 923(d) (2) of title 18 by increasing the period of time in which the Secretary has to approve an application for a license from 45 days to 90 days. The purpose of this amendment is to provide the Secretary with adequate time to perform onsite inspections of the business premises of prospective licensees to determine whether the applicant is qualified in all respects to receive a license under section 923.

#### *Section 206—Suspension of Licenses*

Section 206 of the bill amends sections 923(e) and (f) of title 18 as follows:

Subsection (e) as amended gives the Secretary the authority to suspend, as well as revoke, licenses as provided in existing section 923, for violations of this chapter or any rule or regulation prescribed by the Secretary. This section eliminates the provision for a hearing prior to revocation and adds new language giving the Secretary the authority to compromise or mitigate a licensee's liability with respect to a violation.

Subsection (f) (1), as amended, would apply the existing revocation and license denial procedures to license suspensions occurring under the new subsection (e). This section requires the Secretary to provide written notice to any person whose application for a license is denied or to any holder of a license which is suspended or revoked. The notice is required to contain the grounds upon which the application was denied or the license suspended or revoked. Notice must be given to the holder of a license which is suspended or revoked prior to the effective date of such action.

Subsection (f) (2), as amended, would apply the existing hearing procedures to license suspensions under subsection (e). This section requires that, upon request of the aggrieved party, the Secretary shall promptly hold a hearing at a convenient location for such licensee to review the denial, suspension or revocation of his license. The Secretary is required to stay the effective date of any suspension or revocation upon the request of the license holder.

Subsection (f) (3), as amended, would require the United States district court reviewing a decision of the Secretary to deny, suspend or revoke a license to consider any evidence submitted by the parties to the proceeding by changing "may" to "shall" in the third sentence. This section requires the Secretary to give notice to the aggrieved party of any decision, after a hearing held under paragraph (2), not to reverse

a decision to deny, suspend or revoke a license. The aggrieved party is given sixty days from the date of notice to file a petition in the United States district court for the district in which he resides or has his principal place of business for judicial review.

*Section 207—Carriers Regulation*

Section 207 of the bill amends section 922 of title 18 by designating paragraph (f) as (f) (1) and adding the following new paragraphs:

Subsection (f) (2) of the amendment makes it unlawful for any common or contract carrier knowingly to transport firearms or ammunition in violation of safety and security regulations promulgated by the Secretary. It authorizes the Secretary to promulgate regulations concerning the secure transportation of firearms and ammunition after consultation with the Secretary of Transportation.

Subsection (f) (3) of the amendment requires persons engaged in the business of transporting firearms or ammunition to report losses or thefts to the Secretary within forty-eight hours of discovery on forms to be provided by the Secretary. The reports are required to contain the serial number of the firearm, or a description of the ammunition, and the name and address of the manufacturer.

*Section 208—Miscellaneous Amendments to Unlawful Acts Section; Conforming Repeal of Safe Streets Act Title VII*

Section 208(a) of the bill amends section 922 of title 18 as follows:

Paragraphs (1) and (2) of the bill would update the cross references to the Controlled Substances Act [21 U.S.C. § 802 *et seq.*] and strike the use of the term "drug" and insert "substance."

Paragraph (3) of the bill would modernize the language relating to mental incompetency and commitment proceedings, consistent with the language now used in title VII of the Omnibus Crime Control and Safe Streets Act (18 U.S.C. App. § 1201-03), which is repealed by section 208(b) of the bill and incorporated into chapter 44 of title 18 by striking out "mental defective" and inserting in lieu thereof "mentally incompetent."

Paragraph (4) of the bill amends subsection (g) of section 922 by extending the ban on prohibited persons from shipping and transporting firearms to receipt, which is now contained in subsection (h) of section 922, and possession, which is contained in title VII of the Omnibus Crime Control and Safe Streets Act. In addition, illegal aliens are added to the list of prohibited persons. That category is barred under existing law from receiving, possessing, or transporting "in commerce or affecting commerce" any firearm under the provisions of 18 U.S.C. App. 1202(a).

The reference in existing subsection (g) to "interstate or foreign commerce" has not been carried forward in this amendment, nor has the phrase "in commerce or affecting commerce" presently contained in 18 U.S.C. App. 1202(a) been used. In *United States v. Bass*, 404 U.S. 336 (1971), the Supreme Court found the language "in commerce or affecting commerce" contained in 18 U.S.C. App. 1202(a) to be ambiguous on the question of whether it was necessary to prove in an individual case concerning illegal possession or receipt of a firearm that the possession or receipt was "in commerce or affecting com-

merce." In resolving this ambiguity, the Court narrowly construed the provision so that, for example, possession of a firearm by a convicted felon, without specific proof that the possession was "in commerce or affecting commerce" was insufficient for conviction. Under the amendment to section 922(g) of title 18, the language "in commerce or affecting commerce" has been omitted in order to eliminate the ambiguity cited by the Supreme Court in favor of the ability to prosecute without having to prove a connection with interstate commerce. Consistent with eliminating proof of the connection to commerce for a conviction of illegal receipt, transportation, or possession, the reference to "interstate and foreign commerce" also has been omitted.

The coverage in existing sections 922 (g) and (h) of title 18 concerning receipt, transfer, and shipment of ammunition would also be carried forward to proposed section 922(g).

The penalty for conviction of the offense described in subsection (h) would be not more than five years, consistent with the penalty for violation of existing sections 922 (g) and (h), and increased from the maximum two-year penalty under 18 U.S.C. App. 1202(a).

Paragraph (5) of the bill would amend subsection (h) by adding a new subsection (h) (1) to carry forward the provisions of existing 18 U.S.C. 1202(b), which prohibits any person employed by a person barred from receiving, possessing, or transporting a firearm from doing such acts, if he knows or has reason to believe that his employer is in one of the prohibited classes. This provision would also apply to ammunition, consistent with amended subsection (g) and existing sections 922 (g) and (h).

Subsection (h) (2) of the amendment would make it unlawful for any person to sell or otherwise dispose of any firearm or ammunition to any person, unless he knows or has reason to believe that the transferee is not a prohibited person under subsections (g) or (h) (1). This provision is not applicable to sales to licensees who are not precluded from dealing in firearms or ammunition. This provision is essentially the same as existing section 922(d) of title 18, which is replaced by a new subsection, with two exceptions: first, it extends the present ban on sales to prohibited persons by licensees to similar sales by private citizens; and second, the knowledge requirement is altered to prohibit sales unless the transferee knows or has reason to believe that the transferor is not a prohibited person.

Subsection (b) of the bill repeals title VII of the Omnibus Crime Control and Safe Streets Act. All of the provisions of title VII are incorporated into the new subsections (g) and (h) except for the ban on possession, shipment and receipt with respect to persons dishonorably discharged from the armed forces and persons who have renounced their United States citizenship. The existing scope of section 1202 is expanded by including persons under indictment, narcotics addicts, and fugitives from justice among those who are prohibited from possessing firearms and ammunition.

*Section 209—Additional Prohibited Acts*

Section 209 of the bill amends section 922 of title 18 as follows:

Subsection (n) (1) of the amendment prohibits the sale of more than one handgun to any person during any period of thirty days or less

without the prior approval of the Secretary. Sales to persons licensed under section 923 of title 18 are exempt. The Secretary is authorized to promulgate appropriate regulations.

Subsection (n)(2) of the amendment prohibits the purchase by any person of more than one handgun during any period of thirty days or less without the prior approval of the Secretary. Receipt of handguns by persons licensed under section 923 of title 18 are exempt. The Secretary is authorized to promulgate appropriate regulations.

The purpose of subsections (n)(1) and (n)(2) is to enforce the requirement that only persons licensed under section 923 of title 18 engage in the sale of firearms. The Committee found substantial evidence that persons not licensed under the Gun Control Act are acquiring large quantities of handguns with the intent of reselling them for profit. By permitting unlimited access to handguns by all persons, the licensing provisions of the Act can be easily subverted. This provision is not intended to limit access to handguns by persons with legitimate needs. The Secretary is directed to implement appropriate regulations to assure that persons with such needs are not prevented from obtaining handguns. The Secretary must assure, however, that the persons seeking such approval to purchase more than one handgun in any thirty-day period intend to put these weapons to personal use and not transfer them to other persons.

Under current Treasury Department regulations, licensed firearms dealers are required to report the sale of two or more handguns during any five-day period to the Secretary in order to provide information on unlicensed persons who might be acquiring large numbers of handguns for resale. While the Committee endorses this step, it believes that it is merely a record-keeping procedure and will not effectively stop the multiple acquisition of firearms by non-licensees who may be engaged in illegal sales.

Subsection (o) of the amendment makes it unlawful for any person to sell, deliver or otherwise transfer a handgun to another person if the transferor knows that the purchase or possession of the weapon would be in violation of Federal, State or local law.

Subsection (p) of the amendment requires that persons licensed to sell firearms under section 923 of title 18 provide assistance to law enforcement officials of jurisdictions with permit, licensing, registration or waiting period laws whose residents may purchase firearms in other jurisdictions within the same State in order to circumvent these laws. It requires that a licensee who intends to sell a firearm to any person who resides in a jurisdiction that requires a permit or license as a prerequisite to purchase must require the transferee to display such document before transferring the firearm. In the case of a transferee who resides in a jurisdiction that requires the registration of firearms or a waiting period prior to purchase, a licensee could not transfer a handgun until he has notified the chief local law enforcement officer of that jurisdiction of the fact that such resident intends to purchase a firearm. In addition, licensees may not sell a firearm to a person who resides in a jurisdiction that has a waiting period as a prerequisite to the sale of a firearm without complying with the requirements of such a law.

Subsection (q)(1) of the amendment makes it unlawful for any person knowingly to import into the United States any handgun part intended to be used in the manufacture of concealable handguns.

Subsection (q)(2) of the amendment makes it unlawful for any person knowingly to receive any handgun part intended for use in the manufacture of concealable handguns, if the part has been brought into the United States in violation of the Act.

Subsection (r) of the amendment makes it a felony to conspire to commit an offense defined by chapter 44 of title 18.

*Section 210—Additional Amendments to Sections 923 and 922(k)*

Section 210(a) of the bill amends section 923(i) of title 18 to give the Secretary the authority to standardize the serialization of firearms to assure that every firearm manufactured or imported into the United States is marked with a unique serial number. The purpose of this provision is to aid in the tracing of firearms used in crime by assuring that duplicate serial numbers do not appear on these weapons.

Subsection (b) of the amendment requires the Secretary to distribute to licensees summaries of the laws of any jurisdiction within the State in which their business premises are located, which has a licensing, permit, waiting period or registration law. This requirement is intended to supplement, and not supplant, the distribution of State and local laws and ordinances the Secretary now distributes to licensees. It is intended that these summaries be brief and simple so as to provide a ready reference source to a gun dealer faced with the question of whether he can legitimately transfer a firearm to a person who resides in another jurisdiction. This provision is intended to aid in the enforcement of subsection 922(p) added by this bill.

New subsection 923(1) would require that all licensees report the loss or theft of any firearm or ammunition in their custody, possession or control not later than forty-eight hours after discovery. The Secretary is directed to promulgate such regulations as are necessary, including those concerning the kind of information that a licensee is required to report to sufficiently identify himself, the place of the loss, and the article being reported.

*Section 211—Mental Incompetents; Relief from Disability*

Section 211 of the bill amends section 925(c) of title 18, which permits a court or other lawful authority to provide relief from disabilities under subsection 922(d), (g), or (h) of title 18 for a person adjudicated mentally incompetent or committed to a mental institution, by adding a new paragraph (2). This amendment would allow a person to be relieved from the disabilities imposed by those subsections if the court or other lawful authority finds that the person is no longer suffering from a mental disorder. Under existing section 925(c), a person who has been convicted of a crime punishable by imprisonment for a term of exceeding one year may apply for relief from disabilities under the Act. No comparable provision now exists for persons who are barred from purchasing and possessing firearms because of a prior adjudication of mental incompetency.

### Section 212—Mandatory Penalties

Section 212 of the bill amends section 924(c) concerning mandatory sentencing for gun-crime offenders. This section imposes a sentence of from one to ten years, in the case of a first offense, and two to twenty-five years, in the case of a second and subsequent offense, for any person who uses, carries, displays or offers to use any firearm during the commission of a violent crime which is punishable in a Federal court. The proposed amendment would change current law by requiring imposition of a mandatory sentence, prohibiting probation, parole and suspended or concurrent sentences for conviction of first as well as for second and subsequent offenses, which is the case under the existing section; and adding the words "displays" and "offers to use" to the offenses for which a mandatory penalty could be imposed. Section 924(c) has the effect of limiting the crimes for which a mandatory firearms sentence could be imposed to certain generally defined crimes of violence. Subsection 924(c)(2) of the amendment defines the term "crime of violence."

### Section 213—Prohibition of Concealable Handguns, and Conforming Amendments to the Unlawful Acts Section

Section 213(a) of the bill amends section 921(a) of title 18 by adding the following new definitions:

Paragraph (23) of the amendment defines the term "handgun" as any firearm with a short stock and which can be fired by use of a single hand.

Paragraph (24) of the amendment defines the term "pistol" as a handgun having a chamber or chambers permanently aligned with the bore or bores.

Paragraph (25) of the amendment defines the term "pistol" as a handgun with a breechloading, chambered cylinder that rotates by the cocking of the hammer or movement of the trigger to bring a cartridge in line with the barrel for firing.

Paragraph (26) of the amendment defines the term "handgun model" as a handgun of a particular design, specification, and designation. This term is intended to encompass those handguns which are representative of the kinds of weapons that manufacturers may wish to produce and which are to be submitted to the Secretary for testing.

Paragraph (27) of the amendment defines the term "minimum requirements for handguns" as follows:

Subparagraph (23)(A) of the amendment requires that a pistol must have a positive manually operated safety device, have a height (measured from the top of the weapon, excluding sights, at a right angle to the line of the bore, to the bottom of the frame, excluding magazine extensions or releases) of at least four inches and a length (measured from the muzzle, parallel to the line of the bore, to the back part of the weapon that is farthest to the rear of the weapon) of at least six inches, and must attain a total of at least seventy-five points for factors relating to, among other things, overall length, frame construction, weight, caliber, and sporting and safety features.

Subparagraph (23)(B) of the amendment requires that a revolver must have a frame length of at least four and one-half inches (measured from the end of the frame nearest the muzzle, parallel to the line of the bore, to the back of that part of the weapon that is farthest to the rear of the weapon), a barrel length of at least four inches, certain safety features, and a total of forty-five points under a set of criteria relating to, among other things, barrel length, frame construction, weight, caliber, and sporting and safety features.

The factoring approach used in this subsection is similar to that now used by the Secretary in determining whether a firearm is importable under existing law [18 U.S.C. § 925(d)(3)], with the exception of an increased prerequisite barrel length for revolvers and certain technical changes.

Paragraph (28) of the amendment defines the term "concealable handgun" as any handgun manufactured, assembled, produced or imported after the effective date of the Act which does not meet the minimum requirements for handguns.

Section 213(b) of the bill amends section 922 of title 18 as follows:

Paragraph (1) of the bill amends the exemption in subparagraph (a)(2)(A) that permits licensees to ship replacement firearms in interstate commerce by specifically excluding from this exemption shipments of concealable handguns.

Paragraph (2) of the bill amends the exemption in subparagraph (a)(2)(A) that permits an individual to mail a firearm to a licensee for repair by specifically excluding from this exemption shipments of concealable handguns.

Paragraph (3) of the bill amends subsection (a)(5) concerning the transfer of a firearm to a person other than a licensee who the transferor knows or has reason to believe lives in another State. This provision would change the references to persons living in another State to references to persons who do not reside in the transferor's State, in order to assure coverage of sales to persons who reside outside the United States.

Paragraph (4) of the bill amends subsection (a)(5) to prohibit licensees from loaning or renting concealable handguns to persons who reside outside of the State in which their business premises are located.

Paragraph (5) of the bill amends subsection (b)(3)(B) to prohibit licensees from loaning or renting concealable handguns to persons who reside outside of the State in which the individual licensee's business premises are located.

Paragraph (6) of the bill amends subsection (c) to prohibit the intrastate mail order sale of handguns. In order to transfer a handgun under this bill, a nonlicensee would have to appear at the dealer's premises and comply with the waiting period requirements of section 301 of the bill.

Paragraph (7) of the bill amends subsection (c) to conform to the amendment made by paragraph (6) above to remove language concerning the age requirement for the purchase of handguns required to be contained in the sworn statement required by the existing section.

Paragraph (8) of the bill strikes out subsection (d), the provisions of which are incorporated into section 922(g) by the amendment made

by section 208(a)(5) of the bill, and replaces it with the following new subsection:

Subsection (d)(1) of the amendment prohibits the manufacture, assembly and production of concealable handguns, except as authorized by the Secretary for the following purposes: sale to the United States, or any department or agency thereof or any State or any department, agency, or political subdivision thereof; carrying out programs of research and development; and determining whether a particular handgun model meets the minimum requirements for handguns. This provision also prohibits the production of concealable handguns by means of alteration, modification or otherwise.

Subsection (d)(2) of the amendment prohibits licensees from selling or otherwise transferring a concealable handgun, except to the governmental entities listed in (d)(1) and for purposes of research and development.

The provisions of subsection (d) do not affect handguns that do not meet the minimum requirements and which were produced before the effective date of the bill. Dealers would be permitted to sell their existing stocks of handguns not meeting the minimum requirements that are in stock on or after the effective date of the bill, as long as those weapons were manufactured before the effective date. The Secretary, pursuant to his authority to standardize the serialization of firearms, should take such steps as are necessary to assure that all handguns manufactured after the effective date of this bill are clearly identifiable for purposes of establishing the date of manufacture.

Section 213(c) amends section 925 as follows:

Paragraphs (1) and (2) of the bill amend subparagraphs (a)(2)(A) and (B) to make the provision permitting shipment or receipt of firearms sold or issued by the Secretary of the Army under section 4308 of title 10 (relating to rifle ranges and permitting sale of "rifled arms" to the members of the National Rifle Association and clubs organized for practice with rifle arms) inapplicable to concealable handguns. This amendment does not affect the authority of the Secretary of the Army to issue firearms for the purposes listed in subparagraph (a)(2)(B).

Paragraph (3) of the bill amends subparagraph (a)(3) concerning the exemption on the shipment of firearms by licensees to members of the Armed Forces on active duty outside the United States. This amendment prohibits the shipment of concealable handguns to persons on active duty outside the United States and to clubs composed of military personnel, if those weapons are intended for personal use, by striking out the existing prohibition on the sale of weapons "not generally recognized as particularly suitable for sporting purposes" and inserting "which is a rifle, shotgun, or a handgun, other than a concealable handgun." This amendment does not significantly alter the existing subsection, since the criteria used to define a concealable handgun in section 213 of the bill are essentially the same as the criteria which the Secretary now uses to define "sporting purposes" under chapter 44 of title 18.

Paragraph (4) of the bill amends subsection (a)(4) concerning the importation of firearms belonging to military personnel on active

duty outside of the United States. This amendment, like the amendment made by paragraph (2) above, would conform this section to the ban on concealable handguns in section 213 of the bill by striking the reference to "sporting purposes" and adding the appropriate new language.

Paragraph (5) of the bill amends subsection (c) concerning persons convicted of felonies, who may seek relief from the disabilities imposed by this chapter. This amendment extends the existing limitation on relief from disabilities covering persons not convicted of crimes involving the use of a firearm or a violation of this chapter or the National Firearms Act to include State and local offenses relating to the importation, manufacture, sale or transfer of firearms.

Paragraph (6) of the bill amends subsection (d)(5) concerning the sporting purposes exemption for firearms or ammunition imported into the United States by striking out "and is generally recognized as particularly suitable for or readily adaptable to sporting purposes" and inserting "and is a rifle, a shotgun, or a handgun other than a concealable handgun." This amendment has the effect of banning the importation of concealable handguns. This amendment does not significantly alter this section, since the criteria used to define a concealable handgun in section 213 of the bill are virtually identical to the existing criteria used to define the term "sporting purposes" as used in the existing section.

#### *Section 214—Congressional Review of Administrative Actions of The Secretary*

Section 214 of the bill amends section 926 of title 18 by adding a new subsection (b) to require the Secretary to transmit to the Congress such rule, regulation, and order promulgated under this chapter after the effective date of this subsection. Congress is given at least thirty days or until the effective date prescribed by the Secretary to approve or disapprove any administrative actions. This provision does not require the Secretary to submit to Congress any interpretive rules, general statements of policy, or rules of department organization, procedure or practice.

### TITLE III

#### *Section 301—Preclearance Procedures*

Section 301 amends section 922 of title 18 by adding a new subsection (s) as follows:

Subsection (s) of the amendment requires that handgun sales between licensees and nonlicensees take place at the licensee's business premises and, in order to assure that the transaction is in accordance with Federal, State and local law, that the transferee submit a sworn statement containing his name, place of residence and a statement that he does not intend to resell the handgun to a prohibited person.

Paragraph (2) of the amendment requires that the sworn statement be sent to the chief law enforcement officer of the transferee's residence together with any permit or license required by the transferee's place of residence as a prerequisite to purchase a handgun.

Paragraph (2) of the amendment requires the transferee to provide the licensee with identification sufficient to identify himself and his place of residence.

Paragraph (3) of the amendment requires the transferor to forward a copy of the sworn statement to the chief law enforcement officer of the transferee's place of residence. The purpose of this provision is to permit the law enforcement official to check the record and identity of the transferee to determine the legality of the sale under State or local law; to request an FBI record and identity check; and to report to the transferor the conclusions of the record checks. The word "conclusion" means the law enforcement official should report only the fact that the person seeking to purchase a handgun is either barred or not barred from purchasing a handgun under either Federal, State or local law. The conclusion should indicate also the extent of the investigation of the transferee, e.g., the names of the jurisdictions that were queried with respect to the transferee's background. In the event that the conclusion shows that the transferee is not eligible to purchase a handgun, a copy of the report should be shown to the transferee so that he may be fully apprised of the determination and of such facts that would enable him, if he would wish to do so, to verify the accuracy of the conclusion.

Paragraph (4) of the amendment permits a licensee to transfer a handgun to a nonlicensee if the conclusions received from the chief law enforcement officer do not indicate that the transferee is prohibited from purchasing a handgun under Federal, State or local law and fourteen days have elapsed after the transferee submitted his sworn statement. In the event that the licensee does not receive a report from the law enforcement officer, the handgun may be transferred after twenty-eight days have elapsed after the sworn statement was submitted. Licensees are required to maintain copies of the conclusions received as part of their records under section 923 (g).

#### *Section 302—Effective Date*

Section 302 (a) provides that the amendments made by this bill shall become effective ninety days after the date of enactment.

Subsection (b) of this section provides that a license issued on or before the effective date of the bill is valid until it is suspended, revoked, or terminated in accordance with the provisions of chapter 44 of title 18.

## XI. DEPARTMENTAL VIEWS

### *Department of Justice*

STATEMENT OF RONALD L. GAINER, ACTING DIRECTOR, OFFICE OF POLICY AND PLANNING DEPARTMENT OF JUSTICE BEFORE THE SUBCOMMITTEE ON CRIME, OCTOBER 1, 1975

Mr. Chairman, members of the subcommittee, I have been requested to discuss with you today the provisions of H.R. 9022, a bill introduced by Congressman McClory on behalf of the Administration. The bill would amend the Gun Control Act of 1968.

I need not recite to you the statistics concerning the proportion of violent crime that is accomplished through the use of handguns. At this stage of your hearings, you gentlemen are keenly aware of the extent of the problem. You are also aware of the difficulties in attempting to achieve a solution. While there appears to be a developing consensus that something must be done by the Congress about the criminal misuse of handguns, the form that such action should take remains in issue.

H.R. 9022 does not propose a ban on the possession of handguns. Nor does it propose a system of licensing owners of handguns or of registering the handguns in private possession. It does contain, however, a series of provisions which in themselves constitute relatively minor extensions of the existing Federal laws, yet which, in combination, afford a realistic hope of achieving a significant reduction in the scope of the problem.

H.R. 9022 is designed to help reduce the problem of criminal use of handguns through a combination of four general measures: first, by assuring that dealers' licenses may be obtained only by bona fide firearms dealers; second, by requiring that dealers take certain steps before selling a handgun in order to assure that persons seeking to purchase handguns are lawfully entitled to do so; third, by prohibiting absolutely the manufacture and sale of cheap, unreliable handguns commonly known as Saturday Night Specials; and fourth, by undertaking measures to increase the effectiveness of enforcement efforts.

The first of the four measures is intended to restrict dealers' licenses to those actually conducting a firearms business and to assure that their business is conducted lawfully.

Today, anyone with ten dollars and a felony-free record can become a federally licensed firearms dealer. Moreover, those licensees who choose to do so may then operate in violation of the law with little realistic chance of being detected. Given the fact that there are now approximately 150,000 federally licensed firearms dealers, the likelihood of an unlawful dealer's being discovered through routine inspections is minimal. Treasury agents are able to visit each

dealer's place of business approximately once every ten years, and during that visit have time to review an average of only four or five randomly-selected sets of records.

Part of the problem is that today there is only one class of federal firearms dealers' license. Yet many dealers wish simply to sell ammunition as a service to their customers. Others are interested only in handling long guns for hunters and marksmen. The current law does not even require that the licensee really be in the business of buying and selling firearms. Indeed, many persons presently obtain licenses as a convenient means of circumventing some of the general purposes of the 1968 Act, and they may do so lawfully. The 1968 Act was not intended to be a voluntary licensing system for anyone willing to pay a ten dollar fee for the privilege of purchasing weapons from persons in another state. It was designed to require certain conduct by persons in the business of buying and selling firearms, and it was intended as a strict limitation on interstate sales. The Treasury Department has emphasized in the past the need for a change in the requirements for obtaining a dealers' license so that only a bona fide dealer may obtain one. H.R. 9022 includes a series of provisions that will accomplish the Treasury Department's objective.

Specifically, the bill would establish various classes of licenses and would impose a scale of fees calibrated to the need for routine inspections of those holding the particular kinds of licenses. The dealers' fees would range from a high of \$500 for a pawnbroker dealing in handguns as well as long guns, to a low of \$25 for a retailer selling only ammunition. The Secretary of the Treasury, prior to issuing a license, would be required to review the genuineness of the applicant's intent to engage in a bona fide business, the capitalization of the business, the applicant's business experience, and other factors relevant to establishing that the applicant is in fact intending to engage in the firearms business. Such provisions are similar to those currently enforced with regard to applicant's desiring to engage in commerce involving alcoholic beverages. These provisions should enable the Bureau of Alcohol, Tobacco and Firearms more carefully to screen applicants for firearms licenses, particularly those who wish to deal in handguns, and the increased fees should provide a source of revenue that will more closely approximate the actual administrative and inspection costs of an adequate supervisory program.

The bill would also give the Secretary of the Treasury wider discretion in imposing penalties on dealers who have been found in violation of existing provisions. Currently, the Secretary is limited to revoking a dealers' license. Under H.R. 9022 the Secretary would also have available the ability to suspend the license or to impose a civil penalty of up to \$10,000, depending upon the gravity of the violation. The bill also provides for review of such administrative determinations in order that any arbitrary action may be avoided or corrected.

The second measure in the proposal would impose a series of restrictions upon dealer sales of handguns. It is designed to cut off the supply of handguns to persons with felony records or persons who for other reasons may not lawfully possess handguns under existing laws.

The 1968 Act prohibits sales by dealers to persons whose possession would be illegal under state law or published local ordinance applicable at the place of sale, delivery, or other disposition. Despite this prohibition, many cities that have strict handgun control laws are unable to assure the effectiveness of those laws because neighboring jurisdictions permit their dealers to sell handguns without regard to the laws of the central city. The 1968 provision prohibiting such sales has not been enforced because it cannot be enforced. H.R. 9022 is designed to make the current prohibition more enforceable by requiring handgun dealers to take steps to avoid inadvertent sales to persons who cannot lawfully possess handguns.

Under the 1968 Act dealers are required only to obtain and file a written statement by the purchaser of a firearm setting forth his name, age, and place of residence, and asserting that he is not a member of a class barred from acquiring a firearm. The 1968 Act does not require any effort by the dealer to determine whether the purchaser legally can own a firearm. There is no requirement for checking the data supplied by the purchaser and no provision for delaying delivery of the firearm.

Under H.R. 9022, handgun dealers would be required to take a series of steps to verify that a prospective purchaser is legally entitled to possess a handgun. No handgun could be sold to anyone who does not appear personally at the dealers' place of business. The prospective buyer would have to fill out a form setting forth his name, age, and place of residence, and the place where the handgun is intended to be kept. He would also be required to affirm that his receipt of the handgun would not be in violation of any law applicable at the place where he intends to keep it, and, if a permit is required under local law at the place where the handgun is to be kept, he must attach to the form a copy of his permit.

This latter provision is designed to assist the dealer in verifying that the ultimate disposition of the handgun—its possession at the place intended—is lawful. The prospective buyer, moreover, would have to affirm not only that he is not among the disqualified classes of individuals listed in current law, but that he does not intend to transfer the handgun to a person barred by any law from possessing the weapon. This provision is designed to provide a provable charge against "strawmen" who purchase handguns with intent to sell or transfer them to third parties whose possession would be unlawful. Finally, the prospective purchaser would have to establish his identity through means required by the Secretary of the Treasury, and, in order to facilitate checking of the information supplied, would have to set forth the name of the chief law enforcement officer in any locality where the purchaser resides and where the handgun is to be kept.

To assure an opportunity for verification of the information supplied by the prospective buyer, the dealer is required to wait a period of up to 14 days before the sale of the handgun may be completed and the weapon delivered to the purchaser. The 14-day delay may, in itself, have some salutary effect. Surveys have indicated that there is a strong temporal correlation between handgun purchasers

and illegal handgun usage, indicating that many handguns are purchased for the express purpose of engaging in criminal activity; a "cooling-off period" may therefore occasion some benefit by delay in acquisition alone. The principal purpose of the 14-day period, however, is to provide an opportunity for ascertaining the accuracy of the information supplied by the would-be purchaser. The dealer is required to check through the local police—who would request an FBI "name check" of the purchaser—to establish whether he has a record of felony convictions or other disability that would disqualify him from purchasing a handgun. When the dealer receives from the local police the results of their criminal record check and a statement to the effect that the purchaser is not disqualified from possessing a handgun in the locality where he intends to keep the weapon, he may complete the transaction absent any reason to believe that the purchaser is acting as a "strawman" on behalf of a disqualified individual.

The local police are not specifically required by the legislation to give their full cooperative efforts in ascertaining the accuracy of the prospective buyers' statements. However, since assuring that persons with criminal records do not obtain handguns would be of direct and material interest to local police authorities, it is expected that virtually all municipalities will readily elect to take full advantage of the screening opportunities provided by the bill. Similarly, while the bill does not specifically require that the local police request an FBI name check of prospective buyers, it clearly would be in their interest to do so. A 1974 review of 2,000 purchase forms in the files of 12 dealers in one state revealed that 187 purchasers would have been identified as felons by a simple FBI name check and thus would have been found ineligible to purchase firearms. It is expected that local police would welcome the opportunity to take advantage of this simple screening technique.

It should be noted that, as is the case under existing law, the records of handgun transactions would be kept by the handgun dealers. The bill provides for no central registry.

In addition to providing a greater potential for preventing unlawful handgun sales, the bill also contains two new criminal provisions designed to aid in the enforcement of federal and local handgun control laws. The first would prohibit shipping firearms into or through a state where the shipment would violate state law or shipping firearms in interstate or foreign commerce in violation of a law of the place of sale, delivery, or other disposition. This provision is similar to various other provisions in the federal law, and is designed to aid local law enforcement authorities by stopping illegal shipments in transit rather than having to wait for their arrival and mass distribution.

The second new criminal provision is one of particular importance. A recent study has indicated that although only two to seven percent of all handgun purchases are in violation of the law, approximately 58 percent of multiple purchases by single buyers are in violation of law. To help stem the problems suggested by the study, the Department of the Treasury recently has promulgated regulations requiring that dealers report multiple firearms sales. While this should provide assistance in tracing unlawful handgun purchasers, a change in the existing

statutes would be particularly helpful. Accordingly, H.R. 9022 would prohibit the sale to, or the purchase by, an individual of more than one handgun in any thirty-day period. This provision, in combination with the screening provisions previously referred to, should make it difficult for gun runners to make large purchases of handguns; the numerous trips to different areas and the evasive tactics that would be necessary to circumvent the legislation would make such illicit businesses economically unprofitable. For legitimate purchasers who have occasion to buy more than one handgun in a thirty-day period, however, exceptions to the prohibition would be provided under regulations established by the Secretary of the Treasury. This would permit multiple sales involving security agencies, estates, collectors, and others in similar special situations.

The third means by which a H.R. 9022 would seek to reduce the problems caused by criminal use of handguns is by the elimination of the availability of the Saturday Night Special.

As the term is generally used, "Saturday Night Special" refers to a cheap, highly concealable, inaccurate handgun that often is as inherently dangerous to the possessor as it is to the citizenry as a whole. It is of no value to a hunter. It is of no value to a competitive target shooter. It is usually of no value even to a self-respecting weekender "plinker". It is of far less value than a rifle or shotgun to a person who wishes to defend his home against a criminal intruder.

The only real value of a Saturday Night Special is to frighten and to kill. Indeed this is the use that has been made of it. In 1974 the Bureau of Alcohol, Tobacco and Firearms traced 4,537 handguns found to have been used in crimes in four major cities and found 70 percent of them were classifiable as Saturday Night Specials.

A substantial step in meeting the problems of Saturday Night Specials was taken by the Congress in enacting that portion of the 1968 law which bans the importation of such weapons. That step turned out to be insufficient, however, because although the law banned importation not only of completed weapons but of frames and receivers, it did not ban the importation of the other parts necessary to make Saturday Night Specials and did not ban their domestic assembly and manufacture. H.R. 9022 would seek to eliminate this loophole in the existing law by banning not only importation but the domestic manufacture, assembly, and sale of Saturday Night Specials.

There is, of course, a difficulty in defining with precision the kinds of handguns to be banned. Several possibilities have been explored. H.R. 9022 employs a variation of the factoring system designed by the Department of the Treasury to effect the current statutory ban on importation of handguns that have legitimate sporting purposes. This system, which was developed by the Department of the Treasury in consultation with several groups interested in the problems involved, has been modified in the bill in order to make the standards more effective from both a law enforcement and a sporting perspective.

Under the system set forth in the bill, in order to avoid falling within the prohibited category of handguns a pistol must have a manually operated safety; a height of at least four inches, and a length of at least six inches; a revolver must have a safety device suf-

sufficient to assure that the weapon will not fire if dropped, an overall frame length of at least 4½ inches, and a barrel length of at least four inches. These basic standards will assure that no handgun may be produced or sold without basic safety features and without sufficient size to reduce the likelihood of concealability. In addition, however, a handgun passing the basic standards must be found to possess such additional features as enable it to accumulate a specified total number of points. Under the provisions of the bill, points are given for length beyond the minimum required, the use of stronger and safer materials in frame construction, each ounce of weight, additional safety features, and the existence of various items such as adjustable sights and target grips. The general purpose of these requirements is to assure the safety and legitimate sporting utility of handguns that are being imported, manufactured, and sold.

It should be noted that, unlike the system developed by the Department of the Treasury after passage of the 1968 Act to flesh out the "sporting purposes" test, the factoring system just discussed is included within the proposed statutory framework itself. This should assure that extensions or modifications of the standards cannot take place simply by administrative action, but must await specific action by the Congress.

The fourth means by which the bill seeks to reduce the problems occasioned by the criminal use of handguns is a somewhat more direct one. The bill would facilitate prosecution of felons found in possession of guns, and would insure the incarceration of those found guilty of using a gun in the course of another criminal offense.

The 1968 Act made it unlawful for felons and certain other persons to receive, possess, or transport firearms "in commerce or affecting commerce." The Supreme Court, in a divided opinion in *United States v. Bass*, held as a matter of statutory interpretation that in each case there must be a clear nexus between the possession and the interstate commerce. In practice this means that if a convicted felon is found to be carrying a handgun he may not be prosecuted unless the government can prove, for example, that he was carrying the weapon from one State to another. For all practical purposes, therefore, there is currently no effective federal prohibition against a felon possessing a firearm. The "receipt" portion of the statute does not provide an effective alternative, since it requires proof not only that the weapon was transported in interstate commerce but that it was received by the felon after 1968, and establishing both the date of the receipt and the venue of the receipt has presented major prosecutorial problems. The consequence of this Court interpretation has been to weaken considerably the effectiveness of the 1968 Act.

H.R. 9022 would remedy this problem by striking the language found to be ambiguous and by substituting in its stead a congressional finding that possession or receipt of a firearm by members of the statutorily prohibited classes constitutes itself a general burden on commerce. This would obviate the need to establish in every case a direct connection with interstate commerce. The rising rate of crime committed with firearms, and the special danger inherent in the

possession of firearms by members of the proscribed classes of individuals clearly would justify such a congressional finding. A similar finding adopted by the Congress with respect to the current loan-sharking statute was found by the Supreme Court in *United States v. Perez* to constitute a constitutionally supportable basis for the exercise of federal jurisdiction.

The 1968 Act also provided for special penalties to be imposed upon persons who use a firearm to commit another federal offense. The statute directs that, upon conviction, a court impose a sentence of between one and ten years imprisonment for a first offender, and between two and twenty-five years imprisonment for a second offender. The statute does not, however, prohibit the court from suspending execution of the sentence to imprisonment if the defendant is a first offender. Consequently there is today no mandatory minimum sentence that must be imposed for an offender who has not previously been convicted under the same statute.

The Administration has submitted to the Congress an amendment to the Criminal Justice Reform Act, now pending as H.R. 3907 and as S. 1, which would impose a mandatory penalty upon persons convicted of using a firearm in the commission of a federal crime. The need for such a provision, however, is immediate. Accordingly, H.R. 9022 contains a provision that would make mandatory the imposition of a term of imprisonment for anyone using a firearm in the course of a crime. This would increase the certainty of sentences in such instances pending the congressional consideration and passage of the broader, more integrated provisions of the Criminal Justice Reform Act.

In addition to the provisions contained in H.R. 9022, there are other means of seeking to make more effective the federal efforts against firearms violators. Principal among them is the Administration proposal to establish special handgun task forces in the nation's eleven largest cities—task forces that will concentrate federal investigative resources upon the underground networks that have provided black market sources of weapons for use in crime. Under the proposal, the Department of the Treasury's Bureau of Alcohol, Tobacco and Firearms will increase the number of its agents by more than 50 percent; a total of 500 new agents will be assigned fulltime to stem the unlawful traffic in handguns in the designated metropolitan areas. The House Appropriations Committee has not yet scheduled hearings on the necessary funding, but it is hoped that such hearings may be held later this month.

The passage of the proposals contained in H.R. 9022, and their enforcement by an increased contingent of Treasury agents, will not eliminate the problem of the criminal misuse of handguns. But it will help to reduce the seriousness of the problem. It has the potential for saving lives and for reducing the level of fear in our cities. It offers the prospect of making progress in an area where progress has been very difficult to achieve. It warrants the careful consideration of this Subcommittee and of the Congress as a whole.

*B. Department of the Treasury*

STATEMENT OF HON. DAVID R. MACDONALD, ASSISTANT SECRETARY OF THE  
TREASURY (ENFORCEMENT, OPERATIONS, AND TARIFF AFFAIRS)

Mr. Chairman, I am David R. Macdonald, Assistant Secretary for Enforcement, Operations, and Tariff Affairs, Treasury Department. I am pleased to be here today to discuss with you the President's legislative program regarding firearms regulation. Accompanying me are James B. Clawson, Deputy Assistant Secretary for Operations; James J. Featherstone, Deputy Assistant Secretary for Enforcement; Rex D. Davis, Director, Bureau of Alcohol, Tobacco and Firearms; and Marvin J. Dessler, Chief Counsel, Bureau of Alcohol, Tobacco and Firearms.

As you know, in his recent Congressional message on crime, the President emphasized the need for more effective firearms legislation and enumerated specific areas wherein the need for remedial legislation is most urgent.

As the President has indicated in his crime message, the increase in violent crime in America has grown to such proportions as to become a matter of foremost concern in the minds of most law-abiding citizens. On the one hand, the President feels that legislation in this area is not invariably a royal road to the moral goal of a non-violent society. On the other hand, even though many people in this country feel that any legislation in this area is a pernicious invasion of their rights, some imaginative legislation should be tried which may bend us away from our headlong rush to increased violent crime. We all must determine how far legal processes are adapted to accomplished the objective of reduction in firearms violence that all of us seek to secure. Legislation in the area of firearms control, as elsewhere, must be a wise blend of accepted principle and courageous experiment.

In this respect, Mr. Chairman, I would like to compliment you, Mr. McClory and the Committee for the truly open-minded spirit in which this Committee has held hearings over the last several months on this most difficult and controversial subject. The light generated by your hearings has substantially exceeded the heat.

It is undisputed that the easy availability of firearms, especially handguns, does contribute to the frequency of violent crimes, particularly between family members and friends. Furthermore, the Treasury Department has observed that the staggering increase in crime that has occurred in recent years has also engendered a "race to arms" on the part of frightened citizens that all too frequently results in tragic consequences.

Accordingly, the proposed legislation contains a number of diverse but interrelated provisions which are intended to effectuate a single objective, to restrict and deter the misuse of firearms.

In furtherance of this goal and in specific response to the President's objectives as expressed in his June 19, 1975, crime message, the proposed legislation includes provisions addressing the following critical areas:

(1) the need for sufficient licensing standards to insure that Federal licenses will only be issued to responsible, law-

abiding persons who actually intend to conduct a bona fide business;

(2) the need for more comprehensive controls upon the sale of handguns by Federal licensees in order to reduce the number of handguns sold to individuals in violation of Federal, State and local laws;

(3) the need for controls upon the importation of parts for and the domestic manufacture and assembly and sale of small, lightweight, easily concealable, and inexpensive handguns commonly known as "Saturday Night Specials";

(4) the need for an effective means to prosecute and punish felons and other dangerous persons for the possession of firearms;

(5) the need for a mandatory sentencing provision that will apply, not only to recidivists, but also to first offenders who carry or use a firearm in the commission of a Federal felony;

(6) the need for effective controls upon the multiple sale and purchase of handguns; and

(7) the need for statutory provisions prohibiting the sale or transfer of firearms, especially handguns, by non-licensees to persons who are prohibited from purchasing, receiving, or possessing such firearm by Federal, State or local law.

The Treasury Department has consistently maintained the position that the underpinnings of effective firearms regulation must be a body of responsible and cooperative Federal firearms licensees. The most critical point of contact in the implementation of Federal, State and local firearms regulations is the firearms dealer. For in the majority of cases it is he who must assure that firearms sales are in compliance with the law. In short, the Federal licensee can become a critical asset or an unmanageable liability in our quest for responsible firearms regulations.

Indeed, the legislative history underlying the licensing provisions of the Gun Control Act of 1968 reflects a major Congressional concern that licenses would be issued only to responsible, law-abiding persons actually engaged in or intending to engage in business as importers, manufacturers, or dealers in firearms or ammunition. Unfortunately, it has become apparent in recent years that Congressional aspirations in this regard have been frustrated by a proliferation of applications from individuals who never intended to engage in a bona fide firearms business, but who merely desire a Federal license in order to obtain firearms or ammunition for their personal use at wholesale prices or to receive firearms in interstate commerce for that purpose. Frequently, such individuals lack both the business experience and financial capacity needed to conduct a business. In any event, the number of licensees is beyond ATF's ability to audit on any reasonably recurring basis.

Present Federal law requires every applicant for a Federal firearms dealers license who pays his \$10 annual fee to be issued a license within 45 days unless he is under indictment for a felony, convicted of a felony, a fugitive from justice or a drug user or addict. Consequently, the Bureau of Alcohol, Tobacco and Firearms has been compelled to issue literally thousands of licenses to individuals, not all of whom engage

in the business of dealing in firearms full time. Under the existing law, more than 160,000 individuals or entities are currently licensed to conduct firearms businesses in the United States. Since the passage of the 1968 Act, this figure has increased yearly. Of this number, it is estimated that less than 3 percent actually conduct a bona fide firearms business. Due to the sheer magnitude of the number of licensees, it is impossible for ATF to monitor each licensee and it is becoming increasingly difficult to maintain a meaningful and effective compliance program based upon even random or periodic inspections.

Accordingly, the Administration proposes amendments to the Gun Control Act to tighten existing licensing standards in order to reduce the number of Federal licensees and discourage what might be called "nominal" applications.

First, we propose amending the existing licensing standards by including a provision which would permit the Treasury to inquire into each applicant's business experience, financial standing, and trade connections in order to determine whether the applicant is likely to commence the proposed business within a reasonable period of time and maintain such business in conformity with Federal, State and relevant local law. A similar provision relating to an applicant's likelihood of complying with Federal law has existed for a number of years in the issuance of liquor permits to persons engaged in liquor businesses under the Federal Alcohol Administration Act. The provision has functioned fairly and effectively in that context and has been reasonably interpreted by the courts.

A second proposal is to amend the Act to create special license categories for ammunition dealers, gunsmiths and dealers in long guns only. Experience has shown that a large portion of existing licensees (perhaps 20 to 30 percent) are engaged almost exclusively in selling ammunition. In fact, many of these licensees are small "mom and pop" stores which carry ammunition only as a convenience to their customers. Under existing law, separate categories do not exist for these persons and they receive the same dealer's license that is issued to firearms dealers. The establishment of these special licenses with a graduated fee schedule would restrict those persons to engaging in their limited activities. Hence, neither a gunsmith nor an ammunition retailer could lawfully sell firearms, and a long gun dealer could not sell handguns, but a firearms dealer would be permitted to sell all firearms, ammunition and to repair firearms. The new licensing structure would facilitate a more efficient and economical assignment of inspection priorities since these "limited" licensees would not require the same scrutiny as would unlimited firearms dealers.

Among the reasons for the increase in license fees for pawnbrokers, it should be noted that one facet of ATF's "Project Identification," which involved the tracing of firearms used in crime in eight major urban areas, reflected that 30 to 35 percent of the handguns used in crime had passed through pawnshops. We would also apply the handgun-long gun fee distinction to the licensing of manufacturers and importers of firearms.

We also find that there is a need for a greater range of penalties than presently exists with which to deal with firearms dealers who violate the laws. In this connection, we believe that ATF should have

authority to suspend firearms licenses and assess civil fines. Under existing law, licenses are subject only to revocation if the holder has violated any provision of law or regulation. The only alternative to administrative revocation is the criminal prosecution of the licensee for violations that frequently are only inadvertent. While any violation of the Gun Control laws may be deemed to be serious, some are less serious than others and do not warrant the institution of criminal or revocation proceedings. Even inadvertent violations, however, may warrant administrative action less severe than license revocation.

Turning now to the matter of handguns, the problem engendered by the proliferation of handguns in America's cities has become self-evident and requires no real elaboration. Suffice it to say that recent estimates place the number of handguns in America at about 40 million while deaths by handguns have increased almost 50 percent in the last decade. The President has expressed concern over this matter and in his message on crime has called for measures against the so-called "Saturday Night Special" handgun. Accordingly, the Administration's proposals embrace a number of provisions which are directed at the handgun problem generally and more specifically at the proliferation of low quality, inexpensive handguns known as "Saturday Night Specials."

In recent years the Administration has carefully evaluated a number of legislative proposals which have had as their principal objective the eventual removal of the "Saturday Night Special." Although the various proposals have taken a wide range of approaches, all of the proposals are premised upon the fact that these small, lightweight, easily concealable and inexpensive handguns present a unique danger to the American public.

Effective proscriptions cannot be implemented against such firearms unless the law also defines with precision what weapons are to be affected. We propose that the so-called "factoring criteria" utilized under the Gun Control Act of 1968 for determining the eligibility of handguns for importation under the "sporting purpose" test be adopted, with certain modification, for use in the Saturday Night Special area.

In order to qualify for manufacture, assembly, sale or transfer under this proposal a handgun would be required to meet certain size and safety prerequisites and achieve a specified number of points according to the statutory criteria. Among the factors to be used as a basis of assigning points would be size, frame construction, weight caliber, safety features and miscellaneous equipment. To reduce concealability, a barrel length of over four inches and a frame length of four and one-half inches would be mandatory for revolvers, and an automatic would have to be at least four inches high and six inches long.

Further, our proposal would include provisions for the notification of licensed importers and manufacturers of the results of handgun evaluations and would afford judicial review of adverse decisions by ATF. In order to provide an identical test to cover both foreign and domestic handguns, we could recommend that the import provisions of the 1968 Act be amended to add the detailed criteria I have described to the general language of the "sporting purpose" test now used for regulating importation of handguns.

Treasury intends to publish lists of qualifying and non-qualifying handguns. After the date of such publication, transactions in disapproved handgun models would be unlawful. While our proposals would not rid the Nation of these firearms overnight, we do believe such proposals will effectively reduce the accessibility of these weapons to the criminal element.

In order to reduce the flow of handguns to criminals the Administration is proposing procedures which would be mandatory for all licensed dealers prior to making a handgun sale. Such procedures are intended to impede the acquisition of handguns by criminals while not imposing an unreasonable burden on either dealers or their law-abiding customers.

First, we would require that all handgun purchasers appear in person at the dealer's premises and provide the dealer with proper identification prior to sale or delivery of a handgun. Secondly, we would require that the prospective purchaser execute a sworn statement listing his name, address, age, residence, place where he intends to keep the handgun and containing a statement that his receipt of a handgun will not place him in violation of State or local law at his place of residence or at the place where he intends to keep the handgun. The statement would also contain a provision stating that the purchaser does not intend to resell the handgun to a person who is prohibited from owning a firearm by Federal, State or local law.

The proposal further provides that the sworn statement shall be mailed to the chief law enforcement officers at the purchaser's place of residence and at the place where he intends to keep the handgun in order that such law enforcement officers will be permitted to request an FBI name check to determine if the purchaser is prohibited by Federal, State or local law from acquiring or possessing a handgun. If the dealer receives a response from such law enforcement officers indicating that the purchaser is barred from purchasing a handgun the sale would, of course, be prohibited. If the response is not unfavorable to the applicant the sale could be consummated. If no response is received within fourteen days after the sworn statement is mailed, the dealer could lawfully make a handgun sale.

As an adjunct to the handgun and Saturday Night Special proposals which I have outlined, the Administration also proposes statutory restrictions upon the multiple sale and purchase of handguns. These proposals are designed to impede purchases of large quantities of handguns in States having relatively lax handgun control laws and transportation of these handguns for resale in another State. Frequently such weapons are "Saturday Night Specials" and are sold in the destination locality for several times their original cost.

An indication of the magnitude of this problem is provided by ATF's "Project Identification." This project revealed that approximately 53% of the handguns traced in twelve major metropolitan areas had originated with retail dealers in States other than those in which such handguns were ultimately used in the commission of crimes. Furthermore, in many of the cities surveyed, the percentage of handguns having an out-of-state origin was much greater. For instance 92% of all handguns traced in Detroit had originated from out-of-state dealers. In New York the figure was 77%, in Kansas City 65%, and in Philadelphia 46%.

Due to the large volume of handguns involved and the adverse impact exerted upon State and local governments in their attempts to enforce effective handgun control laws, the Administration views the bootlegging problem as a matter of pressing importance. Moreover, it has become evident that this illicit firearms trafficking has been facilitated by the absence of Federal controls upon the multiple sales of handguns. Under existing law, an individual who is qualified to purchase a single firearm from a licensee may also be qualified to purchase an unlimited quantity of firearms.

In order to thwart the continuation of this illicit trafficking in handguns, we propose to prohibit the sale or transfer without prior approval by a licensee of more than one handgun to any non-licensee within a thirty-day period. Furthermore, an unapproved multiple purchase by a non-licensee would also be proscribed. It is anticipated that regulations would allow multiple purchases in such cases as purchases by a licensed security agency, or by a bona fide target club. Also, regulations would establish a procedure for individuals to obtain personal approval for a multiple purchase upon a showing that the proposed purchase is for good cause and consistent with the public safety.

As an additional means of restricting the availability of firearms to criminals, we propose that it be made unlawful for any person to sell or otherwise dispose of a firearm to a person unless the transferor knows or has reasonable grounds to believe that the purchaser is not a felon or does not fall within any of the additional categories of persons who are prohibited by Federal law from possessing, shipping, transporting, or receiving firearms. Under existing law Federal licensees are bound by a similar requirement but non-licensees are free to sell without risk of prosecution to felons or other proscribed persons, provided the purchaser is a resident of the same State as the transferor.

Furthermore, in the case of handguns, we propose that it be made unlawful for any person to purchase a handgun with the intent of reselling or transferring such handgun to a person who is prohibited by Federal, State or local law from purchasing or possessing a handgun. This provision is aimed at the "straw purchases" by which many criminals obtain handguns and would provide a direct means of prosecuting the transferor in such a scheme. Under existing law such persons can only be prosecuted for aiding and abetting the receipt of such firearm by the proscribed person. The aiding and abetting theory has proven to be somewhat strained in many situations and we believe a more direct prosecutorial vehicle is required.

As the President has stated in his June 19 crime message:

There should be no doubt in the minds of those who commit violent crimes—especially crimes involving harm to others—that they will be sent to prison if convicted under legal processes that are fair, prompt and certain.

Unfortunately, this is not always the case under current law. As the Gun Control Act now stands, second or subsequent offenders who are convicted of the offenses of carrying unlawfully or using a firearm in the commission of a Federal crime are subject to a mandatory minimum of two years imprisonment and a maximum of twenty-five years imprisonment. We believe that the Act should be modified so that a mandatory sentencing provision would be applicable to first

offenders as well as to recidivists. That is to say, we would propose for first offenders a mandatory minimum sentence of one year, with a discretionary ten year maximum. The new penalty proposal is intended not to be so harsh as to be counterproductive in terms of acceptability by courts and juries, but to serve as a more formidable deterrent to the misuse of firearms.

Finally, we propose new legislation which would prohibit felons and other classes of dangerous persons from possessing firearms. While existing law, enacted as Title VII of the Omnibus Crime Control and Safe Streets Act of 1968, was intended by the Congress to prescribe mere possession, receipt, and transportation of firearms by such persons, this law was construed by the Supreme Court on December 20, 1971, in a five to two decision in *United States v. Bass* to require proof of an interstate commerce nexus with respect to these offenses. We believe that a valid finding can be made by Congress that the possession of weapons by such persons itself poses a threat to interstate commerce, and thus that a commerce nexus need not be proved as to each violation. Accordingly, the Administration proposes to amend the statute to this effect.

Additionally, we propose to repeal existing Title VII and place the substance of its provisions, together with needed corrective amendments, within chapter 44 of Title 18, United States Code (Title I of the Gun Control Act of 1968). This chapter, of course, contains all other provisions of Federal law relative to the shipment, transportation, and receipt of firearms by felons and other proscribed categories of persons. The categories of persons who are prohibited by chapter 44 from shipping, transporting, or receiving firearms in interstate commerce and to whom Federal firearms licenses may not lawfully sell firearms are not in conformity with the proscribed categories of persons under Title VII. Therefore we propose to make these categories more closely conform.

Our proposals, Mr. Chairman, are addressed primarily to the question of interstate traffic in firearms and particularly handguns. We think it described and intended to preserve local control over firearms regulation. Our studies have convinced us, however, that an interstate traffic exists with respect to guns used in crimes which deserves more Federal attention than it has received, and that this traffic must be more effectively controlled at the Federal level if State regulation and enforcement efforts are to be effective.

By way of conclusion I wish to emphasize that these proposals will not cure the Nation's violent crime problem. The depth of that problem, in our opinion, is too great to be plumbed by legislative solutions alone. The legislative program proposed here is one that recognizes the limitations upon the value of passing a law contrary to substantial popular sentiment, a practice that in the past has only served to undermine respect for our institutions.

We appreciate your having provided us with an opportunity to appear here today and to present our views on the subject of firearms control. At this point, my associates and I would be glad to attempt to answer any questions which the Subcommittee may have.

X. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 18 OF THE UNITED STATES CODE

CHAPTER 44.—FIREARMS

§ 921. Definitions.

- (a) As used in this chapter—
- (1) The term "person" and the term "whoever" include any individual, corporation, company, association, firm, partnership, society, or joint stock company.
- (2) The term "interstate or foreign commerce" includes commerce between any place in a State and any place outside of that State, or within any possession of the United States (not including the Canal Zone) or the District of Columbia, but such term does not include commerce between places within the same State but through any place outside of that State. The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States (not including the Canal Zone).
- (3) The term "firearm" means (A) any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; (B) the frame or receiver of any such weapon; (C) any firearm muffler or firearm silencer; [or] (D) any destructive device. Such term does not include an antique firearm [ ]; or (E) any weapon which by the action of an explosive expels a projectile that may remain attached to the weapon by a wire or other means.
- (4) The term "destructive device" means—
- (A) any explosive, incendiary, or poison gas—
- (i) bomb,
  - (ii) grenade,
  - (iii) rocket having a propellant charge of more than four ounces,
  - (iv) missile having an explosive or incendiary charge of more than one-quarter ounce,
  - (v) mine, or
  - (vi) device similar to any of the devices described in the preceding clauses;
- (B) any type of weapon (other than a shotgun or a shotgun shell which the Secretary finds is generally recognized as particularly suitable for sporting purposes) by whatever name known which will, or which may be readily converted to, expel a pro-

jectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than one-half inch in diameter; and

(C) any combination of parts either designed or intended for use in converting any device into any destructive device described in subparagraph (A) or (B) and from which a destructive device may be readily assembled.

The term "destructive device" shall not include any device which is neither designed nor redesigned for use as a weapon; any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device; surplus ordnance sold, loaned, or given by the Secretary of the Army pursuant to the provisions of section 4684(2), 4685, or 4686 of title 10; or any other device which the Secretary of the Treasury finds is not likely to be used as a weapon, is an antique, or is a rifle which the owner intends to use solely for sporting recreational or cultural purposes.

(5) The term "shotgun" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.

(6) The term "short-barreled shotgun" means a shotgun having one or more barrels less than eighteen inches in length and any weapon made from a shotgun (whether by alteration, modification or otherwise) if such a weapon as modified has an overall length of less than twenty-six inches.

(7) The term "rifle" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

(8) The term "short-barreled rifle" means a rifle having one or more barrels less than sixteen inches in length and any weapon made from a rifle (whether by alteration, modification, or otherwise) if such weapon, as modified, has an overall length of less than twenty-six inches.

(9) The term "importer" means any person engaged in the business of importing or bringing firearms or ammunition into the United States for purposes of sale or distribution; and the term "licensed importer" means any such person licensed under the provisions of this chapter.

(10) The term "manufacturer" means any person engaged in the manufacture of firearms or ammunition for purposes of sale or distribution; and the term "licensed manufacturer" means any such person licensed under the provisions of this chapter.

(11) The term "dealer" means (A) any person engaged in the business of selling firearms or ammunition at wholesale or retail, [(B) any person engaged in the business of repairing firearms or of making or fitting special barrels, stocks, or trigger mechanisms to firearms, or (C) any person who is a pawnbroker. The term "licensed dealer" means any dealer who is licensed under the provisions of this chapter.]

and who may, without further license, engage in business as a gunsmith, (B) any person who is a pawnbroker, (C) any person who is a gunsmith and who is not otherwise a dealer, or (D) any person who is an ammunition retailer. The term "wholesale firearms dealer" means any person, other than a dealer in destructive devices, who purchases or otherwise acquires firearms or ammunition from licensed importers or manufacturers and sells, or offers for sale, firearms or ammunition to retail firearms dealers or other wholesale firearms dealers. The term "retail firearms dealer" means any person, other than a dealer in destructive devices, who sells, or offers for sale, any firearms or ammunition to persons not licensed under section 923 of this chapter. The term "licensed dealer" means any dealer who is licensed under the provisions of this chapter.

(12) The term "ammunition retailer" means any person who is not otherwise a dealer and who is engaged in the business of selling ammunition (other than ammunition for destructive devices) at retail.

(13) The term "gunsmith" means any person who is not otherwise a dealer and who is engaged in the business of repairing firearms or making, modifying, or fitting barrels, stocks, or trigger mechanisms to firearms.

[12] (14) The term "pawnbroker" means any person whose business or occupation includes the taking or receiving, by way of pledge or pawn, of [any firearm or ammunition] firearms other than destructive devices or of ammunition other than ammunition for destructive devices, as security for the payment or repayment of money.

[13] (15) The term "collector" means any person who acquires, holds, or disposes of firearms or ammunition as curios or relics, as the Secretary shall by regulation define, and the term "licensed collector" means any such person licensed under the provisions of this chapter.

[14] (16) The term "indictment" includes an indictment or information in any court under which a crime punishable by imprisonment for a term exceeding one year may be prosecuted.

[15] (17) The term "fugitive from justice" means any person who has fled from any State to avoid prosecution for a crime or to avoid giving testimony in any criminal proceeding.

[16] (18) The term "antique firearm" means—

(A) any firearm (including any firearms with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured in or before 1898; and

(B) any replica of any firearm described in subparagraph (A) if such replica—

(i) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition, or

(ii) uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade.

[17] (19) The term "ammunition" means ammunition or cartridge cases, primers, bullets, or propellant powder designed for use in any firearm.

[18] (20) The term "Secretary" or "Secretary of the Treasury" means the Secretary of the Treasury or his delegate.

[19] (21) The term "published ordinance" means a published law of any political subdivision of a State which the Secretary determines to be relevant to the enforcement of this chapter and which is contained on a list compiled by the Secretary, which list shall be published in the Federal Register, revised annually, and furnished to each licensee under this chapter.

[20] (22) The term "crime punishable by imprisonment for a term exceeding one year" shall not include (A) any Federal or State offenses pertaining to antitrust violations, unfair trade practices, restraints of trade, or other similar offenses relating to the regulation of business practices as the Secretary may by regulation designate, or (B) any State offense (other than one involving a firearm or explosive) classified by the laws of the State as a misdemeanor and punishable by a term of imprisonment of two years or less.

(b) For the purposes of this chapter, a member of the Armed Forces on active duty is a resident of the State in which his permanent duty station is located.

(23) The term "handgun" means any firearm which has a short stock and which is designed to be fired by the use of a single hand.

(24) The term "pistol" means a handgun having a chamber or chambers as an integral part or parts of, or permanently aligned with, the bore or bores.

(25) The term "revolver" means a handgun having a breechloading chambered cylinder so arranged that the cocking of the hammer or movement of the trigger rotates the cylinder and brings the next cartridge in line with the barrel for firing.

(26) The term "handgun model" means a handgun of a particular design, specification, and designation.

(27) The term "minimum requirements for handguns" means:

(A) in the case of a pistol, the handgun model—

(i) has a positive manually operated safety device, or a safety device equal or superior to the manually operated safety device,

(ii) has a combined length and height of not less than ten inches with the height (measured from the top of the weapon, excluding sights, at a right-angle measurement to the line of the bore, to the bottom of the frame, excluding magazine extensions or releases) being at least four inches and the length (measured from the muzzle, parallel to the line of the bore, to the back of the part of the weapon that is farthest to the rear of the weapon) being at least six inches, and

(iii) attains a total of at least seventy-five points under the following criteria:

(I) OVERALL LENGTH.—one point for each one-fourth inch over six inches;

(II) FRAME CONSTRUCTION.—(a) fifteen points if made of steel having an ultimate tensile strength of at least fifty-five thousand pounds per square inch, and (b) twenty points if made of high tensile strength alloy having an ultimate tensile strength of at least fifty-five thousand pounds per square inch;

(III) PISTOL WEIGHT.—one point for each ounce, with the pistol unloaded and the magazine in place;

(IV) CALIBER.—(a) zero points if the pistol accepts only caliber .22 rimfire short, or metric equivalent, or caliber .25 ACP (Automatic Colt Pistol), or metric equivalent ammunition, (b) three points if the pistol accepts either caliber .22 rimfire long rifle, or metric equivalent, ammunition or any ammunition within the range delimited by caliber .32 ACP (Automatic Colt Pistol), or metric equivalent, and caliber .380 ACP (Automatic Colt Pistol), or metric equivalent, (c) 10 points if the pistol accepts caliber 9X19 millimeter (also known as Luger or Parabellum) ammunition or ammunition of an equivalent or greater projectile diameter or ammunition of equivalent or greater power loading, and (d) in the case of ammunition not falling within one of the classes enumerated in subclauses (a) through (c), such number of points not greater than ten (following the classification schedule of this clause (IV) as nearly as is practicable) as the Secretary shall determine appropriate to the suitability for sporting purposes of handgun models designed for such ammunition;

(V) SAFETY FEATURES.—(a) five points if the pistol has a locked breech mechanism, (b) five points if the pistol has a loaded chamber indicator, (c) three points if the pistol has a grip safety, (d) five points if the pistol has a magazine safety, (e) ten points if the pistol has a firing pin block or lock; and

(VI) MISCELLANEOUS EQUIPMENT.—(a) two points if the pistol has an external hammer, (b) ten points if the pistol has a double action firing mechanism, (c) five points if the pistol has a drift adjustable target sight, (d) ten points if the pistol has a click adjustable target sight, (e) five points if the pistol has target grips, and (f) two points if the pistol has a target trigger;

(B) in the case of a revolver, the handgun model—

(i) has an overall frame (with conventional grips) length of four and one-half inches (measured from the end of the frame nearest the muzzle, parallel to the line of the bore to the back of the part of the weapon that is farthest to the rear of the weapon);

(ii) has a barrel length (measured from the muzzle to the cylinder face) of at least four inches;

(iii) has a safety device which, either (I) by automatic operation in the case of a double action firing mechanism or (II) by automatic or manual operation in the case of a single action firing mechanism, causes the hammer or transfer bar to retract to a point where the firing pin or other firing mechanism does not rest upon the primer of the cartridge, and which once activated, is capable of withstanding the impact, without firing, of a weight equal to the weight of

the revolver, dropped a total of five times from a height of thirty-six inches above the rear of the hammer spur onto the rear of the hammer spur with the revolver in a position such that the line of the barrel is perpendicular to the plane of the horizon, or (III) which is determined to be equal or superior to those listed above; and

(iv) attains a total of at least forty-five points under the following criteria:

(I) BARREL LENGTH.—one-half point for each one-fourth inch that the barrel is longer than four inches;

(II) FRAME CONSTRUCTION.—(a) fifteen points if made of steel having an ultimate tensile strength of at least fifty-five thousand pounds per square inch, and (β) twenty points if made of high tensile strength alloy having an ultimate tensile strength of at least fifty-five thousand pounds per square inch;

(III) REVOLVER WEIGHT.—one point for each ounce with the revolver unloaded;

(IV) CALIBER.—(a) zero points if the revolver accepts only caliber .22 rimfire short, or metric equivalent, or caliber .25 ACP (Automatic Colt Pistol), or metric equivalent, (β) three points if the revolver accepts caliber .22 rimfire long rifle, or metric equivalent, or ammunition in the range between caliber .30, or metric equivalent, and caliber .38 S&W (Smith & Wesson), or metric equivalent, (γ) four points if the revolver accepts caliber .38 Special (Smith & Wesson Special), or metric equivalent, (δ) five points if the revolver accepts caliber .357 Magnum, or metric equivalent, ammunition or ammunition of an equivalent or greater projectile diameter or ammunition of equivalent or greater power loading, and (ε) in the case of ammunition not falling within one of the classes enumerated in subclauses (a) through (δ), such number of points not greater than five (following the classification schedule of clause (IV) as nearly as practicable) as the Secretary shall determine appropriate to the suitability for sporting purposes of handgun models designed for such ammunition; and

(V) MISCELLANEOUS EQUIPMENT.—(a) five points if the revolver has either drift or click adjustable target sights, (β) five points if the revolver has target grips, and (γ) five points if the revolver has a target hammer and a target trigger.

(28) The term "concealable handgun" means any handgun which is manufactured, assembled, produced (whether by alteration, modification, or otherwise), or imported after the effective date of this paragraph, and which does not meet the minimum requirements for handguns.

#### § 922. Unlawful acts.

(a) It shall be unlawful—

(1) for any person, except a licensed importer, licensed manufacturer, or licensed dealer, to engage in the business of importing,

manufacturing, repairing, or dealing in firearms or ammunition, or in the course of such business to ship, transport, or receive any firearm or ammunition in interstate or foreign commerce;

(2) for any importer, manufacturer, dealer, or collector licensed under the provisions of this chapter to ship or transport in interstate or foreign commerce any firearm or ammunition to any person other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, except that—

(A) this paragraph and subsection (b)(3) shall not be held to preclude a licensed importer, licensed manufacturer, licensed dealer, or licensed collector from returning a firearm or replacement firearm, other than a concealable handgun, of the same kind and type to a person from whom it was received; and this paragraph shall not be held to preclude an individual from mailing a firearm, other than a concealable handgun, owned in compliance with Federal, State, and local law to a licensed importer, licensed manufacturer, or licensed dealer for the sole purpose of repair or customizing;

(B) this paragraph shall not be held to preclude a licensed importer, licensed manufacturer, or licensed dealer from depositing a firearm for conveyance in the mails to any officer, employee, agent, or watchman who, pursuant to the provisions of section 1715 of this title, is eligible to receive through the mails pistols, revolvers, and other firearms capable of being concealed on the person, for use in connection with his official duty; and

(C) nothing in this paragraph shall be construed as applying in any manner in the District of Columbia, the Commonwealth of Puerto Rico, or any possession of the United States differently than it would apply if the District of Columbia, the Commonwealth of Puerto Rico, or the possession were in fact a State of the United States;

(3) for any person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector to transport into or receive in the State where he resides (or if the person is a corporation or other business entity, the State where it maintains a place of business) any firearm purchased or otherwise obtained by such person outside that State, except that this paragraph (A) shall not preclude any person who lawfully acquires a firearm by bequest or intestate succession in a State other than his State of residence from transporting the firearm into or receiving it in that State, if it is unlawful for such person to purchase or possess such firearm in that State, (B) shall not apply to the transportation or receipt of a rifle or shotgun obtained in conformity with the provisions of subsection (b)(3) of this section, and (C) shall not apply to the transportation of any firearm acquired in any State prior to the effective date of this chapter:

(4) for any person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, to transport in interstate or foreign commerce any destructive device, machine-gun (as defined in section 5845 of the Internal Revenue Code of 1954), short-barreled shotgun, or short-barreled rifle, except as

specifically authorized by the Secretary consistent with public safety and necessity;

(5) for any person (other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector) to transfer, sell, trade, give, transport, or deliver any firearm to any person (other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector) who the transferor knows or has reasonable cause to believe [resides in any State other than that in which the transferor resides (or other than that] *does not reside in the State in which the transferor resides (or does not reside in the State in which its place of business is located if the transferor is a corporation or other business entity)*; except that this paragraph shall not apply to (A) the transfer, transportation, or delivery of a firearm made to carry out a bequest of a firearm to, or an acquisition by intestate succession of a firearm by, a person who is permitted to acquire or possess a firearm under the laws of the State of his residence, and (B) the loan or rental of a firearm, *except a concealable handgun*, to any person for temporary use for lawful sporting purposes; and

(6) for any person in connection with the acquisition or attempted acquisition of any firearm or ammunition from a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, knowingly to make any false or fictitious oral or written statement or to furnish or exhibit any false, fictitious, or misrepresented identification, intended or likely to deceive such importer, manufacturer, dealer, or collector with respect to any fact material to the lawfulness of the sale or other disposition of such firearm or ammunition under the provisions of this chapter.

(b) It shall be unlawful for any licensed importer, licensed manufacturer, licensed dealer or licensed collector to sell or deliver—

(1) any firearm or ammunition to any individual who the licensee knows or has reasonable cause to believe is less than eighteen years of age, and, if the firearms, or ammunition is other than a shotgun or rifle, or ammunition for a shotgun or rifle, to any individual who the licensee knows or has reasonable cause to believe is less than twenty-one years of age.

(2) any firearm or ammunition to any person in any State where the purchase or possession by such person of such firearm or ammunition would be in violation of any State law or any published ordinance applicable at the place of sale, delivery or other disposition, unless the licensee knows or has reasonable cause to believe that the purchase or possession would not be in violation of such State law or such published ordinance;

(3) any firearm to any person who the licensee knows or has reasonable cause to believe does not reside in (or if the person is a corporation or other business entity, does not maintain a place of business in) the State in which the licensee's place of business is located, except that this paragraph (A) shall not apply to the sale or delivery of a rifle or shotgun to a resident of a State contiguous to the State in which the licensee's place of business is located if the purchaser's State of residence permits such sale or delivery by law, the sale fully complies with the legal conditions

of sale in both such contiguous States, and the purchaser and the licensee have, prior to the sale, or delivery for sale, of the rifle or shotgun, complied with all of the requirements of section 922

(c) applicable to intrastate transactions other than at the licensee's business premises, (B) shall not apply to the loan or rental of a firearm to any person for temporary use for lawful sporting purposes, and (C) shall not preclude any person who is participating in any organized rifle or shotgun match or contest, or is engaged in hunting, in a State other than his State of residence and whose rifle or shotgun has been lost or stolen or has become inoperative in such other State, from purchasing a rifle or shotgun in such other State from a licensed dealer if such person presents to such dealer a sworn statement (i) that his rifle or shotgun was lost or stolen or became inoperative while participating in such a match or contest, or while engaged in hunting, in such other State, and (ii) identifying the chief law enforcement officer of the locality in which such person resides, to whom such licensed dealer shall forward such statement by registered mail;

(4) to any person any destructive device, machinegun (as defined in section 5845 of the Internal Revenue Code of 1954), short-barreled shotgun, or short-barreled rifle, except as specifically authorized by the Secretary consistent with public safety and necessity; and

(5) any firearm or ammunition to any person unless the licensee notes in his records, required to be kept pursuant to section 923 of this chapter, the name, age, and place of residence of such person if the person is an individual, or the identity and principal and local places of business of such person if the person is a corporation or other business entity.

Paragraphs (1), (2), (3), and (4) of this subsection shall not apply to transactions between licensed importers, licensed manufacturers, licensed dealers, and licensed collectors. Paragraph (4) of this subsection shall not apply to a sale or delivery to any research organization designated by the Secretary.

(c) In any case not otherwise prohibited by this chapter a licensed importer, licensed manufacturer, or licensed dealer may sell a firearm to a person who does not appear in person at the licensee's business premises (other than another licensed importer, manufacturer, or dealer) only if—

(1) the transferee submits to the transferor a sworn statement in the following form:

"Subject to penalties provided by law, I swear that, in the case of any firearm other than a shotgun or a rifle, I am twenty-one years or more of age, or that, in the case of a shotgun or a rifle, I am eighteen years or more of age; that I am not prohibited by the provisions of chapter 44 of title 18, United States Code, from receiving a firearm in interstate or foreign commerce; and that my receipt of this firearm will not be in violation of any statute of the State and published ordinance applicable to the locality in which I reside. Further, the true title, name, and address of the principal law

enforcement officer of the locality to which the firearm will be delivered are-----

Signature-----Date-----"

and containing blank spaces for the attachment of a true copy of any permit or other information required pursuant to such statute or published ordinance;

(2) the transferor has, prior to the shipment or delivery of the firearm, forwarded by registered or certified mail (return receipt requested) a copy of the sworn statement, together with a description of the firearm, in a form prescribed by the Secretary, to the chief law enforcement officer of the transferee's place of residence, and has received a return receipt evidencing delivery of the statement or has had the statement returned due to the refusal of the named addressee to accept such letter in accordance with United States Post Office Department regulations; and

(3) the transferor has delayed shipment or delivery for a period of at least seven days following receipt of the notification of the acceptance or refusal of delivery of the statement.

A copy of the sworn statement and a copy of the notification to the local law enforcement officer, together with evidence of receipt or rejection of that notification shall be retained by the licensee as a part of the records required to be kept under section 923 (g).

(d) It shall be unlawful for any licensed importer, licensed manufacturer, licensed dealer, or licensed collector to sell or otherwise dispose of any firearm or ammunition to any person knowing or having reasonable cause to believe that such person—

(1) is under indictment for, or has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

(2) is a fugitive from justice;

(3) is an unlawful user of or addicted to marihuana or any depressant or stimulant drug (as defined in section 201(v) of the Federal Food, Drug, and Cosmetic Act) or narcotic drug (as defined in section 4731(a) of the Internal Revenue Code of 1954); or

(4) has been adjudicated as a mental defective or has been committed to any mental institution.

This subsection shall not apply with respect to the sale or disposition of a firearm or ammunition to a licensed importer, licensed manufacturer, licensed dealer, or licensed collector who pursuant to subsection

(b) of section 925 of this chapter is not precluded from dealing in firearms or ammunition, or to a person who has been granted relief from disabilities pursuant to subsection (c) of section 925 of this chapter.

(e) It shall be unlawful for any person knowingly to deliver or cause to be delivered to any common or contract carrier for transportation or shipment in interstate or foreign commerce, to persons other than licensed importers, licensed manufacturers, licensed dealers, or licensed collectors, any package or other container in which there is any firearm or ammunition without written notice to the carrier that such firearm or ammunition is being transported or shipped; except that any passenger who owns or legally possesses a firearm or ammuni-

tion being transported aboard any common or contract carrier for movement with the passenger in interstate or foreign commerce may deliver said firearm or ammunition into the custody of the pilot, captain, conductor or operator of such common or contract carrier for the duration of the trip without violating any of the provisions of this chapter.

(f)(1) It shall be unlawful for any common or contract carrier to transport or deliver in interstate or foreign commerce any firearm or ammunition with knowledge or reasonable cause to believe that the shipment transportation, or receipt thereof would be in violation of the provisions of this chapter.

(2) *It shall be unlawful for any common or contract carrier knowingly to transport any firearm or ammunition in a manner not in conformity with regulations which the Secretary, after consultation with the Secretary of Transportation, shall promulgate to assure safe and secure transportation of the firearms or ammunition.*

(3) *Each person engaged in the business of transporting firearms or ammunition shall report to the Secretary the loss or theft of any firearm or ammunition in the custody, possession, or control of such person not later than forty-eight hours after the discovery of such loss or theft. Such report shall be made on forms prescribed by the Secretary which shall contain the serial number of each such firearm and the name and address of the manufacturer.*

(g) It shall be unlawful for any person—

(1) who is under indictment for, or who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

(2) who is a fugitive from justice;

(3) who is an unlawful user of or addicted to marihuana or any depressant or stimulant [drug (as defined in section 201(v) of the Federal Food, Drug, and Cosmetic Act)] substance or narcotic drug [(as defined in section 4731(a) of the Internal Revenue Code of 1954); or] as those terms are defined in section 102 of the Controlled Substances Act (21 U.S.C. 802);

(4) who has been adjudicated as [a mental defective] mentally incompetent or [who] has been committed to a mental institution; or

[to ship or transport any firearm or ammunition in interstate or foreign commerce.]

(5) *who, being an alien, is illegally or unlawfully in the United States;*

*to possess, ship, transport, or receive any firearm or ammunition.*

(h) It shall be unlawful for any person—

(1) who is under indictment for, or who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

(2) who is a fugitive from justice;

(3) who is an unlawful user of or addicted to marihuana or any depressant or stimulant drug (as defined in section 201(v) of the Federal Food, Drug, and Cosmetic Act) or narcotic drug (as defined in section 4731(a) of the Internal Revenue Code of 1954); or

[(4) who has been adjudicated as a mental defective or who has been committed to any mental institution; to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.]

(h) (1) It shall be unlawful for any person who—

(A) is employed by a person who is prohibited from possessing, shipping, transporting, or receiving firearms or ammunition under subsection (g); and

(B) knows or has reason to believe his employer falls within one of the classifications enumerated in subsection (g); to possess any firearm or ammunition in the course of such employment.

(2) It shall be unlawful for any person to sell or otherwise dispose of any firearm or ammunition to any person unless he knows or has reason to believe that the transferee is not prohibited from possessing, shipping, transporting, or receiving a firearm or ammunition under subsection (g) or (h) (1) of this section. This paragraph shall not apply to the sale or disposition of a firearm or ammunition to a licensed importer, licensed manufacturer, licensed dealer, or licensed collector who, pursuant to section 925 (b) of this chapter, is not precluded from dealing in firearms or ammunition.

(i) It shall be unlawful for any person to transport or ship in interstate or foreign commerce, any stolen firearms or stolen ammunition, knowing or having reasonable cause to believe that the firearm or ammunition was stolen.

(j) It shall be unlawful for any person to receive, conceal, store, barter, sell, or dispose of any stolen firearm or stolen ammunition, or pledge or accept as security for a loan any stolen firearm, or stolen ammunition, which is moving as, which is a part of, or which constitutes, interstate or foreign commerce, knowing or having reasonable cause to believe that the firearm or ammunition was stolen.

(k) It shall be unlawful for any person knowingly to transport, ship, or receive, in interstate or foreign commerce, any firearm which does not bear a serial number or which has had the importer's or manufacturer's serial number removed, obliterated, or, altered.

(l) Except as provided in section 925 (d) of this chapter, it shall be unlawful for any person knowingly to import or bring into the United States or any possession thereof any firearm or ammunition; and it shall be unlawful for any person knowingly to receive any firearm or ammunition which has been imported or brought into the United States or any possession thereof in violation of the provisions of this chapter.

(m) It shall be unlawful for any licensed importer, licensed manufacturer, licensed dealer, or licensed collector knowingly to make any false entry in, to fail to make appropriate entry in, or to fail to properly maintain, any record which he is required to keep pursuant to section 923 of this chapter or regulations promulgated thereunder.

(n) (1) It shall be unlawful for any person to sell, deliver, or otherwise transfer two or more handguns to another person, other than a person licensed under section 923 of this chapter, in a period of thirty days or less, unless he has obtained prior approval of the purchase from the Secretary pursuant to regulations promulgated by the Secretary.

(2) It shall be unlawful for any person, other than a person licensed under section 923 of this chapter, to purchase or receive two or more handguns in a period of thirty days or less unless he has obtained prior approval of the purchase from the Secretary pursuant to regulations promulgated by the Secretary.

(3) It shall be unlawful for any person to sell, deliver or otherwise transfer a handgun to another person if such transferor knows that the purchase or possession of such handgun by such other person would be in violation of Federal, State, or local law.

(p) It shall be unlawful for any person licensed under section 923 of this chapter knowingly to sell, deliver, or otherwise transfer a firearm to any person (other than a person licensed under such section 923) who resides in any jurisdiction which requires a license or permit as a prerequisite to the purchase of that firearm unless the transferee has complied with the law of that jurisdiction pertaining to licenses or permits. In the case of a jurisdiction which requires the registration of a handgun or other firearm, each licensed dealer shall forward to the chief local law enforcement authority notice of any acquisition made by a resident of that jurisdiction within the time limit required by the registration law of that jurisdiction. In the case of a jurisdiction which requires a waiting period to purchase a handgun or other firearm, each dealer shall submit notice of such purchase to the chief local law enforcement authority of the transferee's residence and shall not transfer the firearm within the waiting period of that jurisdiction.

(q) (1) It shall be unlawful for any person knowingly to import into the United States (including the Canal Zone) any handgun part intended for use in the manufacture or assembly of concealable handguns.

(2) It shall be unlawful for any person knowingly to receive any handgun part intended for use in the manufacture or assembly of a concealable handgun, if such part has been imported or brought into the United States (including the Canal Zone) in violation of the provisions of this chapter.

(r) Whoever conspires to commit an offense defined in this chapter is punishable by imprisonment or fine, or both, which may not exceed the maximum punishment prescribed for the offense, the commission of which was the object of the conspiracy.

(s) In any case not otherwise prohibited by this chapter, a licensed importer, licensed manufacturer, or licensed dealer may sell, deliver, or otherwise transfer a handgun to a person (other than a licensed importer, manufacturer, or dealer) only if such person, or if the transferee is not a natural person, an agent of the transferee, appears in person at the licensee's business premises and, in order to assure that purchase and possession of the handgun by the transferee would be in

accordance with Federal, State, and local law applicable at the place of sale, delivery, or other disposition, and only if—

(1) the transferee submits to the transferor a sworn statement on a form prescribed by the Secretary which states—

(A) his name, and his residence; and

(B) that his receipt of the handgun will not be in violation of Federal law, or of a State or local law applicable to his place of residence, and that he does not intend to resell or transfer the handgun to a person who is barred from owning or possessing it by Federal, State, or local law applicable to the place of the latter person's residence.

The sworn statement shall include the title, name, and address of the chief law enforcement officer of the place of the transferee's residence. If a State or local law applicable at the place of the transferee's residence requires that a person must have a permit or license to own, possess, or purchase the handgun, a true copy of such permit or license shall be attached to the sworn statement. Any other information required to be supplied to own, possess, or acquire a handgun under such State or local law shall also be attached to the sworn statement;

(2) the transferee provides identification sufficient to establish, under regulations prescribed by the Secretary, reasonable grounds to believe that the transferee is the person he claims to be, and that the transferee's residence is at the address stated in the transferee's sworn statement;

(3) the transferor has, prior to delivery of the handgun, forwarded immediately by registered or certified mail (return receipt requested), to the chief law enforcement officer of the transferee's place of residence a copy of the sworn statement, in a form prescribed by the Secretary, for purposes of notifying such officer of the proposed transaction, and of permitting such officer—

(A) to check the record and identity of the transferee, to determine whether ownership or possession of the handgun by the transferee would be in violation of State or local law of the transferee's residence;

(B) to request a record and identify check by the Federal Bureau of Investigation which shall be sent to the chief law enforcement officer within ten working days of the Bureau's receipt of the request; and

(C) to report to the transferor a conclusion as to whether the transferee is prohibited by law from receiving a handgun, and

(4) the transferor has not received the conclusion of the chief law enforcement officer of the transferee's place of residence that the transferee is prohibited from shipping, possessing, transporting, or receiving a handgun under subsection (g) of this section, that the transferee is less than eighteen years of age, or that the purchase or possession of a handgun by the transferee would be a violation of State or local law applicable at the place of residence.

In no event shall the transferor deliver the handgun to the transferee before at least fourteen days have elapsed after the transferee has submitted his sworn statement to the transferor. The transferor may de-

liver a handgun to the transferee if twenty-eight days have elapsed after the transferor has submitted the sworn statement of the transferee to the transferee's local chief law enforcement officer and the transferor has not been advised that the transferee is prohibited by law from receiving a handgun. A copy of the sworn statement and a copy of the notification or notifications to the chief law enforcement officer or officers, together with the conclusions received from such officer under paragraph (3) of this subsection shall be retained by the licensee as a part of the records required to be kept under section 922(g).

### §923. Licensing.

(a) No person shall engage in business as a firearms or ammunition importer, manufacturer, or dealer until he has filed an application with, and received a license to do so from, the Secretary. The application shall be in such form and contain such information as the Secretary shall by regulation prescribe. Each applicant shall pay a fee for obtaining such a license, a separate fee being required for each place in which the applicant is to do business, as follows:

(1) If the applicant is a manufacturer—

(A) of destructive devices or ammunition for destructive devices, a fee of \$1,000 per year;

(B) of firearms other than destructive devices, a fee of \$50 per year; or

(C) of firearms other than destructive devices or handguns, a fee of \$200; and

(D) of ammunition [for firearms] other than ammunition for destructive devices, a fee of \$10 \$200 per year.

(2) If the applicant is an importer—

(A) of destructive devices or ammunition for destructive devices, a fee of \$1,000 per year; [or]

(B) of firearms other than destructive devices [or ammunition for firearms other than destructive devices], a fee of \$500 per year [; and]

(C) of firearms other than destructive devices or handguns, or of ammunition other than ammunition for destructive devices, or both, a fee of \$200.

(3) If the applicant is a dealer—

(A) in destructive devices or ammunition for destructive devices, a fee of \$1,000 per year;

(B) who is a pawnbroker dealing in firearms other than destructive devices, [or ammunition for firearms other than destructive devices, or in ammunition other than ammunition for destructive devices, or both, a fee of \$25] \$100 per year; [or]

(C) who is not a dealer in destructive devices or a pawnbroker, a fee of \$10 per year.]

(D) who is a wholesale firearms dealer, a fee of \$125,

(E) who is a retail firearms dealer, a fee of \$50 a year;

(F) who is a gunsmith, a fee of \$10 a year; and

(G) who is an ammunition retailer in other than ammunition for destructive devices, a fee of \$25 per year.

(b) Any person desiring to be licensed as a collector shall file an application for such license with the Secretary. The application shall be in such form and contain such information as the Secretary shall by regulation prescribe. The fee for such license shall be \$10 per year. Any license granted under this subsection shall only apply to transactions in curios and relics.

(c) (1) Upon the filing of a proper application and payment of the prescribed fee, the Secretary shall issue to a qualified applicant the appropriate license which, subject to the provisions of this chapter and other applicable provisions of law, shall entitle the licensee to transport, ship, and receive firearms and ammunition covered by such license in interstate or foreign commerce during the period stated in the license.

(2) Prior to renewing the license of a manufacturer or importer, the Secretary shall promptly inspect the premises for which the license renewal is sought and review the records of the applicant to determine whether the applicant for renewal is in compliance with the requirements of this chapter.

(d) (1) Any application submitted under subsection (a) or (b) of this section shall be approved if the Secretary finds that—

(A) the applicant is twenty-one years of age or over;

(B) the applicant (including, in the case of a corporation, partnership, or association, any individual possessing, directly or indirectly, the power to direct or cause the direction of the management and policies of the corporation, partnership, or association) is not prohibited from transporting, shipping, or receiving firearms or ammunition in interstate or foreign commerce under section 922 (g) and (h) of this chapter;

(C) the applicant has not willfully violated any of the provisions of this chapter or regulations issued thereunder;

(D) the applicant has not willfully failed to disclose any material information required, or has not made any false statement as to any material fact, in connection with his application; [and]

(E) the applicant has in a State (i) premises from which he conducts business subject to license under this chapter or from which he intends to conduct such business within a reasonable period of time, or (ii) in the case of a collector, premises from which he conducts his collecting subject to license under this chapter or from which he intends to conduct such collecting within a reasonable period of time[.];

(F) the applicant has notified the chief local law enforcement officer of the jurisdiction in which his premises are located, on a form provided by the Secretary, of the fact that the applicant has applied for a license, and has complied with the laws, ordinances, and regulations of the State and locality wherein his premises are located;

(G) the applicant has on the premises for the licensed activity and agrees to maintain thereon adequate security devices or personnel, or both, to maintain the security of firearms, firearm parts, or ammunition stored on such premises in accordance with reasonable regulations prescribed by the Secretary.

(2) The Secretary must approve or deny an application for a license within the [forty-five-day] ninety-day period beginning on the date it is received. If the Secretary fails to act within such period, the applicant may file an action under section 1361 of title 28 to compel the Secretary to act. If the Secretary approves an applicant's application, such applicant shall be issued a license upon the payment of the prescribed fee.

(e) The Secretary may [ ], after notice and opportunity for hearing, revoke any license issued under this section if the holder of such license has violated any provision of this chapter or any rule or regulation prescribed by the Secretary under this chapter. [ ] suspend or revoke any license issued under this section, if such holder has violated any provision of this chapter or any rule or regulation prescribed by the Secretary under this chapter. The Secretary may at any time commute, promise, or mitigate the liability with respect to such violation. The Secretary's action under this subsection may be reviewed only as provided in subsection (f) of this section.

(f) (1) Any person whose application for a license is denied and any holder of a license which is suspended or revoked shall receive a written notice from the Secretary stating specifically the grounds upon which the application was denied or upon which the license was suspended or revoked. Any notice of a suspension or revocation of a license shall be given to the holder of such license before the effective date of the suspension or revocation.

(2) If the Secretary denies an application for, or suspends or revokes [ ] a license, he shall, upon request by the aggrieved party, promptly hold a hearing to review his denial, suspension, or revocation. In the case of a suspension or revocation of a license, the Secretary shall upon the request of the holder of the license stay the effective date of the suspension or revocation. A hearing held under this paragraph shall be held at a location convenient to the aggrieved party.

(3) If after a hearing held under paragraph (2) the Secretary decides not to reverse his decision to deny an application, or suspend or revoke a license, the Secretary shall give notice of his decision to the aggrieved party. The aggrieved party may at any time within sixty days after the date notice was given under this paragraph file a petition with the United States district court for the district in which he resides or has his principal place of business for a judicial review of such denial, suspension, or revocation. In a proceeding conducted under this subsection, the court [may] shall consider any evidence submitted by the parties to the proceeding. If the court decides that the Secretary was not authorized to deny the application or to suspend or revoke the license, the court shall order the Secretary to take such action as may be necessary to comply with the judgment of the court.

(g) Each licensed importer, licensed manufacturer, licensed dealer, and licensed collector shall maintain such records of importation, production, shipment, receipt, sale, or other disposition, of firearms and ammunition at such place, for such period, and in such form as the Secretary may by regulations prescribe. Such importers, manu-

facturers, dealers, and collectors shall make such records available for inspection at all reasonable times, and shall submit to the Secretary such reports and information with respect to such records and the contents thereof as he shall by regulations prescribe. The Secretary may enter during business hours the premises, (including places of storage) of any firearms or ammunition importer, manufacturer, dealer, or collector for the purpose of inspecting or examining (1) any records or documents required to be kept by such importer, manufacturer, dealer, or collector under the provisions of this chapter or regulations issued under this chapter, and (2) any firearms or ammunition kept or stored by such importer, manufacturer, dealer, or collector at such premises. Upon the request of any State or any political subdivision thereof, the Secretary may make available to such State or any political subdivision thereof, any information which he may obtain by reason of the provisions of this chapter with respect to the identification of persons within such State or political subdivision thereof, who have purchased or received firearms or ammunition, together with a description of such firearms or ammunition.

(h) Licenses issued under the provisions of subsection (c) of this section shall be kept posted and kept available for inspection on the premises covered by the license.

(i) Licensed importers and licensed manufacturers shall identify by means of a serial number engraved or cast on the receiver or frame of the weapon, in such manner as the Secretary shall by regulations prescribe, each firearm imported or manufactured by such importer or manufacturer. *The Secretary shall standardize the serialization of firearms to assure that every firearm manufactured or imported after the effective date of this sentence is marked with a unique serial number.*

(j) This section shall not apply to anyone who engages only in hand loading, reloading, or custom loading ammunition for his own firearm, and who does not hand load, reload, or custom load ammunition for others.

(k) *The Secretary shall compile and maintain with current information a list by State of every city or county within its jurisdiction which prohibits the sale of handguns or other firearms, requires a license or permit to purchase a handgun or other firearm, a waiting period between purchase and receipt, or requires residents to register handguns or other firearms upon purchase. At least twice each year the Secretary shall distribute to each licensee the portion of this list which pertains to the State in which the licensee is licensed to operate.*

(l) *Every person licensed under this section shall report to the Secretary the loss or theft of any firearm or ammunition in the custody, possession, or control of such person not later than forty-eight hours after the discovery of such loss or theft.*

#### § 924. Penalties.

(a) Whoever violates any provision of this chapter or knowingly makes any false statement or representation with respect to the information required by the provisions of this chapter to be kept in the records of a person licensed under this chapter, or in applying for any license or exemption or relief from disability under the provisions of this chapter, shall be fined not more than \$5,000, or imprisoned not

more than five years, or both, and shall become eligible for parole as the Board of Parole shall determine.

(b) Whoever, with intent to commit therewith an offense punishable by imprisonment for a term exceeding one year, or with knowledge or reasonable cause to believe that an offense punishable by imprisonment for a term exceeding one year is to be committed therewith, ships, transports, or receives a firearm or any ammunition in interstate or foreign commerce shall be fined not more than \$10,000, or imprisoned not more than ten years, or both.

[(c) Whoever—

[(1) uses a firearm to commit any felony for which he may be prosecuted in a court of the United States, or

[(2) carries a firearm unlawfully during the commission of any felony for which he may be prosecuted in a court of the United States.

shall, in addition to the punishment provided for the commission of such felony, be sentenced to a term of imprisonment for not less than one year nor more than ten years. In the case of his second or subsequent conviction under this subsection, such person shall be sentenced to a term of imprisonment for not less than two nor more than twenty-five years and, notwithstanding any other provision of law, the court shall not suspend the sentence in the case of a second or subsequent conviction of such person or give him a probationary sentence, nor shall the term of imprisonment imposed under this subsection run concurrently with any term of imprisonment imposed for the commission of such felony.]

(c) (1) *Whoever carries, displays, uses, or offers to use a firearm during the commission of any crime of violence for which he may be prosecuted in a court of the United States shall, in addition to the punishment provided for the commission of such felony, be sentenced to a term of imprisonment of not less than one year nor more than ten years in the case of the first offense, and to a term of imprisonment of not less than two nor more than twenty-five years for a second or subsequent offense. Notwithstanding any other provision of law, the court shall not suspend the sentence imposed under this subsection, nor shall the term of imprisonment imposed under this subsection run concurrently with any term of imprisonment imposed for the commission of such felony.*

(2) *For purposes of this subsection, the term "crime of violence" means murder, rape, mayhem, kidnaping, robbery, burglary or house-breaking, assault or assault with intent to commit any offense punishable by imprisonment for more than one year, arson punishable as a felony, aircraft piracy, or an attempt to commit any of the foregoing offenses.*

(d) Any firearm or ammunition involved in or used or intended to be used in, any violation of the provisions of this chapter or any regulation promulgated thereunder, or any violation of any other criminal law of the United States, shall be subject to seizure and forfeiture and all provisions of the Internal Revenue Code of 1954 relating to the seizure, forfeiture, and disposition of firearms, as defined in section 5845(a) of that Code, shall, so far as applicable, extend to seizures and forfeitures under the provisions of this chapter.

### § 925. Exceptions: Relief from disabilities.

(a) (1) The provisions of this chapter shall not apply with respect to the transportation, shipment, receipt, or importation of any firearm or ammunition imported for, sold or shipped to, or issued for the use of, the United States or any department or agency thereof or any State or any department, agency, or political subdivision thereof.

(2) The provisions of this chapter shall not apply with respect to (A) the shipment or receipt of firearms *other than a concealable handgun* or ammunition when sold or issued by the Secretary of the Army pursuant to section 4308 of title 10, and (B) the transportation of any [such] firearm or ammunition carried out to enable a person, who lawfully received such firearm or ammunition from the Secretary of the Army, to engage in military training or in competitions.

(3) Unless otherwise prohibited by this chapter or any other Federal law, a licensed importer, licensed manufacturer, or licensed dealer may ship to a member of the United States Armed Forces on active duty outside the United States or to clubs, recognized by the Department of Defense, whose entire membership is composed of such members, and such members or clubs may receive a firearm or ammunition [determined by the Secretary of the Treasury to be generally recognized as particularly suitable for sporting purposes and] *which is a rifle, a shotgun, or a handgun other than a concealable handgun* intended for the personal use of such member or club.

(4) When established to the satisfaction of the Secretary to be consistent with the provisions of this chapter and other applicable Federal and State laws and published ordinances, the Secretary may authorize the transportation, shipment, receipt, or importation into the United States to the place of residence of any member of the United States Armed Forces who is on active duty outside the United States (or who has been on active duty outside the United States within the sixty day period immediately preceding the transportation, shipment, receipt, or importation), of any firearm or ammunition which is (A) [determined by the Secretary to be generally recognized as particularly suitable for sporting purposes] *which is a rifle, a shotgun, or a handgun other than a concealable handgun*, or determined by the Department of Defense to be a type of firearm normally classified as a war souvenir, and (B) intended for the personal use of such member.

(5) For the purpose of paragraphs (3) and (4) of this subsection, the term "United States" means each of the several States and the District of Columbia.

(b) A licensed importer, licensed manufacturer, licensed dealer, or licensed collector who is indicted for a crime punishable by imprisonment for a term exceeding one year, may, notwithstanding any other provision of this chapter, continue operation pursuant to his existing license (if prior to the expiration of the term of the existing license timely application is made for a new license) during the term of such indictment and until any conviction pursuant to the indictment becomes final.

(c) A person who has been convicted of a crime punishable by imprisonment for a term exceeding one year (other than a crime involving the use of a firearm or other weapon or a violation of this chapter or of the National Firearms Act or of a State or local law which relates to the importation, manufacture, sale or transfer, of a firearm) may

make application to the Secretary for relief from the disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of such conviction, and the Secretary may grant such relief if it is established to his satisfaction that the circumstances regarding the conviction, and the applicant's record and reputation, are such that the applicant will not be likely to act in a manner dangerous to public safety and that the granting of the relief would not be contrary to the public interest. A licensed importer, licensed manufacturer, licensed dealer, or licensed collector conducting operations under this chapter, who makes application for relief from the disabilities incurred under this chapter by reason of such a conviction, shall not be barred by such conviction from further operations under his license pending final action on an application for relief filed pursuant to this section. Whenever the Secretary grants relief to any person pursuant to this section he shall promptly publish in the Federal Register notice of such action, together with the reasons therefor.

(d) The Secretary may authorize a firearm or ammunition to be imported or brought into the United States or any possession thereof if the person importing or bringing in the firearm or ammunition establishes to the satisfaction of the Secretary that the firearm or ammunition—

(1) is being imported or brought in for scientific or research purposes, or is for use in connection with competition or training pursuant to chapter 401 of title 10;

(2) is an unserviceable firearm, other than a machinegun as defined in section 5845(b) of the Internal Revenue Code of 1954 (not readily restorable to firing condition), imported or brought in as a curio or museum piece;

(3) is of a type that does not fall within the definition of a firearm as defined in section 5845(a) of the Internal Revenue Code of 1954 [and is generally recognized as particularly suitable for or readily adaptable to sporting purposes] and is a rifle, a shotgun, or a handgun other than a concealable handgun, excluding surplus military firearms; or

(4) was previously taken out of the United States or a possession by the person who is bringing in the firearm or ammunition. The Secretary may permit the conditional importation or bringing in of a firearm or ammunition for examination and testing in connection with the making of a determination as to whether the importation or bringing in of such firearm or ammunition will be allowed under this subsection.

### § 926. Rules and regulations.

(a) The Secretary may prescribe such rules and regulations as he deems reasonably necessary to carry out the provisions of this chapter, including—

(1) regulations providing that a person licensed under this chapter, when dealing with another person so licensed, shall provide such other licensed person a certified copy of this license; and

(2) regulations providing for the issuance, at a reasonable cost, to a person licensed under this chapter, of certified copies of his license for use as provided under regulations issued under paragraph (1) of this subsection.

The Secretary shall give reasonable public notice, and afford to interested parties opportunity for hearing, prior to prescribing such rules and regulations.

(b) (1) (A) The Secretary shall transmit to the Congress and the Committees on the Judiciary of the House of Representatives and the Senate each rule, regulation, and order promulgated by the Secretary under this chapter after the date of enactment of this subsection. If, during the first period of thirty calendar days of continuous session of Congress after the date of its transmittal pursuant to the preceding sentence, neither House passes a resolution stating that that House does not approve such rule, regulation, or order, such rule, regulation, or order shall, except as provided under paragraph (2), be effective upon the expiration of such period or the effective date prescribed by the Secretary for such rule, regulation, or order, whichever is later.

(B) For purposes of subparagraph (A) of this paragraph—

(i) continuity of session is broken only by an adjournment of Congress sine die; and

(ii) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the thirty-day period.

(2) (A) If, after the date a rule, regulation, or order is transmitted pursuant to paragraph (1) to the Congress and the committees referred to in such paragraph, both Houses of Congress pass a concurrent resolution (described in subparagraph (B)) authorizing such rule, regulation, or order to take effect before the expiration of the thirty-day period applicable to it under paragraph (1), such rule, regulation, or order may take effect on the date authorized by such concurrent resolution (unless the Secretary specifies a later effective date).

(B) The concurrent resolution referred to in subparagraph (A) is a concurrent resolution the matter after the resolving clause of which reads as follows: "The Congress authorizes \_\_\_\_\_, which was transmitted to Congress on \_\_\_\_\_, 19\_\_\_\_, to take effect on \_\_\_\_\_"; the first blank space therein being filled with an identification of the rule, regulation, or order which is the subject of the resolution, the second blank space being filled with the date of transmittal of the rule, regulation, or order, and the third blank space being filled with the effective date being authorized by the resolution.

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OMNIBUS CRIME CONTROL AND SAFE STREETS ACT  
OF 1968

\* \* \* \* \*

[TITLE VII—UNLAWFUL POSSESSION OR RECEIPT  
OF FIREARMS

[SEC. 1201. The Congress hereby finds and declares that the receipt, possession, or transportation of a firearm by felons, veterans who are discharged under dishonorable conditions, mental incompetents, aliens who are illegally in the country, and former citizens who have renounced their citizenship, constitutes—

[(1) a burden on commerce or threat affecting the free flow of commerce,

[(2) a threat to the safety of the President of the United States and Vice President of the United States,

[(3) an impediment or a threat to the exercise of free speech and the free exercise of a religion guaranteed by the first amendment to the Constitution of the United States, and

[(4) a threat to the continued and effective operation of the Government of the United States and of the government of each State guaranteed by article IV of the Constitution.

[Sec. 1202. (a) Any person who—

[(1) has been convicted by a court of the United States or of a State or any political subdivision thereof of a felony, or

[(2) has been discharged from the Armed Forces under dishonorable conditions, or

[(3) has been adjudged by a court of the United States or of a State or any political subdivision thereof of being mentally incompetent, or

[(4) having been a citizen of the United States has renounced his citizenship, or

[(5) being an alien is illegally or unlawfully in the United States,

and who receives, possesses, or transports in commerce or affecting commerce, after the date of enactment of this Act, any firearm shall be fined not more than \$10,000 or imprisoned for not more than two years, or both.

[(b) Any individual who to his knowledge and while being employed by any person who—

[(1) has been convicted by a court of the United States or of a State or any political subdivision thereof of a felony, or

[(2) has been discharged from the Armed Forces under dishonorable conditions, or

[(3) has been adjudged by a court of the United States or of a State or any political subdivision thereof of being mentally incompetent, or

[(4) having been a citizen of the United States has renounced his citizenship, or

[(5) being an alien is illegally or unlawfully in the United States,

and who, in the course of such employment, receives, possesses, or transports in commerce or affecting commerce, after the date of the enactment of this Act, any firearm shall be fined not more than \$10,000 or imprisoned for not more than two years, or both.

[(c) As used in this title—

[(1) "commerce" means travel, trade, traffic, commerce, transportation, or communication among the several States, or between the District of Columbia and any State, or between any foreign country or any territory or possession and any State or the District of Columbia, or between points in the same State but through any other State or the District of Columbia or a foreign country;

[(2) "felony" means any offense punishable by imprisonment for a term exceeding one year, but does not include any offense (other than one involving a firearm or explosive) classified as a

misdemeanor under the laws of a State and punishable by a term of imprisonment of two years or less:

[(3) "firearm" means any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; the frame or receiver of any such weapon; or any firearm muffler or firearm silencer; or any destructive device. Such term shall include any handgun, rifle, or shotgun;

[(4) "destructive device" means any explosive, incendiary, or poison gas bomb, grenade, mine, rocket, missile, or similar device; and includes any type of weapon which will or is designed to or may readily be converted to expel a projectile by the action of any explosive and having any barrel with a bore of one-half inch or more in diameter;

[(5) "handgun" means any pistol or revolver originally designed to be fired by the use of a single hand and which is designed to fire or capable of firing fixed cartridge ammunition, or any other firearm originally designed to be fired by the use of a single hand;

[(6) "shotgun" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger;

[(7) "rifle" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

[SEC. 1203. This title shall not apply to—

[(1) any prisoner who by reason of duties connected with law enforcement has expressly been entrusted with a firearm by competent authority of the prison; and

[(2) any person who has been pardoned by the President of the United States or the chief executive of a State and has expressly been authorized by the President or such chief executive, as the case may be, to receive, possess, or transport in commerce a firearm.]

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#### SEPARATE VIEWS OF HON. ELIZABETH HOLTZMAN

I supported H.R. 11193 because it makes certain distinct, if severely limited, improvements in the present Federal gun control laws. Chief among these are the ban on the future manufacture and sale of so-called "Saturday night specials", and the pre-purchase waiting period and clearance procedures for handgun buyers. The latter provision particularly should be some help in reducing the flow of handguns into jurisdictions, such as New York City, which have strong local gun control laws. Given the appalling laxity of national legislation to restrict handguns, any progress in this regard is welcome.

At the same time, however, I deeply regret the Committee's failure to take strong action to reduce violent crime in America by severely restricting the private ownership of handguns.

The case for strict gun control was made repeatedly, with inescapable clarity, before the Committee. Handguns are the chief instrument of violent crime in America. They were used in 54% of homicides last year, in 72% of the murders of policemen, in 100,000 aggravated assaults, in 175,000 robberies. More Americans were killed by handguns in the past five years, than were killed throughout the Vietnam War.

Strict gun control laws can reduce this intolerable toll of violence. New York City, for example, despite its high crime rate, ranks only 23rd among major metropolitan areas in murder. In New York, 40% of murders and 13% of robberies are committed with firearms, compared to 63% of murders and 37% of robberies nationally. Among the nations of North America and Western Europe, the United States has the weakest gun laws, the highest level of gun ownership, and the highest murder rate.

Despite the overwhelming evidence, however, the Committee rejected every effort to include tough restrictions on the ownership of handguns. An amendment to ban the private ownership of handguns entirely, which I supported, was defeated, as were amendments to provide for national or state handgun registration systems. The Committee even turned down an amendment which I offered to allow persons to purchase no more than one handgun a year. The result is a bill which tightens the present law, but which offers no promise of a major breakthrough against violent crime.

It remains possible that this bill can be strengthened on the House floor. Certainly the information gathered by the Subcommittee on Crime in its many months of hard work would justify such action. If the bill remains in its present form, I will support it because of the improvements it makes in the present law. I will do so in the hope that the next Congress will pass a real gun control bill, and thereby, take firm action against violent crime in America.

ADDITIONAL VIEWS OF THE HONORABLE ROBERT  
McCLORY

Since 1968, when the Congress last approved a firearms control bill, the rates of murder, assault, armed robbery, and other violent crimes committed with firearms has escalated to near nightmare proportions.

With the approval of this handgun bill by the Committee on the Judiciary, the House of Representatives finally has the opportunity to address effectively this crescendo of violence and to respond favorably to the overwhelming majority of Americans who favor handgun control.

I wholeheartedly support the Committee's bill.

My colleagues in the House should know that this bill is very similar to the one offered last year by the President. Further, the bill has a remarkable similarity to legislation now under Senate Committee consideration. Thus, a consensus is developing within the legislative and executive branches that the time for meaningful handgun control has arrived.

The bill approved by the Committee on the Judiciary contains provisions taken from the legislation which I introduced in the last session. The most important of these was the ban on the inexpensive, poorly constructed, easily concealable handgun known as the "Saturday Night Special."

The Committee measure contains the waiting period and license fee requirements similar to those in the bill the President proposed.

It also calls for strong mandatory penalties to punish criminals who use firearms during the commission of violent federal crimes. I consider this all important.

I am also disappointed that the full Committee eliminated provisions in the Subcommittee bill which would have established a National Tracing Center, another weapon in the battle against handgun crime.

But weighing the pluses and minuses, the bill approved by the Committee contains some strong, effective provisions which will help in reducing handgun violence. I urge all my colleagues to support it.

Finally, I would like to direct some comments to my colleagues about those interest groups outside the Congress who oppose this bill and who have misrepresented what it seeks to do and who likewise have misconstrued my support of it. I caution my colleagues to view skeptically criticisms of the bill by these groups. In my experience, much of what they allege is false—or misleading.

Furthermore, I want to restate my long-standing position on handgun control. I favor it as a method of crime fighting. While I well know that no single piece of legislation can eradicate crime, this bill is a giant step toward that goal.

My support for this bill does not change my belief that law-abiding citizens in our society have the right to own and to use handguns, rifles,...

and shotguns for any legitimate purpose. The lore and legend and language of America reflects a dependence on and an affection for guns.

As I see it, this is not a gun control bill. It is not a handgun control bill. It is a crime control bill. It deserves the support of all who revere the law.

ROBERT McCLORY.

ADDITIONAL VIEWS OF HON. TOM RAILSBACK AND  
HON. HENRY J. HYDE (CONCURRED IN, IN PART, BY  
HON. ROBERT McCLORY)

After many days of markup, much debate, and more than a little controversy, the Committee on the Judiciary favorably reported to the full House a compromise handgun control bill which has strong bipartisan support. We are pleased to join in wholehearted support of this bill which we believe to be a reasonable measure aimed at crime control rather than mere gun control.

The Committee bill includes provisions—some virtually unchanged and others substantially modified—from other bills. Not included in the Committee bill are those provisions of the Subcommittee's bill which we view as objectionable. A brief explanation of the most important provisions seems advisable:

A number of the Committee bill's provisions were taken virtually unchanged from the Subcommittee bill and the President's bill. First, the bill deals with the problem of unsafe handguns used in crime by adopting a modified version of the definition of non-sporting type handguns currently applied to imported weapons. This definition originally was proposed as an amendment by Mr. McClory and is aimed at the unsafe, easily concealable, poorly constructed handguns, known generally as "Saturday Night Specials", which account for a disproportionate percentage of weapons used in crime. In a recent 18-city survey of handguns used in crime, the Federal Bureau of Alcohol, Tobacco and Firearms found that crime guns fell into the following categories:

	Percent
Barrel length less than 3 inches.....	71
.32 caliber or less.....	61
Low quality.....	58

About half of crime guns satisfy all three criteria. The definition is aimed at these crime-suited weapons, which account for about 20 percent of all handguns manufactured in the United States.

The definition is carefully drafted to include safety, reliability, and quality, as well as reasonable size requirements. It will operate prospectively and therefore will not affect the ownership or transfer of any existing handguns. By including this definition, the Committee bill eliminates the most objectionable provisions of an earlier Subcommittee bill which would have affected over 70 per cent of privately owned handguns, and which would have provided for eventual forfeiture of those handguns to the Federal government.

Second, the bill contains a fourteen-day waiting period provision to enable law enforcement officials to check the record of handgun purchasers for felony convictions or other disqualifications from purchase. The amendment offered by Mr. Wiggins to the Subcommittee bill is included in the waiting period provision, and would permit sale of

a handgun after 28 days if no report of disqualification has been received by a dealer. A similar waiting period was contained in both the President's bill and the Subcommittee bill. This provision is essential since recent studies have shown that a substantial proportion of handguns used in crime were originally acquired from dealers by persons prohibited from such acquisition by Federal, State, and local law.

Third, the Committee bill contains the strong mandatory penalties provision which the Committee included in the original bill in an earlier markup. The bill provides that such a person be sentenced to a mandatory 1 to 10 years for the first offense and 2 to 25 years for the second or subsequent offenses. These mandatory sentences cannot be served concurrently nor can they be suspended. Such a mandatory penalties provision is essential to any crime control measure.

Fourth, the bill contains the President's multiple handgun purchase prohibition designed to prevent gunrunners from acquiring cheap handguns in large lots for sale in the large urban crime centers of America. Such gunrunners supply large numbers of guns to urban street criminals and must be stopped. This provision does not affect multiple sale of handguns to licensed gun dealers and licensed collectors.

Fifth, the Committee bill contains the amendments recommended by the Justice Department to modernize the provisions dealing with possession of firearms by felons as limited by the Supreme Court in the case of *U.S. v. Bass*. The amendments are necessary to make the prosecution of criminals armed with handguns easier.

Finally, the Committee bill contains a number of miscellaneous amendments including the Danielson Taser amendment, a serialization of handguns provision, and a carriers regulation provision, which are far less onerous than the related provisions of the Subcommittee's bill. Two other important sections are substantially modified versions of provisions of the Subcommittee's bill. In advocating the modification of those provisions two important principles guided us. First, we were concerned that the Subcommittee's bill delegated too much unseemly regulatory power to the Secretary of the Treasury, giving him virtually unlimited discretion over firearms dealers. The new Committee bill eliminates the excessive discretion but retains reasonable powers for the Secretary—for example, for the inspection of manufacturers records and regulations for the maintenance of security for firearms. The new Committee bill also eliminates the authority of the Secretary to impose on licensees civil penalties of up to \$10,000 for infractions of the statute or the regulations. As an additional check on the Secretary of the Treasury's exercise of his authority, the bill contains the Congressional veto provision offered by Mr. Butler as an amendment to the original Subcommittee bill and accepted by the Committee.

Our second concern was the unreasonable fees in the Subcommittee bill for wholesale and retail dealers' licenses. While we agree that an increase in fees is justified on the grounds that the current fees do not adequately support the burden which licensees impose on the Bureau of Alcohol, Tobacco and Firearms, the fees of the Subcommittee bill were discriminatory—\$200 for a retail handgun dealer and \$300 for a wholesale handgun dealer. The Committee bill drastically reduces

those increases. Retail dealers' fees would be increased to \$50, wholesaler fees to \$125.

Finally, the Committee bill completely eliminates certain objectionable features of the Subcommittee bill which would have been of dubious purpose and effect. The most important exclusion is the "Handgun Tracing Center" which would have required gun dealers to file quarterly reports stating the number, types, calibers, models, barrel lengths, and serial numbers of all handguns sold by them. The Handgun Tracing Center could have been construed by some as a national registration system, although the sponsors of the Tracing Center provisions did not intend it to serve this purpose. Because we believe that the Tracing Center would have unnecessarily encumbered this bill and would have made it more difficult to pass, we successfully argued that it should be eliminated. We do not believe that the elimination of the Handgun Tracing Center lessens the effectiveness of this bill, especially in the light of the current authority of the Secretary.

We understand that an amendment will be offered on the Floor to allow concealable handguns to be manufactured for the purposes of export. Such an amendment is acceptable to us.

In its present form, the Committee bill presents workable and effective provisions directed at the criminal and at crime-suited handguns. But, to allay the fears of anyone unsure of the bill's effect, it seems advisable to stress what this bill does *not* do: It does *not*, in any way, affect shotguns or rifles. It does *not* give the Secretary of the Treasury authority to drive gun dealers out of business. It does *not* affect high quality handguns utilized for sporting purposes. It does *not* interfere with the activities of collectors of firearms. It does *not* discourage common carriers from transporting firearms. It does *not* contain any system of registration or licensing.

Our statement of what the bill does not do is occasioned by the fact that the many moderate provisions contained in the bill have been misrepresented by forces inside and outside the Congress. We urge our colleagues to read the bill carefully and to review the criticisms of these interested parties closely. We are confident that the Members will find the bill to be quite reasonable and much of the criticism of it to be either exaggerated overstatement or plain untruth. The virtue of this bill is that it is a reasonable approach to the control of handguns used in crime. In that regard, it is more appropriately called a crime control bill. This legislation was passed 20-12 by the Committee. We urge our colleagues to support it.

TOM RAILSBACK.  
HENRY J. HYDE.

I wish also to subscribe to these views with the exception of the paragraph relating to the proposed "Handgun Tracing Center."  
ROBERT McCLORY.

MINORITY VIEWS OF HON. HAMILTON FISH, JR., HON.  
JOHN M. ASHBROOK, HON. CARLOS J. MOORHEAD, HON.  
THOMAS N. KINDNESS, AND HON. EDWARD HUTCHIN-  
SON

The thrust of this bill is to curtail legitimate access to all firearms—rifles and shotguns, as well as handguns—and ammunition. It would accomplish this purpose by eliminating up to three-quarters of the nation's 160,000 federally licensed dealers, by banning the manufacture, importation, and sale of more than half of all new handguns now produced, by creating a host of new federal "crimes" relating to the sale or transfer of firearms and ammunition between individuals thereby injecting the federal government into areas traditionally reserved to the states, by putting in place the framework for "back-door" registration of handgun purchasers, and by discouraging common carriers from transporting firearms and ammunition.

This bill was the product of an unorthodox legislative procedure. All hearings were conducted on the general subject of gun control, when the Subcommittee on Crime had dozens of bills under consideration. The Committee afforded no opportunity for any witness to comment on the language of the bill reported by the Subcommittee after the hearings had closed, or on any of numerous drafts and revisions produced by the Subcommittee since October. Indeed, the bill accepted as a substitute for the Subcommittee's bill on April 13 was held confidential, and not shown to many members of the Committee until the morning of the vote. In such circumstances, it is not surprising that the bill contains so many ill-advised, little understood, and objectionable provisions.

There scarcely can be disagreement that the Congress should enact effective legislation to combat the scourge of crime that has turned our cities into enclaves of fear and violence. However, the Committee bill reported in lieu of H.R. 11193 does precious little to attack the most obvious cause of crime—the criminal. Indeed, it contains only one provision related to criminals—the section fixing mandatory penalties for persons convicted of using firearms to commit federal crimes of violence. The major impact of the bill will be felt primarily by ordinary citizens who legitimately own firearms for recreational and defensive purposes; it will present only a minor nuisance to criminals.

The provisions in H.R. 11193 pertaining to licensed dealers are designed to constrict legitimate firearms acquisition and use. These provisions are the result of a blatant effort by the Treasury Department's Bureau of Alcohol, Tobacco and Firearms (BATF), which administers the federal firearms laws, to eliminate 75% of the nation's firearms and ammunition outlets. The Gun Control Act of 1968 already requires *anyone* engaged in the business of selling firearms or ammunition to be federally licensed, to do business only from specified premises, keep records of purchases and sales, and make such records

available for inspection by BATF on demand. Noticeably absent from the hearings was any convincing evidence that small dealers, who must all satisfy these requirements of the Act, contribute to the crime problem, or that BATF presently lacks authority to enforce the existing law by prosecuting any licensee who violates these requirements.

The Committee's bill would establish the regulatory mechanisms by which this objectionable goal would be accomplished. First, license fees for federal firearms licensees are increased from five to fifteen times. These increases would discourage licensees by making it too expensive, especially for smaller ones, to stay in business. There can be little justification, for example, for raising the fee which a craftsman who builds custom rifles or shotguns must pay annually for a manufacturer's license, from \$50 to \$500. Moreover, the measure grants highly objectionable regulatory powers to the Secretary which cause us alarm, especially in light of the bureaucracy's desire to eliminate licensees. The Secretary is given virtually open-ended authority to stipulate what "security devices or personnel, or both" licensees must maintain on their premises. Presumably, the Secretary could deny licenses or license renewals to any dealer for minor infractions of various local ordinances or regulations such as zoning and building codes. Such local regulations, unrelated to firearms control, often are unenforced by local authorities, and are none of the federal government's business in any case.

The provisions of this bill banning the future manufacture, importation and sale of so-called "concealable" handguns are also objectionable because they are directed at guns, rather than the criminals who misuse them. The Committee bill would enshrine as legislative policy the idea that handguns of certain dimensions, metallurgy, and technical features are inherently evil. Guns not satisfying the specific criteria would be labeled "concealable handguns" and would thereby be banned from future manufacture. This concealable handgun test is objectionable because, first, it bans weapons clearly desirable for lawful purposes. Such a handgun is the Colt Single Action Army Revolver—the huge, heavy frame "Frontier six-shooter" of Western fame which will be banned from future manufacture unless equipped with a safety. Second, the test is objectionable because the fact is that "concealability" is not a characteristic of handguns which determines their suitability for criminal use; "concealability" is not an objective term, it depends on intention. *All* handguns are capable of being concealed, and under the laws in most states, the term "concealable firearm" means handguns. Indeed, the Supreme Court in construing a provision of current federal law which prohibits the mailing of "pistols, revolvers and other firearms capable of being concealed on the person" recently ruled that even a sawed-off shotgun measuring 18 inches overall is such a "firearm capable of being concealed on the person". If a law-abiding man or woman wants to buy a handgun, why should it be a federal concern whether that handgun has a two-inch or three-inch or four-inch barrel? When the criminal easily can cut down practically any firearm to make it smaller, it is doubtful that such arbitrary restrictions based on size will result in any significant reduction in crime.

It seems curious that the Committee should have adopted as criteria for "concealability" standards very closely following those now employed to determine "suitability for sporting purposes" of imported handguns. The implication is that Americans should not be permitted to purchase handguns which are not "sporting" firearms, but which are designed for self-defense. We do not believe that self-defense is any less legitimate or important a reason for a private citizen to own a handgun, and we are apprehensive that adoption of this bill's provisions may be construed as a Congressional repudiation of a citizen's right to protect himself, his home, family, or business.

Finally, the effect of the "concealable handgun" test is not limited to "Saturday Night Specials" as has been claimed. In fact it will affect over 50% of all handguns made in the U.S. Given the predilections of many people to ban all handguns, the bill which bans half is easily understood as a first giant step toward the ultimate goal.

The bill also creates miscellaneous new "crimes" related to the lawful acquisition of firearms and ammunition.

For example, the bill would "ration" handguns by making it a crime for a citizen—no matter how responsible or qualified—to acquire more than one handgun in any 30-day period, unless the purchaser demonstrates that his multiple purchase is for a legitimate purpose. Ordinary enforcement of existing law would prevent multiple purchases for illicit purposes, without subjecting everyone in the United States to a felony prosecution for acquiring two handguns at the same time, so it is difficult to justify the new provision.

Another provision would make it a *federal* crime for a dealer to sell a firearm to someone within the same state, but in a different locality unless he complies with all the requirements of the buyer's locality. Still another would make it a *federal* crime for any individual to sell a handgun to anyone else in violation of any state or local law. It is one thing to suggest that the federal government should protect states from circumvention of their laws by criminals traveling to other states. But there has not been any convincing evidence that state law enforcement authorities are unable to enforce firearms laws *within their own state*. If any local laws are being circumvented, that is a matter for the state legislature, not the Congress.

The bill also contains provisions laying the foundation for both federal and state registration of handgun purchasers. It seems obvious that the handgun "rationing" restriction cannot be enforced unless each handgun purchase from a dealer is entered on a central computer where it is unlikely ever to be erased. In addition, the "Handgun Pre-Purchase Clearance" provisions contained in the bill require local law enforcement authorities to be notified of each purchase of a handgun from a dealer, and authorizes an FBI check in each such instance. Retention of such information by local authorities and the FBI is more than just a possibility: it is a near-certainty.

The bill also grants the Secretary of the Treasury broad authority, after "consultation" with the Secretary of Transportation, to write any "reasonable" regulation "to ensure the safe and secure transportation of firearms and ammunition." In view of the legislative history of this provision, such rulemaking should be viewed in context with BATF's proposed reduction of dealers, i.e., an effort to constrict the

distribution of firearms and ammunition through lawful channels. Its principal effect would be to compound costly paperwork and red tape and discourage common carriers from carrying firearms and ammunition through redundant regulation.

Finally, even the bill's declaration of findings reflects an antagonism to lawful firearms ownership.

The statement that "the handgun has become the principal instrument used in violent crime" is grossly misleading. It implies that handguns, not criminals, are responsible for crime. Further, the notion that "convicted felons, mental incompetents, and other disqualified persons have virtually unrestricted access to, and possession of handguns" simply ignores existing federal, state, and local laws which need only more vigorous enforcement to be effective.

The Committee bill is based on a fundamental misconception: that gun control is the answer to our national crime problem. In truth, it is only a palliative. Clearly, a massive reform of our criminal justice system is needed; there is no prospect of reversing the escalating rate of violent crime until that is done. It is time to face the grim realization that a whole generation of criminals has learned that crime does pay. The chance of being caught is slight, and even if one is caught, the punishment is not very serious. Mandatory penalties would be a promising beginning. Other areas deserve equal attention: Of those arrested for serious crimes, only one-fourth are ever convicted. The court system is so unwieldy as to discourage successful prosecutions.

As long as this situation prevails, the Congress has little right to call upon decent law-abiding citizens to surrender more of their rights and submit to further burdens and further restrictions. The Congress has an obligation first to come to grips with the real source of crime—the criminal—and exhaust the remedies it can and must prescribe to bring urgently needed reform to the criminal justice system.

HAMILTON FISH, JR.  
JOHN M. ASHBROOK.  
CARLOS J. MOORHEAD.  
THOMAS N. KINDNESS.  
EDWARD HUTCHINSON.

#### MINORITY VIEWS OF HONORABLE M. CALDWELL BUTLER

I concur in much but not all that appears in the Minority Views. There is an increasing amount of information which indicates that there is a relationship between the availability of the small handgun and crimes of violence. A recent survey of handguns used in crime in sixteen cities demonstrated that substantial percentages of crime guns were small, low-caliber, low-quality weapons. Handguns with barrel lengths of three inches or less accounted for 71% of crime guns; handguns of .32 caliber or less for 61%, and low-quality handguns for 56%. About half of all crime guns satisfy all three criteria. There is clearly a need to reduce the availability to the criminal of such "crime-suited" weapons.

Unfortunately, a practical solution to this problem has not been discovered. Certainly it does not lie in prohibiting the manufacture of new weapons, however imperfectly defined. Because such a prohibition is the heart of this bill, I felt compelled to vote against it in Committee.

I also share many of the objections noted in the Minority Views. However, I would support legislation directed primarily against the criminal. Such legislation would include those provisions of the reported bill setting mandatory penalties for the use of firearms in the commission of violent federal felonies, requiring a 14-day waiting period to screen out any unlawful purchases of handguns, and banning the importation of parts for domestic assembly of cheap, low-quality handguns.

M. CALDWELL BUTLER.

(111)

## VIEWS OF JOHN M. ASHBROOK

I generally associate myself with the minority views. As a member of the Subcommittee responsible for this legislation, however, I would like to make some additional observations.

Not only do I oppose the contents of the bill. I also oppose the methods that were used to get the bill through committee.

In the space of an hour more than 120 pages of committee prints were passed out. First, a 42 page print was distributed of which I had some knowledge. This was followed by a 32 page print which I had never seen before. This was further followed by an additional 47 page print.

Many members of the Committee—like myself—had not seen this torrent of paperwork before arriving at the committee room. Yet all this material was supposed to be legislated on within an hour!

This tactic made debate and amendments very difficult to say the least. On a complicated issue like gun control it was impossible to determine the total impact of the various provisions in the time that was given for consideration. Such a procedure may have allowed a quick vote, but it did no justice to the legislative process. This is a fine example of how Congressional committees should not operate.

The contents of the bill are little better than the procedure used to get it through. If enacted, this legislation would seriously curtail the right of law-abiding Americans to obtain firearms and ammunition for the protection of themselves, their families and property as well as for sport and recreation.

Frankly, the Federal Firearms Act of 1976 is a fraud. Although billed as a crime control measure it will do little if anything to reduce crime. Nor, as is claimed, does it place reasonable restrictions on the acquisition, possession and use of firearms. It is more than a foot in the door toward the abolition of the handgun—it is half the body.

If implemented, this bill would ban the manufacture or importation of over half of all handguns currently being sold in the United States. It would prohibit the future manufacture, assembly and importation of any pistol which was not at least six inches long and four inches high and any revolver which did not have a frame length of at least 4½ inches and a barrel length of at least four inches. Included under such a ban would be many high quality pistols and revolvers that are commonly purchased by law-abiding citizens for purposes of sport and self-defense.

I have always believed that it is essential to maintain the distinction between the firearm and the user. The gun enthusiast, the sportsman, or the person who wants a gun for his self-defense should never be placed in the same class as the criminal.

Yet it is the law-abiding American who will suffer by the provisions of this bill. Law-abiding citizens will be treated as potential felons. This will not reduce crime. Criminals will always be able to get their

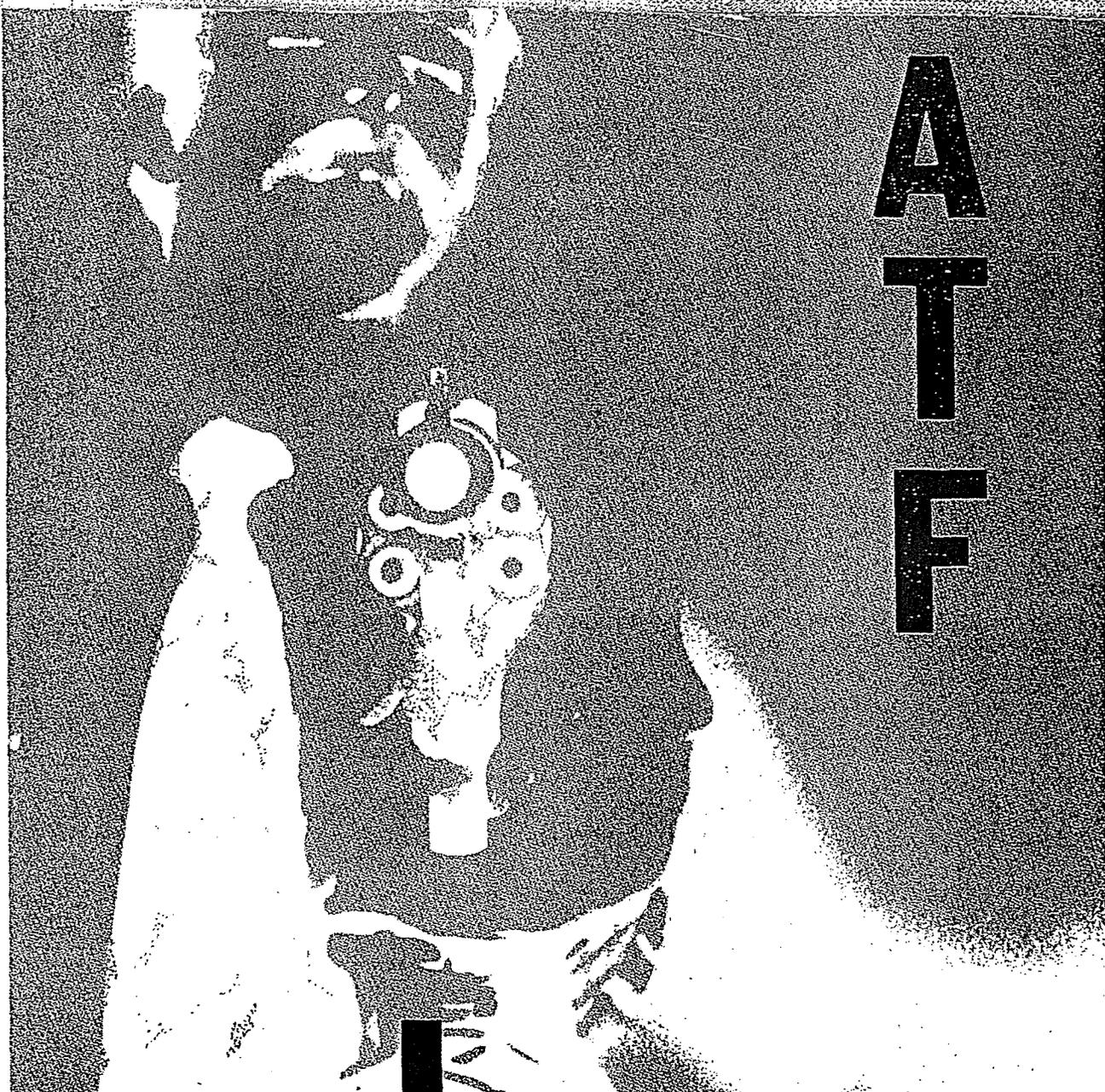
hands on guns, legally or illegally. Congress by legislation such as this can make it more difficult for reputable citizens to get firearms but this will be of little value in fighting crime.

Another fraudulent aspect of this legislation is in the area of firearms dealers. Although described as a measure to put "reasonable restrictions on handgun acquisition," this bill would put approximately three-fourths of the nation's federally licensed dealers out of business through unprecedented license hikes and government red tape. Should this happen, many Americans would find it difficult to buy guns or ammunition because there would not be any dealers for them to approach.

The small firearms dealer would be especially hard hit by the new regulations. The Committee on Small Business, however, was not given an opportunity to deal with the bill. I find it ironic that the Majority side of the aisle is always giving lip service to the need for more jobs for Americans but apparently has no qualms about legislating away the jobs of tens of thousands of gun dealers.

JOHN M. ASHBROOK,

**EXHIBIT 31**



**A  
T  
F**

# PROJECT IDENTIFICATION

## A Study of Handguns used in Crime



Bureau of Alcohol,  
Tobacco and  
Firearms

PLTF 100848

**In these cities**

- |             |             |                      |             |
|-------------|-------------|----------------------|-------------|
| New York    | Dallas      | Miami/Dade County    | Boston      |
| Detroit     | Denver      | Minneapolis/St. Paul | Louisville  |
| New Orleans | Kansas City | Philadelphia         | Charlotte   |
| Atlanta     | Oakland     | Seattle              | Los Angeles |

**Exhibit 31**

ATF P 3310.1 (5/76)

# PROJECT IDENTIFICATION



1

## A Message From the Director

Project Identification was begun in 1973 by the Bureau of Alcohol, Tobacco and Firearms as a cooperative study with selected police departments to determine the types of guns being used in crimes, and their sources. The project was conducted in 16 diverse cities—New York, Atlanta, Detroit, New Orleans, Dallas, Denver, Kansas City, Philadelphia, Oakland, Miami/Dade County, Florida, Minneapolis/St. Paul, Seattle, Boston, Charlotte, Louisville and Los Angeles.

As the nation's firearms expert, ATF has sought to learn as much as possible concerning the use of guns in crime. With such knowledge, we seek to stem the flow of firearms into the hands of criminals or would be criminals.

This study was not concerned with the question of gun control, but was concentrated solely on the collection of data which would serve to increase our knowledge of the criminal misuse of firearms.

The Bureau is indebted to the police departments of the 16 cities involved for their complete cooperation.

Rex D. Davis  
Director, Bureau of  
Alcohol, Tobacco and Firearms

PLTF 100849

217

# PROJECT IDENTIFICATION

## A Study of Crime Handguns

### HIGHLIGHTS

- ✓ Seventy-one percent, or 7,538, of the handguns submitted for tracing, had a barrel length of 3 inches or less. Sixty-one percent, or 6,476, had a caliber of .32 or less. Since both of these factors relate to the size of the weapon, these figures indicate that concealability is an overriding factor in selecting a handgun for use in crime.
- 2 ✓ Pawnshops supplied a disproportionate number of inexpensive, easily concealed handguns used in street crimes.
- ✓ The percentage of crime handguns purchased interstate was directly proportionate to the degree of local handgun control.
- ✓ Six percent of the handguns submitted for tracing were reported stolen. However, it is likely that the true figure is much higher due to a reluctance to report the theft of firearms. (NOTE: Further studies are being made in this area.)
- ✓ The breakdown of these crime handguns was 76 percent revolvers and 24 percent semi-automatic pistols. This may indicate a predilection for simply operated, mechanically understandable handguns for use in crimes.
- ✓ Forty-five percent, or 3,486, of the weapons successfully traced had a value of less than \$50 and a barrel length of 3 inches or less and a caliber of .32 or less.

These highlights are preliminary conclusions. Because of the considerable statistical data collected by the Bureau, further analysis should reveal more information concerning the use of handguns in crime. Individuals and organizations are encouraged to conduct independent studies of the published data. With such a wealth of Project I material yet to be reviewed, perhaps more far reaching trends and conclusions may be discovered.

(A)

# PROJECT IDENTIFICATION

## A Study of Crime Handguns

### BACKGROUND

During the early part of 1970, an ATF agent in New York City purchased on the streets a small handgun of the caliber and size from which the term "Saturday Night Special" was derived. He paid more than \$100 for the gun. A trace of the gun disclosed that originally it had been sold by a retail outlet in South Carolina. Investigation revealed that several licensed dealers in South Carolina were working in collusion with North Carolina and New York City residents to transfer handguns illegally from one state to another. It was estimated that approximately 40,000 small, inexpensive handguns were involved in these illegal transactions. As a result of the investigation, ATF brought charges against 17 persons. All of the dealers involved were convicted and put out of the retail gun business.

Following this, ATF proceeded with plans to study the scope of illegal handguns in several major cities to learn how criminals were acquiring guns and what could be done about it. Thus Project Identification was begun in Detroit, Atlanta and New Orleans. The police department in each city was asked to provide ATF with a list of all firearms seized by the department during the 6 months from July, 1973, to December, 1973. ATF then traced the handguns. No long guns were traced.

Of the total number of serial numbers or descriptions received from the police departments, some of the guns were "untraceable" because records on these guns did not exist or were not available. The rest then were traced from manufacturer or importer to the first retail outlet in the state of the originating project city.

In August, 1973, New York Mayor John V. Lindsay asked that Project Identification (I) include the City of New York because of the problem the police department was experiencing with handguns, in spite of existing strict laws in both New York City and the State of New York. His request was granted.

Project I objectives were to identify the sources of handguns used in street crimes, and to develop intelligence for ATF and police departments regarding illegal firearms dealers, firearms theft rings and other suppliers of handguns to criminals.

In processing voluminous identification data, it became apparent that in addition to the original objectives of determining street gun sources, considerable statistical data relating to types of guns used in street crimes was being channeled through ATF. As a result, in December, 1973, a

# PROJECT IDENTIFICATION

## A Study of Crime Handguns

statistical analysis was prepared on the trace information received for Project I. This analysis included statistical data on sources of handguns and specific findings as to quality, type, barrel length and caliber of all guns traced.

Because of the usefulness of the information compiled in the initial four-city study, Project I was extended to 12 other cities. The study was conducted in four phases:

### PHASE I

New York, Atlanta, Detroit, New Orleans

### PHASE II

Dallas, Denver, Kansas City, Oakland

### PHASE III

Miami/Dade County, Minneapolis/St. Paul, Philadelphia, Seattle

### PHASE IV

Boston, Charlotte, Louisville, Los Angeles

Originally designed as enforcement assistance to police, Project I expanded through each phase by encompassing new data in an effort to provide more meaningful firearm statistics. As a result of this continuing process, some information was not reported in the earlier phases, and other information was compiled by differing methods in the latter phases.

The statistical data totals for the broad 16-city coverage are considered representative of the national crime gun problem.

## PROCEDURES

Each cooperating police department surveyed all handguns received, recovered or seized by them during a specified period. An ATF Form 5000 (Request for Firearms Trace) was completed and sent to Bureau Headquarters, where each request was processed by the Criminal Enforcement Operations Division and then forwarded to the ATF National Firearms Tracing Center.

The identifying information furnished ATF included the serial numbers of these handguns. ATF took these serial numbers, and starting with the manufacturers of the guns, traced the ownership history of the weapon step-by-step.

Since 1958, the Federal Firearms Act has required that each high powered rifle and handgun bear the name of its

# PROJECT IDENTIFICATION

## A Study of Crime Handguns

manufacturer, its caliber and an identifying serial number. Shotguns and .22 caliber rifles were excluded.

However, the Gun Control Act of 1968 broadened this requirement to include shotguns and rifles. Imported guns came under the same requirements, with the exception that it was necessary also to include the importer's name on the gun.

Manufacturers, importers and dealers always have been required to keep information concerning the person or firm to whom they sold firearms. However, the Gun Control Act of 1968 requires far more information concerning the buyer. Records of the retail dealer now must show on a Form 4473 the name and address of the buyer, his physical description, and a notation as to the type of identification the buyer provided. The buyer must swear that he is over 21, that he is a resident of the state in which he is purchasing the gun, that he is not a convicted felon, that he does not have a history of mental disease and is not a user of narcotics. In addition, the buyer must sign the transaction form.

The information on the form 5000, and the information concerning the seized guns, facilitates the tracing of a handgun from manufacturer or importer to the retail outlet where the gun is sold, to the first retail purchaser.

Bureau gun tracers contact manufacturers, both domestic and foreign, and importers as the first step in the trace. The voluntary cooperation of these manufacturers and importers has been excellent. Their willingness to assist ATF in its important duty of tracing crime guns has played a valuable role in the Bureau's successful gun tracing operation. The ATF National Firearms Tracing Center traces about 3,000 firearms per month, about half without charge at the request of more than 2,000 State and local law enforcement agencies in all 50 states.

Once the information concerning a trace was compiled, coded data was entered into the Treasury computer system. When all data was entered, printouts were obtained showing the line entries of all gun traces, coded and entered under the project.

The statistical data in this report was obtained by analysis of these computer printouts.

### HANDGUN CLASSIFICATIONS

Each handgun was classified by:

1. Caliber - Handguns of a .32 caliber or less were classified as small; handguns over .32 caliber were classified as large.

# PROJECT IDENTIFICATION

## A Study of Crime Handguns

2. Barrel length - Handguns with a barrel length 3 inches or less were classified as short; handguns with barrel lengths over 3 inches were classified as long. All derringers, because of their ready concealability, were classified as short.
3. Type - Each handgun was classified as either a revolver or semi-automatic pistol. All derringers were classified as other.
- 6 4. Quality - Three classifications were used:
  - Class 1 - More expensive, higher quality handguns commonly used for law enforcement, collecting, sporting or target purposes. Retail price range was approximately \$100 or more.
  - Class 2 - Handguns of medium price, medium quality range, generally used for sporting, personal protection, hunting and similar purposes. Retail price range of approximately \$50 to \$100.
  - Class 3 - Inexpensive handguns of low quality. Retail price range usually less than \$50. All derringers were included in this class.
5. Firearms source - This term denotes the last retail dealer to whom the weapon was traced. If the gun was traced to a retail dealer in the same State as the city originating the trace, no attempt was made to further the trace. If the trace led to a retail dealer in a State other than that of the originating city, the trace was continued until it was taken to a retailer in the same State as the originating trace city. This was done to assure that following criminal investigations were not compromised.
6. Street Age - This refers to one of two dates: If the trace took the gun to an ultimate purchaser, the year of that purchase was used for establishing age. In all other traces the age-year was the year the weapon was shipped to the last known dealer.
7. Saturday Night Special - The term Saturday Night Special is subject to many and varied definitions. ATF has not attempted to create a conclusive or all-encompassing definition. However, for the purpose of

# PROJECT IDENTIFICATION

## A Study of Crime Handguns

this project only, ATF has defined a Saturday Night Special as a handgun which meets all of the following criteria:

- a. Cost - Less than \$50.
- b. Caliber - .32 caliber or less.
- c. Barrel length - 3 inches and under.

(All derringers were classified as Saturday Night Specials.)

8. GCA Reference - The handguns traced were classified, with relation to the date that they were traced to the last owner, as either before or after enactment of the Gun Control Act of 1968. As to those sections of the GCA relevant to this project, the GCA date referred to is Dec. 16, 1968.

A firearm may have been termed untraceable in this project for several reasons: Too old, no serial number, insufficient manufacturer records, surplus military or other factors which precluded successful tracing.

### STOLEN GUNS

To determine if a gun was stolen, each serial number was entered on the National Crime Information Center (NCIC) computer to see if it was one of approximately 938,000 stolen guns on file.

2117

# SUMMARY

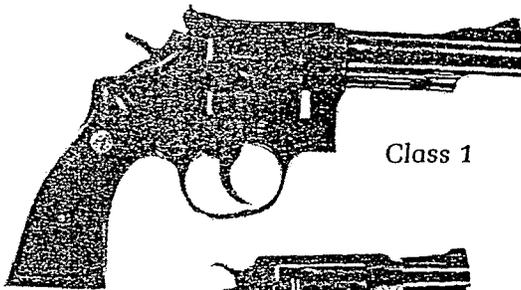
## Analysis of All Studies

This consolidated report reflects a total of 10,617 crime guns submitted by police of 16 cities for tracing. Of this total, 7,815 or 74 percent were successfully traced. The analysis of this data by individual classifications is outlined with appropriate interpretations.

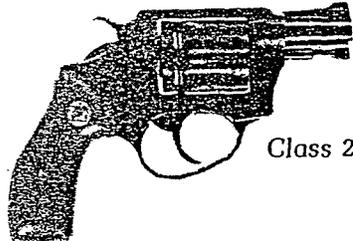
8 However, it should be noted that any conclusions based upon this data must be tempered with the knowledge that each firearm involved in the study had been obtained by police as the result of a crime or official investigation, and that this data does not represent general handgun ownership; only crime guns used by a small segment of the population.

### CLASS\*

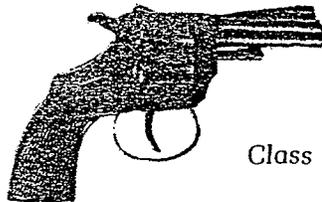
Class 1 (Quality handgun; valued at \$100 or more)	25%
Class 2 (Medium quality; valued at \$50 - \$100)	18%
Class 3 (Low quality; valued less than \$50)	56%



Class 1



Class 2



Class 3

\*Percentages listed in Class, Type, Barrel Length and Caliber relate to 10,617, the total crime guns submitted by police—all other percentages relate to 7,815 total number of crime guns successfully traced.

## SUMMARY

### Analysis of All Studies

The terms "class" and "value" must be recognized as relative terms insofar as this project is concerned. The categorization of traced weapons into one of these three categories was a mechanical function, predetermined by the identity of the manufacturer. In other words, all Colts and Smith and Wessons, for example, were considered to be Class 1; all Harrington and Richardsons and Iver Johnsons, for example, were considered to be Class II; all Clerkes and Rohms, for example, were considered to be Class III.

This predetermined classification system did not take into consideration the true market value of the weapon at the time of acquisition by the police, at the time of acquisition by the person from whom the police obtained it, or at the time of sale by the last known retail dealer. (The mechanics of the project were such that this information simply was not readily available.)

It is quite likely that many guns classified 1 and 2 had a market value of less than \$50 at the time obtained by the police or acquired by the last known possessor. A S & W, for example, 20 years of age that had passed through various hands and was ultimately disposed of through a pawnshop could easily—through normal depreciation, lack of care, lack of demand, etc.—have fallen into the less than \$50 bracket of market value no matter what its original price. (The opposite would be untrue except in those relatively few instances where value would increase because the weapon subsequently becomes a collector's item.) The fact that approximately 797 (23 percent) of the traced guns from the last 12 cities came from pawnshops is indicative of a considerable volume of depreciation. In addition, 624 (6 percent) of the total traced guns were stolen. This figure likely is minimal since weapons were classed as stolen only if reported by serial number to the National Crime Information Center. The value of these stolen guns—whether original or current market—is immaterial with relation to the question, "What kind of guns do criminals prefer for their criminal activities?"

Therefore, the only conclusion to be safely made from the "Class" data is that a substantial majority of handguns used in street crimes is of low quality with a market value of less than \$50. This conclusion is based on the fact that 5,336 (56 percent) of the handguns traced never exceeded \$50 in value and of the remaining 4,176, at least some portion of these represent handguns which, although originally valued in excess of \$50, had market values of less than \$50 at the time of the police acquisition due to depreciation, condition, age, lack of demand, etc. In addition, 624 of the handguns were found to have been stolen and therefore cost is not a factor to be considered.

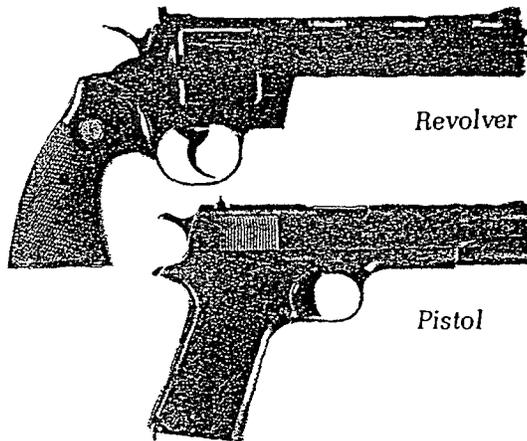
# SUMMARY

## Analysis of All Studies

### TYPE

Revolvers	- 76%
Semi-automatic pistols	- 24%

10



This three to one ratio, indicating that the revolver is the more heavily favored weapon by the criminal element, is directly proportional to the type of handguns manufactured in the United States. During the first 10 months of 1975, approximately 1.5 million revolvers were produced as compared to approximately 500,000 semi-automatic pistols; a ratio of three to one.

Another factor to be considered concerning "type" of weapon is that most individuals, exclusive of the law enforcement community and gun enthusiasts, do not fully understand the mechanical workings of the various types of weapons. When an individual acquires a handgun, whether for self-protection or to rob a gas station, his concern may be to obtain a weapon that will be simple to operate.

### BARREL LENGTH

Barrel 3" or less	- 71%
Barrel over 3"	- 29%

Barrel length of a handgun relates directly to concealability and as such it is probably the single most significant factor in the entire project. Its significance stands alone and is not dependent upon any other factor.

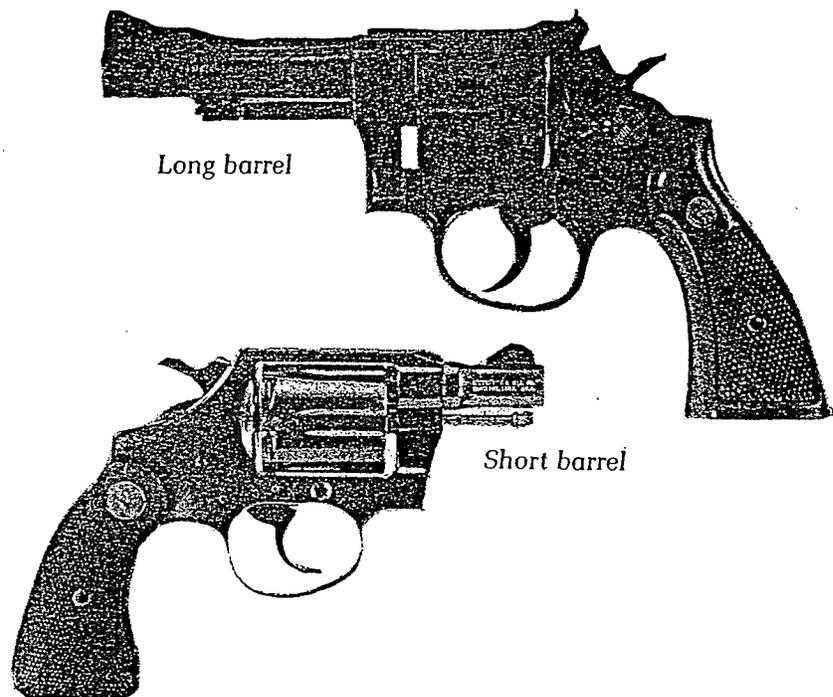
Even though complete statistics are not available for the specific reasons that police acquired each handgun in all studies, a review of individual trace forms indicate that many of these weapons were used in street crimes or they were related to "carrying concealed weapon" charges. If a weapon is

PLTF 100858

# SUMMARY

## Analysis of All Studies

to be used for street crime activity, concealability is the first and foremost consideration of the acquirer and the length of the barrel of a particular handgun basically determines its concealability.



It is also important to note that handguns with a barrel length in excess of 3 inches generally are more accurate and therefore more desirable for sporting or other legitimate purposes. (Proposals placed before Congress in 1975 would eliminate the manufacture, importation, and sale of revolvers with a barrel length of less than 4 inches and pistols with an overall length of less than 6 inches. All of the revolvers and most of the pistols that had a barrel length of 3 inches or less in this study, 71 percent, would be prohibited. Additionally, at least some of the remaining 29 percent which had barrels in excess of 3 inches would also be prohibited, i.e., revolvers with barrels 3 inches to 4 inches in length.)

### CALIBER

.32 caliber or less	- 61%
Over .32 caliber	- 39%

The popularity of a small caliber handgun is related directly to concealability, second only to barrel length. This factor is

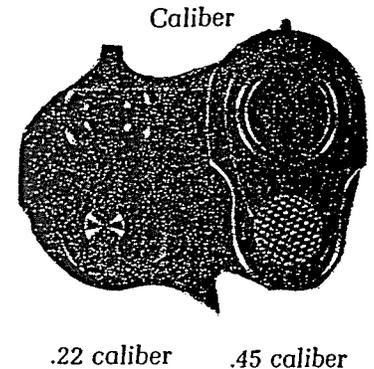
PLTF 100859

## SUMMARY

### Analysis of All Studies

12

related equally to the cost factor of the weapon. However, it may not necessarily be related to the quality of the product, i.e., a .22 caliber handgun generally is less expensive than a larger caliber weapon but numerous quality manufacturers produce the smaller .22 caliber handgun. Handguns produced during the first 10 months of 1975 do not indicate the same popularity of caliber among the general public as with handguns involved in street crimes. Manufacturers during this period produced an equal number of small and large caliber handguns, as compared to the three to two ratio found in the "caliber" category of this study.

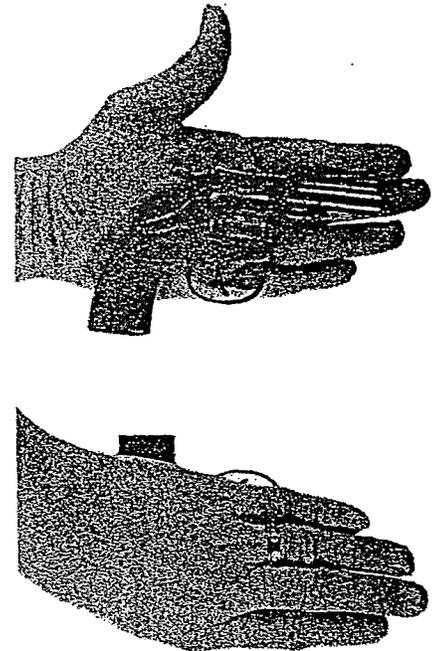


### SATURDAY NIGHT SPECIAL

This descriptive category was an attempt to arrive at a definition for statistical purposes that would only generally define an inexpensive, concealable weapon that has become common in street crime usage. To computerize and retrieve the information from the handguns in the study it became mechanically necessary to define this weapon as one which had a barrel length of 3 inches or less, one which had a caliber of .32 or less, and one which was relatively inexpensive (Class 3). For the purposes of this study a handgun had to meet all three criteria to be classified as a Saturday Night Special. (This restrictive definition was used only to facilitate statistical data compilation and ATF does not advocate its use as a legal definition.)

Forty-five percent or 3,486 of the weapons successfully traced could be categorized under this definition. Studies from individual cities indicate there was a high of 56 percent in Atlanta to a low of 26 percent in Miami/Dade County.

More significant than the number of weapons falling within this simple definition is the large percentage of handguns found in the study to be easily concealable, combining the caliber and barrel length factors only. As previously stated, concealability may be the most significant factor in the entire descriptive category. (Sixty-one percent of all handguns studied were small caliber and 71 percent had a barrel length of 3 inches or less.)



Saturday Night Special

### CRIME GUN SOURCES

The analysis also was directed toward crime gun sources and two factors were identified that are believed to be significant and indicative of a national pattern.

The number of Project I handguns traced to pawn/loan type businesses in the latter 12 project cities was totaled and indicate that 23 percent of all successfully traced handguns

# SUMMARY

## Analysis of All Studies

was sold to the public by a pawn/loan type business. A further in-depth study concerning the cities of Boston, Charlotte, Louisville and Los Angeles indicated that 25 percent of the handguns had been purchased from pawn/loan type businesses and 59 percent of these were Saturday Night Specials.

These statistics were manually obtained from the respective successfully traced handguns only if the licensee's business name reflected the words "pawn" or "loan," and therefore the totals are not conclusive but represent only the minimum number of weapons that had a pawn/loan type business as a source. Even though statistics are not available for all study cities with relation to "pawn/loan" businesses, it is significant that this source may have supplied a disproportionate number of inexpensive, concealable weapons if the statistics in the last four cities studied are reliable indicators for all project cities.

The state of origin of each successfully traced handgun also was analyzed in an attempt to determine specific sources and possible flow patterns of weapons used in street crimes.

The majority of the individual studies indicates that most of the crime guns were purchased in the state where they were involved in a crime. Data was not available however to determine whether or not the handgun had been purchased within the particular jurisdiction of the study city or whether the handgun had been purchased in another part of the same state.

There were significant exceptions where a majority of the weapons found in five study cities was purchased in other states. It is apparent that in the study area, with a few exceptions, the percentage of out-of-State purchases is directly proportional to the strength of the local firearm regulations.

Each study city, its major state or states of source, and a brief synopsis of local firearm regulations is outlined as follows:

### NEW YORK

Four percent from New York, 20 percent from South Carolina, 11 percent from Florida, 8 percent from Georgia, and 6 percent from Virginia. (All other states of source were less than 4 percent each—see individual study.)

The New York City Municipal Code requires the issuance of licenses and permits in order to lawfully possess or purchase a handgun as well as a shotgun or rifle. The Code additionally enumerates certain prohibited persons who cannot receive permits or licenses as well as requiring dealers in firearms to adhere to stringent regulations and licensing requirements.

# SUMMARY

## Analysis of All Studies

The New York firearms statutes commonly known as the Sullivan Law, are broadly accepted as one of the strictest in the United States and supplemented with potentially severe penalties.

One conclusion from the New York study is that a stringent local law has as a primary effect the funneling of local firearm purchasers to outside sources.

14

### ATLANTA

Eighty-one percent from Georgia. (All other States were less than 4 percent—see individual study.)

The Atlanta Municipal Code requires that dealers in handguns obtain a license from the Mayor or Board of Aldermen. There is no registration or licensing provisions for handguns under this jurisdiction or any other restriction on private ownership of handguns. Except that under Article 20-61 of the Municipal Code, .22 caliber handguns which have a barrel length of 3 inches or less and which retail for \$39 or less are prohibited. It is noted that Atlanta had the highest percentage for Saturday Night Specials (56 percent), even though there is legislative prohibition against this type of weapon. As in other study cities, sufficient data is not available to determine whether most of the crime guns were purchased in or outside of Atlanta's municipal jurisdiction, even though a majority were purchased within the same State.

### DETROIT

Eight percent from Michigan, 19 percent from Ohio, 9 percent from Kentucky, 9 percent from Georgia, and 6 percent from Mississippi. (All other states of source are listed in the individual reports.)

The city of Detroit requires that prior to purchasing a handgun a resident must obtain from the Chief of Police a permit and prevents any person from selling such weapons unless the purchaser has a permit to acquire the handgun. Michigan law is similar in that it requires a local Chief of Police issue a permit to an individual prior to his purchase of a handgun.

As in the case of New York, the Detroit and Michigan statutes apparently are effective in that 92 percent of all successfully traced handguns was purchased in other States. Detroit's geographical location may be a contributing factor to the large percentage coming from Ohio.

### NEW ORLEANS

Sixty-three percent from Louisiana. (All other states of source are listed in the individual reports.)

PLTF 100862

# SUMMARY

## Analysis of All Studies

New Orleans Municipal Code requires that residents obtain from the Chief of Police a permit to purchase handguns as well as prohibiting firearm dealers from selling handguns unless a permit is obtained by the purchaser. Louisiana State law does not require licensing or permits prior to handgun acquisition. As in other studies, there is insufficient data to determine if a majority of the New Orleans crime guns was purchased in or outside of that jurisdiction. However, it appears that current state legislation directly relates to the high percentage of handguns purchased within the State.

### DALLAS

Eighty-seven percent from Texas. (All other states of source are listed in the individual reports.)

The City of Dallas has no legislative restrictions on the purchase or possession of handguns and the State of Texas prohibits possession to certain persons, i.e., felons, minors, et al. Of all cities included in the project, Dallas had the highest percentage of source from within its own State.

### DENVER

Seventy-eight percent from Colorado. (All other states of source are listed in the individual reports.)

The City of Denver requires that handgun dealers maintain records of their sales, including more than one form of identification by the purchaser. There are no registration or permit requirements on the acquisition of handguns by private citizens. Similarly, the State of Colorado does not require licensing or the issuance of permits.

### KANSAS CITY MISSOURI

Thirty-five percent from Missouri and 26 percent from Kansas. (All other states of source are listed in the individual reports.)

Kansas City has no specific registration or permit requirements dealing with the acquisition of handguns. However, the State of Missouri requires that weapons which are "concealable" must be purchased with a permit obtained from the Sheriff in the county where acquired for a fee of 50¢. The State of Kansas has no registration, permit, or licensing requirement concerning purchase or possession of handguns.

The geographical location of Kansas City explains the high percentage of handguns which had Kansas as a state of source. However, an equally contributing factor may be the difference of regulation between Missouri and Kansas State laws.

# SUMMARY

## Analysis of All Studies

### OAKLAND

Seventy-four percent from California. (All other states of source are listed in the individual reports.)

The State of California requires the licensing of all firearm dealers and places upon that dealer certain restrictions as to the sale of "concealable" weapons. These restrictions include a waiting period between purchase and delivery of a handgun. (The waiting period has been extended to 15 days effective Jan. 1, 1976.) The dealer and the purchaser are required to file a registration form with the state that includes descriptive information about the purchaser.

16

The City of Oakland has no specific registration, permit, or licensing requirements other than those provided by state statutes at the time of this study.

The Oakland study and the Los Angeles study indicate that the majority of the crime guns had been purchased within that State. This is contrary to the patterns established in other cities that have relatively strong registration, permit, or licensing requirements. There is insufficient data available from the project studies to explain this situation. However, one factor simply may be the distance between California and other areas where handguns may be more easily obtained.

### MIAMI

Eighty-two percent from Florida. (All other states of source are listed in the individual reports.)

Miami and Dade County have regulations that require a 72-hour waiting period between purchase and delivery of handguns. In addition, Miami requires the notification of the sale, along with certain information relevant to the weapon and purchaser, to the Chief of Police. The State of Florida has no specific registration, licensing, or permit requirements; it does have a prohibited persons category similar to most other States. As in other cities, the project information was not able to identify whether the crime guns used in Miami and Dade County were purchased from in or outside of those particular jurisdictions.

### MINNEAPOLIS/ST. PAUL

Sixty-one percent from Minnesota. (All other states of source are listed in the individual reports.)

There is no specific registration, licensing, or permit requirement in either the State of Minnesota or the City of Minneapolis. Each jurisdiction prohibits the sale to certain persons, i.e., felons, minors, et. al.; and Minneapolis requires that whenever a handgun is transferred, a notice of that transfer be filed with the City Clerk. St. Paul requires that a

# SUMMARY

## Analysis of All Studies

permit be first obtained from the Chief of Police prior to purchase of a handgun. The data available from this study does not delineate sales in either St. Paul or Minneapolis, therefore no conclusion can be made except that a majority of the crime guns was purchased within the State of Minnesota.

### PHILADELPHIA

Fifty-four percent from Pennsylvania, 9 percent from Virginia, and 8 percent from South Carolina. (All other states of source are listed in the individual reports.)

Pennsylvania State law requires a waiting period of 48 hours between purchase and delivery of a handgun, and filing with the state a notification of the purchase, accompanied by identifying data about the purchaser. The City of Philadelphia additionally requires a license or permit to purchase be obtained from the Philadelphia Police Department prior to the sale of a handgun. (The State of Pennsylvania has passed legislation nullifying local firearm regulations, however, Philadelphia continues to enforce some of its ordinances pending on appeal of the State law.) Even though data is not available from the project to identify whether the crime guns purchased in Pennsylvania were acquired in or out of the jurisdiction of Philadelphia, other enforcement projects have clearly indicated that in all probability they were purchased outside of Philadelphia. It is significant that Virginia and South Carolina, the two largest states of source outside of Pennsylvania, also are major states of source in the New York study.

### SEATTLE

Seventy-six percent from Washington. (All other states of source are listed in the individual reports.)

The City of Seattle requires a 72-hour waiting period between purchase and delivery of a handgun and written notification of the purchase, with pertinent personal data, being sent to the Chief of Police. The State of Washington requires a similar action on the part of both the purchaser and the dealer. There is no specific permit or licensing requirements for possession or purchase of handguns. The written notification of purchase and waiting period is to provide the police time for action if the proposed purchaser is a prohibited person.

### BOSTON

Thirty-five percent from Massachusetts, 11 percent from Florida, and 7 percent from South Carolina. (All other states of source are listed in individual reports.)

PLTF 100865

# SUMMARY

## Analysis of All Studies

18

Immediately prior to the project being instituted in Boston, the State of Massachusetts enacted mandatory sentencing legislation dealing with possession of firearms without a permit. Massachusetts State law basically requires an individual to obtain a firearm identification card prior to possession of a firearm. A permit to purchase a firearm is additionally required. Both the permits and licenses are issued by appropriate police agencies. Because of the enactment of the mandatory penalty section of the firearm regulations, the total number of firearms submitted in the Boston study was minimal for a major metropolitan area. If the limited number of study handguns is factually representative of the crime guns used in Boston, then it appears that Massachusetts regulations, even prior to mandatory sentencing, had an effect similar to the New York, Detroit and Philadelphia regulations; that is, the prohibition in one jurisdiction caused potential purchasers to look elsewhere.

### CHARLOTTE

Forty-three percent from North Carolina and 29 percent from South Carolina. (All other states of sources are listed in the individual reports.)

North Carolina requires that the Sheriff issue a permit prior to an individual purchasing a handgun in the county of the Sheriff's jurisdiction. Additionally, there are certain prohibited persons, i.e., felons, minors, et al., who cannot purchase or possess handguns, and firearm dealers are required to be licensed and regulated. The enactment and enforcement of some portions of the state's regulations are recent. The project did not provide sufficient data to determine the effect that these laws had upon the source of Charlotte's crime guns. Charlotte's proximity to South Carolina apparently is a factor in the large percentage of crime guns purchased in that state, and of equal importance is the differing firearm regulations in each state at the time of the study.

### LOUISVILLE

Eighty-two percent from Kentucky. (All other states of source are listed in the individual reports.)

The State of Kentucky has no specific registration, licensing, or permit requirements for the purchase or possession of handguns. The City of Louisville requires written notification to the Louisville police of each handgun transaction, with pertinent data about the purchaser and the weapon purchased. Thumb printing is included in this registration and there is a 24-hour waiting period between purchase and delivery. As in other studies, no determination can be made as to whether the crime guns used in Louisville

PLTF 100866

# SUMMARY

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## Analysis of All Studies

Kentucky actually were purchased in Louisville or outside of that jurisdiction where less stringent regulations were in effect.

### LOS ANGELES

Eighty-two percent from California. (All other states of source are listed in the individual reports.)

The same comments for Oakland apply equally to this study.

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In summary it appears that the following determinations can be made about crime guns used in the project cities:

1. In general, small caliber, short barreled handguns, that usually are inexpensive, are the favored weapon used in street crimes. Combining all factors, concealability may be the most significant factor found in the majority of these weapons.
2. That pawnshops or loan type businesses are the sources of a large number of the Saturday Night Special type handguns, disproportionate to the actual percentage that this class of business is of the total number of firearm dealers.
3. That the strength of firearm regulations or enforcement of those regulations in differing project cities is directly proportional to the percentage of crime guns that were purchased in another State. It also appears that a significant factor concerning the strength of a local ordinance is whether or not a prior permit or authority to purchase is needed. This means that regulations requiring after the fact notification do not have the same deterrent effect on potential handgun purchasers as do regulations requiring prior purchase permits.

# STATISTICAL SUMMARY

## Consolidated Sixteen City Report

### PHASE I

	New York	Atlanta*	Detroit	New Orleans
Total handguns received for tracing	2,931	827	1,262	324
Successfully traced	2,546	665	840	324
Percent Successful	87%	80%	67%	100%
No. of Class 1	628	130	84	8
No. of Class 2	417	152	210	97
No. of Class 3	1,501	545	546	219
No. of Revolvers	1,918	690	664	227
No. of Semi-auto Pistols	628	137	176	97
No. with 3" barrel or less	1,938	671	568	227
No. with over 3" barrel	608	156	272	97
No. with .32 caliber or less	1,636	561	672	166
No. with over .32 caliber	910	266	168	158
Saturday Night Specials (Successfully traced)	1,348		390	95
Percent of Successfully Traced	53%		46%	29%
Saturday Night Specials (Received for tracing)		466		
Percent of total received		56%		
Source—Firearms Dealer				
Source—Pawn Shop				
Street Age—Prior to GCA (12-16-68)				
Street Age—After GCA				
No. Stolen	263	50	109	5
Percent of total received	9%	6%	9%	2%

20

### PHASE II

	Dallas	Denver	Kansas City	Oakland
Total handguns received for tracing	654	190	314	245
Successfully traced	517	154	222	189
Percent Successful	79%	81%	71%	77%
No. of Class 1	77	33	64	65
No. of Class 2	59	32	45	28
No. of Class 3	381	89	113	116
No. of Revolvers	425	119	159	150
No. of Semi-auto Pistols	92	35	63	39
No. with 3" barrel or less	397	95	145	149
No. with over 3" barrel	120	59	77	40
No. with .32 caliber or less	352	94	136	118
No. with over .32 caliber	165	60	86	71
Saturday Night Specials (Successfully traced)	254	52	68	90
Percent of Successfully Traced	49%	34%	31%	48%
Saturday Night Specials (Received for tracing)				
Percent of total received				
Source—Firearms Dealer	322	91	177	112
Source—Pawn Shop	195	63	45	77
Street Age—Prior to GCA (12-16-68)	266	73	199	105
Street Age—After GCA	388	117	115	140
No. Stolen	17	11	38	9
Percent of total received	3%	6%	12%	4%

\*For analysis as to class, type, caliber, etc., the computation for Atlanta included 162 untraceable guns; in the other seven cities of Phase I and II the computations are based only on the successfully traced guns.

PLTF 100868

# STATISTICAL SUMMARY

## Consolidated Sixteen City Report

### PHASE III

	Miami/ Dade	Minpls/ St. Paul	Phil	Seatl
Total handguns received for tracing	957	283	993	219
Successfully traced	652	178	571	129
Percent Successful	68%	63%	58%	59%
No. of Class 1	344	91	360	85
No. of Class 2	121	73	210	36
No. of Class 3	492	119	423	98
No. of Revolvers	709	191	787	155
No. of Semi-auto Pistols	248	92	206	64
No. with 3" barrel or less	641**	159**	733**	119**
No. with over 3" barrel	298	113	251	93
No. with .32 caliber or less	439	170	585	110
No. with over .32 caliber	512*	113	408	109
Saturday Night Specials (Successfully traced)	167	53	192	35
Percent of Successfully Traced	26%	30%	34%	27%
Saturday Night Specials (Received for tracing)	252	79	323	50
Percent of total received	26%	28%	33%	23%
Source—Firearms Dealer	555	153	525	88
Source—Pawn Shop	97	25	46	41
Street Age—Prior to GCA (12-16-68)	164	63	178	52
Street Age—After GCA	488	115	393	77
No. Stolen	7	4	79	1
Percent of total received	1%	1%	8%	1%

### COMPOSITE TOTALS OF PHASE I-II-III-IV

	TLTS	%†
Total handguns received for tracing	10,617	
Successfully traced	7,815	
Percent Successful	74%	
No. of Class 1	2,444	26
No. of Class 2	1,732	18
No. of Class 3	5,336	56
No. of Revolvers	7,235	76
No. of Semi-auto Pistols	2,257	24
No. with 3" barrel or less	6,590	71
No. with over 3" barrel	2,708	29
No. with .32 caliber or less	5,797	61
No. with over .32 caliber	3,689	39
Saturday Night Specials (Successfully traced)	3,486	
Percent of Successfully Traced	45%	
Saturday Night Specials (Received for tracing)	1,149	
Percent of total received	30%	
Source—Firearms Dealer	2,643	77
Source—Pawn Shop	797	23
Street Age—Prior to GCA (12-16-68)	1,285	34
Street Age—After GCA	2,476	66
No. Stolen	624	
Percent of total received	6%	

† Percentages in this column are based on the actual totals of line items in the particular descriptive category.

### PHASE IV

	Boston	Charl.	Louisvil	Los Angeles
Total handguns received for tracing	171	107	327	816
Successfully traced	84	68	214	462
Percent Successful	49%	64%	65%	57%
No. of Class 1	74	35	100	266
No. of Class 2	40	14	49	149
No. of Class 3	57	58	178	401
No. of Revolvers	111	86	247	597
No. of Semi-auto Pistols	60	21	80	219
No. with 3" barrel or less	112	77	251	457
No. with over 3" barrel	59	30	76	359
No. with .32 caliber or less	95	60	186	417
No. with over .32 caliber	76	47	141	399
Saturday Night Specials (Successfully traced)	21	31	83	141
Percent of Successfully Traced	25%	46%	39%	31%
Saturday Night Specials (Received for tracing)	46	48	120	231
Percent of total received	27%	45%	37%	28%
Source—Firearms Dealer	78	56	141	345
Source—Pawn Shop	6	12	73	117
Street Age—Prior to GCA (12-16-68)	25	19	45	96
Street Age—After GCA	59	49	169	366
No. Stolen	3	8	11	9
Percent of total received	2%	7%	3%	1%

\* Does not include six guns showing gauge instead of caliber.

\*\* Does not include 45 guns of unknown barrel length.

PLTF 100869

# MAJOR CRIME GUN SOURCES

## Handguns Recovered in other States

### FLORIDA

The State of Florida has no specific registration, licensing, or permit requirements concerning the purchase of handguns. Certain persons, i.e., convicted felons, are prohibited from possessing firearms.

#### SUPPLIED CRIME GUNS TO

22



New York (11%)\*

Boston (11%)

Philadelphia (5%)

Detroit (4%)

Charlotte (4%)

Atlanta (2%)

### GEORGIA

During the period covered by these studies the State of Georgia had no specific registration, licensing, or permit requirements dealing with the purchase of handguns or the possession of handguns. State regulations have been recently imposed requiring that prior to purchasing a handgun a certification must be obtained from police indicating the purchaser has not been convicted of a felony during the past five years.

#### SUPPLIED CRIME GUNS TO



Detroit (9%)

Charlotte (9%)

New York (8%)

Boston (6%)

Philadelphia (4%)

Oakland (3%)

Miami (3%)

Los Angeles (2%)

# MAJOR CRIME GUN SOURCES

Handguns Recovered in Other States

## OHIO

The State of Ohio has no uniform specific registration, licensing, or permit requirements concerning the purchase or possession of handguns. Several municipal jurisdictions require police issued permits prior to the purchase of a handgun, however, these regulations vary between cities. There are certain persons, i.e., felons, fugitives, et. al., who are prohibited from possessing handguns by State law.

23

### SUPPLIED CRIME GUNS TO



Detroit (19%)  
New York (3%)  
Miami (2%)  
Oakland (2%)  
Atlanta (1%)  
Philadelphia (1%)  
Minneapolis (1%)  
Boston (1%)  
Louisville (1%)  
Charlotte (1%)  
Kansas City (1%)

## SOUTH CAROLINA

During the project study period and prior to 1975, the State of South Carolina had no specific handgun requirements concerning registration, licensing, or permits. The only regulation concerned certain prohibited persons, i.e., convicted felons and minors. (As a result of ATF's Project I information made available since 1973, the State of South Carolina enacted legislation, effective in June 1975, which provides for more stringent regulation of firearm dealers, and requires that a firearm transaction form be executed at the time of sale. Purchasers must possess specified South Carolina identification and State police are supplied a copy of each transaction form. Citizens are limited to one handgun purchase in 30 days.)

### SUPPLIED CRIME GUNS TO

PLTF 100871



Charlotte (29%)  
New York (20%)  
Philadelphia (8%)  
Boston (7%)  
Detroit (4%)  
Atlanta (2%)

# MAJOR CRIME GUN SOURCES

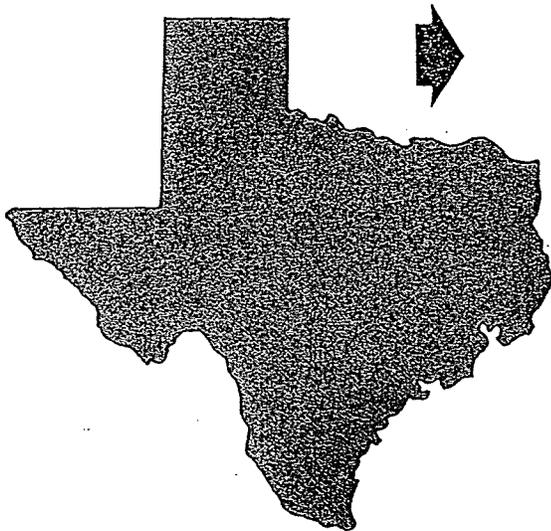
## Handguns Recovered in other States

### TEXAS

The State of Texas has no specific registration, licensing, or permit requirements concerning the purchase or possession of a handgun. There is a prohibited person category similar to most other States governing possession of firearms.

#### SUPPLIED CRIME GUNS TO

24



- New Orleans (8%)
- Boston (5%)
- Kansas City (5%) Philadelphia (2%)
- Denver (4%) Miami (1%)
- Los Angeles (3%) Louisville (1%)
- Oakland (3%) Seattle (1%)
- New York (3%)
- Detroit (3%)

### VIRGINIA

The State of Virginia has no specific Statewide registration, licensing, or permit requirements concerning the purchase or possession of handguns. There is in effect however a "county option" regulation that may provide for licensing of firearm dealers and require police-issued permits prior to handgun purchases. Some of the metropolitan counties have exercised these options, and others have not.

#### SUPPLIED CRIME GUNS TO



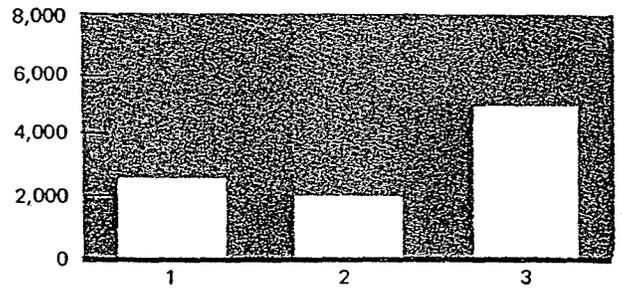
- Philadelphia (9%)
- Charlotte (7%)
- New York (6%)
- Boston (6%)

PLTF 100872

# SUMMARY

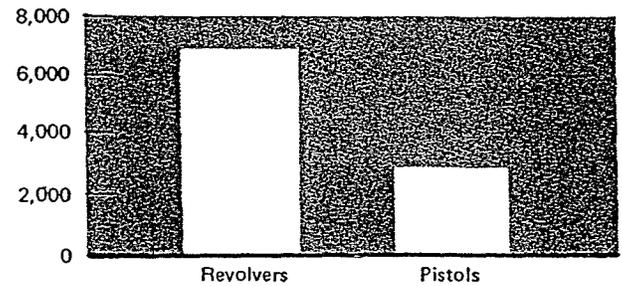
## Handguns

CLASS

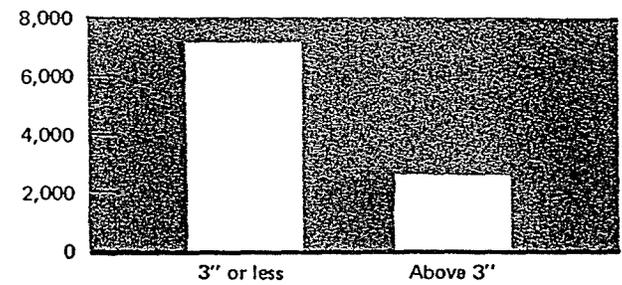


25

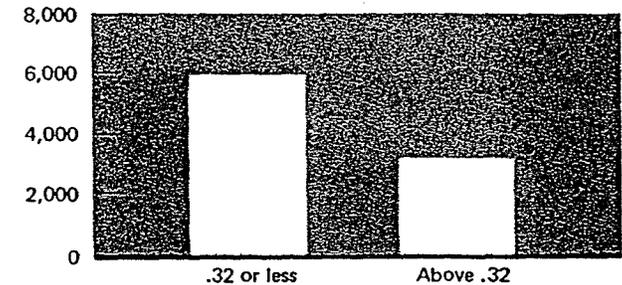
TYPE



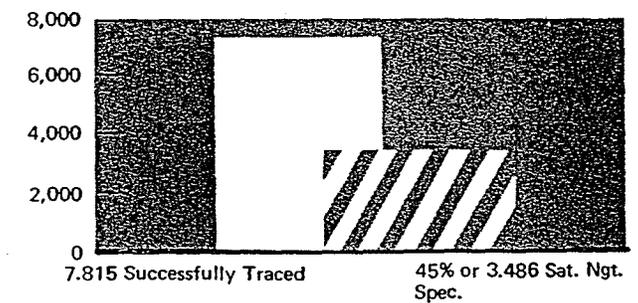
BARREL LENGTH



CALIBER



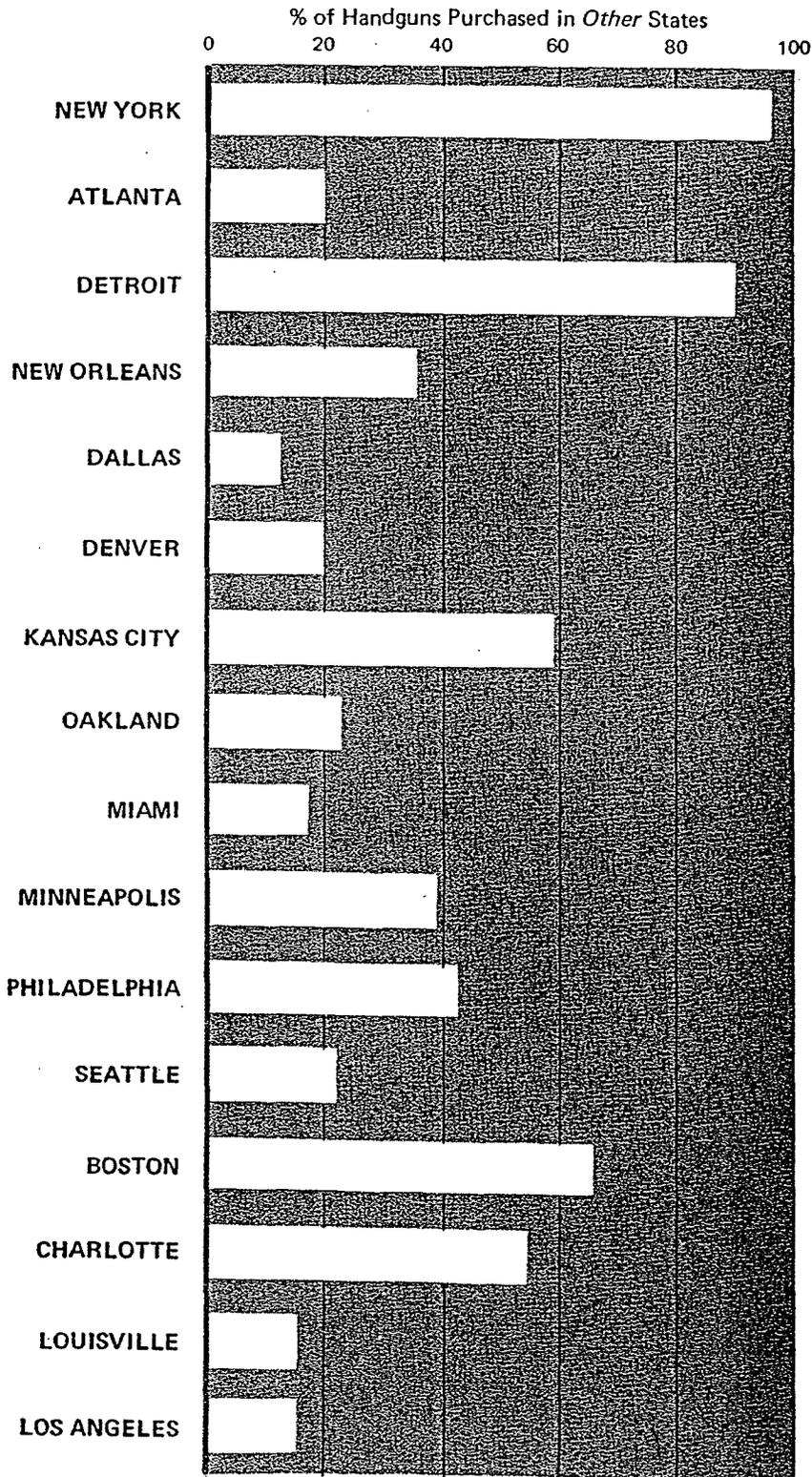
SATURDAY NIGHT SPECIALS



# SUMMARY

## All Study Cities

26



PLTF 100874

# COMPOSITE FINDINGS

## PHASE I

Atlanta, Detroit, New Orleans, New York City

Phase I of Project I included the areas of Atlanta, Detroit, New Orleans and New York City. The period covered was July 1, 1973 through December 1973, 6 months.

During that time, police in those cities submitted for tracing 5,344 handguns, of which 969 were untraceable. ATF successfully traced 4,375,\* or 81.9 percent of the total received.

Four hundred twenty-seven, or 7.9 percent, were stolen.

There were 3,499 revolvers and 1,038 semi-automatic pistols for a popularity ratio of approximately 3 to 1.

Short barreled handguns totaled 3,404, or 75 percent of the total.

Small caliber handguns accounted for 66.9 percent, or 3,035 weapons.

### Quality Statistics

Class 1	850 guns	18.7%
Class 2	876 guns	19.3%
Class 3	2,811 guns	62.0%

Of the successfully traced weapons, 2,299, or 50.7 percent, were Saturday Night Specials.

### STATISTICAL SUMMARY

#### PHASE I COMPOSITE

(Data Base for Analysis is 4,537; sum of data base of each city)

Class 1 (\$100 or more)	850	18.7%
Class 2 (\$50 - \$100)	876	19.3%
Class 3 (less than \$50)	2,811	62.0%
Semi-automatic pistols	1,038	22.9%
Revolvers	3,499	77.1%
Short Barrel	3,404	75.0%
Long Barrel	1,133	25.0%
Small Caliber	3,035	66.9%
Large Caliber	1,502	33.1%

PLTF 100875

\*For analysis as to class, type, caliber, etc., the computation for Atlanta included 162 untraceable firearms; in the other three cities of Phase I, the computations were based only on the successfully traced firearms.

# COMPOSITE FINDINGS

## PHASE I

### ATLANTA

During the six-month period Project I was in progress in Atlanta, 827 handguns were submitted by the Atlanta Police Department for tracing. Six hundred and sixty-five, or 80.4 percent of those submitted, were successfully traced and 162 were untraceable. Of 827 weapons submitted for tracing:

Fifty, or 6 percent, were stolen.

28

There were 690 revolvers and 137 semi-automatic pistols for a popularity ratio of 5 to 1.

Short barreled handguns totaled 671, or 81.1 percent of the total.

Small caliber handguns accounted for 67.8 percent of the total, or 561 weapons.

#### Quality Statistics

Class 1	130 guns	15.7%
Class 2	152 guns	18.3%
Class 3	545 guns	66.0%

Of the total handguns, 466, or 56.3 percent, were **Saturday Night Specials**.

More than 80 percent of the handguns surveyed in this project originated in Georgia. Twelve licensed dealers were the retail source for most.

### STATISTICAL SUMMARY

#### ATLANTA

(Data Base for Analysis is 827; total received from field)

Class 1 (\$100 or more)	130	15.7%
Class 2 (\$50 - \$100)	152	18.3%
Class 3 (less than \$50)	545	66.0%
Semi-automatic pistols	137	15.4%
Revolvers	690	84.6%
Short Barrel	671	81.1%
Long Barrel	156	18.9%
Small Caliber	561	67.8%
Large Caliber	266	32.2%

# COMPOSITE FINDINGS

## PHASE I

### SUMMARY SOURCES OF HANDGUNS ATLANTA

STATE	NO. GUNS	STATE	NO. GUNS
Georgia	537	Mississippi	3
Florida	19	Pennsylvania	3
South Carolina	14	West Virginia	3
North Carolina	9	California	2
Tennessee	8	Indiana	2
Alabama	7	Nebraska	2
Kentucky	7	Arizona	1
New York	7	District of Columbia	1
Ohio	6	Kansas	1
Missouri	5	Minnesota	1
Texas	5	New Jersey	1
Michigan	4	New Mexico	1
Illinois	3	Oklahoma	1
Iowa	3	Washington	1
Louisiana	3		
		Total	665

### NEW YORK

During the six-month period the New York Project I was in progress, ATF traced or processed for tracing a total of 2,931 handguns. Two thousand five hundred and forty-six, or 86.9 percent of those processed, were successfully traced and 255 were untraceable.

One hundred and thirty were identified as New York Police Department firearms being held for official proceedings. For the purpose of analysis, the police handguns were eliminated, for a total of 2,546 handguns covered. Of 2,931 weapons submitted for tracing:

Two hundred and sixty-three, or 9 percent, were **stolen**.

There were 1,918 **revolvers** and 628 **semi-automatic pistols** for a popularity ratio of 3 to 1.

**Short barreled handguns** totaled 1,938 or 76.1 percent of the total.

**Small caliber handguns** accounted for 64.2 percent of the total, or 1,636 weapons.

#### Quality Statistics

Class 1	628 guns	24.7%
Class 2	417 guns	16.4%
Class 3	1,501 guns	58.9%

Of the successfully traced guns, 1,348, or 53 percent, were **Saturday Night Specials**.

Major sources of the New York handguns were South Carolina, 500 guns, 20 percent; Florida, 278 guns, 11 percent; Georgia, 214 guns, 8 percent; Virginia, 169 guns, 6 percent; and New York, 103 guns, 4 percent.

# COMPOSITE FINDINGS

## PHASE I

### STATISTICAL SUMMARY NEW YORK

(Data Base for Analysis is 2,546; total successfully traced)

	Class 1 (\$100 or more)	628	24.7%
	Class 2 (\$50 - \$100)	417	16.4%
	Class 3 (less than \$50)	1,501	58.9%
<b>30</b>	Semi-automatic pistols	628	24.7%
	Revolvers	1,918	75.3%
	Short Barrel	1,938	76.1%
	Long Barrel	608	23.9%
	Small Caliber	1,636	64.2%
	Large Caliber	910	35.8%

### SUMMARY SOURCES OF HANDGUNS NEW YORK CITY

STATE	NO. GUNS	STATE	NO. GUNS
South Carolina	500	Arkansas	7
Florida	273	Maine	7
Georgia	214	Kansas	6
Virginia	169	Massachusetts	6
New York	103	New Mexico	6
Texas	83	Nevada	5
North Carolina	80	Utah	5
Ohio	73	Iowa	4
Pennsylvania	47	Oregon	4
California	47	Washington	4
Alabama	46	Delaware	3
Kentucky	41	Wisconsin	3
Illinois	34	Alaska	2
Connecticut	33	Minnesota	2
Maryland	32	Montana	2
New Jersey	28	Nebraska	2
Tennessee	28	Vermont	2
Louisiana	27	New Hampshire	1
Mississippi	26	North Dakota	1
West Virginia	22	Rhode Island	1
Missouri	19	Hawaii	0
Arizona	11	Idaho	0
District of Columbia	11	South Dakota	0
Indiana	11	Wyoming	0
Michigan	10	Foreign Sources	498
Colorado	9		
Oklahoma	9		
	<b>Total</b>		<b>2,546</b>

PLTF 100878

# COMPOSITE FINDINGS

## PHASE I

### STATISTICAL SUMMARY NEW YORK

(Data Base for Analysis is 2,546; total successfully traced)

	Class 1 (\$100 or more)	628	24.7%
	Class 2 (\$50 - \$100)	417	16.4%
	Class 3 (less than \$50)	1,501	58.9%
<b>30</b>	Semi-automatic pistols	628	24.7%
	Revolvers	1,918	75.3%
	Short Barrel	1,938	76.1%
	Long Barrel	608	23.9%
	Small Caliber	1,636	64.2%
	Large Caliber	910	35.8%

### SUMMARY SOURCES OF HANDGUNS NEW YORK CITY

STATE	NO. GUNS	STATE	NO. GUNS
South Carolina	500	Arkansas	7
Florida	273	Maine	7
Georgia	214	Kansas	6
Virginia	169	Massachusetts	6
New York	103	New Mexico	6
Texas	83	Nevada	5
North Carolina	80	Utah	5
Ohio	73	Iowa	4
Pennsylvania	47	Oregon	4
California	47	Washington	4
Alabama	46	Delaware	3
Kentucky	41	Wisconsin	3
Illinois	34	Alaska	2
Connecticut	33	Minnesota	2
Maryland	32	Montana	2
New Jersey	28	Nebraska	2
Tennessee	28	Vermont	2
Louisiana	27	New Hampshire	1
Mississippi	26	North Dakota	1
West Virginia	22	Rhode Island	1
Missouri	19	Hawaii	0
Arizona	11	Idaho	0
District of Columbia	11	South Dakota	0
Indiana	11	Wyoming	0
Michigan	10	Foreign Sources	498
Colorado	9		
Oklahoma	9	Total	2,546

PLTF 100879

# COMPOSITE FINDINGS

## PHASE I

### DETROIT

A total of 1,262 handguns was submitted by the Detroit Police Department. Eight hundred and forty, or 67 percent of those submitted, were traced successfully and 422 were untraceable. Of 1,262 weapons submitted for tracing:

One hundred and nine, or 9 percent, were stolen.

There were 664 revolvers and 176 semi-automatic pistols for a popularity ratio of almost 4 to 1.

Short barreled handguns totaled 568, or 67.6 percent of the total traced.

Small caliber handguns accounted for 80 percent of the total traced, or 672 weapons.

#### Quality Statistics

Class 1	84 guns	10%
Class 2	210 guns	25%
Class 3	546 guns	65%

Of the successfully traced guns, 390, or 46.4 percent, were Saturday Night Specials.

Major sources of the Detroit handguns were Ohio, 157 guns, 18.7 percent; Kentucky, 75 guns, 9 percent; Georgia, 74 guns, 9 percent; and Michigan, 70 guns, 8.3 percent.

The evidence was that 9 percent of the handguns received for tracing in Detroit was stolen, and equaled the 9 percent stolen gun rate in New York City. This supports the theory that theft rates are higher in states or cities having rigid firearms control.

### STATISTICAL SUMMARY

#### DETROIT

(Data Base for Analysis is 840; total successfully traced)

Class 1 (\$100 or more)	84	10%
Class 2 (\$50 - \$100)	210	25%
Class 3 (less than \$50)	546	65%
Semi-automatic pistols	176	21%
Revolvers	664	79%
Short Barrel	568	67.6%
Long Barrel	272	32.4%
Small Caliber	672	80%
Large Caliber	168	20%

PLTF 100880

# COMPOSITE FINDINGS

## PHASE I

### SUMMARY SOURCES OF HANDGUNS DETROIT

32

STATE	NO. GUNS	STATE	NO. GUNS
Ohio	157	Missouri	8
Kentucky	75	North Carolina	6
Georgia	74	Utah	4
Michigan	70	New Mexico	5
Mississippi	49	Iowa	3
Alabama	46	Alaska	2
Florida	37	Delaware	2
South Carolina	34	Massachusetts	2
Tennessee	32	Maryland	2
Arkansas	30	Minnesota	2
Texas	27	Kansas	2
Oklahoma	23	Oregon	2
Louisiana	23	Washington	2
Virginia	22	Wisconsin	2
Illinois	22	Connecticut	1
West Virginia	14	New Hampshire	1
Pennsylvania	13	New Jersey	1
New York	13	Rhode Island	1
Indiana	11	Nebraska	1
California	9	District of Columbia	1
Colorado	9		
		Total	840

### NEW ORLEANS

A total of 324 handguns was submitted by the New Orleans Police Department for tracing. All, or 100 percent of those submitted, were traced successfully. Of 324 weapons submitted for tracing:

Five, or 2 percent, were **stolen**.

There were 227 revolvers and 97 semi-automatic pistols for a popularity ratio of approximately 3 to 2.

Short barreled handguns totaled 227 or 70 percent of the total.

Small caliber handguns accounted for 51.2 percent of the total, or 166 weapons.

#### Quality Statistics

Class 1	8 guns	2.5%
Class 2	97 guns	29.9%
Class 3	219 guns	67.6%

Of the successfully traced guns, 95 or 29.3 percent, were **Saturday Night Specials**.

Major sources of the New Orleans handguns were Louisiana, 201 guns, 62 percent; Texas, 26 guns, 8 percent; Mississippi, 23 guns, 7 percent; and Florida, 10 guns, 3 percent.

PLTF 100881

# COMPOSITE FINDINGS

## PHASE I

### STATISTICAL SUMMARY NEW ORLEANS

(Data Base for Analysis is 324; total received from field)

Class 1 (\$100 or more)	8	2.5%	
Class 2 (\$50 - \$100)	97	29.9%	
Class 3 (less than \$50)	219	67.6%	
Semi-automatic pistols	97	30.0%	
Revolvers	227	70.0%	33
Short Barrel	227	70.0%	
Long Barrel	97	30.0%	
Small Caliber	166	51.2%	
Large Caliber	158	48.8%	

### SUMMARY SOURCES OF HANDGUNS NEW ORLEANS

STATE	NO. GUNS
Louisiana	201
Texas	26
Mississippi	23
Florida	10
Georgia	7
Illinois	7
Kansas	7
Kentucky	7
North Carolina	6
Minnesota	3
Alabama	3
Arkansas	3
Maryland	3
Massachusetts	3
Michigan	3
New York	3
Ohio	3
Pennsylvania	3
Washington	3
Total	324

# COMPOSITE FINDINGS

## PHASE II

Dallas, Denver, Kansas City, Oakland

A total of 1,403 handguns was submitted by police in Dallas, Denver, Kansas City and Oakland from Feb. 15 - May 15, 1974, 90 days. Of this total, 321 handguns were untraceable; 1,082 or 77 percent of the handguns submitted were traced. The following figures relate to the 1,082 traceable weapons:

Seventy-five, or 7 percent, were **stolen**.

There were 853 **revolvers** and 229 **semi-automatic pistols**, for a popularity ratio of about 4 to 1.

34

**Short barreled handguns** totaled 786, or 73 percent of the weapons traced.

**Small caliber handguns** accounted for 700 of the weapons traced, or 65 percent.

### Quality Statistics

Class 1	219 guns	20%
Class 2	164 guns	15%
Class 3	699 guns	65%

Of the successfully traced guns, 464, or 43 percent, were **Saturday Night Specials**.

The analysis of **street age** for the 1,403 handguns submitted for tracing showed 24 percent, about 1 out of every 4, had been in circulation less than 1 year before becoming involved in some type of police action; about 7 out of every 10 guns traced (763 of 1,082) came into circulation subsequent to the Gun Control Act of 1968.

Of the 1,082 handguns successfully traced, 380, or 35 percent, were traced to a pawnshop/loan shop source. Of these 380 handguns, 260 (68 percent) were Saturday Night Specials. Fifty-six percent of all Saturday Night Specials came from pawnshop sources.

The inexpensive (Class 3, under \$50) handguns were the most popular, accounting for about 2 out of every 3 guns seized.

### STATISTICAL SUMMARY PHASE II COMPOSITE

(Data Base for Analysis is 1,082; sum of data base of each city)

Class 1 (\$100 or more)	219	20%
Class 2 (\$50 - \$100)	164	15%
Class 3 (less than \$50)	699	65%
Semi-automatic pistols	229	21%
Revolvers	425	79%
Short Barrel	786	73%
Long Barrel	296	27%
Small Caliber	700	65%
Large Caliber	382	35%

PLTF 100883

# COMPOSITE FINDINGS

## PHASE II

### SUMMARY SATURDAY NIGHT SPECIALS PHASE II

	Dallas	Denver	Kansas City Missouri	Oakland	Total
Saturday Night Specials	254	52	68	90	464
Percent of Total traced	49%	34%	31%	48%	43%

#### DALLAS

The Dallas Police Department submitted 654 handguns for tracing. Of these, 137 were untraceable, and 517, or 79 percent of those submitted, were successfully traced. Of the 517 traceable weapons:

Seventeen, or 3 percent, were **stolen**.

There were 425 **revolvers** and 92 **semi-automatic pistols** for a popularity ratio of almost 5 to 1.

**Short barreled handguns** totaled 397, or 77 percent of the total traced.

**Small caliber handguns** accounted for 68 percent of the total, or 352 weapons.

#### Quality Statistics

Class 1	77 guns	15%
Class 2	59 guns	11%
Class 3	381 guns	74%

Two hundred and fifty-four of the 517 weapons, or 49 percent, were **Saturday Night Specials**.

The major sources for the Dallas handguns were Texas, 450 guns, or 87 percent; and Florida, 8 guns, or 2 percent.

#### Prior to GCA - 128 guns

1. Texas	92 guns	72%
2. Florida	5 guns	4%
3. Louisiana	5 guns	4%
4. California	4 guns	3%

#### After GCA - 359 guns

1. Texas	358 guns	92%
2. Oklahoma	4 guns	1%
3. Louisiana	3 guns	1%
4. California	3 guns	1%

Of the total 654 guns received for tracing, 28 percent—more than 1 of every 4—had been in circulation less than 1 year before becoming involved in some type of police action and at least 6 out of every 10 guns traced came into street circulation subsequent to the Gun Control Act of 1968.

Of the 517 Dallas crime guns, 195 were traced to a pawnshop/loan shop source. Of these 195, 137 (70 percent) were Saturday Night Specials. Fifty-four percent of all Dallas Saturday Night Specials came from the pawnshops.

# COMPOSITE FINDINGS

## PHASE II

### STATISTICAL SUMMARY DALLAS

(Data Base for Analysis is 517; total successfully traced)

	Class 1 (\$100 or more)	77	15%
	Class 2 (\$50 - \$100)	59	11%
	Class 3 (less than \$50)	381	74%
36	Semi-automatic pistols	92	18%
	Revolvers	425	82%
	Short Barrel	397	77%
	Long Barrel	120	23%
	Small Caliber	352	68%
	Large Caliber	165	32%

### STREET AGE OF CRIME GUNS DALLAS

	NO. GUNS	PERCENT OF TOTAL	CUMULATIVE PERCENT
(1974)			
Less than 1 year (1973)	180	28%	28%
1-2 years (1972)	83	13	41
2-3 years (1971)	64	10	51
3-4 years (1970)	34	5	56
4-5 years (1969)	27	4	60
5-6 years (1968)	31	5	65
6-7 years (1967)	24	3	68
7-8 years (1966)	16	2	70
8-9 years (1965)	12	2	72
9-10 years (1964)	14	2	74
Over 10 years	132	20	94
Unable to determine	<u>37</u>	<u>6</u>	100%
Tracing data base	654	100%	

### PAWNSHOPS AS SOURCES DALLAS

Total handguns traced	517
No. with pawnshops as source	195
Percent of total traced	38%
Total no. Saturday Night Specials	254
No. of Saturday Night Specials with pawnshops as source	137
Percent of Saturday Night Specials with pawnshops as source	54%

PLTF 100885

# COMPOSITE FINDINGS

## PHASE II

### SUMMARY SOURCES OF HANDGUNS DALLAS

STATE	NO. GUNS	STATE	NO. GUNS
Texas	450	Wisconsin	2
Florida	8	Alaska	1
Louisiana	7	District of Columbia	1
Oklahoma	6	Maryland	1
Arkansas	5	Minnesota	1
California	5	Missouri	1
Georgia	3	Montana	1
New York	3	North Carolina	1
Pennsylvania	3	New Jersey	1
South Carolina	3	New Mexico	1
Alabama	2	Oregon	1
Arizona	2	Virginia	1
Indiana	2	West Virginia	1
Michigan	2		
Ohio	2	Total	517

### DENVER

A total of 190 handguns was submitted by the Denver Police Department for tracing. Of these, 36 were untraceable and 154, or 81 percent of those submitted, were successfully traced. Of the 154 traceable weapons:

Eleven, or 7 percent, were **stolen**.

There were 119 **revolvers** and 35 **semi-automatic pistols** for a popularity ratio of more than 3 to 1.

**Short barreled handguns** totaled 89, or 58 percent of the total.

**Small caliber handguns** accounted for 61 percent of the total traced, or 94 weapons.

#### Quality Statistics

Class 1	33 guns	21%
Class 2	32 guns	21%
Class 3	89 guns	58%

Fifty-two of the 154 handguns, or 34 percent, were **Saturday Night Specials**.

The major sources for the Denver handguns were Colorado, 120 guns, or 78 percent; Texas, 6 guns, 4 percent; and California, 4 guns, 3 percent.

# COMPOSITE FINDINGS

## PHASE II

### Prior to GCA - 37 guns

1. Colorado	22 guns	60%
2. Arizona	2 guns	5%
3. Minnesota	2 guns	5%
4. Texas	2 guns	5%

### 38 After GCA - 117 guns

1. Colorado	98 guns	84%
2. California	4 guns	3%
3. Texas	4 guns	3%
4. Oklahoma	2 guns	2%

Of 190 guns received for tracing, 1 out of every 4 (48 of 190) crime guns were in circulation less than 1 year before becoming involved in some type of police action, and 76 percent (117 of 154) of the guns traced came into street circulation subsequent to the Gun Control Act of 1968.

Of the 154 Denver crime guns, 63 were traced to a pawnshop/loan shop source. Of these 63 guns, 38 (60 percent) were Saturday Night Specials. Seventy-three percent of all Denver Saturday Night Specials (38 of 52) came from pawnshop sources.

### STATISTICAL SUMMARY DENVER

Class 1 (\$100 or more)	33	21%
Class 2 (\$50 - \$100)	32	21%
Class 3 (less than \$50)	89	58%
Semi-automatic pistols	35	23%
Revolvers	119	77%
Short Barrel	95	62%
Long Barrel	59	38%
Small Caliber	94	61%
Large Caliber	60	39%

# COMPOSITE FINDINGS

## PHASE II

### SUMMARY SOURCES OF HANDGUNS DENVER

STATE	NO. GUNS	STATE	NO. GUNS
Colorado	120	Iowa	1
Texas	6	Illinois	1
California	4	Montana	1
Arizona	3	New Mexico	1
Oklahoma	3	Nevada	1
Kansas	2	Ohio	1
Minnesota	2	Tennessee	1
Alaska	1	Virginia	1
Alabama	1	West Virginia	1
Arkansas	1		
Connecticut	1	Total	154
Georgia	1		

### STREET AGE OF CRIME GUNS DENVER

	(1974) NO. GUNS	PERCENT OF TOTAL	CUMULATIVE PERCENT
Less than 1 year (1973)	48	25%	25%
1-2 years (1972)	33	17	42
2-3 years (1971)	18	10	52
3-4 years (1970)	11	6	58
4-5 years (1969)	7	3	61
5-6 years (1968)	10	5	66
6-7 years (1967)	6	3	69
7-8 years (1966)	6	3	72
8-9 years (1965)	3	2	74
9-10 years (1964)	3	2	76
Over 10 years	37	20	96
Unable to determine	8	4	100%
Tracing data base	190	100%	

### PAWNSHOPS AS SOURCES DENVER

Total handguns traced	154
No. with pawnshops as source	63
Percent of total traced	41%
Total no. Saturday Night Specials	52
No. of Saturday Night Specials with pawnshops as source	38
Percent of Saturday Night Specials with pawnshops as source	73%

PLTF 100888

# COMPOSITE FINDINGS

## PHASE II

### KANSAS CITY

A total of 314 handguns was submitted by the Kansas City Police Department for tracing. Of these, 92 were untraceable, and 222, or 71 percent of those submitted were successfully traced. Of the 222 traceable weapons:

Thirty-eight, or 17 percent, were **stolen**.

40 There were 159 revolvers and 63 semi-automatic pistols for a popularity ratio of about 5 to 2.

Short barreled handguns totaled 145, or 65 percent of the total.

Small caliber handguns accounted for 61 percent of the total, or 136 weapons.

#### Quality Statistics

Class 1	64 guns	29%
Class 2	45 guns	20%
Class 3	113 guns	51%

Sixty-eight of the 222 weapons, or 31 percent, were **Saturday Night Specials**.

The major sources for the Kansas City handguns were Missouri, 77 guns, or 35 percent; Kansas, 57 guns, or 26 percent; and Arkansas and Texas, 11 guns each, or 5 percent.

#### Prior to GCA - 104 guns

1. Missouri	32 guns	31%
2. Kansas	27 guns	26%
3. Texas	5 guns	5%
4. Illinois	4 guns	4%
5. Mississippi	4 guns	4%

#### After GCA - 118 guns

1. Missouri	45 guns	38%
2. Kansas	30 guns	25%
3. Arkansas	8 guns	7%
4. Oklahoma	7 guns	6%
5. Texas	6 guns	5%

Of the total 314 guns received for tracing, analysis indicated that 13 percent of the crime guns—about 1 out of every 7—were in circulation less than 1 year before becoming involved in some type of police action. Slightly more than half of the guns traced came into street circulation subsequent to the Gun Control Act of 1968.

Of the 222 Kansas City crime guns, 45 were traced to a pawnshop/loan shop source. Of these 45 guns, 30 (67 percent) were Saturday Night Specials. Forty-four percent of all Kansas City Saturday Night Specials came from pawnshop sources.

# COMPOSITE FINDINGS

## PHASE II

### STATISTICAL SUMMARY KANSAS CITY

Class 1 (\$100 or more)	64	29%
Class 2 (\$50 - \$100)	45	20%
Class 3 (less than \$50)	113	51%
 Semi-automatic pistols	 63	 28%
Revolvers	159	72%
 Short Barrel	 145	 65%
Long Barrel	77	35%
 Small Caliber	 136	 61%
Large Caliber	86	39%

### SUMMARY SOURCES OF HANDGUNS KANSAS CITY

STATE	NO. GUNS	STATE	NO. GUNS
Missouri	77	North Carolina	2
Kansas	57	Ohio	2
Arkansas	11	Arizona	1
Texas	11	District of Columbia	1
Mississippi	8	Florida	1
Oklahoma	7	Indiana	1
Illinois	6	Maryland	1
Iowa	4	Minnesota	1
Washington	4	Montana	1
California	3	New Mexico	1
Colorado	3	New York	1
Louisiana	3	South Dakota	1
Nevada	3	Utah	1
Tennessee	3	Virginia	1
Georgia	2		
Nebraska	2	Total	222

# COMPOSITE FINDINGS

## PHASE II

### STREET AGE OF CRIME GUNS KANSAS CITY

	(1974) (1973)	NO. GUNS	PERCENT OF TOTAL	CUMULATIVE PERCENT
Less than 1 year		42	14%	14%
1-2 years (1972)		28	9	23
2-3 years (1971)		21	7	30
3-4 years (1970)		14	4	34
4-5 years (1969)		10	3	37
5-6 years (1968)		29	9	46
6-7 years (1967)		13	4	50
7-8 years (1966)		9	3	53
8-9 years (1965)		14	4	57
9-10 years (1964)		6	2	59
Over 10 years		115	37	96
Unable to determine		<u>13</u>	<u>4</u>	100%
Tracing data base		314	100%	

### PAWNSHOPS AS SOURCES KANSAS CITY

Total handguns traced	222
No. with pawnshops as source	45
Percent of total traced	20%
Total no. of Saturday Night Specials	68
No. of Saturday Night Specials with pawnshops as source	30
Percent of Saturday Night Specials with pawnshops as source	44%

### OAKLAND

A total of 245 handguns was submitted by the Oakland Police Department for tracing. Of these, 56 were untraceable, and 189, or 77 percent of those submitted, were successfully traced. Of the 189 traceable weapons:

Nine handguns, or 5 percent, were **stolen**.

There were 150 **revolvers** and 39 **semi-automatic pistols** for a popularity ratio of about 4 to 1.

**Short barreled handguns** totaled 149, or 79 percent of the total.

**Small caliber handguns** accounted for 62 percent of the total, or 118 weapons.

**Quality Statistics**

Class 1	45 guns	24%
Class 2	28 guns	15%
Class 3	116 guns	61%

Ninety of the 189 weapons, or 48 percent, were **Saturday Night Specials**.

The major sources for the Oakland handguns were California, 140 guns, or 74 percent; and Texas, 6 guns, or 3 percent.

**Prior to GCA - 50 guns**

1. California	27 guns	54%
2. Louisiana	3 guns	6%
3. Georgia	2 guns	4%
4. Nevada	2 guns	4%
5. New York	2 guns	4%
6. Washington	2 guns	4%

**After GCA - 139 guns**

1. California	113 guns	81%
2. Texas	6 guns	4%
3. Georgia	3 guns	2%

Of the total 245 guns received for tracing, analysis showed that 26 percent of the crime guns—about 1 out of every 4—were in circulation less than 1 year before becoming involved in some type of police action, and 73 percent of the guns traced came into street circulation subsequent to the Gun Control Act of 1968.

Of the 189 Oakland crime guns, 77 were traced to a pawnshop/loan shop source. Of these 77 guns, 55 (71 percent) were Saturday Night Specials. Sixty-one percent of all Oakland Saturday Night Specials came from pawnshop sources.

**STATISTICAL SUMMARY  
OAKLAND**

Class 1 (\$100 or more)	45	24%
Class 2 (\$50-\$100)	28	15%
Class 3 (less than \$50)	116	61%
Semi-automatic pistols	39	21%
Revolvers	150	79%
Short Barrel	149	79%
Long Barrel	40	21%
Small Caliber	118	62%
Large Caliber	71	38%

# COMPOSITE FINDINGS

## PHASE II

### SUMMARY SOURCES OF HANDGUNS OAKLAND

STATE	NO. GUNS	STATE	NO. GUNS
California	140	Indiana	1
Texas	6	Minnesota	1
Georgia	5	Missouri	1
Louisiana	5	Montana	1
Nevada	4	New Jersey	1
Arizona	3	New Mexico	1
Arkansas	2	Ohio	1
Colorado	2	Oklahoma	1
New York	2	Pennsylvania	1
South Carolina	2	Utah	1
Virginia	2	West Virginia	1
Washington	2	Wyoming	1
Florida	1		
Illinois	1	Total	189

### STREET AGE OF CRIME GUNS OAKLAND

	NO. GUNS	PERCENT OF TOTAL	CUMULATIVE PERCENT
Less than 1 year (1974)			
1-2 years (1972)	63	26%	26%
3 years (1971)	24	10	36
4 years (1970)	28	11	47
4-5 years (1969)	17	7	54
5-6 years (1968)	8	3	57
6-7 years (1967)	7	3	60
7-8 years (1966)	7	3	63
8-9 years (1965)	7	3	66
9-10 years (1964)	5	2	68
Over 10 years	5	2	70
Unable to determine	55	22	92
Tracing data base	<u>19</u>	<u>8</u>	100%
	245	100%	

### PAWNSHOPS AS SOURCES OAKLAND

Total handguns traced	189
No. with pawnshops as source	77
Percent of total traced	41%
Total no. of Saturday Night Specials	90
No. of Saturday Night Specials with pawnshops as source	55
Percent of Saturday Night Specials with pawnshops as source	61%

# COMPOSITE FINDINGS

## PHASE III

Miami/Dade County, Minneapolis/St. Paul, Philadelphia, Seattle

Phase III of Project I included the areas of Miami/Dade County, Florida; Minneapolis/St. Paul; Philadelphia and Seattle. The period covered was July 1, 1974, to Oct. 1, 1974, 90 days.

During that time, police in those localities submitted for tracing 2,452 handguns, of which 922 were untraceable. ATF traced 1,530, or 62 percent of the total received:

Ninety-one, or 4 percent, were **stolen**.

There were 1,842 **revolvers** and 591 **semi-automatic pistols** for a popularity ratio of about 3 to 1.

**Short barreled handguns** totaled 1,652, or 67 percent of the total.

**Small caliber handguns** accounted for 53 percent of the total, or 1,304 weapons.

### Quality Statistics

Class 1	880 guns	36%
Class 2	440 guns	18%
Class 3	1,132 guns	46%

Seven hundred and four of the 2,452 weapons submitted, 29 percent, were **Saturday Night Specials**.

The analysis of **street age** for the 1,530 handguns successfully traced showed that 70 percent, or 1,073, came into circulation subsequent to the Gun Control Act of 1968.

Of the 1,530 handguns successfully traced, 209, or 14 percent, were traced to a pawnshop/loan shop source. The remaining 1,321 handguns were traced to other retail licensees.

The inexpensive (Class 3, under \$50) continued to be the most popular handgun and accounted for 46 percent or 1,132 of all guns seized. Eleven manufacturers accounted for 72 percent of all handguns submitted for tracing.

### STATISTICAL SUMMARY

#### PHASE III COMPOSITE

(Data Base for Analysis is 2,425; total received from field)

Class 1 (\$100 or more)	880	36%
Class 2 (\$50 - \$100)	440	18%
Class 3 (less than \$50)	1,132	46%
Semi-automatic pistols	591	24%
Revolvers	1,842	75%
Other	19	1%
*Short Barrel	1,652	69%
Long Barrel	755	31%
**Small Caliber	1,304	53%
Large Caliber	1,142	47%

\*Does not include 45 firearms of unknown barrel length.

\*\*Does not include six firearms showing gauge instead of caliber, or unknown caliber.

# COMPOSITE FINDINGS

## PHASE III

### SATURDAY NIGHT SPECIALS

#### PHASE III

#### COMPOSITE

(Data Base for Analysis is 2,425; total received from field)

Saturday Night Specials 704 29%

(Data Base is 1,530; total successfully traced)

Saturday Night Specials 447 29%

### STREET AGE OF CRIME GUNS

#### PHASE III

#### COMPOSITE

(Data Base is 1,530; total successfully traced)

Prior to enactment of GCA (12/16/68) 457 30%

After enactment of GCA 1,073 70%

### PAWNSHOPS AS HANDGUN SOURCES

#### PHASE III

#### COMPOSITE

(Data Base is 1,530; total successfully traced)

No. with pawnshops as source 209 14%

## MIAMI

A total of 632 handguns was submitted by the Miami Police Department for tracing. Of these, 196 were untraceable. Four hundred and thirty-six, or 69 percent of those submitted, were successfully traced. Of the 632 weapons submitted for tracing: Five, or 1 percent, were stolen.

There were 478 revolvers and 153 semi-automatic pistols for a popularity ratio of about 3 to 1.

Short barreled handguns totaled 410, or 65 percent of the total.

Small caliber handguns accounted for 45 percent of the total, or 287 weapons.

#### Quality Statistics

Class 1	240 guns	38%
Class 2	88 guns	14%
Class 3	304 guns	48%

One hundred, or 25 percent of all weapons submitted, were Saturday Night Specials.

Major sources for the Miami handguns were Florida, 356 guns, 82 percent; Georgia, 12 guns, 3 percent; and Ohio, 8 guns, 2 percent.

Seventy-four percent of the 436 crime guns—3 out of every 4—came into street circulation subsequent to the Gun Control Act of 1968.

Of the 436 Miami crime guns, 49, or 11 percent, were traced to a pawnshop/loan shop source. The remaining 89 percent, or 387 guns, were traced to other retail licensees (sporting goods, hardware and miscellaneous other businesses).

**STATISTICAL SUMMARY**

**MIAMI**

(Data Base for Analysis is 632; total received from field)

Class 1 (\$100 or more)	240	38%
Class 2 (\$50 - \$100)	88	14%
Class 3 (less than \$50)	304	48%
Semi-automatic pistols	153	24%
Revolvers	478	76%
Other	1	-
Short Barrel	410	64%
*Long Barrel	218	35%
Small Caliber	287	45%
Large Caliber	345	55%

47

**STREET AGE OF CRIME GUNS**

**MIAMI**

(Data Base is 436; total successfully traced)

Prior to enactment of GCA (12/16/68)	113	26%
After enactment of GCA	323	74%

**PAWNSHOPS AS HANDGUN SOURCES**

**MIAMI**

(Data Base is 436; total successfully traced)

No. with pawnshops as source	49	11%
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**SUMMARY SOURCES OF HANDGUNS**

**MIAMI**

STATE	NO. GUNS	STATE	NO. GUNS
Florida	356	Michigan	2
Georgia	12	North Carolina	2
Ohio	8	Wisconsin	2
California	5	Colorado	1
Illinois	5	District of Columbia	1
Texas	5	Kentucky	1
Alabama	4	Maryland	1
New York	4	Nebraska	1
Pennsylvania	4	Nevada	1
South Carolina	4	New Mexico	1
Tennessee	4	Utah	1
Louisiana	3	Virginia	1
Missouri	3	Idaho	0
Arizona	2		
Indiana	2	Total	436

\*Does not include four of unknown barrel length.

# COMPOSITE FINDINGS

## PHASE III

### DADE COUNTY

The Dade County Police Department submitted 325 handguns for tracing. Two hundred and sixteen, or 66 percent of those submitted, were successfully traced and 109 were untraceable. Of the 326 weapons submitted for tracing:

Two, or less than 1 percent, were stolen.

There were 231 revolvers and 86 semi-automatic pistols for a popularity ratio of almost 3 to 1.

Short barreled handguns totaled 231, or 71 percent of the total.

Small caliber handguns accounted for 47 percent of the total, or 152 weapons.

#### Quality Statistics

Class 1	104 guns	32%
Class 2	33 guns	10%
Class 3	188 guns	58%

Ninety-seven of the 325 weapons, or 30 percent, were Saturday Night Specials. Sixty-one, or 28 percent of the 216 successfully traced weapons, also were Saturday Night Specials.

Leading sources of Dade County handguns were Florida, 185 guns, 86 percent; Georgia, 4 guns, 2 percent; and Texas, 4 guns, 2 percent.

Seventy-six percent of the 216 crime guns—3 out of every 4—came into street circulation subsequent to the Gun Control Act of 1968.

Of the 216 traced crime guns, 48, or 22 percent, were traced to a pawnshop/loan shop source. The remaining 78 percent, or 168 guns, were traced to other retail licensees (sporting goods, hardware and miscellaneous other businesses).

#### STATISTICAL SUMMARY DADE COUNTY

(Data Base for Analysis is 325; total received from field)

Class 1 (\$100 or more)	104	32%
Class 2 (\$50 - \$100)	33	10%
Class 3 (less than \$50)	188	58%
Semi-automatic pistols	86	26%
Revolvers	231	72%
Other	8	2%
Short Barrel	231	71%
Long Barrel	80	25%
Small Caliber	152	47%
*Large Caliber	167	51%

\*Does not include 14 guns with unknown barrel length.

Does not include six guns with calibers listed as gauges.

PLTF 100897

# COMPOSITE FINDINGS

## PHASE III

### STREET AGE OF CRIME GUNS DADE COUNTY

(Data Base is 216; total successfully traced)

Prior to enactment of GCA (12/16/68)	51	24%
After enactment of GCA	165	76%

49

### PAWNSHOPS AS HANDGUN SOURCES DADE COUNTY

(Data Base is 216; total successfully traced)

No. with pawnshops as source	48	22%
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### SUMMARY SOURCES OF HANDGUNS DADE COUNTY

STATE	NO. GUNS	STATE	NO. GUNS
Florida	185	Colorado	1
Georgia	4	Iowa	1
Texas	4	Kansas	1
Louisiana	3	Kentucky	1
Ohio	3	Missouri	1
Alabama	2	Pennsylvania	1
California	2	South Carolina	1
New York	2	Tennessee	1
Virginia	2		
Arkansas	1	Total	216

### PHILADELPHIA

A total of 993 handguns was submitted by the Philadelphia Police Department for tracing. Five hundred and seventy-one, or 58% of those submitted, were successfully traced and 422 were untraceable. Of 993 weapons submitted for tracing:

Seventy-nine, or 8 percent, were stolen.

There were 787 revolvers and 201 semi-automatic pistols for a popularity ratio of almost 4 to 1.

Short barreled handguns totaled 733, or 74 percent of the total.

Small caliber handguns accounted for 59 percent of the total, or 585 weapons.

#### Quality Statistics

Class 1	360 guns	36%
Class 2	210 guns	21%
Class 3	423 guns	43%

PLTF 100898

# COMPOSITE FINDINGS

## PHASE III

Three hundred and twenty-three of the 993 weapons, or 33 percent, were **Saturday Night Specials**. One hundred and ninety-two, or 34 percent, of the 571 successfully traced weapons, also were **Saturday Night Specials**.

Major sources of origin were Pennsylvania, 306 guns, 54 percent; Virginia, 54 guns, 9 percent; South Carolina, 48 guns, 8 percent; and Florida, 31 guns, 5 percent.

Sixty-nine percent of the 571 crime guns—2 out of every 3—came into street circulation subsequent to the Gun Control Act of 1968.

Of the 571 traced Philadelphia crime guns, 46, or 8 percent were traced to a pawnshop/loan shop source. The remaining 92 percent of 525 guns were traced to other retail licensees (sporting goods, hardware and miscellaneous other businesses).

### STATISTICAL SUMMARY PHILADELPHIA

(Data Base for Analysis is 993; total received from field)

Class 1 (\$100 or more)	360	36%
Class 2 (\$50 - \$100)	210	21%
Class 3 (less than \$50)	423	43%
Semi-automatic pistols	201	20%
Revolvers	787	79%
Other	5	1%
Short Barrel	733	74%
*Long Barrel	251	26%
Small Caliber	585	59%
Large Caliber	408	41%

### STREET AGE OF CRIME GUNS PHILADELPHIA

(Data Base is 571; total successfully traced)

Prior to enactment of GCA (12/16/68)	178	31%
After enactment of GCA	393	69%

### PAWNSHOPS AS HANDGUN SOURCES PHILADELPHIA

(Data Base is 571; total successfully traced)

No. with pawnshops as source	46	8%
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# COMPOSITE FINDINGS

## PHASE III

### SUMMARY SOURCES OF HANDGUNS PHILADELPHIA

STATE	NO. GUNS	STATE	NO. GUNS
Pennsylvania	306	Missouri	3
Virginia	54	Wisconsin	3
South Carolina	48	Delaware	2
Florida	31	Illinois	2
Georgia	24	Kansas	2
Texas	12	Louisiana	2
New Jersey	10	New Mexico	2
West Virginia	9	Tennessee	2
Alabama	8	Alaska	1
North Carolina	8	Hawaii	1
Ohio	8	Iowa	1
California	6	Maine	1
Mississippi	6	Michigan	1
Kentucky	5	Utah	1
Maryland	4	Washington	1
New York	4		
Arkansas	3	Total	571

51

### SEATTLE

The Seattle Police Department submitted 219 handguns for tracing. One hundred and twenty-nine, or 59 percent of those submitted, were successfully traced and 90 were untraceable. Of the 219 weapons submitted for tracing:

One, or less than 1 percent, was **stolen**.

There were 155 **revolvers** and 63 **semi-automatic pistols** for a popularity ratio of approximately 2 to 1.

Short barreled handguns totaled 119, or 54 percent of the total.

Small caliber handguns accounted for 50 percent of the total, or 110 weapons.

#### Quality Statistics

Class 1	85 guns	39%
Class 2	36 guns	16%
Class 3	98 guns	45%

Fifty of the 219 weapons, or 23 percent, were **Saturday Night Specials**. Thirty-five, or 27 percent, of the 129 successfully traced weapons, also were **Saturday Night Specials**.

Major sources by states of origin were Washington, 98 guns, 76 percent; California, 8 guns, 6 percent; and Alaska, 4 guns, 3 percent.

Sixty percent of the 129 crime guns came into street circulation subsequent to the Gun Control Act of 1968.

Of the 129 Seattle crime guns, 41 or 32 percent, were traced to a pawnshop/loan shop source. The remaining 68 percent, or 88 guns, were traced to other retail licensees (sporting goods, hardware and miscellaneous other businesses).

# COMPOSITE FINDINGS

## PHASE III

### STATISTICAL SUMMARY SEATTLE

(Data Base for Analysis is 219; total received from field)

52	Class 1 (\$100 or more)	85	39%
	Class 2 (\$50 - \$100)	36	16%
	Class 3 (less than \$50)	98	45%
	Semi-automatic pistols	63	29%
	Revolvers	155	70%
	Other	1	1%
	Short Barrel	119	56%
	*Long Barrel	93	44%
	Small Caliber	110	50%
	Large Caliber	109	50%

### STREET AGE OF CRIME GUNS SEATTLE

(Data Base is 129; total successfully traced)

Prior to enactment of GCA (12/16/68)	52	40%
After enactment of GCA	77	60%

### PAWNSHOPS AS HANDGUN SOURCES SEATTLE

(Data Base is 129; total successfully traced)

No. with pawnshops as source	41	32%
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### SUMMARY SOURCES OF HANDGUNS SEATTLE

STATE	NO. GUNS	STATE	NO. GUNS
Washington	98	Florida	1
California	8	Illinois	1
Alaska	4	Kentucky	1
Colorado	2	Michigan	1
Louisiana	2	South Carolina	1
Tennessee	2	Puerto Rico	1
Texas	2		
Arkansas	1	Total	129

\*Does not include seven guns with unknown barrel length.

PLTF 100901

# COMPOSITE FINDINGS

## PHASE III

### ST PAUL

A total of 81 handguns was submitted by the St. Paul Police Department for tracing. Forty-nine, or 60 percent of those submitted, were successfully traced and 32 were untraceable. Of the 81 weapons submitted for tracing:

Three, or 4 percent, were **stolen**.

There were 56 **revolvers** and 22 **semi-automatic pistols** for a popularity ratio of almost 3 to 1.

**Short barreled handguns** totaled 35, or 43 percent of the total.

**Small caliber handguns** accounted for 58 percent of the total, or 47 weapons.

#### Quality Statistics

Class 1	28 guns	35%
Class 2	23 guns	28%
Class 3	30 guns	37%

Sixteen of the 81 weapons, or 20 percent, were **Saturday Night Specials**. Nine, or 18 percent, of the 40 successfully traced weapons also were **Saturday Night Specials**.

Major sources by states of origin were Minnesota, 30 guns, 61 percent; Wisconsin, 4 guns, 8 percent; and Iowa, 2 guns, 4 percent.

Sixty-seven percent of the 49 crime guns—2 out of every 3—came into street circulation subsequent to the Gun Control Act of 1968.

Of the 49 traced crime guns, 8, or 16 percent, were traced to a pawnshop/loan shop source. The remaining 84 percent or 41 guns were traced to other retail licensees (sporting goods, hardware and miscellaneous other businesses).

#### STATISTICAL SUMMARY

##### ST. PAUL

(Data Base for Analysis is 81; total received from field)

Class 1 (\$100 or more)	28	35%
Class 2 (\$50 - \$100)	23	28%
Class 3 (less than \$50)	30	37%
Semi-automatic pistols	22	27%
Revolvers	56	69%
Other	3	4%
Short Barrel	35	43%
*Long Barrel	41	51%
Small Caliber	47	58%
Large Caliber	34	42%

\*Does not include five guns with unknown barrel length

PLTF 100902

# COMPOSITE FINDINGS

## HASE III

### STREET AGE OF CRIME GUNS

#### ST. PAUL

(Data Base is 49; total successfully traced)

Prior to enactment of GCA (12/16/68)	16	33%
After enactment of GCA	33	67%

### PAWNSHOPS AS HANDGUN SOURCES

#### ST. PAUL

(Data Base is 49; total successfully traced)

No. with pawnshops as source	8	16%
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### SUMMARY SOURCES OF HANDGUNS ST. PAUL

STATE	NO. GUNS	STATE	NO. GUNS
Minnesota	30	Nebraska	1
Wisconsin	4	New York	1
Iowa	2	Oklahoma	1
Arizona	1	Tennessee	1
Arkansas	1	Texas	1
Colorado	1	Utah	1
Illinois	1	Wyoming	1
Kansas	1		
Michigan	1	Total	49

### MINNEAPOLIS

A total of 202 handguns was submitted by the Minneapolis Police Department for tracing. One hundred and twenty-nine, or 64 percent of those submitted, were successfully traced and 73 were untraceable. Of the 202 weapons submitted for tracing: One, or less than 1 percent, were stolen.

There were 135 revolvers and 66 semi-automatic pistols for a popularity ratio of almost 2 to 1.

Short barreled handguns totaled 124, or 61 percent of the total.

Small caliber handguns accounted for 61 percent of the total, or 123 weapons.

#### Quality Statistics

Class 1	63 guns	31%
Class 2	50 guns	25%
Class 3	89 guns	44%

Sixty-three of the 202 weapons, or 31 percent, were **Saturday Night Specials**. Forty-four, or 34 percent, of the 129 successfully traced weapons also were **Saturday Night Specials**.

Major sources by state of origin were Minnesota, 102 guns, 79 percent; Texas, 5 guns, 4 percent; and Illinois, 4 guns, 3 percent. Sixty-four percent of the 129 crime guns—2 out of every 3—came into street circulation subsequent to the Gun Control Act of 1968.

Of the 129 crime guns traced, 17, or 13 percent, were traced to a pawnshop/loan shop source. The remaining 87 percent, or 112 guns, was traced to other retail licensees (sporting goods, hardware and miscellaneous other businesses).

**STATISTICAL SUMMARY  
MINNEAPOLIS**

Class 1 (\$100 or more)	63	31%
Class 2 (\$50 - \$100)	50	25%
Class 3 (less than \$50)	89	44%
Semi-automatic pistols	66	33%
Revolvers	135	67%
Other	1	-
Short Barrel	124	61%
*Long Barrel	72	36%
Small Caliber	123	61%
Large Caliber	79	39%

**STREET AGE OF CRIME GUNS  
MINNEAPOLIS**

(Data Base is 129; total successfully traced)

Prior to enactment of GCA (12/16/68)	47	36%
After enactment of GCA	82	64%

**PAWNSHOPS AS HANDGUN SOURCES  
MINNEAPOLIS**

(Data Base is 129; total successfully traced)

No. with pawnshops as source	17	13%
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**SUMMARY  
SOURCES OF HANDGUNS  
MINNEAPOLIS**

STATE	NO. GUNS	STATE	NO. GUNS
Minnesota	102	Louisiana	1
Texas	5	Michigan	1
Illinois	4	Mississippi	1
California	2	Missouri	1
Kansas	2	Montana	1
Ohio	2	Nebraska	1
Arizona	1	Virginia	1
Colorado	1	Wisconsin	1
Florida	1		
Iowa	1	Total	129

\*Does not include six guns with unknown barrel length.

# COMPOSITE FINDINGS

## PHASE IV

Boston, Charlotte, Louisville, Los Angeles

Phase IV included Boston, Charlotte, Louisville and Los Angeles and covered 1,421 handguns picked up by police in those cities in crimes from Jan. 15, 1975, to April 15, 1975, 90 days.

Eight hundred and twenty-eight, or 58 percent, were successfully traced and 593 were untraceable. Of the 1,421 weapons submitted for tracing:

Thirty-one, or 2 percent, were stolen.

There were 1,041 revolvers and 380 semi-automatic pistols for a popularity ratio of almost 3 to 1.

Short barreled handguns totaled 897, or 63 percent of the total.

Small caliber handguns accounted for 53 percent of the total, or 758 weapons.

### Quality Statistics

Class 1	475 guns	33%
Class 2	252 guns	18%
Class 3	694 guns	49%

Four hundred and forty-five of the 1,421 weapons submitted, or 31 percent, were **Saturday Night Specials**.

The analysis of street age for the 828 handguns successfully traced showed that 78 percent, or 643, came into circulation after the Gun Control Act of 1968.

Of the 828 handguns successfully traced, 208, or 25 percent, were traced to a pawnshop/loan shop source. The remaining 620 handguns were traced to other retail licensees. One hundred and twenty-two, or 59 percent, of the 208 handguns traced to pawn/loan businesses fell within the Saturday Night Special criteria.

The inexpensive (Class 3, under \$50) was the most popular handgun and accounted for 49 percent or 694 of all guns seized.

### STATISTICAL SUMMARY PHASE IV COMPOSITE

(Data Base for Analysis is 1,421; total received from field)

Class 1 (\$100 or more)	475	33%
Class 2 (\$50 - \$100)	252	18%
Class 3 (less than \$50)	694	49%
Semi-automatic pistols	380	27%
Revolvers	1,041	73%
Short Barrel	897	63%
Long Barrel	524	37%
Small Caliber	758	53%
Large Caliber	663	47%

# COMPOSITE FINDINGS

## PHASE IV

### STREET AGE OF CRIME GUNS PHASE IV COMPOSITE

(Data Base is 828; total successfully traced)

Prior to enactment of GCA (12/16/68)	185	22%
After enactment of GCA	643	78%

57

### PAWNSHOPS AS HANDGUN SOURCES PHASE IV COMPOSITE

(Data Base is 828; total successfully traced)

No. with pawnshops as source	208	25%
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### SATURDAY NIGHT SPECIALS PHASE IV COMPOSITE

Saturday Night Specials	445	31%
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(Data Base for Analysis is 1,421; total  
received from field)

Saturday Night Specials	276	33%
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(Data Base is 828; total successfully traced)

## BOSTON

The Boston Police Department submitted 171 handguns for tracing. Eighty-four, or 49 percent of those submitted, were traced successfully and 87 were untraceable. Of the 171 submitted for tracing:

Three, or 2 percent, were stolen.

There were 111 revolvers and 60 semi-automatic pistols for a popularity ratio of almost 2 to 1.

Short barreled handguns totaled 112, or 65 percent of the total.

Small caliber handguns accounted for 56 percent of the total, or 95 weapons.

#### Quality Statistics

Class 1	74 guns	43%
Class 2	40 guns	24%
Class 3	57 guns	33%

PLTF 100906

# COMPOSITE FINDINGS

## PHASE IV

Forty-six of the 171 weapons submitted, or 27 percent, were **Saturday Night Specials**. Twenty-one, or 25 percent, of the 84 guns successfully traced, were **Saturday Night Specials**.

Sources for the Boston handguns were analyzed, based upon the total of 84 successfully traced weapons.

The results indicated that 4, or 5 percent of all Boston crime guns successfully traced, were purchased from dealers in Boston; with 30 percent being sold in other Massachusetts cities. The remaining 65 percent were sold retail in other states. Among these other states, the leading sources of handguns were Florida, 11 percent, and South Carolina, 7 percent.

Also analyzed was the **street age** of the handguns traced. This statistic was obtained from the total 84 successfully traced. Seventy percent of the crime guns came into street circulation subsequent to the Gun Control Act of 1968.

Of the 84 Boston crime guns, 6, or 7 percent, were traced to a pawn/loan type business. The remaining 78, or 83 percent, were traced to other retail licensees.

During examination of these pawn/loan handguns, it was determined that 5, or 83 percent of these weapons, were **Saturday Night Specials**. In addition, when compared to the total number of **Saturday Night Specials** found in Boston, the pawn/loan businesses contributed 24 percent of all **Saturday Night Specials** successfully traced whereas this type of business was the source of 7 percent of the total crime guns successfully traced.

### STATISTICAL SUMMARY

#### BOSTON

(Data Base for Analysis is 171; total received from field)

Class 1 (\$100 or more)	74	43%
Class 2 (\$50 - \$100)	40	24%
Class 3 (less than \$50)	57	33%
Semi-automatic pistols	60	35%
Revolvers	111	65%
Short Barrel	112	65%
Long Barrel	59	35%
Small Caliber	95	56%
Large Caliber	76	44%

PLTF 100907

# COMPOSITE FINDINGS

## PHASE IV

### STREET AGE OF CRIME GUNS

#### BOSTON

(Data Base is 84; total successfully traced)

Prior to enactment of GCA (12/16/68)	25	30%
After enactment of GCA	59	70%

59

### PAWNSHOPS AS HANDGUN SOURCES

#### BOSTON

(Data Base is 84; total successfully traced)

No. with pawnshops as source	6	7%
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### SUMMARY

#### SOURCES OF HANDGUNS

##### BOSTON

STATE	NO. GUNS
Massachusetts	29
Florida	9
South Carolina	6
Georgia	5
Virginia	5
Texas	4
New Hampshire	3
Pennsylvania	3
Alabama	2
Illinois	2
Kentucky	2
Michigan	2
North Carolina	2
Connecticut	1
Iowa	1
Maryland	1
Missouri	1
New York	1
Ohio	1
Rhode Island	1
Tennessee	1
Vermont	1
Total	84

PLTF 100908

# COMPOSITE FINDINGS

## PHASE IV

### CHARLOTTE

The Charlotte Police Department submitted 107 handguns for tracing. Sixty-eight, or 64 percent of those submitted, were successfully traced and 39 were untraceable. Of the 107 weapons submitted for tracing:

Eight, or 7 percent, were **stolen**.

There were 86 **revolvers** and 21 **semi-automatic pistols** for a popularity ratio of almost 4 to 1.

**Short barreled handguns** totaled 77, or 72 percent, of the total.

**Small caliber handguns** accounted for 56 percent of the total, or 60 weapons.

#### Quality Statistics

Class 1	35 guns	33%
Class 2	14 guns	13%
Class 3	58 guns	54%

Forty-eight of the 107 weapons, or 45 percent, were **Saturday Night Specials**. Thirty-one, or 46 percent, of the 68 successfully traced weapons also were **Saturday Night Specials**.

Analysis of the 68 successfully traced weapons indicated that 15, or 22 percent, were purchased from dealers in Charlotte, with 21 percent being sold in other North Carolina cities and the remaining 57 percent being sold to the public in other states. Among these, the leading sources of handguns were South Carolina, 29 percent and Georgia, 9 percent.

Analysis of the **street age**, based on the 68 successfully traced, showed that 72 percent came into street circulation subsequent to the Gun Control Act of 1968.

Of the 68 Charlotte crime guns, 12, or 18 percent, were traced to a pawn/loan type business. The remaining 56, or 82 percent, were traced to other retail licensees.

These pawn/loan handguns showed that 8, or 67 percent, were Saturday Night Specials. In addition, when compared to the total number of Saturday Night Specials found in Charlotte, the pawn/loan businesses contributed 26 percent of all Saturday Night Specials successfully traced whereas this type of business was the source of 18 percent of the total crime guns successfully traced.

# COMPOSITE FINDINGS

## PHASE IV

### STATISTICAL SUMMARY

#### CHARLOTTE

(Data Base for Analysis is 107; total received from field)

Class 1 (\$100 or more)	35	33%
Class 2 (\$50 - \$100)	14	13%
Class 3 (less than \$50)	58	54%
Semi-automatic pistols	21	20%
Revolvers	86	80%
Short Barrel	77	72%
Long Barrel	30	28%
Small Caliber	60	44%
Large Caliber	47	56%

61

### STREET AGE OF CRIME GUNS

#### CHARLOTTE

(Data Base is 68; total successfully traced)

Prior to enactment of GCA (12/16/68)	19	28%
After enactment of GCA	49	72%

### PAWNSHOPS AS HANDGUN SOURCES

#### CHARLOTTE

(Data Base is 68; total successfully traced)

No. with pawnshops as source	12	18%
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### SUMMARY SOURCES OF HANDGUNS CHARLOTTE

STATE	NO. GUNS
North Carolina	29
South Carolina	20
Georgia	6
Virginia	5
Florida	3
Arkansas	1
Arizona	1
California	1
Kentucky	1
Ohio	1
Total	68

PLTF 100910

# COMPOSITE FINDINGS

## PHASE IV

### LOS ANGELES

The Los Angeles Police Department submitted 816 handguns for tracing. Four hundred and sixty-two, or 57 percent, were traced successfully and 354 were untraceable. Of the 816 weapons submitted for tracing:

Nine, or 1 percent, were stolen.

There were 597 revolvers and 219 semi-automatic pistols for a popularity ratio of almost 3 to 1.

62

Short barreled handguns totaled 457, or 56 percent of the total.

Small caliber handguns accounted for 51 percent, or 417 weapons.

#### Quality Statistics

Class 1	266 guns	33%
Class 2	149 guns	18%
Class 3	401 guns	49%

Two hundred and thirty-one of the 816 Los Angeles guns, 28 percent, were **Saturday Night Specials**. One hundred and forty-one, 31 percent, of the 462 successfully traced weapons also were **Saturday Night Specials**.

Of the 462 successfully traced weapons, 178, or 39 percent, were purchased from dealers in Los Angeles, with 43 percent sold in other California cities and the remaining 18 percent sold to the public in other states. Among the other states, the leading sources of handguns were Texas, 3 percent, and Georgia, 2 percent.

Analysis of the **street age**, based on the total 462 successfully traced, showed 79 percent came into circulation subsequent to the Gun Control Act of 1968.

Of the 462 Los Angeles crime guns, 117, or 25 percent, were traced to a pawn/loan type business. The remaining 345, or 75 percent, were traced to other retail licensees.

Of these pawn/loan handguns, 69, or 59 percent, were **Saturday Night Specials**. In addition, when compared to the total number of **Saturday Night Specials** found in Los Angeles, the pawn/loan businesses contributed 49 percent of all **Saturday Night Specials** successfully traced whereas this type of business was the source of 25 percent of the total crime guns successfully traced.

# COMPOSITE FINDINGS

## PHASE IV

### STATISTICAL SUMMARY LOS ANGELES

(Data Base for Analysis is 816; total received from field)

Class 1 (\$100 or more)	266	33%
Class 2 (\$50 - \$100)	149	18%
Class 3 (less than \$50)	401	49%
Semi-automatic pistols	219	27%
Revolvers	597	73%
Short Barrel	457	56%
Long Barrel	359	44%
Small Caliber	417	51%
Large Caliber	399	49%

### STREET AGE OF CRIME GUNS LOS ANGELES

(Data Base is 462; total successfully traced)

Prior to enactment of GCA (12/16/68)	96	21%
After enactment of GCA	366	79%

### PAWNSHOPS AS HANDGUN SOURCES LOS ANGELES

(Data Base is 462; total successfully traced)

No. with pawnshops as source	117	25%
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### SUMMARY SOURCES OF HANDGUNS      PLTF 100912 LOS ANGELES

STATE	NO. GUNS	STATE	NO. GUNS
California	378	Alabama	2
Texas	13	Kentucky	2
Georgia	7	Ohio	2
Louisiana	6	Washington	2
Colorado	5	Idaho	1
Arizona	4	Iowa	1
Florida	4	Kansas	1
Illinois	4	Maryland	1
Mississippi	4	Michigan	1
Oregon	4	Missouri	1
Virginia	4	North Carolina	1
Arkansas	3	New Mexico	1
Indiana	3	New York	1
Oklahoma	3		
South Carolina	3	Total	462

# COMPOSITE FINDINGS

## PHASE IV

### LOUISVILLE

A total of 327 handguns was submitted from the Louisville Police Department for tracing. Two hundred and fourteen, or 65 percent of those submitted, were successfully traced and 133 were untraceable. Of the 327 weapons submitted for tracing:

64 Eleven, or 5 percent, were stolen.  
There were 247 revolvers and 80 semi-automatic pistols for a popularity ratio of 3 to 1.

Short barreled handguns totaled 251, or 77 percent of the total.

Small caliber handguns accounted for 57 percent, or 186 weapons.

#### Quality Statistics

Class 1	100 guns	31%
Class 2	49 guns	15%
Class 3	178 guns	54%

One hundred and twenty of the 327 guns, or 37 percent, were **Saturday Night Specials**. Eighty-three, 39 percent of the 214 successfully traced weapons, also were **Saturday Night Specials**.

Based upon the total of 214 successfully traced weapons, 138, or 64 percent, were purchased from dealers in Louisville, with 18 percent in other Kentucky cities. The remaining 18 percent was sold to the public in other states. Among these, leading sources of handguns were Indiana, 3 percent, and California, 2 percent.

Analysis of the street age of the handguns traced, based on the total 214 successfully traced, showed that 79 percent of the crime guns came into street circulation subsequent to the Gun Control Act of 1968.

Of the 214 Louisville crime guns, 73, or 34 percent, were traced to a pawn/loan type business. The remaining 141, or 66 percent, were traced to other retail licensees.

Of these pawn/loan handguns, 40, or 55 percent, were **Saturday Night Specials**. In addition, when compared to the total number of **Saturday Night Specials** found in Louisville, the pawn/loan businesses contributed 48 percent of all **Saturday Night Specials** successfully traced whereas this type of business was the source of 34 percent of the total crime guns successfully traced.

# COMPOSITE FINDINGS

## PHASE IV

### STATISTICAL SUMMARY LOUISVILLE

(Data Base for Analysis is 327; total received from field)

Class 1 (\$100 or more)	100	31%
Class 2 (\$50 - \$100)	49	15%
Class 3 (less than \$50)	178	54%
Semi-automatic pistols	80	24%
Revolvers	247	76%
Short Barrel	251	77%
Long Barrel	76	23%
Small Caliber	186	57%
Large Caliber	141	43%

### STREET AGE OF CRIME GUNS LOUISVILLE

(Data Base is 214; total successfully traced)

Prior to enactment of GCA (12/16/68)	45	21%
After enactment of GCA	169	79%

### PAWNSHOPS AS HANDGUN SOURCES LOUISVILLE

(Data Base is 214; total successfully traced)

No. with pawnshops as source	73	34%
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### SUMMARY SOURCES OF HANDGUNS PLTF 100914 LOUISVILLE

STATE	NO. GUNS	STATE	NO. GUNS
Kentucky	176	Texas	2
Indiana	6	Alaska	1
California	5	Tennessee	1
Alabama	4	Virginia	1
Mississippi	4	Washington	1
Arkansas	3	West Virginia	1
Illinois	3	Wyoming	1
Ohio	3		
Missouri	2	Total	214

**EXHIBIT 32**



1989 VOLUME 2



# FPL newsletter

Federal Firearms Licensees Information Service provided by the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms • Washington, D. C.

## OUT-OF-STATE AND MAIL ORDER SALES

The recent enactment of State and local statutes restricting or prohibiting the sale of certain handguns, rifles and shotguns makes it imperative that licensees verify compliance with the legal conditions of sale on all out-of-State and mail-order sales, prior to consummating such sales. Section 178.98 of Title 27 CFR, Out-of-State and mail order sales, requires licensees to verify that interstate sales fully comply with the legal conditions of sale in both such States.

For mail-order sales within their own State they must provide notification, by registered or certified mail, to the chief law enforcement officer identified on the Firearms Transaction Record, Form 4473 Part II. Shipment or delivery of the firearm must be delayed for at least 7 days following receipt by the licensee of the return receipt evidencing delivery or refusal of the copy of the Form 4473 by such chief law enforcement officer.

## FIREARMS TRANSACTION RECORDS ON TITLE II TRANSFERS

There is apparently some confusion among Class 3 dealers as to whether a Firearms Transaction Record, ATF Form 4473, is required on Title II (NFA) firearms. A Firearms Transaction Record is required for every sale or disposition to a nonlicensee of a weapon that falls within the definition of a firearm under Title I of the Gun Control Act. This definition covers all Title II (NFA) weapons except machinegun conversion kits. The Firearms Transaction Record must be completed, signed, and retained in the manner prescribed by 27 CFR 178.124(b). Licensed gunsmiths who return a firearm to the person from whom they received it and licensed collectors need not execute a Firearms Transaction Record, ATF Form 4473.

## "STRAW PURCHASES" OF FIREARMS

Questions have arisen concerning the lawfulness of firearms purchases from licensees by persons who use "straw purchasers" (another person) to acquire the firearms. Specifically, the actual buyer uses the straw purchaser to execute the Form 4473 purporting to show that the straw purchaser is the actual purchaser of the firearm. In some instances, a straw purchaser is used because the actual purchaser is prohibited from acquiring the firearm. That is to say, the actual purchaser is a felon or is within one of the other prohibited categories of persons who may not lawfully acquire firearms or is a resident of a State other than that in which the licensee's business premises is located. Because of his or her disability, the person uses a straw purchaser, who is not prohibited from purchasing a firearm from the licensee. In other instances, neither the straw purchaser nor the actual purchaser is prohibited from acquiring the firearm.

In both instances the straw purchaser violates Federal law by making false statements on Form 4473 to the licensee with respect to the identity of the actual purchaser of the firearm, as well as the actual purchaser's residence address and date of birth. The actual purchaser who utilized the straw purchaser to acquire a firearm has unlawfully aided and abetted or caused the making of the false statements. The licensee selling the firearm under these circumstances also violates Federal law if the licensee is aware of the false statements on the form. It is immaterial that the actual purchaser and the straw purchaser are residents of the State in which the licensee's business premises is located, are not prohibited from receiving or possessing firearms, and could have lawfully purchased firearms from the licensee.

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## ATF DISTRIBUTION CENTER

Federal firearms licensees wishing to order forms from the ATF Distribution Center should place such orders on the 11-86 or 12-88 revisions of ATF Form 1600.8, Requisition For Firearms/Explosives Forms, to avoid loss or delay of their orders. Older editions have the previous (now incorrect) address and result in orders being lost or delayed in forwarding. The current address of the Distribution Center is:

Bureau of Alcohol, Tobacco & Firearms  
Distribution Center  
7943 Angus Court  
Springfield, VA. 22153

## ARMOR PIERCING AMMUNITION - UPDATE

The currently available .38 Special caliber PMC Ultra Mag ammunition is not armor piercing. The ammunition contains a copper bullet. The stock number for the Ultra Mag ammunition which is not armor piercing is: 38J SPL+P 66 THP (Ultramag)

## CHANGE OF CONTROL

In the case of a corporation or association holding a Federal firearms license, if actual or legal control of the corporation or association changes, directly or indirectly, whether by reason of a change in stock ownership or control (in the licensed corporation or in any other corporation), by operations of law, or in any other manner, the licensee shall, within 30 days of such change, give written notification of the change, executed under the penalties of perjury, to the regional director (compliance). Upon expiration of the license, the corporation or association must file a Form 7, Application For License.

## FORM 4473 OMISSIONS AND DISCREPANCIES

Compliance inspections conducted by ATF on firearms licensees' records have disclosed that the following types of omissions and discrepancies on Forms 4473 occur repeatedly.

1. Complete address of purchaser not shown.
2. Date of birth of purchaser omitted or shown as the date of the transaction rather than the date of birth.

3. Incomplete information entered for the place of birth of the purchaser (for example, city but not State or State but not city).
4. Answers to questions 8a through 8h omitted. A "yes" answer to any of these questions indicates the purchaser is prohibited from purchasing and/or possessing a firearm under Federal law and the sale should not be made. However, if a purchaser who answers "yes" has been granted relief by ATF from the disability to which the answer refers, the sale may be made. The seller should obtain and keep a copy of the grant of relief in the case of such sales. If the purchaser refuses to answer any of the questions 8a through 8h, the sale should not be made.

Licensees are reminded that it is their responsibility to ensure that Section A of the Form 4473 is properly completed and signed by the transferee (purchaser) in all instances.

## HOUSTON DISTRICT OFFICE - ADDRESS CORRECTION

ATF Publication 5300.15(1/89), Federal Firearms Licensee Information, listed an incorrect address and telephone number for the ATF Law Enforcement District Office in Houston, Texas. The correct information is as follows:

16630 Imperial Valley Drive  
Suite 263  
Houston, Texas 77060  
(713) 445-2291

## SALES TO UNDERAGED PERSONS

There are several States which permit the purchase of a handgun by persons less than 21 years of age. This is contrary to the requirements for sales by licensees under the Gun Control Act of 1968 (GCA), and licensees should be aware that the age restrictions in the GCA on firearms purchasers take precedence over these State laws. Where a difference in State or local laws and Federal law exists, the more stringent law is to be observed.

The GCA prohibits licensed importers, manufacturers, dealers or collectors from selling or delivering any firearm or ammunition to any person less than 18 years of age and if the firearm or ammunition is other than a shotgun or rifle, or ammunition for a shotgun or rifle, to any person less than 21 years of age.

Licensees should be aware that certain commercially produced "shotguns" do not fall within the definition of a shotgun under the GCA. Firearms such as the Mossberg Model 500 Camper, Persuader 500 and all other makes and models which come equipped with a pistol grip in place of the butt stock are not shotguns under the GCA and, therefore, cannot be sold or delivered by a licensee to any person less than 21 years of age.

### SPECIAL OCCUPATIONAL TAX

Federal firearms licensees who deal in conventional-type sporting firearms, such as pistols, revolvers, rifles and shotguns, do not incur any special occupational tax (SOT) liability. Section 5801 of Title 26, U.S.C. provides that on first engaging in business, and thereafter on or before the first day of July of each year, every importer, manufacturer, and dealer in National Firearms Act (NFA) firearms shall pay the appropriate SOT. This section of the law refers only to those persons engaging in a firearms business with respect to those firearms defined in Section 5845, which includes short-barreled rifles and shotguns, machineguns, silencers, destructive devices and firearms classified as "any other weapons."

If a person or company is licensed under Title I of the Gun Control Act of 1968 and wishes to become licensed to deal in NFA firearms, the person or company must pay the appropriate SOT and register with ATF by filing a Special Tax Registration and Return, ATF Form 5630.5. We hope that the following will assist you in paying the appropriate SOT.

A person who is licensed as an importer of firearms, holds a current FFL as a Type 08, and wishes to start importing any NFA firearms other than a destructive device, can apply as a Class 1 importer and pay the appropriate rate of SOT.

A person who is licensed as an importer of destructive devices, holds a current FFL as a Type 11, and wishes to start importing all NFA firearms, including destructive devices, can apply as a Class 1 importer and pay the appropriate rate of SOT.

A person who is licensed as a manufacturer of firearms and holds a current FFL as a Type 07 can pay the SOT as a Class 2 manufacturer and make NFA firearms, except those classified as destructive devices.

A person who is licensed as a manufacturer of destructive devices and who holds a current FFL as a Type 10 can pay the SOT as a Class 2 manufacturer and make all NFA firearms.

If a person wants to deal in NFA firearms and holds a current Type 01, 02, 07, 08, 09, 10 or 11 FFL, the person can pay the SOT of \$500 and become a Class 3 dealer.

A person who has qualified as either a Class 1 importer or Class 2 manufacturer does not have to qualify as a Class 3 dealer in order to deal in firearms manufactured by other licensees.

### ATF IDENTIFICATION NUMBERS

In 1980, because of delays in the issuance of special tax stamps by the Internal Revenue Service (IRS), which resulted in the inability of special taxpayers to conduct business operations, ATF Procedure 80-6 was implemented to inform special taxpayers of the availability of an ATF Identification Number which was to be used in place of the special tax stamp identification on all forms involving NFA firearms.

Since that time, ATF has taken over the collection of special tax from the IRS and we now issue the special tax stamps. The number used to identify the special tax stamp is the employer identification number (EIN).

Effective July 1, 1989, the National Firearms Act Branch discontinued the use and assignment of the ATF Identification Numbers to persons manufacturing, importing, or dealing in NFA firearms. The EIN will replace the ATF Identification number on all transaction forms involving NFA firearms.

The NFA Branch sent a notice dated April 4, 1989, to all FFLs who were qualified to deal in NFA firearms advising them of this new procedure. In addition to this notice, the NFA Branch mailed an IRS Form SS-4 to those taxpayers whom we identified as not having been assigned an EIN number by the IRS.

Persons who wish to engage in the business of dealing in NFA firearms should first contact their local IRS office and apply for an EIN. Upon receipt of their EIN number, they can complete ATF Form 5630.5, Special Tax Registration and Return, and mail the completed form to the following address:

Bureau of ATF  
P.O. Box 371962  
Pittsburgh, PA 15250-7962

If you have any questions concerning these matters, contact the NFA Branch at (202) 789-3223 (Note new phone number).

#### PERMIT TO CARRY CONCEALED WEAPONS

The Gun Control Act of 1968 contains no provision for the issuance of a Federal permit to carry a concealed weapon. The jurisdiction to issue permits to carry a concealed weapon is that of State and/or local authorities. Having a Federal firearms license does not entitle the licensee to carry a concealed weapon. Customers should be advised to contact their State Attorney General's office or local law enforcement officials concerning restrictions on the carrying of firearms and their desire to obtain a permit to carry a concealed weapon.

#### ASSAULT RIFLES

On July 7, 1989, the Director of ATF announced the proposal to prohibit the importation of semiautomatic assault-type rifles.

This action was based upon a comprehensive 3-month study and analysis of these weapons. Affected importers are being given an opportunity to respond before a final decision is made.

A list of the affected foreign-made firearms is as follows:

##### Barred From Importation

AK47 type	86S type
AK47s type	86S7 type
AK 74 type	87S type
AKS type	GaII type
AKM type	Type 56 type
AKMS type	Type 56S type
84S type	Valmet M76 type
ARM type	Valmet M78 type
84S1 type	M78 counter sniper type
84S3 type	FAL type
HK91 type	L1A1A type
HK93 type	SAR 48 type
HK94 type	AUG type
G3SA type	FNC type
K1 type	Uzi carbine
K2 type	Algimac AGMI type
M14S type	AR180 type
MAS 223 type	Australian Automatic Arms (SAR type)
AR100 type	Beretta AR70 type
SIG 550SP type	Beretta BM59 type
SIG 551SP type	CIS SR88 type
SKS type with detachable magazine	

##### Allowed for Importation

AK22 type  
AP74 type  
GaII/22 type  
M16/22 type  
Unique F11 type  
Erma EM1 .22 type  
Valmet Hunter

## Regulations Implementing 1986 Amendments to the Gun Control Act Upheld by U.S. District Court

On August 15, 1989, The U.S. District Court for the District of South Carolina upheld ATF's regulations implementing the 1986 amendments to the Gun Control Act, with one exception. The law suit, which was filed by the National Rifle Association and eight other plaintiffs in September 1988, sought an injunction against enforcement of the regulations and a declaratory judgment that the regulations were invalid.

The primary thrust of the suit was that the regulations were contrary to statute or were not "necessary" as required by law. The plaintiffs also alleged certain procedural defects in the rulemaking process, including the failure to hold a public hearing and the issuance of temporary regulations prior to inviting and receiving public comment.

Specific regulations challenged were:

- (1) Definition of "business premises" for licensing purposes. The plaintiffs contended that the definition unlawfully requires that private residences be open to the general public. The Government argued that the regulation, which had existed since 1969, only required that such residences be open to that segment of the public served by the business.
- (2) Recordkeeping requirements for licensed collectors. The plaintiffs maintained that the regulation unlawfully requires licensed collectors to record curios or relic firearms on hand at the time of licensing. The Government argued that the regulation, which had existed since 1969, was necessary to determine the accuracy of collectors' record of the acquisition and disposition of curios or relics.
- (3) Recordkeeping requirements for licensed acquisition and disposition of "personal" firearms. The plaintiffs contended that "personal" firearms, whether acquired before or after licensing, are not subject to any recordkeeping requirements under the law. The Government argued that these requirements were necessary to effectively administer the 1986 amendment requiring that licensee's disposition of a personal firearm be recorded if not held as a personal firearm for at least one year.
- (4) Definition of "gun show." The plaintiffs alleged that the regulation allowing a licensed dealer to conduct business at gun shows within the State in which the licensed premises is located is unduly restrictive because it precludes commercially sponsored shows. The Government contended that the regulation recognizes

both gun shows sponsored by nonprofit groups and commercially sponsored shows.

(5) Definition of "manufacture." The plaintiffs contended that the definition unlawfully altered the licensing scheme of the Gun Control Act by requiring gunsmiths to obtain manufacturers' licenses. The Government argued that the regulation had no such effect and that the statutory definitions of "dealer" (including gunsmiths) and "manufacturer" make it clear that gunsmiths need only be licensed as dealers.

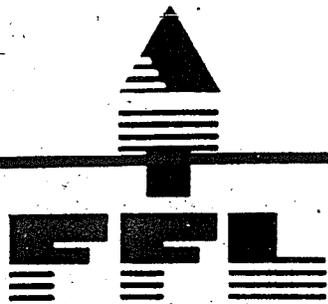
In its August 15th order, the district court rendered summary judgment in favor of the Government on all the issues, except that relating to the definition of "manufacture." While the court agreed with the Government's argument, the court set aside the section of regulations containing that definition as "arbitrary and capricious" because the court believed that the regulation as written could be confusing to gunsmiths.

Unless the court's order is appealed, ATF will have to issue a new regulation either removing the definition of "manufacture" from the regulations or amending its language to remove any ambiguity.

## GUN SHOW GUIDELINES

There continues to be complaints by licensees of improper sales being made by out-of-State dealers at gun shows, in violation of the Gun Control Act. ATF has developed a poster which advises dealers of the "cans and cannots" at gun shows. A reduced size version of the poster appears on the next page. The posters are available through ATF Bureau Headquarters to sponsors or promoters of gun shows. Sponsors or promoters interested in obtaining a full size copy of the poster (22"x30") should contact the Firearms and Explosives Operations Branch at (202) 760-3026 at least eight to ten weeks prior to their show.

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1992 VOLUME 1



# newsletter

Federal Firearms Licensees Information Service provided by the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms • Washington, D. C.

## "STRAW PURCHASES" OF FIREARMS

Questions have arisen concerning the lawfulness of firearms purchases from licensees by persons who use "straw purchasers" (another person) to acquire the firearms. Specifically, the actual buyer uses the straw purchaser to execute the Form 4473 purporting to show that the straw purchaser is the actual purchaser of the firearm. In some instances, a straw purchaser is used because the actual purchaser is prohibited from acquiring the firearm. That is to say, the actual purchaser is a felon or is within one of the other prohibited categories of persons who may not lawfully acquire firearms or is a resident of a State other than that in which the licensee's business premises is located. Because of his or her disability, the person uses a straw purchaser, who is not prohibited from purchasing a firearm from the licensee. In other instances, neither the straw purchaser nor the actual purchaser is prohibited from acquiring the firearm.

In both instances, the straw purchaser violates Federal law by making false statements on Form 4473 to the licensee with respect to the identity of the actual purchaser of the firearm, as well as the actual purchaser's residence address and date of birth. The actual purchaser who utilized the straw purchaser to acquire a firearm has unlawfully aided and abetted or caused the making of the

false statements. The licensee selling the firearm under these circumstances also violates Federal law, if the licensee is aware of the false statements on the form. It is immaterial that the actual purchaser and the straw purchaser are residents of the State in which the licensee's business premises is located, are not prohibited from receiving or possessing firearms, and could have lawfully purchased firearms from the licensee.

This article does not purport to cover sales to persons who purchase firearms with the intent of making gifts of such firearms to other persons. In instances such as this, the person making the purchase is indeed the true purchaser. There is no straw purchaser in these instances. The use of gift certificates would also not fall within the category of straw purchases. The person redeeming the gift certificate would be the actual purchaser of the firearm and would be properly reflected as such in the dealer's records.

## FIREARMS AND AMMUNITION EXCISE TAX - HISTORY OF THE PITTMAN- ROBERTSON ACT

The Federal Aid in Wildlife Restoration Act observes its 55th birthday on September 2, 1992 amid ample evidence that America's wild birds and animals, after a long era of scarcity, are prospering again and their numbers growing.

PLTF 103519

This happy outcome was by no means assured when the landmark Federal-State cooperative program began. Deer, wild turkeys, and many waterfowl species were only some of the creatures that had vanished from great parts of the country. The legendary abundance of wild game in earlier times was gone, potentially forever, while, money and skills to reverse the downward trend were scarce.

The conservation leaders who addressed this wildlife crisis recognized that no one could offer a quick fix or a free ride. Human distress was severe in 1937 after years of economic depression and drought, putting heavy pressure on all financial and natural resources.

Looking for an answer, conservationists united behind two basic principles drawn from the earliest days of the Republic. Let those who stand to benefit the most be the ones to shoulder as much of the cost as possible, and give the States authority to do the needed work with just enough Federal monitoring to assure high standards of quality.

An existing Federal excise tax on sporting arms and ammunition was before Congress for renewal that year. Wildlife advocates, nearly all of them hunters and supported strongly by the taxed industry, proposed that the levy be continued. Provided, that all receipts be earmarked for wildlife restoration projects to be designed and conducted by the States, instead of the money being deposited in the Treasury general fund, with the States sharing the costs of wildlife restoration projects, using funds from their hunting license fees.

From a modest beginning, the Pittman-Robertson program has grown with the economy and the human population of our country. It has channeled in excess of \$1.7 billion in Federal excise tax receipts, augmented by some \$600 million from the States, into activities to restore wildlife.

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*Editor ..... Robert Trainor*

The projects include State acquisition of acreage needed to bring wildlife back, research into wildlife requirements and problems, active management of habitats, and development of scientific ways to enable wildlife and people to share our land in harmony. The program has strengthened State governments and built wildlife management into a respected profession. For the past 20 years it also has been training some 700,000 hunters annually in safety and sportsmanship, substantially lowering the hunting accident rate and promoting sound conservation ethics. It has stimulated the economy of rural communities all across the land and given healthful outdoor recreation to millions.

But most of all, Pittman-Robertson has restored to abundance many of America's most beloved wild mammals and birds which are so much a part of our national heritage. And the beneficiaries include not only the game species but also many which are not hunted, from songbirds to bald eagles, from sea otters to prairie dogs.

All this has been accomplished without resorting to the use of general tax revenues. Those who purchase firearms, ammunition, and in recent years, archery equipment, are responsible for these achievements through the payment of the Federal manufacturers excise tax on those articles.

## **PAYMENT OF EXCISE TAXES BY GUNSMITHS**

The Bureau of Alcohol, Tobacco and Firearms (ATF) has received a number of inquiries from gunsmiths regarding the Federal manufacturers excise tax on firearms, shells and cartridges. This article is intended to provide information regarding requirements for payment of such excise tax by persons engaged in gunsmithing operations.

Some persons may believe that ATF is collecting a new tax on custom firearms, or is not following previously established guidelines in collecting the tax. The Federal manufacturers excise tax on firearms, shells and cartridges is not new; how-

ever, it is a new responsibility for ATF to collect the tax which was assumed from the Internal Revenue Service (IRS) on January 1, 1991. The IRS previously had responsibility for this excise tax and still has responsibility for many other manufacturers excise taxes.

If the manufacturers excise tax sounds new to some taxpayers, this is probably due to the fact that ATF has more direct lines of communication with the firearms industry than did IRS. ATF will continue to follow the interpretations of the IRS concerning this excise tax. ATF positions with regard to gunsmiths are all based on longstanding IRS rulings and regulations. In fact, one condition to ATF assuming responsibility for the firearms excise tax was that ATF would adhere to previously issued IRS rulings in this area. The Secretary of the Treasury imposed this requirement to ensure that all the manufacturers excise taxes would be administered in a consistent manner.

We believe that an overall view of how the firearms excise tax applies to gunsmiths will address many of the questions raised by gunsmiths. In general, two events must occur for the excise tax, imposed by section 4181 of the Internal Revenue Code, to apply to the alteration or modification of any firearm. First, an act of manufacture involving a firearm must occur. Second, the person who is responsible for the act of manufacture must sell the firearm or use it for business use.

The regulations in 27 CFR Part 53.11 define what is manufacturing through the definition of manufacturer. The term manufacturer is defined to include "any person who produces a taxable article from scrap, salvage, or junk material, or from new or raw material, by processing, manipulating, or changing the form of an article or by combining or assembling two or more articles." Therefore, work by a gunsmith on an existing firearm will generally be considered to be manufacture if the alterations materially change the firearm so that a different article results. Modifications to an article that change the form of the article or significantly improve or significantly change the function of an article also amount to manufacture. Modification of a firearm by repairing or replacing existing parts would not generally change the form of the article and would not amount to manufacture. Bluing or black anodiz-

ing in refinishing an existing firearm also would not change the form of a firearm and would generally not amount to manufacture.

The IRS has issued a number of excise tax rulings concerning alterations made to firearms and whether the alterations amount to manufacture. Overall, the rulings contrast manufacture with repair or replacement of existing parts. If existing parts of a firearm are replaced, refinished, or repaired, no manufacture takes place. However, if parts are added to a frame, receiver, or action so as to make a complete firearm, this would generally be manufacture. Additionally, when custom firearms are produced from new or used firearms and the custom firearms are a new and different firearm, then manufacture has taken place. An example of custom firearms is when surplus military firearms are "sporterized." The second part of determining whether the firearms excise tax applies concerns whether the person who is responsible for the act of manufacture has sold or used the firearm. Let us assume that a gunsmith's alterations to a firearm for a customer amount to manufacture. In a situation where a customer supplies a firearm to a gunsmith for modification, the customer is usually considered to be the manufacturer for excise tax purposes. The customer is considered to be the manufacturer because he directs what type of modification is to be done to the firearm and he retains title to the firearm while it is being modified. Even though the gunsmith performs the physical modifications to the firearm, he would not usually be considered the manufacturer for excise tax purposes in this situation.

A different result occurs where the alterations are made in connection with the sale of the firearm by the gunsmith. Where the gunsmith is selling the firearm to the customer, and in connection with the sale, the gunsmith performs alterations that constitute manufacture, the sale of the altered firearm results in tax liability. The clearest example of this situation is where the gunsmith offers to customize a firearm to the customer's specifications prior to sale. However, it has been the longstanding position of the IRS in excise tax matters that tax liability cannot be avoided by merely breaking the transaction into two parts, i.e., by selling the firearm and subsequently performing the manufacture.

PLTF 103521

If the manufacture is done in connection with the sale of a firearm, the gunsmith is liable for tax, whether he performs the acts of manufacture before or after the sale. In the latter instance, ATF will adhere to IRS rulings in this area and blend the sale and the subsequent manufacture into one transaction. The substance of the transaction will control, not the form.

Where the gunsmith is not selling the firearm to the customer, or in circumstances where the sale and subsequent alterations are truly separate transactions, the customer is deemed to be the manufacturer. In these situations, tax liability, if any, would fall on the customer.

After it has been determined that manufacturing has occurred and who is the manufacturer for firearms excise tax purposes, does the manufacturer owe firearms excise tax? The answer to this question depends upon what the manufacturer does with the firearm after the gunsmith has completed his work.

If the manufacturer sells the firearm before using it, he is liable for the excise tax. If the manufacturer uses the firearm for personal, not business, use after delivery from the gunsmith, no tax liability is incurred. The regulations specifically provide that the tax does not apply to a firearm that has been manufactured for personal use. (27 CFR 53.112).

If the manufacturer uses the firearm in the operation of any business in which he is engaged, tax liability would be incurred. (26 U.S.C. 4218 and 27 CFR 53.112(a)). Taxable use includes the use of firearms as sales samples.

It should be noted that firearms excise tax is applied on the sales of complete firearms. The term firearm is defined as "any portable weapons, such as rifles, carbines, machineguns, shotguns, or fowling pieces, from which a shot or bullet, or other projectile may be discharged by an explosive." (27 CFR 53.11). A receiver for a firearm is not a complete firearm and is not subject to tax.

However, a manufacturer who sells a firearm or ammunition in a knockdown condition, which is complete as to all component parts, will be liable for the tax. Liability for tax will be incurred

whether the component parts of the firearm are sold in one transaction or a series of separately invoiced transactions.

Pursuant to 26 U.S.C. 4181, tax is calculated on the specified percent of the price for which the article is sold. The tax rate is 10 percent for pistols and revolvers, and 11 percent for all other firearms and ammunition.

If a gunsmith acquires title to a firearm, performs modifications on the firearm which amount to manufacture, and then sells the firearm, tax would be calculated on the price for which he sold the firearm. If the gunsmith previously sold the firearm to the customer and subsequently further manufactures the firearm at the customer's request, the gunsmith will be liable for excise tax on his manufacture, if the manufacture is performed in connection with the original sale. Under these circumstances, the tax will be based on the price charged to the customer for the original sale of the firearm plus the charges for the subsequent modifications.

Section 4216(a) of the Internal Revenue Code and the regulations issued thereunder also provide for certain inclusions and exclusions from the price which must be taken into account when determining the tax basis. See 26 U.S.C. 4216(a) and 27 CFR 53.91 and 53.92 for the inclusions and exclusions which must be applied to the price to determine an adjusted sale price.

Ordinarily, the tax rate is applied to the adjusted sale price to determine the amount of a manufacturer's tax liability on each firearm manufactured. However, if an article is sold only at retail (i.e., directly to consumers), section 4216(b)(1)(C) of the Internal Revenue Code requires that a constructive sale price be determined. The constructive sale price for firearms sold at retail by manufacturers who do not sell like articles to wholesale distributors is 75 percent of the actual selling price, after taking into account the inclusions and exclusions set forth above.

Most gunsmiths sell directly to consumers, with no sales to wholesale distributors. Assuming this is the case in the examples provided above, the tax rate of 10 or 11 percent would be applied to

75 percent of the adjusted sale price to determine the amount of the gunsmith's liability for each gun manufactured.

If any person, such as the manufacturer, importer or producer, had previously paid excise tax on a firearm that a gunsmith subsequently customizes and sells, the gunsmith may be eligible to claim a refund, or take a credit on the excise tax return for the tax previously paid. (See 27 CFR 53.180 - 53.182, and 53.185 for details on how to claim a refund, or take a credit.)

A gunsmith who intends to purchase firearms for further manufacture may want to register as a tax-free purchaser to receive the firearms without payment of tax. ATF Form 5300.28 is used as the application to register. This will eliminate the gunsmith's payment of the excise tax when purchasing the firearm from the original manufacturer and the need to claim refunds or take tax credits.

In general, the excise taxes for firearms and ammunition are paid to the Bureau of Alcohol, Tobacco and Firearms with a quarterly tax return (ATF F 5300.26), and, if the taxpayer incurs specified amounts of tax liability, with a monthly or semi-monthly deposit coupon (ATF F 5300.27). The addresses for mailing tax returns and deposits are listed in the instructions on the tax return (ATF F 5300.26). All firearms and ammunition excise taxpayers, even if no liability is incurred, must file quarterly tax returns. Deposit requirements are explained in the instructions on the tax return (ATF F 5300.26).

Please contact your nearest ATF office if you have any further questions.

## REGISTRATION FOR TAX-FREE SALES

Persons who pay the manufacturers excise tax on firearms or ammunition must have valid Certificates of Registry prior to making sales tax-free under Section 4221 of the Internal Revenue Code. Tax-free sale of firearms and ammunition by the manufacturer, importer or producer under Section 4221(a), is permitted under the following circumstances:

1. For use by the purchaser for further manufacture, or for resale by the purchaser to a second purchaser for use by such second purchaser in further manufacture.
2. For export, or for resale by the purchaser to a second purchaser for export.
3. For use by the purchaser as supplies for vessels or aircraft.
4. To a State or local government for the exclusive use of a State or local government.
5. To a nonprofit educational organization for its exclusive use.

Section 4222 of the Internal Revenue Code provides that tax-free sales may not be made under section 4221 unless the manufacturer, the first purchaser, and the second purchaser (if any) are all registered. However, section 4222(b) provides that State and local governments are not required to register if such governments comply with regulations relating to the use of exemption certificates. The regulations at 27 C.F.R. § 53.141 address the use of exemption certificates by State and local governments purchasing articles direct from the manufacturer for their exclusive use.

Manufacturers and importers who sell firearms and ammunition tax-free without registering or otherwise complying with the requirements of the law and regulations are liable for excise tax, applicable penalties, and interest on the sale of the articles.

Also, the Certificate of Registry issued by the IRS or ATF is not transferable to another person. Such a transfer could occur as a result of a change in the control in the business of a Certificate holder. Any changes in business control should be reported within 30 days to your Regional Director (Compliance). Other requirements to be met for tax-free sales are found in the regulations, Subpart K of 27 CFR Part 53.

## CUSTOMER'S TAX LIABILITY FOR RELOADED AMMUNITION

Under certain circumstances the excise tax liability for reloaded ammunition falls upon the customer, not the rebader. Section 27 CFR 53.11 states, in part:

"A person who reloads used shells and cartridge casings is a manufacturer of shells or cartridges within the meaning of section 4181 if such reloaded shells or cartridges are sold by the reloader. However, the reloader is not the manufacturer of shells or cartridges if, in return for a fee and expenses, he reloads casings or shells or cartridges submitted by a customer and returns the reloaded shells or cartridges with the identical casings provided by the customer to that customer. Under such circumstances, the customer would be the manufacturer of the shells and cartridges and may be liable for tax on the sale of articles. See section 4218 of the Code and 53.112."

Section 53.112(b) of the regulations provides that tax shall not attach where an individual manufactures an article for personal use. Thus, if an individual has a reloader manufacture ammunition from casings provided by the individual, the individual will not incur tax if the reloaded ammunition is manufactured for his personal use. However, a person will be liable for the tax if he sells the reloaded shells or cartridges or uses them for other than personal use. For example, the use of the reloaded ammunition in a business operated by the individual (e.g., shooting range) would result in excise tax liability under Section 4181 of the Internal Revenue Code.

## CALIFORNIA - LAW CHANGE ADVISORY

Effective January 1, 1992, all firearms designated as antiques, and only rifles and shotguns designated as curios or relics by the Bureau of Alcohol, Tobacco and Firearms (ATF), retained the exemptions for these firearms which have been provided under California State Penal Code

Section 12001(e). Specifically, these firearms are exempt for the purposes of dealer licensing requirements for their sale, lease, or transfer; requirement for submission of reporting forms and waiting periods by dealers; and requirements for private party sales.

Therefore, licensed collectors (who are not also licensed dealers) cannot receive curio & relic handguns directly. The collector must have the handgun delivered to a licensed dealer. The collector would then have to complete the Dealer Record of Sale form and wait 15 days before obtaining the firearm from the dealer.

California law is also interpreted to require licensed dealers who transfer a firearm to their personal collection to complete a Dealer Record of Sale form and wait 15 days before completing the transfer.

For further information, contact the California Department of Justice, Sacramento, California (916) 739-3510.

## TRANSFER OR DUPLICATION OF SERIAL NUMBERS ON NATIONAL FIREARMS ACT FIREARMS

ATF has received a number of questions about the transfer of a serial number from one National Firearms Act (NFA) firearm to another. Some of these questions also involved the duplication of serial numbers.

A misunderstanding apparently exists that the serial number of a registered NFA firearm may be transferred to another NFA firearm without any additional registration or tax. The usual justification is that the original firearm is damaged beyond repair and is being replaced.

This scenario is not accurate. The originally registered firearm is the one that appears in the National Firearms Registration and Transfer Record (NFRTR). The fact that a firearm has been damaged does not effect its registration status unless the damage has resulted in the

destruction of the firearm. The NFA Branch must then be notified of the destruction so that the NFRTR may be annotated.

The creation of any replacement would constitute the making of a new NFA firearm and approval must be granted before the act could occur or, if being done by a qualified manufacturer, a Form 2 notice must be filed to effect the registration of the new firearm. Any making or transfer tax liability incurred must be satisfied.

In addition, any machinegun manufactured after May 19, 1986 would be subject to the restrictions of 18 U.S.C. 922(o), which precludes private possession.

We have also encountered situations where the serial number and other identification markings are transferred to another firearm because the original type of machinegun may have had little value and another type may be worth much more.

In these situations, ATF may pursue criminal investigation and prosecution for the following violations of the National Firearms Act: receipt or possession of a firearm made in violation of the Act; making a firearm in violation of the Act; and the making of a false entry on an application, return or record. In addition, if a machinegun is involved, there would be a violation of Title 18, United States Code, section 922(o). The firearms involved in the violation are subject to seizure and forfeiture.

## MARKINGS ON FIREARMS

ATF has recently encountered situations involving problems with identifying firearms on which the manufacturer's markings are non-existent or hidden. We have found that the problems with hidden markings primarily exist with firearms manufactured in a crude form and later assembled to a finished form by a subsequent manufacturer.

The regulations in 27 CFR 178.92, require each licensed manufacturer or importer to legibly identify each firearm manufactured or imported by conspicuously placing a serial number on the frame or receiver and by conspicuously placing

other required markings (manufacturer's name, city and state, model, caliber or gauge) on the frame, receiver, or barrel. These markings must be engraved, cast, stamped (impressed) or otherwise placed in a manner not susceptible of being readily obliterated, altered or removed.

The required markings must be placed so that they are conspicuous regardless of the stage of completion of the firearm, that is, they must be conspicuous from the initial stage as a frame or receiver through the manufacturing process to completion and must be conspicuous on an assembled firearm. The markings cannot be hidden by the assembly of the firearm.

While these requirements apply to any firearms manufactured or imported, including National Firearms Act (NFA) firearms (machineguns, silencers, etc.), 27 CFR 179.102 also prescribes marking requirements for NFA firearms.

With respect to NFA weapons, Federal law in 26 U.S.C. 5861(h) provides that it shall be unlawful to obliterate, remove, change, or alter the serial number or other identification required, and it shall be unlawful to receive or possess a firearm having the serial number or other required information obliterated, removed, changed, or altered.

With respect to all firearms, the Gun Control Act, specifically 18 U.S.C. 922(k) makes it unlawful to receive or possess a firearm which has had the serial number removed, altered, or obliterated.

We suggest that an improperly marked firearm (1) be returned to the manufacturer or importer (subsequent to approved application for NFA firearms) so that the required markings may be properly placed on the firearm, or (2) the licensee possessing the firearm should restamp the proper markings on the firearm in a visible location, but only after the licensee contacts the local ATF office for approval.

Should you have any questions about the marking requirements for firearms, please contact your local ATF (Compliance Operations) office.

# STORAGE OF NFA FIREARMS

This is a reminder that licensed firearms dealers may not take in NFA firearms registered to other persons for either temporary storage or consignment sale purposes. Such unapproved possession violates 26 USC 5861, and subjects the weapon to seizure and forfeiture.

If the lawful possessor of a registered NFA weapon needs to temporarily store the weapon (e.g. for security purposes during a temporary absence, such as a vacation), he should store the weapon in such manner that only the registered owner has access to the weapon. For example, in a safe deposit box at a bank. The weapon should not be left in the custody of another person since this would constitute a transfer of the weapon. For more information, contact the NFA Branch at Bureau of Alcohol, Tobacco and Firearms, NFA Branch, Washington, DC 20226, or (202) 927-8330.

## REMINDER TO NFA WEAPONS LICENSEES

Those who manufacture, import or deal in NFA weapons must pay Special Occupational Tax (SOT). Please be sure that the information (name, address, etc.) shown on your firearms license is the same as that shown on your SOT return. For example, if your license reflects a trade name, your SOT return should include that trade name.

Examiners in the NFA branch must verify both SOT and licensed status before processing weapons transfer applications. Therefore, having the same information on both documents will expedite the process.

## FIREARMS & EXPLOSIVES TELEPHONE NUMBERS

Firearms & Explosives Division	(202) 927-8300
Firearms & Explosives Operations Branch	(202) 927-8310
Firearms & Explosives Imports Branch	(202) 927-8320
National Firearms Act Branch	(202) 927-8330
Firearms & Explosives Licensing Center	1-(800) 366-5423

## SALES OF FIREARMS TO LAW ENFORCEMENT OFFICERS

Section 925(a)(1) of the Gun Control Act of 1968 exempts law enforcement agencies from the transportation, shipment, receipt, or importation controls of the Act when firearms are to be used for the official business of the agency.

If a law enforcement officer is issued a certification letter on the agency's letterhead signed by a person in authority within his agency stating that the officer will use the firearms in performance of his official duties, then that officer specified in the certification may purchase a firearm from an FFL regardless of the State in which he resides or in which the agency is located. The seller is not required to prepare a Form 4473 covering such a sale; however, the transaction must be entered in the permanent record. The certification letter from the officer must be kept in your files.

ATF considers the following as persons having the authority to make certifications that the law enforcement officer purchasing the firearms will use the firearms in performance of his official duties.

1. In a city or county police department, the director of public safety, or the chief or commissioner of police.
2. In a sheriff's office, the sheriff.

3. In a State police or highway patrol department, the superintendent or the supervisor in charge of the office to which the State officer or employee is assigned.
4. In Federal law enforcement offices, the supervisor in charge of the office to which the Federal officer or employee is assigned.

ATF would also recognize someone signing on behalf of a person of authority provided there is a proper delegation of authority and overall responsibility has not changed in any way.

Further, sales to individual law enforcement officers are not exempt from the Federal excise tax on the sale of firearms and ammunition. Manufacturers and/or importers may make tax-free sales to State and local government agencies, provided, the requirements for tax-free sales under 27 CFR 53.135(c) have been met.

## ATF HOTLINE

In March of 1992, ATF established a new national toll-free hotline to report criminals in possession of firearms, trafficking in firearms, and to provide information about armed drug traffickers. By calling 1-800-ATF-GUNS, citizens can (anonymously, if they so choose) report suspected illegal gun violations, including armed gang and drug activity. Calls are routed by area code to the nearest ATF law enforcement field division.

### ATF WESTERN REGION REORGANIZATION

The Western Region of Compliance Operations has consolidated and reorganized their field offices. The Santa Rosa Office has become a Post of Duty under the San Francisco Area Office, and the Fresno Area Office has become a Post of Duty under the San Jose Area Office. The State of Utah is now the responsibility of the Sacramento Area Office, and the Los Angeles Area Office now has responsibility for the entire county of Los Angeles. A detailed listing of the changes may be obtained by contacting the Western Regional office at (415) 744-9425 and requesting a copy of Industry Memorandum W-91-13.

## DELEGATIONS OF AUTHORITIES

The Regional Directors (Compliance) of the North Atlantic, Southeast, Midwest, Southwest and Western Regions have delegated their authorities to deny an applicant a Federal firearms license and to revoke a Federal firearms license under 27 CFR 178.71 and 178.73, respectively, to the Chiefs, Technical Services.

## SUPREME COURT RULES ON THOMPSON/CENTER ARMS CASE

On June 8, 1992, the Supreme Court held in United States v. Thompson/Center Arms Co., that a pistol combined with a kit for converting the pistol into a rifle was not a weapon regulated by the National Firearms Act (NFA). Thompson/Center manufactured the "Contender" pistol and a kit with a shoulder stock and a 21-inch barrel that could be used to convert the pistol into a rifle. The Federal Circuit had held that the pistol and kit were not subject to the Act because they had never been assembled as a regulated short-barreled rifle. The Supreme Court affirmed the decision of the lower court, but on much narrower grounds. The Supreme Court held that since all of the parts in the Contender pistol kit could be used in the assembly of either an unregulated pistol or unregulated rifle, the combined packaging of the pistol and kit did not result in the "making" of an NFA weapon. Therefore, such a combination of parts was not subject to the tax and registration provisions of the National Firearms Act.

While affirming the Court of Appeals decision, the Supreme Court was careful to distinguish the Thompson/Center weapon from other combinations of unassembled parts which could only result in a short-barreled rifle or other regulated firearm. Since the latter weapons are still subject to the National Firearms Act, this decision will have a limited impact on the enforcement of the Act.

In summary, what this means is that any person who possesses a Contender pistol kit and who assembles the parts into a short-barreled rifle (i.e. with 10 inch barrel and stock) has made an NFA weapon, subject to the making tax and registration.

PLTF 103527

As further examples, any rifle possessed together with parts that could only be used to convert the weapon into a machinegun would be covered by the NFA. A pistol with an attachable shoulder stock would be considered an NFA weapon. Also, a semiautomatic Uzi with a 16-inch barrel, together with a short barrel, would be covered by the NFA.

Finally, the court decision has no impact on the Bureau's position that the possession of a collection of parts from which one can assemble other types of NFA weapons (such as a machinegun or a destructive device or an "any other weapon") still constitutes the possession of an NFA weapon requiring registration, subject to the appropriate making and transfer taxes, whether or not assembled.

If you have any questions on this matter, please address them to the National Firearms Act Branch, 650 Massachusetts Ave., N.W., Washington, DC 20226.

**SCHEME TO CIRCUMVENT THE  
SEMIAUTOMATIC ASSAULT RIFLE  
IMPORT BAN RESULTS IN  
CONVICTIONS FOR  
CONSPIRACY TO DEFRAUD THE  
UNITED STATES AND MAIL FRAUD**

On March 25, 1992, in United States v. Nevius, et al., a Federal jury in Ohio convicted Federal firearms licensee F.J. Vollmer and Company, Inc. of Bloomington, Illinois, of one count of conspiracy to defraud the United States and three counts of mail fraud for its role in a scheme to acquire over 70 Steyr AUG-SA semi-automatic assault rifles and receivers in circumvention of the import ban on such weapons.

F.J. Vollmer and Company were charged with conspiring with an officer of the Illinois National Guard and others to obtain the semiautomatic assault rifles from Gun South, Inc., a licensed importer in Trussville, Alabama.

Pursuant to a court ordered settlement of litigation between Gun South, Inc., and ATF, these weapons may only be sold directly to governmental entities or to individual law enforcement officers for use in their official duties. Each individual purchaser must certify to ATF that the weapon is being purchased for official use and not for the purpose of transfer or resale. A supervisory official must also provide the same certification.

Between June of 1990 and August of 1991, the defendants submitted orders through the mails for the weapons containing false certifications by numerous National Guardsmen. The certifications falsely attested that the weapons were to be used in the course of the guardsmen's official duties and were not being purchased for the purpose of transfer or resale. However, upon receipt of the weapons, generally at an Illinois National Guard armory, the rifles were immediately transported in their original shipping containers to F.J. Vollmer and Company's premises. In turn, F.J. Vollmer and Company offered the rifles for sale to the public.

**REQUEST FOR  
ASSISTANCE  
NEW CASTLE INDIANA  
POLICE  
DEPARTMENT**

The New Castle Indiana Police Department and the Henry County Prosecutor's office are requesting information on any firearms sold to Wesley W. Crandall Jr., D.O.B. 4/27/50, SSN 309-56-5864. Mr. Crandall was the victim of a homicide and several firearms were stolen during the commission of the crime.

Please report any firearm sales to Mr. Crandall from 1986 through February 1991 to Captain Butch Baker, New Castle Police Department, 227 North Main Street, New Castle, Indiana 47362, (317) 529-4890.

Department of the Treasury  
Bureau of Alcohol, Tobacco and Firearms  
Firearms & Explosives Licensing Center  
P.O. Box 2994  
Atlanta, GA 30301

Official Business  
Penalty for Private Use, \$300

BULK RATE  
POSTAGE & FEES PAID  
ALCOHOL, TOBACCO  
AND FIREARMS  
Permit No. G-86

**REGIONAL DIRECTOR'S OFFICES**

- |  |                |
|--|----------------|
| 230 S. Dearborn Street, 15th Floor<br>Chicago, Illinois 60604            | (312) 353-1967 |
| Federal Building, Room 6519<br>550 Main Street<br>Cincinnati, Ohio 45202 | (513) 684-3334 |
| 6 World Trade Center, 6th Floor<br>New York, New York 10048-0951         | (212) 264-2328 |
| 841 Chestnut Building, 3rd Floor<br>Philadelphia, Pennsylvania 19107     | (215) 597-4107 |
| 2600 Century Parkway, NE<br>Atlanta, Georgia 30345-3104                  | (404) 986-6010 |
| 1114 Commerce Street, 7th Floor<br>Dallas, Texas 75242                   | (214) 767-2281 |
| 221 Main Street, 11th Floor<br>San Francisco, California 94105-2708      | (415) 744-7013 |

PLTF 103529



# FFL NEWSLETTER



AUGUST 1996

VOLUME 1

FEDERAL FIREARMS LICENSEE INFORMATION SERVICE  
PROVIDED BY THE U.S. DEPARTMENT OF THE TREASURY  
BUREAU OF ALCOHOL, TOBACCO AND FIREARMS  
WASHINGTON, DC

## BRADY

It has been over 2 years since the Brady Handgun Violence Prevention Act (Brady) was enacted. It is helping to prevent criminals from obtaining handguns, and is doing so with minimal inconvenience to law-abiding citizens.

Our most recent statistics estimate that more than 44,000 felons have been denied access to handguns since March 1, 1994. Federal firearms licensees share the credit for making Brady work. It is an excellent example of how the firearms industry, local law enforcement and the Federal Government can work together as partners to limit criminal access to handguns. The following two cases illustrate how the system is working.

In August 1995, an individual twice attempted to purchase a handgun in Great Falls, Montana. The sale of the handgun was denied in both instances due to the Brady check, which revealed that the subject was a five-time convicted felon in California and Montana. ATF special agents were notified of the Chief Law Enforcement Officer's findings, and the subject was arrested and charged with violations of the Federal firearms laws, including falsifying the Brady form.

In October 1995, as a result of the Brady check, the DeKalb County, Georgia, Police Department advised ATF that a possible convicted felon was attempting to purchase a handgun. ATF initiated an investigation of the subject and determined that he had previously been convicted of capital murder. Since the time of his parole in 1986, the subject had successfully purchased and possessed no less than eight firearms prior to the Brady check alerting law enforcement authorities to this activity. As a result of the investigation, ATF special agents arrested the subject as he

took possession of three handguns on October 6, 1995, from an undercover ATF special agent. As a result of this arrest, the subject was indicted and convicted of a violation of the Federal firearms laws. The subject has not yet been sentenced.



We continue to get questions about ATF F 5300.35, Statement of Intent to Obtain a Handgun, (the Brady form). Most of the questions deal with how long the form is valid, how many handguns can be purchased on one form, and when the form should be executed. We hope the following explanation will clear up these questions.

The form should be completed at the time a purchaser expresses an intent to acquire a handgun from a licensee. Only one Brady form is necessary regardless of the number of handguns to be purchased at one time. The firearm need not be in the licensee's inventory as long as the purchaser has the intent to acquire a handgun. However, the form applies only to the firearms the purchaser intends to obtain in that particular transaction. Should this same purchaser decide to purchase additional weapons in a later transaction, he/she must complete another Brady form.

Once the approval has been given for the purchase of a handgun, the purchaser may pick up that firearm at any time. The Brady law contains no restriction on the amount of time that passes between the approval and actual delivery of the handgun to the purchaser. However, we encourage you to have the form executed as close in time to the delivery of the firearm as possible, so that any records check performed will be recent.

PLTF 101320



As most of you are aware, Brady provides for the establishment of a National Instant Criminal Background Check System, which a firearms licensee must contact before transferring any firearm to a nonlicensed individual. The Department of Justice is responsible for the development and administration of the National Instant Check System. The waiting period provisions of Brady that became effective on February 28, 1994, will cease to apply on November 30, 1998. At that time, the National Instant Check System will be available for background checks.

### THE NET

Some of you have had difficulty accessing ATF via the Internet at our previously published address. To clear up these technical problems with access, the address has been changed. Our new address is:

[www.atf.treas.gov](http://www.atf.treas.gov)

Over the next few months, we will be adding to the information currently posted on the net. We plan to provide statistics, news releases, and other items we believe will be of interest. Please continue to visit our web site to see what new information is available.

### NEW FACES

Bradley A. Buckles was appointed Deputy Director on January 3, 1996. Mr. Buckles began his career as an attorney with ATF in 1974, advancing to Staff Assistant to the Chief Counsel in 1979, and Assistant Chief Counsel (Litigation) in 1982. Mr. Buckles was named Deputy Chief Counsel in 1983, and Chief Counsel in 1995. During his career in Chief Counsel's office, Mr. Buckles worked on the entire range of ATF activities. He has participated in the development of firearms and explosives anti-crime legislation, regulatory reform initiatives, distilled spirits tax reform, wine labeling regulations, and trade practice enforcement projects. Mr. Buckles received his Bachelor of Arts degree in 1971 from the University of Wyoming and his Juris Doctor from Washburn University in Topeka, Kansas, in 1974. He is a member of the Kansas Bar.



On March 17, 1996, Myrna Huntley began her appointment as the Chief of the Firearms and Explosives Licensing Center. Ms. Huntley began her career with ATF in 1969 in the Georgia District Office of Criminal Enforcement. In 1974, she transferred to Regulatory Enforcement as an alcohol and tobacco tax specialist. She transferred to the field as an inspector in 1979 and for the next 5 years she primarily worked in the States of Georgia and Alabama in the alcohol, tobacco, firearms, and explosives area. In 1983, she was selected as a supervisor in the Atlanta technical services office, and in 1986, she returned to the field as a special inspector. Ms. Huntley was later selected as Assistant Chief, Technical Services, a position she held until April 1989 when she was appointed as Chief, Technical Services, Southeast District. During her career, she has served on numerous task forces and Bureau Headquarters details spanning almost every area in Regulatory Enforcement.



Ms. Nereida W. Levine has been named Chief, National Firearms Act Branch. Ms. Levine began her career with ATF in 1986 as a legal instruments examiner at the Firearms and Explosives Licensing Center. From there, she transferred to the Miami Field Division (Criminal Enforcement). Shortly thereafter, she became an inspector in the Miami Area Office (Regulatory Enforcement). As an inspector, Ms. Levine worked a variety of firearms, explosives, alcohol, and tobacco-related inspections. In 1991, Ms. Levine was promoted to Group Supervisor in the Miami Area Office. In this capacity, she coordinated several enforcement-related special projects in addition to facilitating liaison efforts with other Federal, State, and local agencies. After serving in this capacity, Ms. Levine was selected as an information analyst for the Firearms and Explosives Operations Branch in 1993. There Ms. Levine continued to work extensively with ATF inspectors, special agents, and firearms and explosives industry members. Ms. Levine ended her tenure with the Firearms and Explosives Operations Branch with her reassignment to the Office of Training and Professional Development in 1995. Prior to her

selection to this position, Ms. Levine was actively managing various firearms and explosives-related training in addition to participating in an array of agency task forces and committees. Ms. Levine's appointment was effective March 17, 1996.

## ADDRESS CHANGES

Recently the Midwest and North Atlantic Districts have had several area offices relocate. The new addresses for the relocated offices follow:

**Cleveland Area Office**  
6745 Engle Road  
Suite 210  
Parkview Building  
Middleburg Heights, Ohio 44130  
Phone: (216) 522-3374  
Fax: (216) 522-7834

**Detroit Area Office**  
1155 Brewery Park Boulevard  
Suite 300-A  
Detroit, Michigan 48207-2602  
Phone: (313) 393-0085  
Fax: (313) 393-6054

**Louisville Area Office**  
600 Dr Martin Luther King Place  
Suite 354  
Louisville, Kentucky 40202-2285  
Phone: (502) 582-5216  
Fax: (502) 582-5203

**Baltimore Area Office**  
22 S. Howard Street, 3rd Floor  
Baltimore, Maryland 21201-2505  
Phone: (410) 962-3200  
Fax: (410) 962-2803

**Fairfield Area Office**  
165 Passaic Avenue, 3rd Floor  
Fairfield, New Jersey 07004  
Phone: (201) 808-1319  
Fax: (201) 808-0391

**Hartford Area Office**  
450 Main Street, Room 401  
Hartford, Connecticut 06103-3002  
Phone: (203) 240-3400  
Fax: (203) 240-3404

## IMPROVING FIREARMS SECURITY

Federal firearms licensees are experiencing a dramatic increase in firearms theft. ATF received nearly 2,000 reports of incidents involving almost 10,000 firearms during calendar year 1995. In the first 2 months of 1996, 382 Federal firearms licensees have reported 415 incidents involving 1,631 firearms.

In order to reduce your risk of experiencing firearms theft, some of the following security tips may be considered:

- *Keep display cases locked at all times*
- *Show only one firearm at a time to your customers*
- *Do not leave a customer unattended while handling a firearm*
- *Be cautious in meeting with customers after business hours*
- *Strictly control firearms security at gun shows*
- *Institute an employee screening process*
- *Regularly utilize any security measures you already have in place*

Sixty three percent of the thefts reported to ATF indicate that entry was made through a door or window. That indicates that the best investment to make is the addition of a burglar alarm with central monitoring. Burglar bars on windows and barriers, such as concrete filled posts placed around your business, will also help prevent smash and grabs. Securing your inventory at the end of the day, either by locking it via hardened cable or placing it in a vault will also be beneficial. We also advise you to review your State law, as some States mandate certain security procedures for licensees. For additional security tips, contact your local police department's crime prevention officer.

If you do become a victim of firearms theft/loss, don't forget the incident must be reported to ATF at 1-800-800-3855 within 48 hours after the theft or loss is discovered. This verbal notification must be followed up by a written notification on ATF F 3310.11, Federal Firearms Licensee Theft/Loss Report, within the same 48-hour period. This form is available from the ATF Distribution Center, P.O. Box 5950, Springfield, Virginia 22150-5950, Phone (703) 455-7801. The theft

or loss must also be reported to the appropriate local authorities. Your assistance is greatly appreciated.

## FINGERPRINTS

As most of you know, one of the requirements of the Violent Crime Control and Law Enforcement Act of 1994 is for fingerprints to be submitted for each responsible person along with the application for a Federal firearms license. We have received several inquiries regarding whether the fingerprints must be taken by the police department or whether there are other acceptable sources for fingerprinting.

There is no specific requirement that the prints be taken by the police department. However, the prints must be clear, unsmudged and classifiable. The fingerprints must also be submitted on the forms supplied by ATF. License applications received by ATF with illegible fingerprints must be returned, which results in delayed license application processing. For this reason, ATF recommends that they be taken by a source who is familiar with the process and has experience in fingerprinting, such as a police department or private security firm.

## LETTERS OF AUTHORIZATION

As many of you are aware by now, the licensing standards for Federal firearms licensee applicants have been revised by recent statutory changes. This has caused some delay in processing applications at the Firearms and Explosives Licensing Center. Because of these delays, we have received several inquiries regarding the ability of a licensee to continue operations while his/her application is being processed.

A firearms licensee who timely applies for renewal of his/her license is authorized to continue firearms operations as authorized by his/her license until the renewal application is finally acted upon. The regulations allow a supplier to continue to make shipments to a licensee for not more than 45 days following the expiration date of the transferee's license. However, a supplier may continue to make firearms shipments after 45 days if the supplier obtains appropriate evidence that the licensee's renewal application is pending at the Firearms

and Explosives Licensing Center. The evidence should consist of a letter of authorization from ATF to the licensee stating that his/her renewal application has been timely received and that action on the application is pending. Licensees may obtain a letter of continuing operation that confirms their authority to continue operations by contacting the licensing center by phone at (404) 679-5040 or by mail at 2600 Century Parkway, Suite 400, Atlanta, Georgia 30341. A letter of continuing operation may also be obtained by contacting your local regulatory enforcement field office.

We are making every effort to reduce these delays and believe we will be able to return to a normal response time after all Federal firearms licensees have gone through the 3-year licensing cycle under the new requirements. The cycle will be completed in late 1997. In the meantime, we appreciate your patience with these delays.

## CLASSIFICATION OF GAS/FLARE GUNS WITH ANTI-PERSONNEL AMMUNITION AS DESTRUCTIVE DEVICES

Recently ATF issued ATF Ruling 95-3 holding that 37/38 mm gas/flare guns possessed with "anti-personnel" ammunition, consisting of cartridges containing wood pellets, rubber pellets or balls, or bean bags are destructive devices as, defined in the Gun Control Act and the National Firearms Act and require registration to be lawfully possessed.

Devices designed for expelling tear gas or pyrotechnic signals have been held to be exempt from the destructive device definition. However, when a gas/flare gun is possessed with "anti-personnel" ammunition, it is then capable of use as a weapon. Thus, it becomes a firearm and is no longer exempt from the destructive device definition.

Any person who will possess a gas/flare gun in combination with "anti-personnel" ammunition must register the making of a destructive device prior to the acquisition of both the gun and the "anti-personnel" ammunition. The gas/flare gun must be identified with the required markings, including serial number. Any person engaged in

the business of buying and selling the combination of the gas/flare gun and "anti-personnel" ammunition must have the appropriate Federal firearms license and have paid the appropriate special (occupational) tax.

If you have any questions regarding this matter, the entire text of the ruling is available in the ATF Quarterly Bulletin, Volume 3, 1995, or you may contact the National Firearms Act Branch at (202) 927-8330.

### **PROCESSING APPLICATIONS AND NOTICES ASSOCIATED WITH NATIONAL FIREARMS ACT WEAPONS TRANSACTIONS**

The National Firearms Act Branch is responsible for processing a variety of applications and notices associated with the manufacture, registration, transfer, interstate transportation, and exportation of National Firearms Act weapons. The National Firearms Act Branch is also responsible for maintaining the National Firearms Registration and Transfer Record. Therefore, we must ensure that information provided on various applications and notices is accurate.

Individual applicants are required to supply a full name, i.e., first, middle, and last, when executing these types of forms. During the last few months, the National Firearms Act Branch has encountered several instances where individuals record their name one way on the application or notice and another way on the supporting documentation.

For example, in the case of a taxpaid transfer of a National Firearms Act weapon, an ATF Form 4, Application For Tax-Paid Transfer of Firearm, must be submitted to the NFA Branch along with a set of fingerprint cards. The ATF Form 4 may indicate a name of "J. S. Fitzgerald," while the fingerprint card may have a name of "James Scott Fitzgerald." For the purposes of accuracy and consistency, the full name of "James Scott Fitzgerald" should be provided on ATF Form 4.

To ensure the accuracy of the National Firearms Registration and Transfer Record, applicants must record names in a consistent, accurate manner when completing documents for submission to the National Firearms Act Branch.

Failure to do so may result in a delay in the processing of applications or notices submitted for approval.

### **MULTIPLE SALE FORM**

ATF Form 3310.4, Report of Multiple Sale or Other Disposition of Pistols and Revolvers, (multiple sale form) must be used by licensees to report all sales to an unlicensed person of two or more handguns at one time or during 5 consecutive business days. Recently, we have received incomplete or out-of-date versions of this form. We ask you to please make an effort to use the correct version of the form and to complete all sections of the form.

At the bottom of the form are the form number and the date that the form was revised. The current version that licensees should be using reads "ATF F 3310.4 (7-94) PREVIOUS EDITIONS ARE OBSOLETE." If you are not using this version, please order a new supply from the ATF Distribution Center as soon as possible. The Distribution Center's address and phone number are:

ATF Distribution Center  
P. O. Box 5950,  
Springfield, Virginia 22150-5950  
(703) 455-7801

### **ATF DISTRIBUTION CENTER**

Throughout this newsletter, we refer you to the ATF Distribution Center for obtaining forms. We thought you might be interested in learning a little more about the people behind this operation.

The ATF Distribution Center is run by a non-profit private contractor which employs people with disabilities. The organization, Sheltered Occupational Center of Northern Virginia, also runs 11 other nearby sites, including the Food and Drug Administration Mail Room and the Bureau of Engraving and Printing Gift Shop.

The 18 Distribution Center employees are proud of their work, as well they should be. They take and ship over 70,000 orders a year for ATF forms, directives, publications, and other materials. Last year, they sent out 12 million ATF Form 4473's alone. That is enough paper to stretch over 2,000 miles.

These individuals with physical and mental disabilities are key entry operators, clerks, and stock clerks who take orders over the phone, pull the requested items and ensure the items are mailed economically and quickly.

The employees talk regularly with an on-site rehabilitation specialist. The counselor trains the workers and helps them set goals, solve problems, and build skills. The occupational

center's goal is to ready these workers for competitive employment. At the Distribution Center, some workers have stayed as long as 10 years, and some have left in as little as 2 months. About 20 have moved on to competitive employment.

ATF is grateful for the opportunity to work with these excellent individuals and very appreciative of the great service they provide.

*The FFL Newsletter is published by the Bureau of Alcohol, Tobacco and Firearms, Firearms and Explosives Operations Branch, 650 Massachusetts Avenue, NW, Suite 5100, Washington, DC 20226. Letters to the editor are encouraged.*

PLTF 101325

## GUN SHOWS

The following is a quick guide for the activities permitted at gun shows. This guide applies to activities permitted at bona fide gun shows as defined in 27 CFR 178.100. Please remember that a flea market is NOT a gun show.

### ■ ALL DEALERS MUST DISPLAY LICENSES ■

#### DEALERS LICENSED IN THE STATE WHERE THE SHOW IS BEING HELD:

- MUST comply with all recordkeeping requirements of ATF regulations concerning acquisitions and dispositions of firearms, including the recording of the place of sale.
- MAY dispose of handguns to In-state residents only, provided all provisions of the Brady law are met.
- MAY dispose of longguns to nonlicensees residing in any State, provided the sale, delivery, and receipt fully comply with the legal conditions of sale in both States.
- MAY dispose of firearms to any Federal firearms licensee.
- MAY acquire firearms from any Federal firearms licensee licensed in the State or from any nonlicensee.

#### DEALERS NOT LICENSED IN THE STATE WHERE THE SHOW IS BEING HELD:

- MUST comply with all ATF requirements concerning acquisitions of firearms.
- MAY acquire firearms from any Federal firearms licensee licensed in the State and from any nonlicensed individual.
- CANNOT make sales of firearms to anyone, even to or through a Federal firearms licensee licensed in the State.
- CAN display and take orders. Firearms ordered at the show must be delivered from the licensee's premises.

#### NONLICENSED RESIDENTS OF THE STATE WHERE THE SHOW IS BEING HELD:

- MAY acquire longguns from Federal firearms licensees licensed in the State.
- MAY acquire handguns from Federal firearms licensees licensed in the State, provided all provisions of the Brady law are met.
- MAY dispose of firearms to any Federal firearms licensee.
- MAY acquire from and dispose of personal firearms to nonlicensed residents of the State.
- CANNOT acquire from or dispose of firearms to nonlicensed residents of any other State.

#### NONLICENSED RESIDENTS OF ANOTHER STATE:

- MAY dispose of firearms to any Federal firearms licensee.
- MAY acquire longguns only from Federal firearms licensees licensed in the State, provided the sale, delivery, and receipt fully comply with the legal conditions of the sale in both States.
- CANNOT acquire handguns.
- CANNOT dispose of firearms to nonlicensed individuals.

**EXHIBIT 33**



**Bureau of Alcohol, Tobacco and Firearms  
Office of Compliance Operations  
Firearms and Explosives Division**

# Operation Snapshot



**June 1993**

## **BACKGROUND**

Since passage of the Gun Control Act of 1968 (GCA) there has been a steady increase in the population of Federal Firearms licensees (FFL's) in the United States. In 1968 there were about 87,000 licensees. Today there are over 287,000. In 1968 we did not have sufficient resources to inspect all licensees; nor do we today. Given our current commitment of resources, we project that it would take over ten years to inspect each and every licensee.

Historically, we have based our inspection targeting on some assumptions that we have made about the entire FFL population. We assumed that the vast majority of licensees were residential dealers, but couldn't, with any degree of certainty, calculate how many there were. We suspected that a large number of dealers obtained their Federal Firearms license but never engaged in the business contemplated by that license. It seemed that a significant number of dealers were found in violation of the GCA during our compliance inspections, but again, we couldn't quantify the results.

In an effort to bring the Federal Firearms licensee population into perspective, Operation Snapshot was conceived. We needed to know who the average licensee was; what kinds of activities and how much of these activities he/she engaged in; and a whole host of other questions which, when answered, would provide us basic information relative to the firearms industry.

Given that our resources would not permit an inspection program that targeted each and every licensee, we developed a program that would provide us the information we needed based on a statistical sampling of the entire firearms dealer population. This program, when completed, would provide us information about Federal Firearms licensees within defined degrees of accuracy.

## **METHODOLOGY**

In January of 1992 there were approximately 287,000 Federal Firearms licensees, including manufacturers, importers, dealers, pawnbrokers, and collectors. Of that number, 244,042 licensees were dealers authorized to deal in firearms other than destructive devices. These dealers are commonly referred to as Type 01 dealers.

Using a software package designed for the task, ATF selected a random sample of 400 Type 01 dealers. Each dealer in the sample was inspected. ATF inspectors used a uniform workplan and questionnaire to ensure the accuracy of the information being gathered. In those instances where licensees had discontinued business, their records were examined at the ATF's Out of Business Records Center.

The rates of occurrence of specific findings, which are reflected in terms of percentages, can be projected to the entire Federal Firearms licensee population. The projections, based on a sample size of 400 dealers, will result in a precision rate of plus or minus 5%, with a confidence level of 95%. For example, Operation Snapshot inspections found that 26% of the dealers have commercial premises from which to conduct business. Therefore, we can project, with a 95% level of confidence, the true percentage rate of dealers having commercial premises will be between 21% and 31% of the total dealer population.

## **CONCLUSION**

As a result of the information gathered during the course of Operation Snapshot, we can now conclude, with a high degree of probability, certain characteristics about the Federal Firearms licensee population in the United States.

## **LOCATION AND BUSINESS CHARACTERISTICS**

- **THE TYPICAL FEDERAL FIREARMS DEALER**
  - **IS A SOLE OWNER**
  - **IS A 45-YEAR OLD MALE**
  - **HAS HELD A LICENSE FOR 7 YEARS AND 4 MONTHS**
  
- **85% OF DEALERS HAVE OTHER SOURCES OF INCOME OR EMPLOYMENT OTHER THAN A FIREARMS BUSINESS**
  
- **56% OF DEALERS HAVE THEIR BUSINESS LOCATION IN OR WITHIN 25 MILES OF A CITY HAVING A POPULATION OVER 100,000 PEOPLE**
  
- **74% OF DEALERS CONDUCT THE FIREARMS BUSINESS IN THEIR HOMES**
  
- **18% OF DEALERS ARE LOCATED IN COMMERCIAL PREMISES WHERE OTHER GOODS ARE SOLD TO THE PUBLIC (e.g., sporting, hardware and general merchandise)**
  
- **8% OF DEALERS ARE LOCATED AT OTHER COMMERCIAL PREMISES NOT ASSOCIATED WITH SALE OF GOODS TO THE PUBLIC (e.g., medical, real estate, insurance office, auto repair, beauty shop, etc.)**

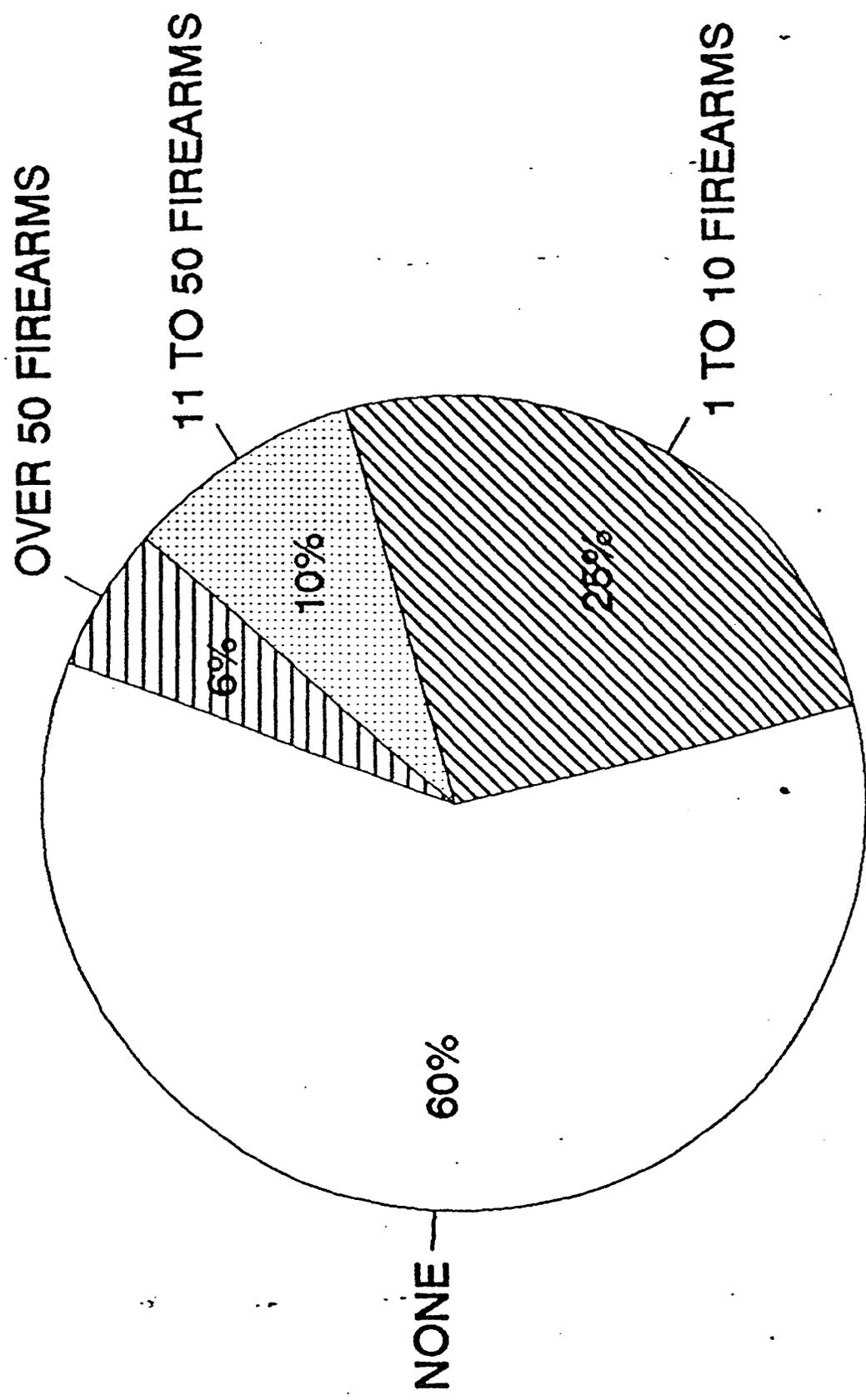
## **INSPECTION HISTORY**

- 9% WERE THE SUBJECT OF AN APPLICATION INVESTIGATION
- 10% WERE INSPECTED FOR COMPLIANCE WITH THE GUN CONTROL ACT OF 1968
- 10% WERE THE SUBJECT OF A COMPLIANCE INSPECTION OR APPLICATION INVESTIGATION DURING THE TEN-YEAR PERIOD FROM 1982 TO 1991
- FEDERAL FIREARMS VIOLATIONS WERE FOUND AT 34% OF DEALERS
- 7% OF ALL DEALERS HAD VIOLATIONS FOR WHICH FOLLOWUP INSPECTION WAS REQUIRED
- 4% OF DEALERS COULD NOT ACCOUNT FOR THE DISPOSITION OF ONE OR MORE FIREARMS
- 12% OF DEALERS SURRENDERED LICENSE DURING ATF INSPECTION
- 3% OF DEALERS WERE OUT OF BUSINESS BEFORE ATF INSPECTION

## **STATE AND LOCAL LICENSING**

- **35% OF DEALERS ARE REQUIRED TO HAVE A STATE OR LOCAL FIREARMS LICENSE BUT ONLY 6 OF 10 COMPLY**
- **65% OF DEALERS ARE NOT REQUIRED TO BE LICENSED FOR FIREARMS UNDER STATE OR LOCAL LAWS**

# OPERATIONAL DYNAMICS FIREARMS INVENTORY AT TIME OF INSPECTION





BUREAU OF ALCOHOL, TOBACCO AND FIREARMS  
OFFICE OF COMPLIANCE OPERATIONS  
FIREARMS AND EXPLOSIVES DIVISION

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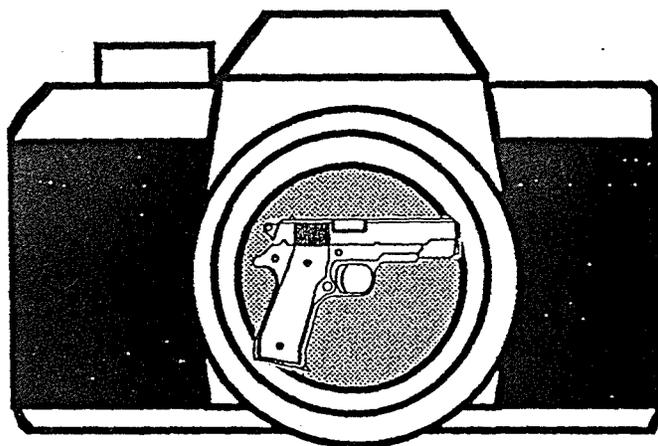
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# OPERATION SNAPSHOT

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Final Report



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July 12, 1993

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PLTF 101029

# **OPERATION SNAPSHOT**

## **BACKGROUND**

Since passage of the Gun Control Act of 1968 (GCA) there has been a steady increase in the population of Federal firearms licensees (FFL's) in the United States. In 1968 there were about 87,000 licensees. Today there are over 287,000. In 1968 we did not have sufficient resources to inspect all licensees; nor do we today. Given our current commitment of resources, we project that it would take over ten years to inspect each and every licensee.

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Given that our resources would not permit an inspection program that targeted each and every licensee, we developed a program that would provide us the information we needed based on a statistical sampling of the entire firearms dealer population. This program, when completed, would provide us information about Federal firearms licensees within defined degrees of accuracy.

July 12, 1993

PLTF 101030

## **METHODOLOGY**

In January of 1992 there were approximately 287,000 Federal firearms licensees, including manufacturers, importers, dealers, pawnbrokers, and collectors. Of that number, 244,042 licensees were dealers authorized to deal in firearms other than destructive devices. These dealers are commonly referred to as Type 01 dealers.

Using a software package designed for the task, ATF selected a random sample of 400 Type 01 dealers. Each dealer in the sample was inspected. ATF inspectors used a uniform workplan and questionnaire to ensure the accuracy of the information being gathered. In those instances where licensees had discontinued business, their records were examined at the ATF's Out of Business Records Center.

The rates of occurrence of specific findings, which are reflected in terms of percentages, can be projected to the entire Type 01 dealer population. The projections, based on a sample size of 400 dealers, will result in a precision rate of plus or minus 5%, with a confidence level of 95%. For example, Operation Snapshot inspections found that 26% of the dealers have commercial premises from which to conduct business. Therefore, we can project, with a 95% level of confidence, the true percentage rate of dealers having commercial premises will be between 21% and 31% of the total dealer population.

## **CONCLUSION**

As a result of the information gathered during the course of Operation Snapshot, we can now conclude, with a high degree of probability, certain characteristics about the Federal firearms licensee population in the United States.

July 12, 1993

PLTF 101031

## **LOCATION AND BUSINESS CHARACTERISTICS**

- **THE TYPICAL FEDERAL FIREARMS DEALER**
  - **IS A SOLE OWNER**
  - **IS A 45-YEAR OLD MALE**
  - **HAS HELD A LICENSE FOR 7 YEARS AND 4 MONTHS**
  
- **85% OF DEALERS HAVE OTHER SOURCES OF INCOME OR EMPLOYMENT OTHER THAN A FIREARMS BUSINESS**
  
- **56% OF DEALERS HAVE THEIR BUSINESS LOCATION IN OR WITHIN 25 MILES OF A CITY HAVING A POPULATION OVER 100,000 PEOPLE**
  
- **74% OF DEALERS CONDUCT THE FIREARMS BUSINESS IN THEIR HOMES**
  
- **18% OF DEALERS ARE LOCATED IN COMMERCIAL PREMISES WHERE OTHER GOODS ARE SOLD TO THE PUBLIC (e.g., sporting, hardware and general merchandise)**
  
- **8% OF DEALERS ARE LOCATED AT OTHER COMMERCIAL PREMISES NOT ASSOCIATED WITH SALE OF GOODS TO THE PUBLIC (e.g., medical, real estate, insurance office, auto repair, beauty shop, etc.)**

July 12, 1993

PLTF 101032

## **BUSINESS VOLUME AND ACTIVITY**

### **DURING THE 12 MONTHS PRECEDING THE OPERATION SNAPSHOT INSPECTIONS**

- **7% OF DEALERS HAD MULTIPLE HANDGUN SALES (SALE OF 2 OR MORE HANDGUNS TO THE SAME PERSON DURING A 5-DAY PERIOD)**
- **20% OF DEALERS DEALT IN HANDGUNS HAVING A RETAIL VALUE OF LESS THAN \$200**
- **3% OF DEALERS HAD DISPOSED OF FIREARMS AT GUNSHOWS**
- **4% OF DEALERS DISPOSED OF FIREARMS ONLY TO THEMSELVES**
- **8% OF DEALERS DID GUNSMITHING**
- **2% OF DEALERS HAD THEFTS**

July 12, 1993

PLTF 101033

## **BUSINESS VOLUME AND ACTIVITY**

### **FIREARMS ACQUISITIONS**

**DURING THE 12 MONTHS PRECEDING THE OPERATION SNAPSHOT INSPECTIONS**

- **45% OF DEALERS ACQUIRED NO FIREARMS**
- **36% OF DEALERS ACQUIRED 1 TO 10 FIREARMS**
- **13% OF DEALERS ACQUIRED 11 TO 50 FIREARMS**
- **6% OF DEALERS ACQUIRED OVER 50 FIREARMS**

July 12, 1993

PLTF 101034

## **BUSINESS VOLUME AND ACTIVITY**

### **FIREARMS DISPOSITIONS**

**DURING THE 12 MONTHS PRECEDING THE OPERATION SNAPSHOT  
INSPECTIONS**

- **46% OF DEALERS DISPOSED OF NO FIREARMS**
- **34% OF DEALERS DISPOSED OF 1 TO 10 FIREARMS**
- **13% OF DEALERS DISPOSED OF 11 TO 50 FIREARMS**
- **7% OF DEALERS DISPOSED OF OVER 50 FIREARMS**

July 12, 1993

PLTF 101035

## **BUSINESS VOLUME AND ACTIVITY**

### **FIREARMS INVENTORY**

**DURING THE 12 MONTHS PRECEDING THE OPERATION SNAPSHOT INSPECTIONS**

- **59% OF DEALERS MAINTAINED NO INVENTORY OF FIREARMS**
- **25% OF DEALERS MAINTAINED AN INVENTORY OF 1 TO 10 FIREARMS**
- **10% OF DEALERS MAINTAINED AN INVENTORY OF 11 TO 50 FIREARMS**
- **6% OF DEALERS MAINTAINED AN INVENTORY OF OVER 50 FIREARMS**

July 12, 1993

PLTF 101036

## **INSPECTION HISTORY AND RESULTS**

- **9% OF DEALERS HAD PREVIOUSLY BEEN THE SUBJECT OF AN APPLICATION INVESTIGATION BY ATF**
- **10% OF DEALERS HAD PREVIOUSLY BEEN THE SUBJECT OF A COMPLIANCE INSPECTION BY ATF**
- **34% OF DEALERS WERE FOUND TO HAVE FEDERAL FIREARMS VIOLATIONS**
- **7% OF DEALERS WERE FOUND TO HAVE VIOLATIONS FOR WHICH A FOLLOWUP INSPECTION WAS REQUIRED**
- **4% OF DEALERS COULD NOT ACCOUNT FOR THE DISPOSITION OF ONE OR MORE FIREARMS**
- **12% OF DEALERS SURRENDERED THEIR LICENSE DURING THE ATF INSPECTION**
- **3% OF DEALERS WERE OUT OF BUSINESS BEFORE THE ATF INSPECTION**

July 12, 1993

PLTF 101037

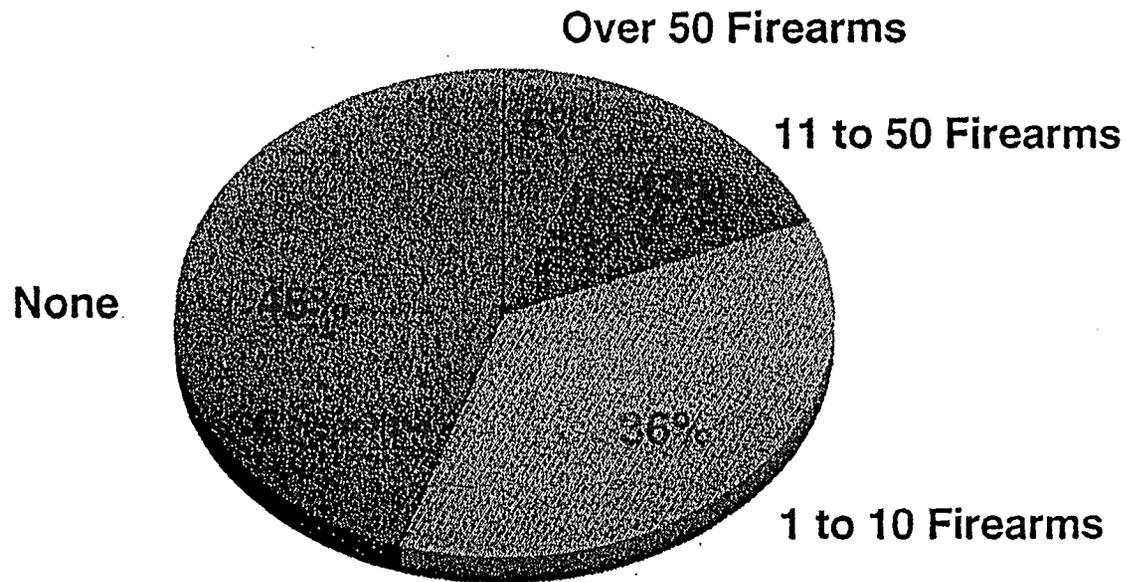
## **STATE AND LOCAL LICENSING**

- **35% OF DEALERS ARE REQUIRED TO HAVE A STATE OR LOCAL FIREARMS LICENSE BUT ONLY 6 OF 10 COMPLY**
- **65% OF DEALERS ARE NOT REQUIRED TO BE LICENSED FOR FIREARMS UNDER STATE OR LOCAL LAWS**

July 12, 1993

PLTF 101038

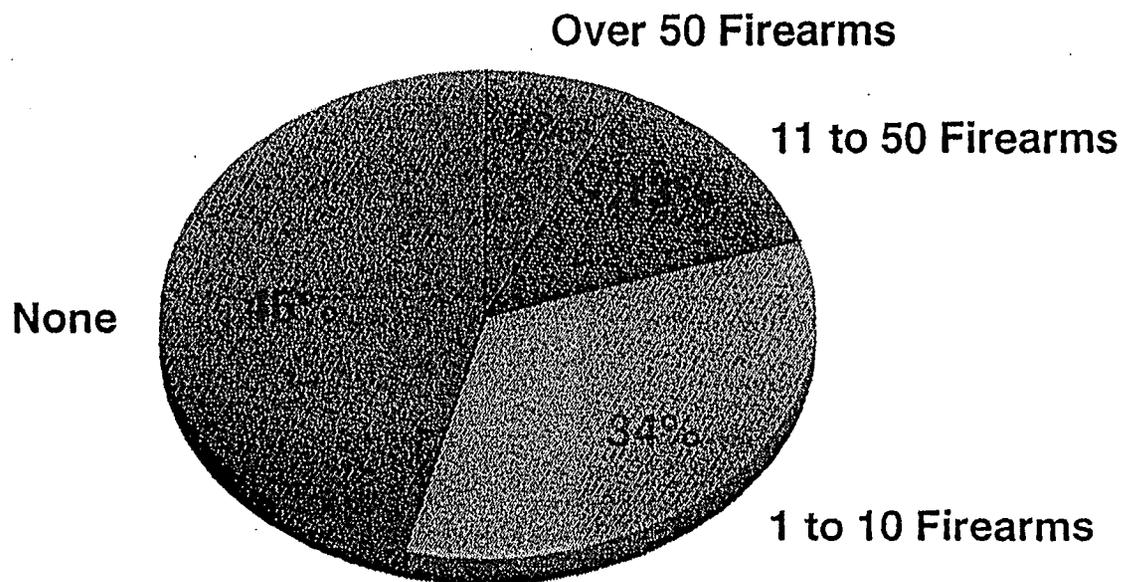
OPERATION SNAPSHOT  
**FIREARMS ACQUISITIONS**  
1 Year Before Inspection



**NOTE:** Dealers whose records or business could not be located are included in the *None* category.

July 12, 1993

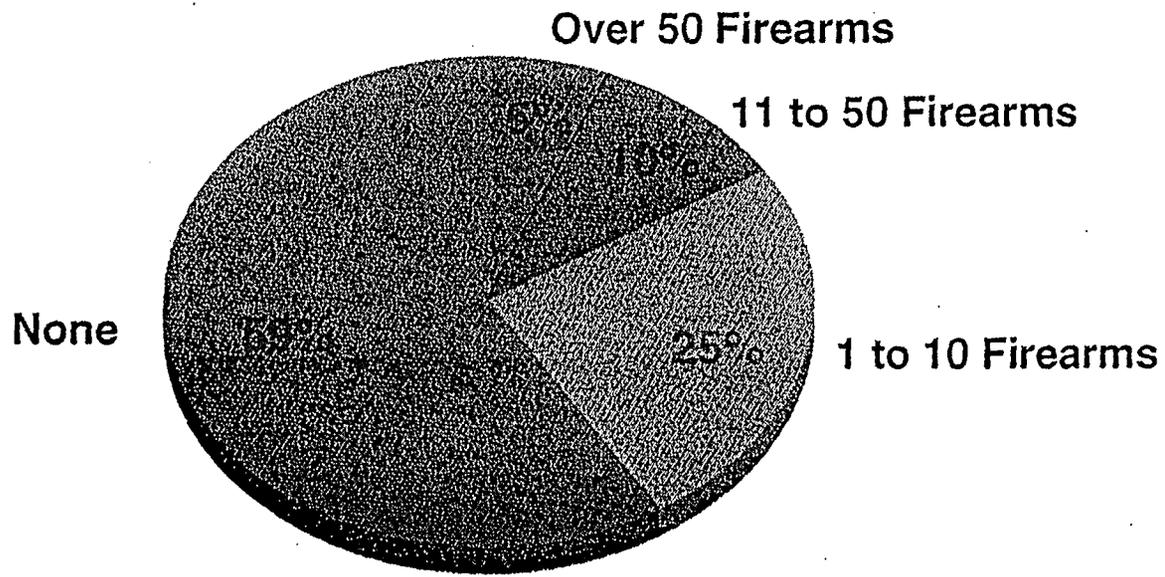
OPERATION SNAPSHOT  
FIREARMS DISPOSITIONS  
1 Year Before Inspection



**NOTE:** Dealers whose records or business could not be located are included in the *None* category.

July 12, 1993

OPERATION SNAPSHOT  
FIREARMS INVENTORY  
At Time of Inspection



PLTF 101041

July 12, 1993

**EXHIBIT 34**

J859  
1993

HEARING  
BEFORE THE  
SUBCOMMITTEE ON  
CRIME AND CRIMINAL JUSTICE  
OF THE  
COMMITTEE ON THE JUDICIARY  
HOUSE OF REPRESENTATIVES  
ONE HUNDRED THIRD CONGRESS

FIRST SESSION

JUNE 17, 1993

Serial No. 24

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Exhibit 34

PLTF 100200

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(II)

CONTENTS

HEARING DATE

June 17, 1993 .....	Page 1
---------------------	-----------

OPENING STATEMENT

Schumer, Hon. Charles E., a Representative in Congress from the State of New York, and chairman, Subcommittee on Crime and Criminal Justice .....	1
---	---

WITNESSES

Aborn, Richard M., president, Handgun Control, Inc., Washington, DC .....	68
Archer, Steven, Simke, Chodos, Silberfeld & Anteau, Los Angeles, CA .....	58
Daily, Edward, accompanied by Jeff Grabman, agent, U.S. Bureau of Alcohol, Tobacco and Firearms .....	8
Farley, William, Chesapeake, MD .....	55
Gardiner, Richard E., legislative counsel, National Rifle Association of America, Washington, DC .....	71
Higgins, Stephen E., Director, Bureau of Alcohol, Tobacco and Firearms, U.S. Department of the Treasury, accompanied by Brad Buckles, Deputy Chief Counsel, and Gerald A. Nunziato, Special Agent in Charge, National Tracing Center .....	14
Shaw, Bernard, first sergeant, Maryland State Police Licensing Division, Woodlawn, Md .....	48
Travis, Jeremy, deputy commissioner, legal matters, New York City Police Department, New York, NY .....	51

LETTERS, STATEMENTS, ETC., SUBMITTED FOR THE HEARING

Aborn, Richard M., president, Handgun Control, Inc., Washington, DC: January 29, 1993, letter to Congressman Lamar Smith .....	109
Archer, Steven, Simke, Chodos, Silberfeld & Anteau, Los Angeles, CA: Prepared statement .....	60
Gardiner, Richard E., legislative counsel, National Rifle Association of America, Washington, DC: Prepared statement .....	75
Statement before the Senate Subcommittee on Federal Services, March 26, 1993 .....	81
Higgins, Stephen E., Director, Bureau of Alcohol, Tobacco and Firearms, U.S. Department of the Treasury: Guns recovered from Branch Davidian compound .....	35
Information concerning the illegal gun market .....	31
Memoranda issued to all regional directors (Compliance) between November 17, 1992 and June 16, 1993 .....	38
Prepared statement .....	18
Response to Chairman Schumer's questions .....	40
National Alliance of Stocking Gun Dealers: Prepared statement .....	86
Ramstad, Hon. Jim, a Representative in Congress from the State of Minnesota: Prepared statement .....	8

(III)

PLTF 100201

	Page
Schumer, Hon. Charles E., a Representative in Congress from the State of New York, and chairman, Subcommittee on Crime and Criminal Justice: A list of the "Dirty Dozen" rogue gun dealers and case summaries .....	3
Shaw, Bernard, first sergeant, Maryland State Police Licensing Division, Woodlawn, MD: Prepared statement .....	50
Simon, Hon. Paul, a Senator in Congress from the State of Illinois: Prepared statement .....	63
Travis, Jeremy, deputy commissioner, legal matters, New York City Police Department, New York, NY: Prepared statement .....	54

## FEDERAL FIREARMS LICENSING

THURSDAY, JUNE 17, 1993

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON CRIME AND CRIMINAL JUSTICE,  
COMMITTEE ON THE JUDICIARY,  
*Washington, DC.*

The subcommittee met, pursuant to notice, at 12:09 p.m., in room 2237, Rayburn House Office Building, Hon. Charles E. Schumer (chairman of the subcommittee) presiding.

Present: Representatives Charles E. Schumer, Don Edwards, John Conyers, Jr., David Mann, F. James Sensenbrenner, Jr., Lamar S. Smith, and Jim Ramstad.

Also present: Andrew Fois, counsel; David Yassky, assistant counsel; Rachel Jacobson, secretary; and Lyle Nirenberg, minority counsel.

### OPENING STATEMENT OF CHAIRMAN SCHUMER

Mr. SCHUMER. The hearing will come to order.

The Chair has received a request to cover this hearing in whole or in part by television broadcast, radio broadcast, still photography, or by other similar methods. In accordance with committee rule 5, permission will be granted unless there is objection. Without objection.

This hearing will examine flaws in the regulation of gun dealers. These loopholes have enabled criminals to arm themselves with thousands upon thousands of guns. In the worst, most distressing cases, it is actually the dealers themselves who are the criminals.

The regulations we have for gun dealers would be unthinkable in any other context. Imagine a substance that is useful if handled properly but can be highly dangerous, even deadly, in the wrong hands—a new drug, a toxic chemical. Common sense would dictate that we should regulate something like that, that it should be sold only by responsible dealers who can be easily monitored by a government agency. That indeed was the intent of the Gun Control Act of 1968. That law recognized that guns are highly dangerous, and it set up a system in which only licensed dealers can sell them, and these dealers are subject to rules forbidding them to sell to felons or other dangerous people.

Well, it sounds great on paper, but in practice the system has fallen into complete disrepair. The National Rifle Association, along with compliant friends in Congress, has made a mockery of the system. Now anyone who can afford the \$10 a year fee can get a license. You don't have to actually operate a store. You don't have to show that you are in compliance with State law or that the store

will keep the guns secure. You don't even have to be a human being, as one journalist showed recently by getting a license for his dog. The ATF, the agency in charge of monitoring gun dealers, is prohibited by statute—if you can believe this—by statute, they can't collect the gun records until after the gun dealer has gone out of business. They can only go inspect the gun store once a year.

To get the license, all you do is send in this simple form. In the box where it says, "Have you ever been convicted of a felony?" Check no. In the box where it says, "Are you a fugitive from justice?" Check no. Then attach your \$10 by check or money order, stick it in the mail, and the next thing you know, UPS is delivering packages of guns directly to your doorstep.

Predictably, the number of dealer licenses has skyrocketed. There are now 284,000 outstanding—more gun dealers than gas stations, according to a recent study—and most of these licensees do not actually operate storefront dealerships; instead, they sell from their homes, even from their cars. This has made the task of overseeing the dealers absolutely impossible. A dealer can expect to see a Federal agent about once every 20 years.

Now, of course—and I want to underline this—most of the licensees are perfectly law-abiding, but those who are not, the rogue gun dealers, can literally flood the streets with illegal firearms. Just as one thug can do a lot of damage if he has a gun, so too a single trafficker can do a lot of damage with a Federal license. That license enables a trafficker to order weapons by the truckload directly from the manufacturer, obviously across State lines.

Now I have collected the worst cases I could find from the past few years, a "Dirty Dozen" of rogue gun dealers. Most of these 12 men probably couldn't have qualified for a license to cut hair, but they got a gun dealer's license from your Federal Government that they could use to order guns by the truckload and sell them the next day on the street. These 12 hoodlums—and they are simply the tip of the iceberg—put more than 13,000 illegal guns on the street alone. Here are some examples, and they are listed on the chart over there.

John Zodda. Over 5 years, Zodda sold guns on the streets of New York City, 2,400 weapons. He never got a city or a State license, but the Federal license he got using a phony address allowed him to order the guns right from the manufacturer and then sell them to whomever.

John Adams had a gun for different purposes than his namesake. His five misdemeanor convictions would have disqualified him from selling guns in most States. It didn't stop him from getting a Federal license and selling more than a thousand firearms before the police caught up with him.

Carroll Brown. He sold guns from his car in Baltimore, more than 300. When several of his guns were used in homicides, the police finally tracked him down.

And I would like to make this actually a "Dirty Baker's Dozen." The worst offender of all, whose name we can't use because he has not yet been indicted, a gentleman from North Carolina, it is estimated sold between 6,000 and 10,000 illegal guns in the last several years.

[The chart follows:]

### THE "DIRTY DOZEN" ROGUE GUN DEALERS<sup>1</sup>

Name	Location	Number of guns sold illegally <sup>2</sup>	Prison sentence
John R. Zodda .....	New York, NY .....	2,400	Awaiting sentencing.
Larry Wilson .....	Detroit, MI .....	2,170	N/A.
Milton W. Massengale .....	Temple, TX .....	2,000	41 months.
Gustavo Salazar .....	Los Angeles, CA .....	1,160	1 year.
John A. Adams .....	New York, NY .....	1,000	10 months.
David Taylor .....	Bronx, NY .....	800	5-15 years.
Richard Scherbarth .....	Wisconsin and Minnesota.	800	Awaiting sentencing.
James M. Ryan .....	Chicago, IL .....	600	4 years.
George G. Woods .....	New York, NY .....	500	Fugitive.
Donald Weiss .....	Richmond, VA .....	300	Committed suicide prior to sentencing.
Carroll L. Brown .....	Baltimore, MD .....	300	21 months.
Charles MacDonald .....	Los Angeles, CA .....	120	46 months.

<sup>1</sup> Of the federally licensed gun dealers convicted within the last five years, these are the 12 identified by the staff of the Subcommittee on Crime and Criminal Justice as having made the greatest number of illegal sales. In addition, a dealer suspected of making 6,000 to 10,000 illegal sales is currently under investigation by federal law enforcement agents and an indictment is expected shortly.

<sup>2</sup> Minimum number of illegal firearms linked to dealer by law enforcement officials familiar with the case.

### THE "DIRTY DOZEN" ROGUE GUN DEALERS—CASE SUMMARIES

#### JOHN R. ZODDA

Over a five-year period Zodda purchased and distributed over 2,400 weapons, including semi-automatic assault weapons. Zodda purchased some of the weapons through falsified licenses; with other purchases, he used a valid FFL bearing his true name along with a false address. He never held a New York City permit. Zodda was convicted on eight counts and is currently awaiting sentencing.

#### LARRY WILSON

Wilson sold 2,169 assault rifles and handguns in the course of a year. He kept no records of the sales and diverted most of the weapons to the black market where he received premiums of 300 and 400 percent, earning him proceeds of up to \$1 million. Wilson's sentence is not available from the records center at this time.

#### MILTON W. MASSENGALE

Massengale was convicted in 1990 for diverting over 2,000 firearms into Mexico during the period between 1982 to 1989. He falsified his records to conceal diversion to a Mexican national who was identified as a major firearms trafficker. He was sentenced to 41 months in prison plus three years supervision and a \$20,000 fine.

#### GUSTAVO SALAZAR

Salazar obtained a dealers license in 1988 in Los Angeles. By using his FFL to purchase firearms from legitimate dealers, Salazar was able to bypass California's waiting period and background check and sell the weapons illegally. Salazar purchased over 1,500 firearms from at least three major distributors in the L.A. area and sold them to gang members and others. Ninety of the weapons distributed by Salazar have been recovered by law enforcement officials in crime incidents. Salazar was sentenced to one year in prison and two years probation.

#### JOHN A. ADAMS

Adams used his license to buy weapons through mail order and he flooded the streets with over 1,000 illegal handguns. He was arrested while taking a delivery of six cartons from Ohio with over 100 semi-automatic weapons in them. Adams had an extensive New York arrest history including 5 misdemeanor convictions for illegal drug and gun possession, which disqualified him from obtaining a locally issued dealer license.

#### DAVID TAYLOR

Taylor has a record of five misdemeanors including drug charges, as well as an indictment for murder at the age of sixteen. This record prevented him from obtain-

ing a New York gun dealers license, but it did not prevent him from obtaining a federal license because he had no felony convictions. Taylor bought and sold over 800 guns from wholesalers across the country, who shipped the guns via the United Parcel Service. Finally, an undercover operation was able to bring charges against Taylor by selling guns to him through the disguise of a United Parcel Service vehicle. Under the terms of his plea agreement, Taylor will be sentenced to 5 to 15 years in prison on 17 counts of illegal weapons possessions and sales.

RICHARD SCHERBARTH

Scherbarth was a former firearms dealer in Wisconsin, yet he continued to use his expired license to acquire 115 handguns between September 1991 and August 1992. An undercover Chicago ATF agent traced a purchase to Scherbarth, who confessed to selling at least 120 guns per year to a non-licensee, who in turn resold the guns at gun shows.

JAMES M. RYAN

Ryan was brought up on charges involving the selling of firearms to known convicted felons and failing to maintain records. Information later disclosed that Ryan was plotting the murder of the government's chief witness and BATF agents involved with the case.

GEORGE G. WOODS

Woods purchased over 500 handguns from a company in North Carolina within a one-year period. ATF agents were able to trace Woods through an undercover purchase of sixteen weapons at a barber shop that was selling his illegal guns. Woods was scheduled to be sentenced April 14, 1993. He failed to show and is now listed as a fugitive.

DONALD WEISS

Weiss and wife Hildegard were both officers at the Virginia Police Equipment Supply Company. They both pleaded guilty to falsifying reports. Prior to sentencing, it was discovered that over 300 guns recovered in New York were traceable to the company. Weiss committed suicide before sentencing was announced.

CARROLL L. BROWN

Brown sold more than 300 guns in a 17 month period. Several of the guns were subsequently used in crimes. Because he had been convicted of a misdemeanor assault charge in 1983, an ATF agent did an on-site investigation in order to see if Brown would qualify for licensing. The agent eventually recommended Brown for approval. It was later discovered that Brown only recorded about half of his sales. Brown also sold to convicted felons by simply telling them how to answer the purchaser questionnaire. ATF agents eventually caught up with Brown in December of 1990 through a trace. ATF agents arrested Brown a week after he sold an undercover agent a Glock 9mm out of the front seat of a 1989 Dodge. Some of Brown's guns were later discovered to be involved in homicides.

CHARLE MACDONALD

For 10 years MacDonald occupied room 744 of the Frontier Hotel in downtown Los Angeles. It was out of this room and on the street that MacDonald sold at least 122 guns. Although MacDonald was dishonorably discharged from the armed services, convicted of theft and carrying a concealed weapon, and also suffers from psychological disturbances, he was able to obtain a license from the BATF. Once he received his license, MacDonald began selling guns to gangs, drug dealers, and convicted felons. MacDonald was finally arrested after he sold a gun to a felon who was later arrested for attempted murder (using the weapon MacDonald sold him). MacDonald said he felt no responsibility for any of the crimes committed as a result of the guns he sold by stating, "Not my problem, I didn't shoot anybody".

Mr. SCHUMER. Well, you can see the problem.

Now gun control debates always get heated, but here, I think, is one area where we can probably put aside the other differences we have and just look at common sense. Everyone wants to keep guns away from criminals, and I think it is clear that gun dealers should

be a key point of control, just as it is crystal clear that they have ceased to perform this function up to now.

So I would like this hearing to explore some possible solutions, but we can already sketch the basic framework of reform. First, we have to do a better job of preventing fraud in dealer applications. Every applicant should be personally interviewed by a BATF agent and should get a fingerprint check. It sounds rudimentary; it is not done now. Second, only genuine gun dealerships should get licenses. No more kitchen table or car seat dealers. And, third, BATF must be given tools to enforce the law—more agents, freedom from the absurd restrictions like the statute limiting dealer inspections to one a year—and greater access to gun dealer records so that crime guns can be traced easily and trends in gun trafficking can be spotted quickly. All these elements will not do a thing to harm the legitimate gun owner.

The bottom line is—and I would like to be working with all members of this committee if they have ideas on how to deal with this—now we can no longer tolerate city streets ruled by war lords armed to the teeth. We are restoring order in Mogadishu; it is time to restore peace and safety here at home.

I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Thank you very much, Mr. Chairman.

Today the subcommittee will learn more about the supply of guns, about dealers, both law-abiding, hard-working owners of small businesses, and about illicit dealers. We will get closer to answering how children are acquiring guns, guns which in many cases they are bringing into their schools and classrooms, and about how criminals are acquiring guns to use them in their nefarious trade, and about what is the role of stolen firearms in the supply of guns to criminals.

Over the last 6 months there has been a repeated focus on suggested gaps in the dealer licensing scheme; that is, loopholes in the system of getting a license to collect, sell, import, or manufacture firearms. In any event, it is unclear as to what extent any current problems with the system of licensing and with the ensuing compliance with related regulations are due to inadequate enforcement by ATF or due to a lack of laws or loopholes or gaps in current law.

Thus, among the questions to be addressed at this hearing are: Whether there are gaps or loopholes in the system of getting a dealer's license? How easy is it to get the license? Is it too easy? Are licenses abused? And what is the ATF doing to address abuses and to prosecute violations?

Under current law, an applicant is statutorily prohibited from receiving a dealer's license if less than 21 years old, a fugitive from justice, a convicted felon, a drug addict, adjudicated mentally incompetent, an illegal alien, or if the applicant has renounced U.S. citizenship or has been dishonorably discharged from the Armed Forces. There are still other qualifications. Moreover, current law gives ATF the right to inspect dealer records once every 12 months or at any time during the course of a criminal investigation.

Yet, are these provisions of existing law being used and enforced by ATF? It is easy to see that the use of background checks by ATF and actually doing such checks on each and every applicant is what

is envisioned by current law and could have the desired effect of rooting out the bad apples before a license is issued.

I hope to learn more from this hearing about how many Federal firearms licenses have been revoked, how many gun trafficking charges have been prosecuted against firearms dealers, and what sentences were received for those found guilty under current law. In 1990, the ATF revoked only 3 of the 235,684 licenses for gun dealers, or roughly one-thousandth of 1 percent. ATF must more thoroughly police the application process. Background checks are not being done.

One writer notes that 90 percent of all license applicants are not visited or interviewed by an agency inspector before a license is issued by ATF and that, on average, each year less than 6 to 8 percent of all license holders are inspected. One writer notes that it is much harder to get a license to operate a power boat on Chesapeake Bay than to get a Federal firearms license. When the writer applied, no one from ATF called to verify the application; no one interviewed him. Still other writers have succeeded in having licenses awarded to fictitious persons or even to their dogs, giving the word "guard dog" a whole new meaning.

On the subject of background checks, I cannot fail to mention the Brady bill. On May 8, 1991, H.R. 7, the Brady bill of the 102d Congress, passed the House by a vote of 239 to 186. Since the bill was first introduced in 1987, more than 75,000 Americans have fallen victim to firearm-related homicides. Why must we wait for such reasonable legislation? The current Brady bill proposal, H.R. 1025 introduced by Mr. Schumer and myself, creates a 5-business-day waiting period before a handgun can be obtained. During this time, law enforcement officials can help prevent individuals who are prohibited from owning a firearm under current Federal law from acquiring a handgun. The only persons who will be denied a handgun should the Brady bill become law are those who cannot legally own firearms. The waiting period provisions will sunset as soon as a national instantaneous background check hotline is operational. H.R. 1025 sets forth rules on timetables and accuracy requirements for the establishment of such an instant check.

Ironically, current law gives the ATF up to 45 days to do a background check of the applicant, yet we are told this is not enough time and that the 45 days should be extended and perhaps be open ended or without limit. Why is a 5-business-day waiting period enough for purposes of the Brady bill and 45 days insufficient here, especially when the pool of license applicants is far less in number than the pool of prospective purchasers of handguns?

ATF has begun to increase compliance inspections and enforcement. Since February 1993, ATF has been contacting every applicant for a firearms license; yet, I am curious what kind of questions were asked and whether ATF suggested or imposed restrictions not enacted by Congress and not found in law.

I have a copy of the application for a license, for a Federal firearms license, here, and I see that Mr. Schumer has got one as well.

Mr. SCHUMER. We are not applying, either of us, or I am not.

Mr. SENSENBRENNER. Well, I am not applying either. But it is interesting to note that in the instructions for filling out this application it says that you can't operate a firearms business out of your

home if your home is not open to the public, and yet we hear story after story that indicates that some people are doing just that or selling firearms out of cars in the street. Now that is a per se violation of Federal law and a per se violation of the conditions on which a license is issued, and a license would not been issued had there been appropriate checks.

So it is my hope that all sides can work together to plug any loopholes in the laws, to enact new laws where truly needed, and to increase enforcement of existing law. As one witness will frame the question, are we confusing a lack of enforcement power with a lack of enforcement? There is a big difference there. I look forward to hearing if there is a problem with current law and the procedures now in place.

Mr. SCHUMER. Thank you, Mr. Sensenbrenner, for what I think is a very well thought out statement.

Mr. Edwards.

Mr. EDWARDS. Mr. Chairman, I have no statement, other than to compliment you and Mr. Sensenbrenner on your outstanding statements, and I endorse every word you said, Mr. Chairman.

You know, I am an ex-FBI agent, and I carried a gun, and I thought it was perfectly legitimate for me to carry a gun as an FBI agent, and I think that policemen ought to be able to carry guns, but, for the life of me, I don't know why ordinary citizens ought to be able to own handguns and carry them around and get people killed. I am ready to toughen up the laws, because this carnage in the United States is uncivilized. We are the only modern country that allows it. It sounds to me like we are run by a bunch of war lords.

Mr. SCHUMER. Thank you, Mr. Edwards.

Mr. Ramstad.

Mr. RAMSTAD. Mr. Chairman, very briefly because I would like to get to the witnesses, and I would ask that my statement be made a part of the record in its entirety.

Mr. SCHUMER. Without objection.

Mr. RAMSTAD. I, too, appreciate your holding this oversight hearing because I concur that we have a serious problem in our Federal firearms licensing system. Anyone who is concerned about the black market for firearms in our country and the proliferation of illegal weapons on the streets realizes we must thoroughly examine any possible loopholes, and there are, in my judgment, some glaring loopholes in Federal firearms licensing.

I am particularly concerned, Mr. Chairman, about the percentage of illegal guns which are finding their way into the hands of children in our public schools. In my district recently, a number of guns were found in the most—well, certainly one of the most respected high schools in the district. So this is not just a problem in the inner cities, this is a suburban, highly educated, relatively affluent district that I represent. So this problem is widespread.

The fundamental question that I hope the oversight hearing will examine is whether reform of Federal firearms licensing should be focused on enforcement of current law or new legislation.

Thanks again, Mr. Chairman, for convening this hearing because it is a matter which this subcommittee should properly address.

Mr. SCHUMER. Thank you, Mr. Ramstad.

[The prepared statement of Mr. Ramstad follows:]

PREPARED STATEMENT OF HON. JIM RAMSTAD, A REPRESENTATIVE IN CONGRESS  
FROM THE STATE OF MINNESOTA

Mr. Chairman, I very much appreciate you holding this oversight hearing on the serious problems in our federal firearms licensing system.

Recently, increased media attention has heightened awareness about the potential gaps in this system.

Anyone who is concerned about the black market for firearms in the United States and the proliferation of illegal weapons on our streets realizes that we must thoroughly examine any possible loopholes in federal firearms licensing.

I am especially concerned about the percentage of illegal guns which are finding their way into the hands of children, some of whom are now bringing these guns into our public schools every day.

The fundamental question, which I hope this oversight hearing will be examine, is whether reforms of federal firearms licensing should be focused on enforcement of current law or new legislation.

Mr. Chairman, I look forward to the testimony of Mr. Stephen Higgins, Director of the Bureau of Alcohol, Tobacco and Firearms, Senator Paul Simon, and other witnesses on how we can reform the licensing system to better control illegal firearms while respecting the rights of law-abiding citizens.

Mr. SCHUMER. Mr. Mann.

Mr. MANN. I have no opening statement, Mr. Chairman.

Mr. SCHUMER. OK. Then let us call our first witness, who today is Mr. Edward Daily.

If Mr. Daily and the people with him would come forward. Please have a seat.

Mr. Daily is currently serving a sentence of 71 months incarceration after having been convicted in Federal court of illegal firearms transactions. And maybe before we begin, Mr. Daily, we ought to go vote.

We are just deciding whether we should hear Mr. Daily's opening statement.

Mr. SENSENBRENNER. How long is Mr. Daily's opening statement?

Mr. SCHUMER. Basically, he doesn't have a written opening statement. I am going to ask him to describe the activities that led to his conviction, so we see how a gun dealer operates.

Mr. SENSENBRENNER. How long will it take? If he can do it in 5 minutes, let's have him do it. If it is longer, let's wait.

Mr. SCHUMER. OK. Why don't we, Mr. Daily, and then we will ruminate on your—sorry for this interruption.

Mr. DAILY. That's all right.

Mr. SCHUMER. Anyway, I want to thank you for coming, Mr. Daily, because we do want to know how dealers who are willing to abuse their licenses for profit operation—and I stress that most dealers are legitimate, but the few bad apples cost a tremendous number of lives.

Would you just describe for us, Mr. Daily, your activities that led to your conviction.

STATEMENT OF EDWARD DAILY, ACCOMPANIED BY JEFF  
GRABMAN, AGENT, U.S. BUREAU OF ALCOHOL, TOBACCO  
AND FIREARMS

Mr. DAILY. Mr. Chairman, I used the form of straw purchases, and when we went to purchase handguns in the State of Virginia, we would go to gun shows, which are held pretty much every week-

end, and I would basically point out the types of handguns that these straw purchasers would buy right in front of the gun dealers, and most of them didn't even pay any attention to me.

I would have someone with a legal Virginia license and another form of ID. I would hand them the money and then tell them to purchase this firearm, and then they would fill out the paperwork, and, basically, a lot of them would hand the guns to me after I purchased them, and I would walk out with the guns myself and put them in my car.

Mr. SCHUMER. It was obvious that you were violating the law?

Mr. DAILY. Yes.

Mr. SCHUMER. And these people were dealers—were gun dealers?

Mr. DAILY. Yes. At each gun show, there were about, maybe 20, 30 tables with different gun dealers, and we would visit maybe 20, 30 tables. Some of them saw me every weekend, and they knew me, they knew my time. I would, you know: "Hi. How's it going?" You know: "Are you picking up any guns today?" "No."

Mr. SCHUMER. How many guns did you purchase?

Mr. DAILY. Physically, I only purchased four. I used the straw purchasers. We wound up with 150 handguns, 100 in Virginia and about 50 in North Carolina.

Mr. SCHUMER. Let me ask you this. Can you just describe for us, for some of the members of the panel and the audience who aren't familiar, what is a gun show, and how do you find out about these things and who goes?

Mr. DAILY. It is basically, I guess, household dealers that get together, you know. I knew a couple of the gun dealers that sold guns in Alexandria. Usually they rent an auditorium, and they set out all their stuff that they are going to sell, and they invite the public through those magazines, American Rifleman, Gun List, and I would imagine it would be in other gun magazines, and we would just read it and walk up and purchase guns.

Mr. SCHUMER. My colleague describes it as a flea market for guns.

Mr. DAILY. Yes, you could say that it is a flea market for guns. There is every type of gun that anyone would want.

Mr. SCHUMER. What did you do with all these guns you purchased?

Mr. DAILY. They were transported to New York City where they were traded for narcotics or sold individually.

Mr. SCHUMER. Did you do that? Did you drive up to New York City and do that?

Mr. DAILY. Yes, sir.

Mr. SCHUMER. And you were a drug addict, and that is how you supported your habit?

Mr. DAILY. No, sir.

Mr. SCHUMER. No. So explain that a little more.

Mr. DAILY. How I got into it?

Mr. SCHUMER. Well, maybe we will want to know that later, or other members of the panel, but basically, you said—what did you do with the guns? You said you traded them for narcotics.

Mr. DAILY. Traded them for narcotics.

Mr. SCHUMER. You drove up to New York City, gave someone some guns for narcotics.

Mr. DAILY. Yes, sir.

Mr. SCHUMER. Then you sold the narcotics to others?

Mr. DAILY. Yes, sir, because it was a better profit. You could buy the guns cheaper.

Mr. SCHUMER. Right.

How many guns did you buy at one time?

Mr. DAILY. Each individual would buy anywhere from 6 to maybe 8, and, as a group, 12 to 20 a weekend.

Mr. SCHUMER. And you always bought from the same few dealers?

Mr. DAILY. Yes, sir, usually the same dealers because they sold the type of weapons that we wanted.

Mr. SCHUMER. And this was always at gun shows?

Mr. DAILY. Always at gun shows.

Mr. SCHUMER. And the dealers knew that you weren't buying them for your own use.

Mr. DAILY. Oh, yes.

Mr. SCHUMER. It was obvious—you described that—from the way you filled out a form.

How much profit did you make on a gun?

Mr. DAILY. It depends on which type of pistol I would buy. If it was a smaller pistol, say a .25-caliber or a .38-, \$300 profit. If it was a 9-millimeter of the familiar Tech-9 and M-11, \$600 profit.

Mr. SCHUMER. Right.

I am just going to finish up a couple of questions, and then we will go vote.

Were you ever concerned that the police would catch up with you?

Mr. DAILY. It never really crossed my mind, because I saw other people doing the same thing I was doing at the gun shows. You know, someone like me would point out a gun to another person, and he would hand him the money and buy it for him.

Mr. SCHUMER. How many other people did you see doing the same thing, using straw purchasers?

Mr. DAILY. At each show, I would see basically sometimes the same people. I would say about four or five different groups of people coming in.

Mr. SCHUMER. So it would be fair to say that at these gun shows everyone knew that the gun dealers were violating the laws.

Mr. DAILY. Yes, sir. If I was a regular citizen watching someone purchase a handgun this way, I would know, you know, that this was wrong.

Mr. SCHUMER. And these are free and open and everywhere.

Mr. DAILY. Yes, sir. You go in, and there's 250 to 300 tables of guns, everything you need, laying out there. We not only purchased handguns, we would get, like, stiletto knives, brass stuff.

Mr. SCHUMER. Do they advertise these things publicly?

Mr. DAILY. Yes, sir. They have them in magazines: American Rifleman, Guns and Ammo, Gun List, which is a paperback magazine, where they also sell guns out of the magazine, private citizen to citizen.

Mr. SCHUMER. And there is no question in your mind that every dealer you dealt with knew what they were doing was illegal?

Mr. SCHUMER. This is just—it is amazing and galling. You know, you hear about it; it sounds benign. You know what happened to the guns. Would you guess that one of the guns that you sold ended up killing some innocent person?

Mr. DAILY. Yes; sir.

Mr. SCHUMER. Do you know that for a fact, or you just surmise it?

Mr. DAILY. I surmise it.

Mr. SCHUMER. It would be your judgment then that guns are easily available to people with criminal records?

Mr. DAILY. Yes, sir. More available to criminals than to citizens, I would say.

Mr. EDWARDS. Will you ask him what does he mean by a gun?

Mr. SCHUMER. OK.

Well, go ahead, Don.

Do you mean handguns?

Mr. SCHUMER. Are you talking about rifles?

Mr. DAILY. Pistols, as in—no rifles—handguns.

Mr. EDWARDS. You are talking about handguns.

Mr. DAILY. Twenty-five-caliber, .38-caliber, 9-millimeter.

Mr. EDWARDS. Revolvers and automatics.

Mr. DAILY. Revolvers are not a market. People want more. They want 20 rounds in a clip, 15 rounds in a clip, 30, they don't want 6 rounds in a revolver.

Mr. EDWARDS. Weapons that are meant to kill people, and not—

Mr. DAILY. And quantity of people, not just be able to shoot a person one time, they want to shoot five people five times.

Mr. SCHUMER. Do you feel bad about what you did?

Mr. DAILY. Yes, sir.

Mr. SCHUMER. Have you done anything to help stop some of these dealers or gun shows?

Mr. DAILY. I cooperated with the Alcohol, Tobacco and Firearms Bureau.

Mr. SCHUMER. Have they indicted or convicted any of the people whom you bought guns from?

Mr. DAILY. Yes, sir. There's 24 people involved in my case.

Mr. SCHUMER. At least you made some good of a bad situation. The bottom line is then—and you tell me if I am wrong here—there are lots of dealers who are breaking the law who have Federal licenses. They know they are breaking the law. They are selling lots of guns to people like you, and the guns end up killing people.

Mr. DAILY. Yes, sir.

Mr. SCHUMER. There is no doubt in your mind.

Mr. DAILY. No doubt in my mind whatsoever.

Mr. SCHUMER. OK. I think my colleagues will have questions, but probably we should go vote and come back. Since we have two votes, let us try to resume at 5 to 1. That will mean we will resume at 1 o'clock, but 5 to 1. OK, the hearing is temporarily recessed, and we thank you, Mr. Daily.

[Recess.]

Mr. SCHUMER. We will resume, and I just have one final question for you, Mr. Daily, other than thanking you for coming here and

telling us of your activities, and that is, why did you need straw purchasers? Why didn't you just get the guns yourself with either a fake ID or something like that?

Mr. DAILY. At the time, I didn't have an ID to do that with, and I really—I didn't want to.

Mr. SCHUMER. Why didn't you?

Mr. DAILY. I really never needed an ID, you know.

Mr. SCHUMER. You didn't have a driver's license?

Mr. DAILY. No. No, sir, nothing. I just didn't need it.

Mr. SCHUMER. How old were you at the time when you did this?

Mr. DAILY. Twenty, 21. I just turned 22.

Mr. SCHUMER. OK. And why not just buy a fake one?

Mr. DAILY. It was easier for straw purchasers. I had so many people willing to do it.

Mr. SCHUMER. And you paid them to do it?

Mr. DAILY. Yes.

Mr. SCHUMER. How much?

Mr. DAILY. Fifty dollars, \$25 a handgun.

Mr. SCHUMER. There is so much money in this business that that was not a consideration?

Mr. DAILY. No. And sometimes, instead of paying them cash, I would give them drugs.

Mr. SCHUMER. Mr. Sensenbrenner.

Mr. SENSENBRENNER. Thank you very much, Mr. Chairman.

Mr. Daily, I just have one question. We all know in Virginia that they have an instant check system that is on line to check out whether the person who is attempting to purchase a handgun there is legally entitled to do so. Did any of the people that you enlisted to buy guns at these gun shows get checked out by the dealers there who were selling them?

Mr. DAILY. Yes. A lot of times they would have to wait for the phone calls to go through. One time I had—one person had to wait an hour and a half for his phone call to go through because they were so busy calling and checking the ID's up on people. Usually there was a 25-, 30-minute wait for the gun because they would tell us—the gun dealer would say, "Oh, there's so many people buying guns; the phones are ringing off the hook."

Mr. SENSENBRENNER. So the Virginia gun dealers were complying with their State law in selling these handguns to your straw men and straw women.

Mr. DAILY. Yes, sir. Well, to the part, maybe on the form where it says, "Are you the true purchaser of this firearm?" you know, the person who was buying it wasn't.

Mr. SENSENBRENNER. Virginia recently passed a law that I believe limits people to one or two handgun purchases per month. If that law were in effect when you were doing what you were doing, how would that have affected your business?

Mr. DAILY. I would use more people, and I might try fake ID's, you know, because I only purchased four guns the last time I went when I was arrested. I got a \$10 ID at a check cashing place that I told them what the information was on it, and I went to the DMV

Mr. SENSENBRENNER. So, in your opinion, the law that the Virginia Legislature passed is not going to be effective in achieving slowing down the sales of guns at gun shows and flea markets.

Mr. DAILY. It might slow it down, but it won't stop it because people will still buy fake ID's or they will recruit more straw purchasers.

Mr. SENSENBRENNER. Thank you very much.

Mr. SCHUMER. Mr. Edwards.

Mr. EDWARDS. Thank you, Mr. Chairman.

Mr. Daily, you have obviously been rehabilitated, and it is very much to your credit to be here today. We are grateful, and I hope the parole officer takes that into consideration.

Mr. DAILY. Thank you.

Mr. EDWARDS. And I am sure he will.

How rich did you get at the peak of your career in this business?

Mr. DAILY. It depends. When I went to gun shows, before and after, I never had really, you know, a bank account or wealth, I would have possessions. At the time I had three cars, I would walk around with \$2,000/\$3,000 in my pocket at a time. I never lived in an apartment, I stayed in hotels. I never had a home for the entire time, I was a hotel person every night.

Mr. EDWARDS. You lived a pretty high life.

Mr. DAILY. Yes, sir.

Mr. EDWARDS. And if you were in our shoes as legislators, what would you do about this runaway traffic and possession of handguns?

Mr. DAILY. There's, first of all, the fake ID's. I mean if you could stop the person from getting an ID real easy, you would probably stop a lot of the gun running, because a lot of people do use fake ID's. I do read the newspapers and stuff like that. And also background checks need to be longer.

We originally were going to purchase firearms in Fairfax, VA, and Alexandria, but we found out that there was a 3- to 5-day waiting period. As soon as I found out that I could go to a gun show in the lower parts of the State in Virginia—Richmond County, and I think it is Henrico County, Warrenton—and it was a 5-minute waiting period, the business started booming. We had 5 minutes and as many guns as we wanted.

The waiting period, it was a big factor. The reason we stopped doing it in North Carolina, which was where I originally started, was because the waiting period was too long, and it was two minimum. We could only get three handguns a month. When I found out Virginia was as many as I wanted, I just started my business here.

Mr. EDWARDS. Thanks very much.

Thank you, Mr. Chairman.

Mr. SCHUMER. So what you are saying is that the one gun a month law that just passed in Virginia would have greatly put a crimp in your activities.

Mr. DAILY. It probably wouldn't have because—

Mr. SCHUMER. Or would you have been able to have gone to just 20 or 30 different dealers in a day?

Mr. DAILY. Well, it is one gun a month. I don't know how the sys-

son, and it goes in the computer, so you couldn't go to a different dealer, but I had a lot of other people lined up that were willing to go.

Mr. SCHUMER. You just get straws to get around it.

Mr. DAILY. I'd just get a lot more people.

Mr. SCHUMER. Understood.

Mr. Smith.

Mr. SMITH. I don't have any questions. Thank you, Mr. Chairman.

Mr. SCHUMER. OK. Then I want to just join with my colleague, Mr. Edwards, in thanking you for cooperating here. Obviously, you know you have done some pretty bad things, but you are also trying to rehabilitate yourself, and you are also trying to educate not only our committee but the public on this kind of problem.

Mr. DAILY. Yes, sir.

Mr. SCHUMER. And that is much appreciated.

I hope after you finish your term in prison, you—I don't know what the term is any more.

Mr. DAILY. Straighten my life up.

Mr. SCHUMER. Straighten your life up—thank you. So that you straighten your life up and learn from your mistakes.

Mr. DAILY. Thank you, sir. I appreciate your time.

Mr. SCHUMER. Thank you, Mr. Daily, and I want to thank your officer for being here.

Mr. DAILY. He is ATF Agent Jeff Bragman.

Mr. SCHUMER. Thank you.

Mr. BRAGMAN. Thank you.

Mr. SCHUMER. Panel two is also just one person, and that is Mr. Stephen Higgins. He is the Director of BATF in the U.S. Treasury Department. He has served with BATF for 32 years, his last 10 years as Director. He has received numerous law enforcement and public service awards. He is accompanied by Mr. Brad Buckles. He is the Deputy Chief Counsel for BATF.

Mr. Higgins, your entire statement will be read into the record, and given the fact that we are going to have votes—the frequency of the votes is going to increase over the next little while—if you could summarize your statement, we would most appreciate it.

Mr. HIGGINS. I will rush through here as quickly as I can. I know you want to get to questions.

Mr. SCHUMER. Thank you.

STATEMENT OF STEPHEN E. HIGGINS, DIRECTOR, BUREAU OF ALCOHOL, TOBACCO AND FIREARMS, U.S. DEPARTMENT OF THE TREASURY, ACCOMPANIED BY BRAD BUCKLES, DEPUTY CHIEF COUNSEL, AND GERALD A. NUNZIATO, SPECIAL AGENT IN CHARGE, NATIONAL TRACING CENTER

Mr. HIGGINS. Thank you, Mr. Chairman and members of the subcommittee for giving us this opportunity to testify.

It is obvious that a major problem facing society today is the ease with which criminals, mental incompetents, and others, including children, acquire firearms. Today I am going to give you an overview of some of our efforts in addressing the proliferation of guns being bought and used illegally by focusing on three areas: first, the licensing of dealers; second, the illegal activities by a certain

small percentage of firearms dealers; and finally, on our firearms tracing activities.

I will give you a few examples, but in the interest of time I will refer you to those in the written testimony as opposed to going into all of the specific cases.

What I can tell you, though, is that we can cite—

Mr. SCHUMER. And thank you for your help with putting together the "Dirty Dozen" as well.

Mr. HIGGINS. Thank you.

The examples in the written statement are from all over the country. They are just in not what people might think are high crime areas where they would expect this; they are in small, rural areas as well, and some of them are in your own backyards.

At the beginning of this fiscal year, 1993, we started the development of a program to address both the increasing number of licensed dealers and the increased use of firearms, particularly handguns in violent crimes. Our first focus was on implementing a program to deal with the influx of applications we were receiving as a direct result of the expanded publicity regarding the relative ease by which you could get a license.

In fiscal year 1992, we were receiving about 2,800 applications a month, and that had been pretty steady over the past few years. In December 1992, that number jumped to 5,200 applications a month. From January to April 1993, we received 24,000 applications, averaging at that time about 6,000 applications a month. So it went from an average of about 2,800 to 6,000.

The large number of license applications and the current volume are primarily the product of minimal licensing standards and fees contained in the existing law. For example, we can't deny a license application simply because the proposed business would violate State or local law, and the annual fee is \$10 a year.

By making it easy to obtain a firearms license, the current system encourages many people to file applications to engage in the business who don't actually intend to. Rather, they become licensees for a number of reasons. One is to acquire personal firearms in interstate commerce at a wholesale price and thereby save more than they paid for the license. Sometimes they obtain licenses to circumvent State and local laws which impose restrictions on the acquisition of firearms by nonlicensees. For example—and I think it has been mentioned—generally laws such as waiting period restrictions, and the one gun per month rule don't apply to licensed dealers. So if you get a license you can avoid those requirements.

While the vast majority of licensees don't contribute to the crime problem in this country, the sheer volume of licensees makes it difficult for ATF to focus our compliance program and our limited resources on those problem dealers where the problems arise.

While we have developed certain targeting strategies to use in our compliance program, it has been sometimes likened to looking for a needle in a haystack, and it may well be close to that.

Beginning in February, we started a new program to address the growing number of applications when that number shot up to 5,000 to 6,000 a month. Under that initiative, we now contact every applicant for a firearms license. The overwhelming majority of those contacts are by telephone. The inspectors ask a series of questions.

Depending upon the answers to those questions, the applicant might be selected for a subsequent visit and more intensive inspection, but that would only be a relative few. This is a program that is tremendously staff intensive and one that we cannot keep up for any sustainably period of time. We are doing that now because of this influx.

During the period from February 1 to April 30, we conducted 11,122 preliminary investigations under this program. We have looked at somewhere around 4,900 of those reports at this time.

Interestingly enough, about 19 percent, close to 20 percent, of the people we are contacting are withdrawing their applications or abandoning their applications when they find out either about the State and local requirements or the fact that they should actually be intending to go into business. Our previous experience had been that about 4 to 5 percent of applicants would typically abandon or withdraw their applications.

Since we have heightened those investigations—well, I will skip those examples because these are examples of some of the more outrageous things we found when we contacted certain applicants, one who shortly thereafter engaged in a shoot-out with local police. He fortunately abandoned his request for a license.

In New York City, we have been working with the local police department to inform the applicants of both their Federal and State responsibilities, and we go out together. During the period of November 1992 through May 1993, we received 211 applications from individuals in New York City. Some of those applicants, would list business premises in public housing projects where we knew the operation would be in variance of local law; they are not allowed to have those licenses in those projects.

Of the all applications received 140, or roughly 66 percent were either withdrawn or abandoned. So it paid off to have the local police department accompany us.

On June 2 of this year, the New York City Police Department received a grant from the Department of Justice's BJA Office for \$175,000 to continue the joint investigation program with us. I think the tremendous success of that effort—a collaborative ATF/NYPD project—is directly attributable to the close relationship that our people in New York have with NYPD and particularly with Police Commissioner Kelly. This working relationship is not limited just to firearms, but is true in arson and explosives cases as well.

According to the results of the survey we conducted over the past year—Operation Snapshot—we found that approximately 74 percent of the licensed dealers operate from their homes. We also estimate that approximately 43 percent of the licensees have no inventory of firearms and have not bought or sold any firearms in the past year.

Fifty-seven percent of all the licensees have some degree of sales. Of these "active" dealers, a majority conduct a minimum amount of business—that is, fewer than 10 sales a year.

What these figures mean, I think, is that the percentage of current and new firearms dealers actively engaged in conducting a firearms business of appreciable size is a relative minority, approximately 27 percent, and it may even be lower than that.

We have been criticized for the relative ease of obtaining firearms licenses and for issuing licenses to disreputable people. The fact is, only statutory amendments can truly remedy all of the problems. We can do greater things from an enforcement standpoint, and we don't deny that; whether we will continue to have the manpower to do that is a separate question, but there are certain things that can only be changed by statutory remedy.

Currently, for example, we can't deny an application based solely on the reputation of an individual, as we do in the alcohol business. Unless the applicant is statutorily prohibited, such as a convicted felon or an adjudicated mental defective, we are compelled to issue the license, period. Therefore, some individuals of questionable character are certain to obtain licenses as firearms dealers.

To talk quickly about sales of firearms to criminals—and you have heard one case today—there are several methods that criminals use to acquire firearms from licensed dealers. They can simply falsify the ATF form where they certify that they have never been convicted of a felony or are in any of the other prohibited categories. There is no Federal requirement that that answer be verified by the dealer.

Additionally, criminals falsify these forms by using fraudulent identification. Criminals also enlist—and that is what you heard today—friends or relatives or others to make purchases on their behalf, and they are referred to as straw purchasers. The method by which criminals acquire firearms that is of most concern to us, and I think is of equal concern to you, is where traffickers conspire with dealers in order to divert firearms to criminal use. Whether they buy their guns directly or whether they acquire guns for resale, virtually all the guns at some point pass through a licensed dealer's inventory, so we need to focus on that.

That is not to say it is commonplace for a licensed dealer to be corrupt and knowingly participate in putting guns in the hands of criminals or youths. That is the exception, although it doesn't take very many exceptions before you have a lot of guns out there.

Let me skip over the examples of people we have picked up—you have a trafficker here and other examples in the testimony—and finally turn to our tracing program. Efforts at stemming the association of Federal firearms licensees with the distribution of guns used in criminal activities are further enhanced by the tracing program. Information from our Tracing Center is used by our agents and other law enforcement officers to identify the ownership sequence of guns used in crimes. We also use tracing information to target firearms dealers who are frequent sources of guns used in crimes and to identify patterns of gun traffickers.

During fiscal year 1993, our Tracing Center thus far has responded to over 33,000 trace requests from various law enforcement agencies. That includes some 24,000 handguns. We have included with the written testimony a chart which shows the types of crimes those weapons were used in or that were involved with those traces.

Again, skipping over the examples of some cases, let me summarize by saying that although the number of Federal firearms license applicants has grown significantly in recent months, we have intensified our efforts by making direct contact with every appli-

cant. Our efforts regarding current firearms dealers have also been successful in identifying a number of those dealers operating outside the law. With continued analysis of information from the Tracing Center, we will continue to identify patterns of gun trafficking to address the increased use of handguns in violent crime.

We thank you for this opportunity to present our views and discuss them with you. Brad and I will be happy to answer any of the questions that we can.

Thank you.

Mr. SCHUMER. Thank you, Mr. Higgins, for your comprehensive testimony.

[The prepared statement of Mr. Higgins follows:]

PREPARED STATEMENT OF STEPHEN E. HIGGINS, DIRECTOR, U.S. DEPARTMENT OF THE TREASURY, BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

Mr. Chairman and members of the Subcommittee, thank you for the opportunity to appear today and testify concerning the efforts and success of the Bureau of Alcohol, Tobacco and Firearms in curtailing the flow of firearms to criminals.

A major problem facing society today is the ease with which criminals, mental incompetents, and others, including children, acquire firearms. Today, I will give you an overview of some of our efforts in addressing the proliferation of guns being bought and used illegally by focusing on three areas—the licensing of firearms dealers, our efforts in stemming illegal activities by certain firearms dealers, and firearms tracing activities.

My testimony will include examples of our efforts in these three areas. I could recount typical examples from the known high-crime areas of the country, but I want to illustrate that our efforts span a wider range. Therefore, the cases mentioned will be of our successes in both high-crime cities, as well as other areas—some in your own backyards.

FEDERAL FIREARMS LICENSING

At the beginning of fiscal year 1993, we began development of a national firearms program to address both the increasing number of licensed dealers and the increased use of firearms, particularly handguns, in violent crimes. We first focused on implementing a program to deal with the influx of applications we were receiving as a direct result of the expanded publicity regarding the relative ease of obtaining a Federal firearms license.

In FY 92, our licensing center received an average of 2,800 applications per month. In December 1992, the number jumped to 5,200 applications. From January through April 1993, we received 24,014 applications; for an average of approximately 6,000 per month.

The large number of license applications, and the current large volume of licensees in the country (over 280,000), are primarily the product of minimal licensing standards and fees contained in existing law. For example, ATF cannot deny a license application because the proposed business would violate State and local laws. The annual fee for a dealer's license is a mere \$10.

By making it easy to obtain a firearms license, the current licensing system encourages many persons to file applications who have no intent to actually engage in a firearms business. Rather, they become licensees to acquire personal firearms in interstate commerce or at wholesale prices. Moreover, they obtain licenses to circumvent State and local laws which impose restrictions on the acquisition of firearms by nonlicensees. For example, restrictions like waiting periods and the Virginia one-gun-per-month rule generally do not apply to transactions between dealers. Since one of the purposes of the Gun Control Act of 1968 was to assist State and local authorities in the enforcement of their own laws, it is ironic that the licensing scheme under the Act is being used to circumvent these laws.

While the vast majority of licensees do not contribute to the crime problem in the country, the sheer volume of licensees makes it difficult for ATF to focus its compliance program and its limited resources on problem dealers whose firearms transactions should be scrutinized. In other words, ATF's compliance task is to "find the needle in the haystack".

Beginning in February, we implemented a program to address the growing number of applications. Under this initiative, we contact every applicant for a firearms

license. We have field inspectors in each office assigned to make direct contact with each applicant.

During these preliminary investigations, inspectors inquire about the need for the license, the adequacy of the proposed business premises, and whether the applicant intends actually to engage in a firearms business. Inspectors also discuss the record-keeping and conduct of business requirements with each applicant.

During the period of February 1 to April 30, 11,122 preliminary investigations were conducted. We have analyzed approximately 4,900 of the reports from those investigations, finding that due to our field efforts, approximately 19 of the applicants are withdrawing or abandoning their applications. At the same time, increased efforts by the licensing center resulted in 3,620 new and renewal applications either being withdrawn, abandoned, or voluntarily discontinued.

Since we have heightened our application investigation efforts, numerous individuals who may have otherwise received licenses have withdrawn or abandoned their applications. Among these were two separate individuals in north New Jersey. When an inspector visited one applicant, it was disclosed that the applicant's stated business premises was a room in the local YMCA. The applicant had several firearms in his room, and was in the process of reloading ammunition during the inspection. The applicant was also watching movies about the Vietnam War and appeared to be irrationally enthralled with that conflict.

After an inspector conducted a preliminary inspection on another applicant in north New Jersey, the application was withdrawn. One week later, the applicant was arrested for possessing NFA weapons (machine guns). He was subsequently released, only to later engage in a shootout with local police.

In New York City, inspectors have been working with the local police department to inform applicants of both their Federal and local responsibilities. During the period of November 1992 through May 1993, we received 211 applications from individuals in New York City. Some of these applicants listed business premises located in public housing projects where such an operation would be at variance with local law. Of the applications received, 140 (or 66%) have been withdrawn or abandoned due to our preliminary investigations.

On June 2, 1993, the New York City Police Department was awarded a grant of \$175,000 by the Department of Justice's Bureau of Justice Assistance to continue the joint investigations of applicants for Federal firearms licenses. The tremendous success of this collaborative ATF-NYCPD project is a tribute to the cooperative relationship between our field managers and Police Commissioner Raymond W. Kelly.

According to the results of a survey we conducted from February 1992 to February 1993, approximately 74% of licensed dealers operate from their homes. We also estimate that approximately 43% of licensees have no inventory of firearms and have not bought or sold any firearms in the preceding 12 months. Of the active dealers (57% of all licensees), a majority have conducted a minimal amount of business (fewer than 10 transactions).

What these figures mean is that the percentage of current and new firearms dealers actively engaged in conducting a firearms business of appreciable size is in a minority (approximately 27%).

We have been criticized for the relative ease of obtaining firearms licenses, and for issuing licenses to disreputable persons. The fact is, only statutory amendments can remedy these problems.

Currently, we cannot deny an application based solely on the reputation of the applicant. Unless the applicant is statutorily prohibited, such as being a convicted felon or adjudicated mental defective, we are compelled to issue the license. Therefore, some individuals of questionable character are able to obtain licenses as firearms dealers.

SALES OF FIREARMS TO CRIMINALS

There are several methods used by criminals to acquire firearms from licensed dealers. They may simply falsify the ATF form that certifies whether they have ever been convicted of a felony. There is no requirement with this form that the answer be verified by the dealer. Additionally, criminals falsify these forms by using fraudulent identification. Criminals also enlist friends or relatives to make purchases on their behalf—referred to as a "straw" purchase.

The method by which criminals acquire firearms that is of most concern to us is the scenario where traffickers conspire with licensed dealers to divert firearms to criminal use.

Whether criminals buy guns directly, or traffickers acquire guns for resale, virtually all of the guns that end up in the hands of criminals flow through licensed dealers at some point. This is not to say that it is commonplace for a licensed dealer

to be corrupt and knowingly participate in putting guns in the hands of criminals or youths. We have, however, taken actions against firearms dealers involved in illegal activities.

Since the beginning of fiscal year 1992, 187 firearms dealers have been subject to criminal prosecutions.

In 1990, a firearms dealer in Temple, Texas, was convicted for diverting over 2,000 firearms to Mexico. During the period of 1982 to 1989, the dealer had falsified his required records to conceal the diversion to a Mexican national who was identified as a major firearms trafficker.

More recently, a firearms dealer in North Carolina was arrested for providing between 6,000 and 10,000 handguns to the black market. A search warrant of the dealer's residence and business premises revealed equipment used to alter serial numbers. The serial numbers of the handguns had been obliterated and restamped with fictitious numbers. The illegal firearms had been distributed to purchasers in both North and South Carolina, as well as Tennessee and other states. Several of the firearms have been recovered from convicted felons in Tennessee and South Carolina, a firearms trafficker in New York City involved with Pakistan Nationals, drug dealers in Baltimore, and a bank robber in North Carolina.

FIREARMS TRACING PROGRAM

Efforts at stemming the association of Federal firearms licensees with the distribution of guns used in criminal activities is further enhanced by our firearms tracing program.

Information from our Tracing Center is used by our agents and other law enforcement officers to identify the ownership sequence of guns used in crimes. We also use tracing information to target firearms dealers who are frequent sources of guns used in crimes, and to identify patterns of gun traffickers.

During fiscal year 1993, our Tracing Center has responded to 33,764 trace requests from various law enforcement agencies. These requests can be broken down into 24,879 handguns, 8,848 longguns, and 37 machine guns that were subject of traces. Included with my written testimony is a chart showing the types of crimes involved with these traces.

A firearms dealer in the Bronx, New York, purchased over 500 handguns from a company in North Carolina in one year. Sixteen of these firearms were purchased by ATF undercover agents from a barber shop in the Bronx, which was selling them illegally. The Tracing Center verified the flow of the firearms to the firearms dealer.

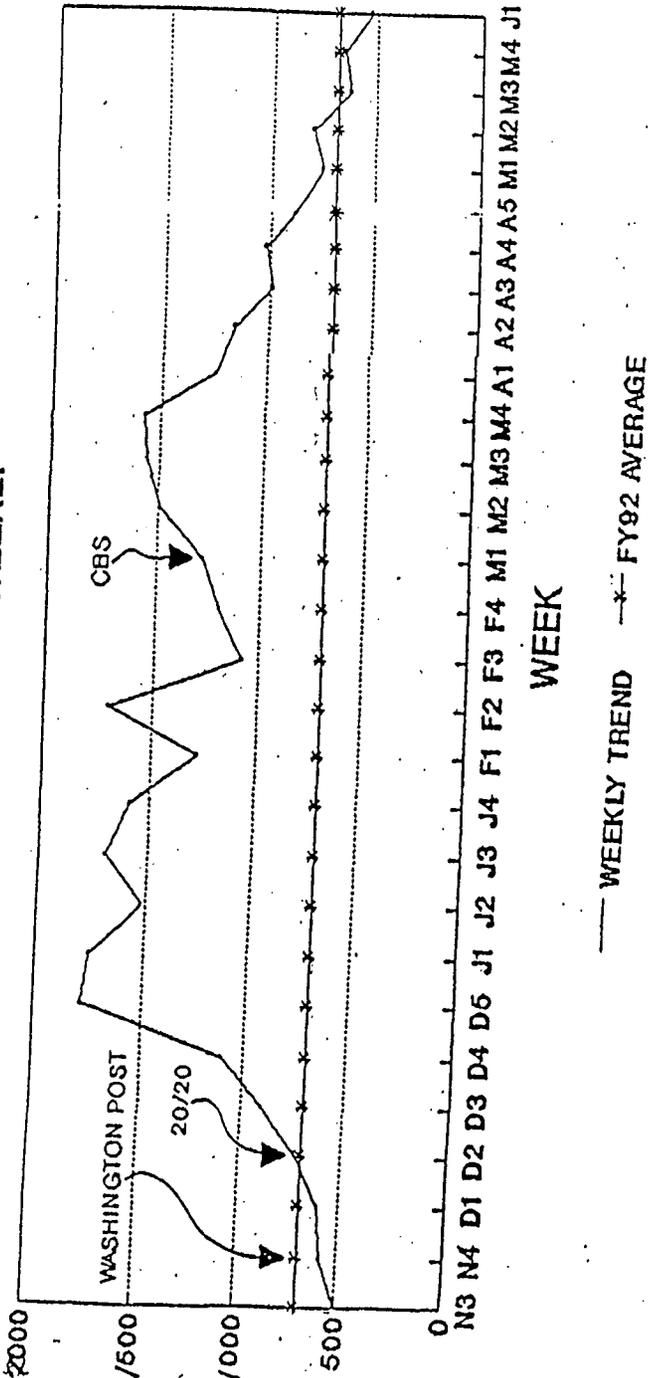
In another recent case, a firearms dealer was arrested for distributing firearms to members and associates of organized crime in Connecticut. The father of the dealer received 50 firearms that were delivered to the father's home in Connecticut from the dealer's premises in Rochester, New York. The serial numbers on the firearms were being obliterated. However, after the original serial number on one firearm was raised, the Tracing Center was able to determine the dealer as the source of the firearms.

In yet another case, a former firearms dealer in Wisconsin was the subject of an investigation by our St. Paul office. The dealer continued to use his expired license to acquire 115 handguns between September 1991 and August 1992. An undercover Chicago agent purchased 2 guns that were subsequently traced to the ex-licensee, who confessed to selling 120 guns per year to a non-licensee, beginning in 1989. The non-licensee resold the guns at gun shows. Through the efforts of our Tracing Center, we documented that 400 new handguns had been acquired by the former licensee and transferred to the non-licensee. Recoveries of these firearms were made in Chicago, Milwaukee and Colorado.

In summary, although the number of Federal firearms licensee applicants has grown significantly in recent months, we have intensified our efforts by making direct contact with every applicant. Our efforts regarding current firearms dealers have also been successful in identifying those dealers operating outside the law. With continued analysis of information from the Tracing Center, we will continue to identify patterns of gun trafficking to address the increased use of handguns in violent crimes.

Thank you for the opportunity to express our views on these very significant issues. I will be happy to answer any questions at this time.

NEW FIREARMS APPLICATIONS RECEIVED WEEKLY



PLTF 100212

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS  
OFFICE OF LAW ENFORCEMENT  
CRIMES OF TRACED GUNS - FISCAL 1993 TO MAY 31, 1993

CRIME	GUN TYPE					TOTAL	
	MACHINE	PISTOL	PISTOL D	PISTOL R	RIFLE		SHOTGUN
ARSON		9		5	6	5	25
ASSAULT		643	8	293	143	119	1206
ATTEMPTED BOMBING		1		1			2
BOMBING					1		2
BURGLARY	1	180	8	164	126	117	596
CONSPIRACY		27		4	10	5	46
EXTORTION		1					1
FALSE STATEMENT/REPORT/ID		31		8	5		44
FORGERY/COUNTERFEIT		1		2	1		4
ILLEGAL POSSESSION OF EXP		1		2	2	2	7
KIDNAP/ABDUCTION		21		11	4		36
LARCENY/THEFT		10	1	6	3	3	23
MAIL FRAUD		1				1	2
MANUFACTURING/POSSESSION		1					1
MONEY LAUNDERING		3		12		1	16
MURDER		1291	15	857	342	218	2723
NARCOTICS		2203	50	960	649	548	4410
ORGANIZED CRIME		13		12	5	3	33
OTHER (SPECIFY IN REMARKS)	34	9378	140	4853	2901	2271	19577
OTHER LIQUOR		1		2			3
PAROLE VIOLATIONS		5		1	1	1	7
POSSESSION STOLEN EXPLOSI		6		3		3	13
RECEIVING STOLEN PROPERTY		316	10	237	116	125	804
RTCD		4			1		5
ROBBERY/HIJACKING		372	2	237	62	77	750
SEX CRIMES		5		5		2	12
SPECIAL DANGEROUS OFFENSE		161	4	60	73	75	373
TITLE 1 OR SIMILAR STATE	2	1229	21	716	335	369	2672
TITLE 18, USC, 924(C)		163	2	33	32	53	283
TITLE 18, USC, 924(E)		9		3	6	5	23
TITLE 2 OR SIMILAR STATE					1		1
TRANSPORTATION/POSSESSION		2				2	4
*****	*****	*****	*****	*****	*****	*****	*****
37	16088	261	8488	4825	4007		33796

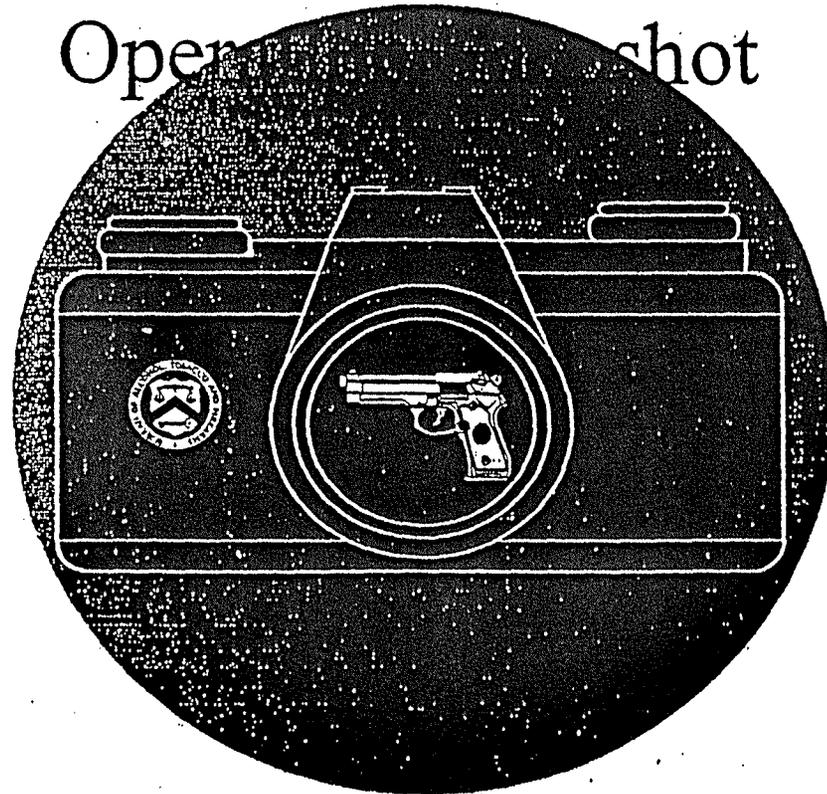
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PLTF 100213



Bureau of Alcohol, Tobacco and Firearms  
Office of Compliance Operations  
Firearms and Explosives Division

Open shot



June 1993

## OPERATION SNAPSHOT

## BACKGROUND

Since passage of the Gun Control Act of 1968 (GCA) there has been a steady increase in the population of Federal Firearms licensees (FFL's) in the United States. In 1968 there were about 87,000 licensees. Today there are over 287,000. In 1968 we did not have sufficient resources to inspect all licensees; nor do we today. Given our current commitment of resources, we project that it would take over ten years to inspect each and every licensee.

Historically, we have based our inspection targeting on some assumptions that we have made about the entire FFL population. We assumed that the vast majority of licensees were residential dealers, but couldn't, with any degree of certainty, calculate how many there were. We suspected that a large number of dealers obtained their Federal Firearms license but never engaged in the business contemplated by that license. It seemed that a significant number of dealers were found in violation of the GCA during our compliance inspections, but again, we couldn't quantify the results.

In an effort to bring the Federal Firearms licensee population into perspective, Operation Snapshot was conceived. We needed to know who the average licensee was; what kinds of activities and how much of these activities he/she engaged in; and a whole host of other questions which, when answered, would provide us basic information relative to the firearms industry.

Given that our resources would not permit an inspection program that targeted each and every licensee, we developed a program that would provide us the information we needed based on a statistical sampling of the entire firearms dealer population. This program, when completed, would provide us information about Federal Firearms licensees within defined degrees of accuracy.

## METHODOLOGY

In January of 1992 there were approximately 287,000 Federal Firearms licensees, including manufacturers, importers, dealers, pawnbrokers, and collectors. Of that number, 244,042 licensees were dealers authorized to deal in firearms other than destructive devices. These dealers are commonly referred to as Type 01 dealers.

Using a software package designed for the task, ATF selected a random sample of 400 Type 01 dealers. Each dealer in the sample was inspected. ATF inspectors used a uniform workplan and questionnaire to ensure the accuracy of the information being gathered. In those instances where licensees had discontinued business, their records were examined at the ATF's Out of Business-Records Center.

The rates of occurrence of specific findings, which are reflected in terms of percentages, can be projected to the entire Federal Firearms licensee population. The projections, based on a sample size of 400 dealers, will result in a precision rate of plus or minus 5%, with a confidence level of 95%. For example, Operation Snapshot inspections found that 26% of the dealers have commercial premises from which to conduct business. Therefore, we can project, with a 95% level of confidence, the true percentage rate of dealers having commercial premises will be between 21% and 31% of the total dealer population.

## CONCLUSION

As a result of the information gathered during the course of Operation Snapshot, we can now conclude, with a high degree of probability, certain characteristics about the Federal Firearms licensee population in the United States.

## LOCATION AND BUSINESS CHARACTERISTICS

The typical federal firearms dealer

is a sole owner

is a 45-year old male

Has held a license for 7 years and 4 months

85% of dealers have other sources of income or employment other than a firearms business

56% of dealers have their business location in or within 25 miles of a city having a population over 100,000 people

74% of dealers conduct the firearms business in their homes

18% of dealers are located in commercial premises where other goods are sold to the public (e.g., sporting, hardware and general merchandise)

8% of dealers are located at other commercial premises not associated with sale of goods to the public (e.g., medical, real estate, insurance office, auto repair, beauty shop, etc.)

## INSPECTION HISTORY

9% were the subject of an application investigation

10% were inspected for compliance with the gun control act of 1968

10% were the subject of a compliance inspection or application investigation during the ten-year period from 1982 to 1991

Federal firearms violations were found at 34% of dealers

7% of all dealers had violations for which followup inspection was required

3% of dealers could not account for the disposition of one or more firearms

12% of dealers surrendered license during ATF inspection

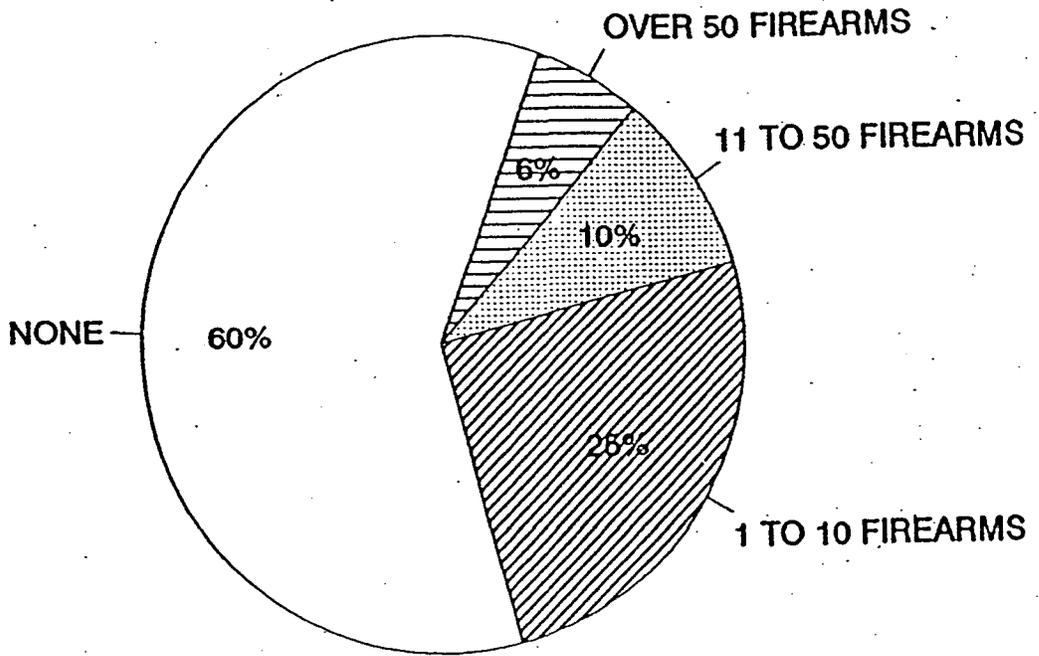
3% of dealers were out of business before ATF inspection

## STATE AND LOCAL LICENSING

35% of dealers are required to have a state or local firearms license but only 6 of 10 comply

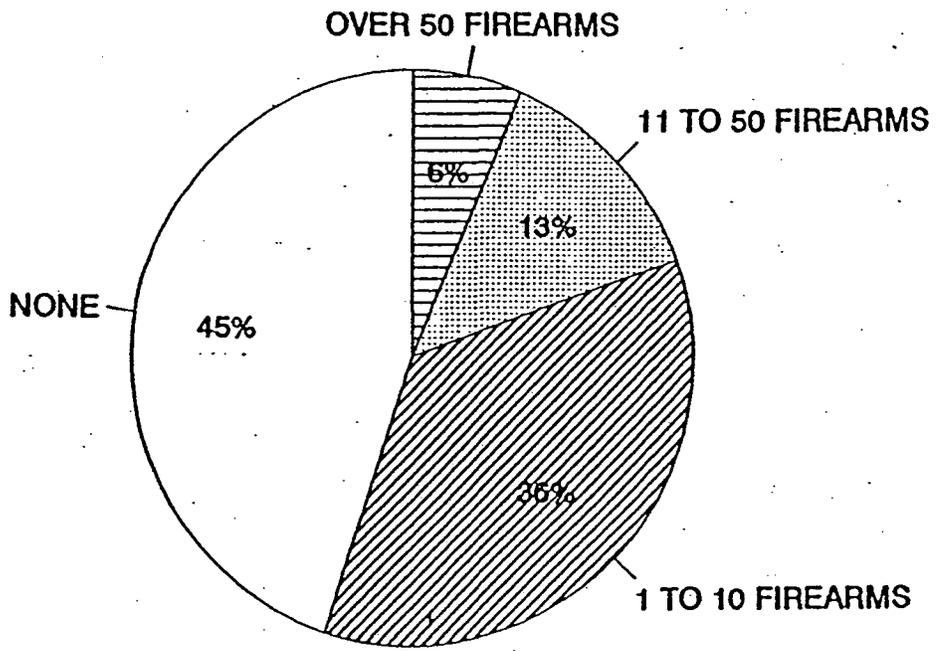
65% of dealers are not required to be licensed for firearms under state or local laws

# OPERATION SNAPSHOT FIREARMS INVENTORY AT TIME OF INSPECTION



26

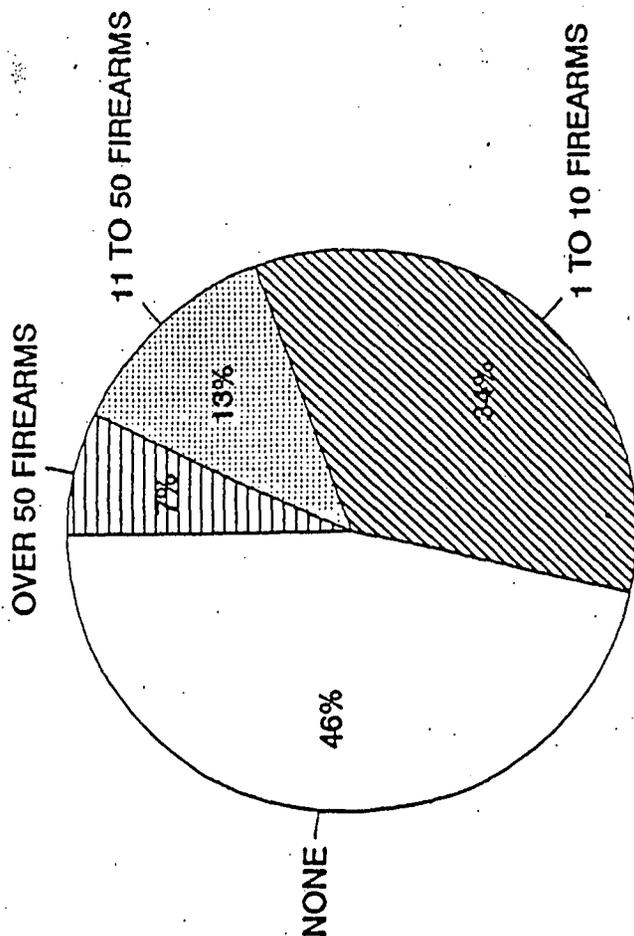
# OPERATION SNAPSHOT FIREARMS ACQUISITIONS 1 YEAR BEFORE INSPECTION



27

(Dealers whose records or business could not be located are included in the NONE category.)

OPERATION SNAPSHOT  
FIREARMS DISPOSITIONS 1 YEAR BEFORE INSPECTION



Dealers whose records or business could not be located are included in the NONE category.)

Mr. SCHUMER. The number, the increase in the people applying for dealerships is astounding and, to me at least, frightening. I mean this is not just a minor increase, this is not just a linear increase, it is even more than exponential, and I would just like some of your wisdom on why it has increased so dramatically in the course of a year. Something is going on, something that potentially is very troubling and very dangerous.

Mr. HIGGINS. I think there are two or three things. We charted the times when the various programs highlighting how easily Federal firearms licenses can be obtained were run, whether it was a Washington Post article here locally or the "20/20" program or the "CBS Evening News" program. It may only be coincidental, but after those programs ran there were spikes in terms of the number of applications that were received, because those programs made it seem—

Mr. SCHUMER. But 2,800 a month to 6,000 a month can't be—

Mr. HIGGINS. I think there are two other reasons.

Mr. SCHUMER [continuing]. Just a TV show, you know.

Mr. HIGGINS. I think part of it is increased exposure to how easy it is to get one. I think also that as States enact certain laws designed to either limit handgun purchases to one gun per month or establish waiting periods or point of sale checks there will be people getting licenses so they can avoid those kinds of restrictions. Finally, I think there are people who simply want to save the money. It is relatively cheap to get a license. They can buy a gun interstate at wholesale prices.

Mr. SCHUMER. How many people do you have on the program that makes a verification of each licensee?

Mr. HIGGINS. Our firearms field inspections program is slightly over 200. About 25 of those are involved in the applications and 180 are involved in compliance.

Mr. SCHUMER. Is that an increase over last year?

Mr. HIGGINS. That is a considerable increase. In 1991, it was 146 total staff years; in 1992, which is the last full year for which we have figures it went up to 209; in 1987, it was 79. But we are still not anywhere near the capability of checking 100 percent of the licenses, as I have said in the testimony.

Mr. SCHUMER. I thought you now make a direct check, you talk to every applicant.

Mr. HIGGINS. I have not been able to because—

Mr. SCHUMER. That is the existing—

Mr. HIGGINS. Yes, that is in the current year. We know we are burning staff years a lot higher than the 209 we used last year. We can sustain that for a while but not—

Mr. SCHUMER. I think your statistics showed 8 percent were actually checked once they became licensed, some very small number. On the other hand, it seems that your effort to reach out to each person is having an effect, that 20 percent simply drop out once the call is made. I suppose almost all of those are telephonic—I hate that word—reached by telephone.

Mr. HIGGINS. Well, only because the majority of the contacts we make are telephonic. I don't know the differences between the percent of telephone contacts versus the percent of physical contacts that actually result in applications withdrawn or abandoned.

Mr. SCHUMER. It has got to be next to nothing. You are getting 6,000 applications a month, and you have 280 people on it.

Mr. HIGGINS. Actually, just slightly over 200—225.

Mr. SCHUMER. Two-twenty. You are not visiting to many of those people.

Mr. HIGGINS. No.

Mr. SCHUMER. OK. Did you get more resources from Congress to do this, or you just sort of reshuffled the people you had?

Mr. HIGGINS. We have in the past received resources, but most of what we have done has been internal reshuffling of people.

Mr. SCHUMER. OK. Your explanations come a little closer, but the fact just that there is more publicity and the States are cracking down—something is really rotten in Denmark with a huge increase like that, and my guess is, we are going to pay the price for it somehow or other. I am troubled by that.

Let me ask you this. Is it correct that just about every gun held by a criminal passed through the hands of a licensed dealer at one point or another?

Mr. HIGGINS. I think if you take it back far enough that would be correct, because we have a fairly extensive system, yes.

Mr. SCHUMER. So if you really were able to tighten up the dealer laws in a variety of ways, which—I may not have time to ask you about each of them now; I am going to ask you in writing to respond to those—you could reduce the number of guns getting into the hands of criminals and people like that. Would that be a fair statement?

Mr. HIGGINS. That is a fair statement.

Mr. SCHUMER. OK.

What kind of enforcement efforts do you have directed at unlicensed dealers at gun shows? Mr. Daily was talking about that.

Mr. HIGGINS. We have two kinds of efforts. One is what we do from an educational standpoint. At a number of gun shows now we have inspectors set up booths explaining to people who are there, both licensed and unlicensed, firearms laws and what the requirements are to do business.

So we are trying, number one, from an educational standpoint, but there are thousands of gun shows every weekend in this country, and we cover only a very minute percent.

Mr. SCHUMER. Is that because of lack of manpower?

Mr. HIGGINS. Yes.

Mr. SCHUMER. Clearly, it would be effective if you had a Federal agent at every gun show.

Mr. HIGGINS. It would certainly be noted, and it might have a little bit of a chilling effect, I suppose, although, really, we have been pretty well accepted at the larger gun shows. People really seem to want the information.

The other is simply targeting dealers—or targeting individuals who are straw purchasing, and you know what that enforcement effort is.

Mr. SCHUMER. Right.

Are most of the gun shows clearly illegal enterprises, the way Mr. Daily was describing them, or is that just a small number of the gun shows? I mean are there a good number of legitimate gun shows where straw dealing and all this other stuff goes on?

Mr. HIGGINS. I think there are a large number of legitimate gun shows where dealers go and display their wares and fill out the forms and try not to sell to straw purchasers where they obviously know the person isn't the intended buyer. But there are so many thousands of gun shows, and it only takes one or two or a few bad places and you get a lot of guns on the streets. So while I think most gun shows are probably OK, legitimate, the problem ones are a major concern.

Mr. SCHUMER. You know, I find it utterly astounding what you have said. It is easier to get a license to sell a can of beer, or hard liquor anyway—a bottle of scotch—than it is to get a license to sell a gun.

Mr. HIGGINS. This is true at the wholesale level. I don't want to leave that impression that this applies to the retail level.

Mr. SCHUMER. I said it backwards. It is easier to get a license to sell a gun than it is to sell a bottle of scotch. I know in New York we look at the character pretty thoroughly of who gets a liquor license.

Do you have any estimates of the total size and the number of weapons, or in dollars, of the illegal gun market?

Mr. HIGGINS. I don't; I will provide something for the record.

Mr. SCHUMER. Could you?

Mr. HIGGINS. It is just so hard to get a good handle on how many out of 200 million-plus guns.

[The information follows:]

There is no national data on the number of firearms circulating in the illegal gun market, nor is it reasonably possible to estimate such a figure based on a percentage of a specified base (production or weapons recorded stolen). The compilation of information from which more accurate estimates could be drawn is not required under the Gun Control Act. However, the following overview is offered for your consideration.

There are an estimated 160 to 200 million firearms in the United States. There is no question that stolen firearms play a role in arming criminals. Over the past 3 years, ATF is aware of over 250 incidents involving the robbery or burglary of gun stores. The National Crime Information Center (NCIC) figures on stolen firearms are informative. In 1991, 207,481 firearms were reported stolen to NCIC. Of these, 141,846 were handguns. Through September of 1992, 190,305 firearms were reported stolen; 135,671 of which were handguns. The difficulty with the NCIC data is that it is only those firearms which were both reported stolen and for which the serial number was known. This figure is likely to be significantly lower than the actual number of stolen firearms in circulation.

In Fiscal Year 1992, ATF took into custody 17,718 firearms; of these, 1,811 were reported stolen. Unlike NCIC data, ATF's reporting allows for a determination that a firearm was stolen through later investigation based on trace data where the serial number was not known to the reporting person. The ATF figures show that stolen firearms constitute approximately 10% of the guns recovered.

When ATF surveyed armed career criminals on where they got firearms, 34 percent responded that it was from criminal acts and associates. This figure clearly involves stolen guns, although it does not exclude straw purchasers or gun runners.

The fact that stolen firearms are an important source should not obscure the significance of gunrunning and illicit dealing by licensees. As noted in our study of armed career criminals, "Protecting America," some portion of the 34 percent of armed career criminals interviewed by ATF cited sources that could include this trade. Another 6 percent cited gun shows and flea markets—gun shows involve activity by licensed dealers. The largest number, 37 percent, identified their source as "bought on the street." This figure also suggests diversion from legitimate channels, as does the 8 percent that cited as a source friends and relatives.

Criminals use multiple sources. Reasonably, successful intervention on one front yields dividends on the others. However, it is our experience that access to lawful channels of firearms in commerce is overwhelmingly attractive to criminals. Quan-

tity and selection that can not be provided consistently by home burglaries can only be obtained through the retail market.

ATF estimates that there are approximately 7.5 million retail firearms transactions a year in the United States. At the end of 1991, there were 241,706 Federally licensed retail firearms dealers in the United States or roughly 1 for every 1,000 Americans. If, as some have said, there are 70 million gun owners, then they are well served by having a dealer for about every 290 owners.

If the market were evenly divided, based on the 7.5 million sales, the retail dealers are making their living off an average of 31 gun sales annually. This is obviously not possible and while our experience suggests that the majority of licensees are either conducting legitimate business or have the license to make personal purchases, the direct access of even several hundred corrupt licensees a year to the interstate market in firearms has tragic consequences.

In a rational fashion, it is possible to identify the sources of guns to criminals: They steal them or purchase or otherwise obtain them from persons who have stolen them.

They purchase them from legitimate sources, either dealers or innocent private sellers.

They have them purchased for them by persons who will not alert the seller.

They purchase them from corrupt licensees or from persons who have made or had purchases made at corrupt or legitimate licensees.

What they obtain is more difficult to determine. It is our experience, and the result of our tracing studies in various cities, that while there are variables, criminals desire higher capacity firearms, concealment is an important issue and being untraceable is a premium. It is not a paradox to recognize that they will use what is most easily available or what is made available to them.

Where do criminals get guns? Figures suggest that around 6 percent of them go to gun stores and buy them. A Department of Justice study of prisoners who volunteered to be surveyed in medium security prisons yielded that figure several years ago. ATF determined that about 7 percent bought their guns directly at retail in the "Protecting America" survey of armed career criminals. Reports from States with instant check systems indicate approximately 2.5 percent to 6 percent of applicants are turned down because of their record.

This latter figure is important, even though it deals only with persons who are "apprehended" by a check. Based on the estimate of 7.5 million retail sales a year, using the lowest figure for apprehensions, and presuming only one gun is purchased, this places a possible 187,500 handguns a year, of whatever type and size preferred, directly into criminal hands. This is entirely independent of private transactions, straw purchases, illicit activity by a dealer, and stolen firearms transactions.

Mr. SCHUMER. Finally, I have been told that Mr. Nunziato, who is the special agent in charge of tracing was going to be here today. Might I ask him a few questions?

Mr. HIGGINS. Certainly.

Mr. SCHUMER. OK. As I understand it, Mr. Nunziato—and welcome to our panel—this is Jerry Nunziato, the special agent in charge of the National Tracing Center—gun dealers are required to keep records of whom they sell the guns to, but a provision in the Treasury Department appropriations bill prohibits BATF from "centralizing or consolidating" the sales records kept by dealers. So a BATF agent who needs to see these records has to actually go to the gun store where they are kept.

Would you be able to trace more gun crimes if the records were centralized?

Mr. NUNZIATO. Possibly, but if you look at the volume of guns that are sold every year, close to 7 million, keeping records on them in a central location would be very burdensome.

Mr. SCHUMER. You would have to have a lot of keypunchers.

Mr. NUNZIATO. A lot of keypunchers. An average keypuncher probably could do 3,000 to 4,000 serial numbers a day. That is just the serial number with no names or addresses or definition of the type of weapon. So it would be very, very difficult.

Mr. SCHUMER. OK. I am asking that same thing.

So, right now, if you wanted to trace a gun, the average agent, working all day, could trace eight.

Mr. NUNZIATO. This is our out-of-business records.

Mr. SCHUMER. I understand. But with some investment in computers and keypunchers, you could probably trace hundreds or thousands, if you made that initial investment.

Mr. NUNZIATO. Correct.

Mr. SCHUMER. How much would such an investment cost?

Mr. NUNZIATO. I could give you just general ideas. We have right now on file at the Tracing Center 48 million records that are in various formats, and everything has to be physically looked at. They can't be computerized, such as scanned into a system; they have to be actually reviewed. They first have to be microfilmed because they deteriorate after a couple of years. We microfilm them, and then we have to look at each document and keypunch in the numbers.

Mr. SCHUMER. Would it cost more than \$10 million?

Mr. NUNZIATO. We had an estimate that it would take 5 years with 30 people working on it full time.

Mr. SCHUMER. What does that come to?

Mr. HIGGINS. I was afraid you were going to ask that. It is roughly \$900,000 a year for 30 people.

Mr. SCHUMER. Five years, did you say?

Mr. NUNZIATO. That is with our current estimate of the records we have. But we only receive the records of 20 percent of the dealers that go out of business.

Mr. SCHUMER. I understand.

Mr. NUNZIATO. So if we got all the records, it would be five times larger.

Mr. SCHUMER. Once you did it, it might have a real effect.

Mr. NUNZIATO. It would definitely have an effect, because right now we see a trend where guns are being resold, and we have no way of tracing those weapons. We call them used weapons. This way, we may be able to track it.

We had one instance where we had one gun dealer sell the same weapon five times over a 2-year period, and it was just through a test project that we were able to identify this.

Mr. SCHUMER. If we were simply to repeal this statute that said you couldn't centralize or consolidate, would that be of some help to you, understanding that the main help would be only if the records were centralized and punched in, computerized?

Mr. HIGGINS. Gerry knows, and he knows he is free to speak, and I think also the Assistant Secretary sent you a letter to the effect that Treasury would support that.

Mr. SCHUMER. Right.

Mr. HIGGINS. So I don't want to put the pressure on Gerry.

Mr. SCHUMER. Very good.

I don't have any more questions. I thank all of you for your testimony.

Mr. Sensenbrenner.

Mr. SENSENBRENNER. Thank you.

Mr. Higgins, I have been one who believes that people who hold licenses from the Government, for whatever purposes, should pay

for at least the bulk of the cost of obtaining that license and maintaining the license as well as whatever enforcement activity there is and discipline in case there should be a violation that should cause either a suspension or revocation.

The Gun Control Act of 1968, which you are the primary enforcement agency of, does envision a background check of everyone who applies for a Federal firearms license. How much do you think that would cost if you had the personnel to do the background checks that were envisioned in this act before issuing the license and doing it within the 45 days that is required?

Mr. HIGGINS. The background check now, given where the licensing standards are, would probably take about 750 staff years, and then you are going to ask me to multiply that again. That is—I don't know—30—

Mr. SCHUMER. Thousand staff years.

Mr. HIGGINS [continuing]. Thirty-five million—I don't know. I will give you the exact figure.

Mr. SCHUMER. Yes, 35 million.

Mr. HIGGINS. Yes, 35 million sounds about right, to do a background on every person and try to get out—

Mr. SENSENBRENNER. And how many licenses are there currently valid?

Mr. HIGGINS. There are about 289,000 licensees. Some of those are collectors. So about 244,000 actual.

Mr. SENSENBRENNER. I am trying to do the division too, but that would require somewhere between \$750 and \$1,000 per license in order for it to pay for itself rather than have the taxpayers pay for it?

Mr. HIGGINS. We have done it the other way. I can tell you what it will cost. To do a license application would cost about \$100-plus per application.

You see, we could get anywhere from 35,000 to 50,000 new applications a year. So about \$100 an application.

Mr. SENSENBRENNER. Well, it seems to me that, at minimum, these fees ought to be raised so that the taxpayers are not subsidizing giving someone a license, that they would have to pay for the cost of getting that license themselves.

Mr. HIGGINS. We would agree.

Mr. SENSENBRENNER. OK. Thank you. That is very useful information.

I have got a couple of questions relative to the incident at Waco. Was Vernon Howell, who was also known as David Koresh, licensed by the ATF to possess fully-automatic machineguns?

Mr. HIGGINS. I don't want to get into title II information, but I don't believe he had any licenses.

Mr. SENSENBRENNER. Do you know if anybody in the Branch Davidian compound had either an ATF license, Federal firearms dealer's license, or collector's license?

Mr. HIGGINS. I am not aware of anybody having one. I don't believe anybody did.

Mr. SENSENBRENNER. OK. So the answer is no.

Mr. HIGGINS. No.

Mr. SENSENBRENNER. That is very interesting since, according to the affidavits that were submitted to the Federal magistrate, there

were lots of orders from a licensed gun dealers to deliver firearms, either semiautomatic as well as parts that could be used to upgrade them to fully automatic, and yet no one had a firearms dealer's license there.

Do you know if any firearms have been removed from the Branch Davidian compound?

Mr. HIGGINS. I know there was evidence, and the evidence was in the affidavit that was returned, for the search warrant. There were firearms in that. I don't know what they are, but that is available. I think that is a matter of public record.

Mr. SENSENBRENNER. I know that, but I am wondering if there were any firearms that were removed from the Branch Davidian compound after it burned down. We in Congress and the press have not seen any reports that firearms were removed from the ashes there.

Mr. HIGGINS. Yes, that is what I was saying. The evidence that was there when it burned down and that was recovered by the rangers and the others who worked the crime scene, that evidence is listed on a search warrant that was returned, and I think it is a matter of public record.

Mr. SENSENBRENNER. That was before the fact rather than after.

Mr. HIGGINS. No. This is after the fire. This is what was taken after the fire.

Mr. SENSENBRENNER. OK.

Mr. HIGGINS. That is available. That is a matter of public record. There were approximately 250 guns. I don't have the exact figure here, and I can provide it for you.

Mr. SENSENBRENNER. OK. I would appreciate that.

Mr. SCHUMER. Without objection, that will be submitted for the record.

[The information follows:]

There were 237 firearms recovered from the rubble of the Branch Davidian compound.

Mr. SENSENBRENNER. My final question is relative to the licensing process and the investigations. The application form that I read off in my opening statement indicates that in order to get a dealer's license you have to have a part of the address that is listed on the application being open to the public, and unless you open your home to the public you cannot possess a Federal firearms license for that particular address.

In your testimony, you indicated that about 75 percent or 74 percent of the addresses listed on applications were in private homes. Why aren't these applications being denied if the homes aren't open to the public?

Mr. HIGGINS. It is my understanding that they must agree to open that home to the public, and there is an area that we can inspect.

Mr. SENSENBRENNER. OK. That poses some interesting questions relative to zoning laws, because if you are living in a residential area you can't conduct a business open to the public in most of the zoning laws that I am familiar with.

Mr. HIGGINS. Mr. Sensenbrenner, it is both ways. When we conducted Operation Snapshot, we found that about 60 percent of the licensees were meeting State and local requirements. So there are,

surprisingly, a fair number of places that will let you sell firearms from a residence. New York City I don't think happens to be one of them.

Mr. SCHUMER. If the gentleman would yield—

Mr. SENSENBRENNER. I yield.

Mr. SCHUMER. Even if the State law should prohibit it, you would be required, unless the applicant were prohibited for one of the specific reasons that Jim read off before—you would be required to send them a license.

Mr. HIGGINS. We would be required to send them a license, and that is what is happening in the city of New York. They explain to them that they also have to meet zoning requirements.

Mr. SENSENBRENNER. Thank you very much.

Mr. SCHUMER. Mr. Edwards has just a couple of questions, so maybe we will do that now, and then we will briefly recess.

Mr. EDWARDS. Just one question. Thank you, Mr. Chairman.

Mr. Higgins, over the last 6, or 8, or 10 years, in enforcing this worthless law, it must have been very discouraging for your splendid outfit. Isn't that correct?

Mr. HIGGINS. It is frustrating at times, yes.

Mr. EDWARDS. Frustrating. And I am sure sometimes you have wondered what in the world Congress was doing in enacting such, as I say, a worthless law.

Did you ever complain and explain to Secretaries of the Treasury that this law should be changed or done away with?

Mr. HIGGINS. To answer your question, yes, we have provided documents recommending certain changes. That is even going on today. It would be interesting to note that one of the last times we appeared before congressional committees on this subject in 1980 and 1981 where we were being criticized for straw purchases and otherwise entrapping dealers who were selling weapons illegally. So we have come kind of full circle. Today we get criticized for not doing enough with certain dealers, and there we were getting criticized for doing too much. So it has been a little frustrating.

But yes, we have recommended changes, including raising license fees, changing the standard so applicants have to comply with State and local laws before they get a license. Those are examples.

Mr. EDWARDS. Thank you.

Mr. SCHUMER. Thank you, Mr. Edwards.

My colleague, Mr. Smith, does have some questions of you. So if we could recess and if you could remain around, and Mr. Smith will finish his questions, and then we will move on to the next panel.

We will resume at 2 o'clock. We have two votes. Thank you. We are temporarily in recess.

[Recess.]

Mr. SCHUMER. The hearing will resume, and Mr. Smith will now take his shot at the questions.

Mr. SMITH. Mr. Chairman, first of all, thank you for holding this panel open, and I thank the panelists themselves for waiting for us to return from the vote.

Director Higgins, in 99 percent of the enforcement measures that you have described today, 99 percent of the responses to the questions show me that the steps that you have taken in enforcement

have been not only necessary but productive. I do want to get into one area that I have some concerns about that is very much the exception to the rule.

In your testimony, on page 2 of your prepared testimony, you talk about, "ATF cannot deny a license application because the proposed business would violate State and local laws." I think you would agree that the BATF does not have the authority to enforce local zoning measures, for example, or business ordinances or things like that. Is that correct?

Mr. HIGGINS. That is correct.

Mr. SMITH. I have to tell you that I have—in fact, I have with me a couple of dozen letters from law-abiding dealers who say that they have been coerced by BATF agents into either surrendering their licenses or made to feel that they cannot conduct business because the agents have mentioned and used a threat of the ordinances and zoning laws to try to basically succeed in having a chilling effect upon these dealers. First of all, would you respond to that?

Mr. HIGGINS. Sure. I don't know whether you would like to at some point later—if you want to share who those people are. The intent of what we are doing now, and we are doing it—because we are checking 100 percent of the applications coming in—is to inform people of applicable State and local requirements. Now whether an inspector is going beyond this or not, I cannot determine without looking at the specifics.

But what we are telling people in those cases is, "Here's what the ordinances are." In many of those places, we have a continuing agreement with either the State or local authorities or both that we are going to be providing them the names of the licensees as licenses are issued in their area. They, in turn, are going to check for compliance with either State or local ordinances. The problem is, I am not sure how this is being said.

Mr. SMITH. Isn't part of the problem the fact that it is being said at all? And I am just wondering why the agents would even be talking about local ordinances.

Mr. HIGGINS. No, I wouldn't fault an inspector who is trying to tell a prospective applicant, as an example, that, "You are in violation of a State or local law." To me, he is at least doing him a favor by telling him that that law is there.

The intent of the Gun Control Act is to support State and local government, and, to me, ATF is supporting them by providing them information that people may be violating their laws, if that is the case. We are not saying the licenses are, we are simply trying to support the efforts of State and local governments, and I think they appreciate it.

Mr. SMITH. As you suggested, maybe it is the way the information is being provided.

Mr. HIGGINS. Yes.

Mr. SMITH. What efforts are you making to make sure that the agents are either trained or being told not to pass along that information in a threatening way?

Mr. HIGGINS. Just anecdotally, I get reports each day from each one of our field areas. People that work for me know that I religiously scan those, looking to see if we have gone beyond the

bounds of what we said we would do, and that is simply to inform people and not to coerce them.

If I see even an example of that, I inquire, "Are you sure that there wasn't some coercion here? Are you sure these people are doing this?" I don't know that I am catching all of them. That is why I asked you if you have any examples. I will be happy to look at them, because it is not our intent we do that.

Mr. SMITH. Have you issued some kind of a written directive to the agents as to how they should or should not present that information?

Mr. HIGGINS. I am pretty sure we have something in writing explaining what the ground rules are before inspectors make that contact and what they should be saying.

Mr. SMITH. I know in one instance a procedure was in writing. I don't know to what extent it was disseminated. But there was one procedure I saw that reads as follows: "In no event should ATF personnel suggest to a licensee that a license be surrendered because of such violations." They are speaking here of zoning laws and other business type ordinances.

But I am just wondering, one, is that being disseminated to all the individuals involved? And, two, are they being told specifically not to engage in any type of coercion, not to engage in any type of threat that the licenses might be revoked if they are violating such ordinances?

Mr. HIGGINS. Yes, it is being disseminated to them. We do try to detect any abuse, but I can't say that with 200-plus inspectors making contact, that it doesn't occur. So I can't say to you today that it has never been, but I will check any examples you have.

Mr. SMITH. So far as you know, it is in writing to the agents.

Mr. HIGGINS. It is in writing, I was just informed. It is in writing. I will provide you what is in writing.

Mr. SMITH. OK. And you are just going to try to do a better job of making sure they understand the meaning of that.

Mr. HIGGINS. Yes.

[The writing follows:]

The following are relevant excerpts, quoted verbatim, from memoranda issued by the Associate Director (Compliance Operations) to all Regional Directors (Compliance) between November 17, 1992 (when the increased emphasis on screening applicants began) and June 16, 1993. The Office of Compliance Operations is responsible for licensing and compliance of Federal firearms licensees.

"To assist field offices in determining if an applicant, or renewal candidate is engaged in a bona fide firearms business, the Firearms and Explosives Operations Branch is compiling a comprehensive list of specific State and local licensing requirements.

"This list will also be forwarded to field offices by next week. We recommend the establishment of liaison with local law enforcement and regulatory agencies (i.e., licensing bureaus, zoning boards, sales tax offices, etc.) to assist in determining if dealers and applicants are in compliance with all applicable regulations."

"Existing statutes preclude ATF from conditioning the issuance of a Federal firearms license (FFL) on compliance with State and local laws. Consequently, the failure of a firearms business to conform to State or local laws is not in itself sufficient legal grounds to deny an application. However, it may be evidence that an applicant does not have the requisite premises from which business is intended to be conducted. Thus, the fact that the applicant does not intend for the premises to comply with State and local laws may well indicate that he does not actually intend to engage in a business at all, or at least does not intend to conduct business from the premises listed on the application.

"Your Area Supervisors should establish, if they have not already done so, effective liaison with ATF Law Enforcement, as well as State and local authorities concerned with the regulation of firearms businesses. Contacting State and local authorities will ensure awareness on the part of Compliance personnel of all current State and local requirements that applicants must meet when engaging in a firearms business.

"When it appears that an applicant may not be able to conduct business in compliance with State or local requirements, the applicant will be advised that ATF will refer the matter to State or local authorities should a Federal license be issued. The applicant will also be advised that, in lieu of this contact, the application may be voluntarily withdrawn. If the applicant insists that ATF act upon the application, a comprehensive investigation will be conducted to determine if the applicant has the requisite premises from which he or she intends to conduct a firearms business."

"When applicants may not be able to operate in compliance with State or local requirements, they are to be advised that ATF will refer this matter to the appropriate State or local agency, should a license be issued. Before making these referrals, the applicants should be given the opportunity to withdraw their applications until such time as they can meet State or local requirements."

"While everyone is to be commended for their efforts, it is imperative that we remain cognizant of the increasing attention being focused on ATF due to our firearms program. A professional attitude and non-confrontational behavior must be exemplified at all times, especially by Inspectors.

"Our mission is not to put Federal firearms licensees out of business, but to ensure that all licensees adhere to the requirements of the Gun Control Act (GCA).

"Similarly, any determination as to whether an FFL should be issued must be within the scope of the GCA. Non-compliance with State or local law, or not conducting business from a commercial location, are not prohibiting factors to obtaining an FFL. If an applicant/licensee is not in compliance with State or local law, advise them that the information will be referred to the appropriate State/local officials. An applicant is to be afforded the opportunity to withdraw the current application for an FFL and re-apply when compliance with State/local law has been achieved. Do not deny applications or revoke licenses due to these factors. In cases where referrals are to be made, they should be forwarded to all appropriate agencies on each occasion where an applicant or licensee is found to be operating in violation of State or local laws."

Mr. SMITH. You asked me for examples. I have a couple of dozen letters here from, as I say, law-abiding licensed dealers that I will pass on to you as you leave right now, in fact.

Mr. HIGGINS. I appreciate that.

Mr. SMITH. And if you could get a written response back to me trying to respond to some of their concerns.

Mr. HIGGINS. I will do that, absolutely.

Mr. SMITH. OK. Thank you, Director Higgins.

Mr. HIGGINS. You are welcome.

Mr. SCHUMER. Thank you, Mr. Smith.

I just had one final question which was touched on before, and that is, considering the widespread use of false ID cards to evade restrictions on felons buying guns, do you think a national gun owner's ID card would help prevent criminals from obtaining firearms?

Mr. HIGGINS. I don't know whether a national one is needed. I think the system in Illinois, for example, which has a firearm owner's identification card, and maybe in New Jersey, have some strengths. I think there are some strengths in setting up that because a better job can be done of identifying whether the person has a false ID.

Several years ago when the Attorney General was looking at systems to do this, we did as an agency suggest that that might be the way to go but it might be through State model laws as opposed to a Federal statute.

Mr. SCHUMER. Thank you, Mr. Higgins and Mr. Buckles. We appreciate your being here and your patience. I apologize to everyone, including the next panel and the subsequent one to that. It is just a lot of votes, and it is stretching things out a little bit.

Mr. HIGGINS. Thank you.

[Response to Chairman Schumer's questions follow:]

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June 28, 1993

Honorable Stephen Higgins  
 Director  
 Bureau of Alcohol, Tobacco, and Firearms  
 U.S. Department of the Treasury  
 600 Massachusetts Avenue  
 Washington, D.C. 20226

Dear Mr. Higgins:

Thank you very much for your testimony on June 17, 1993, before the Subcommittee on Crime and Criminal Justice on the topic of federal firearms licensing. Your testimony was most illuminating.

As I stated at the hearing, I have several additional questions on this topic which I would like to pose in writing:

- 1) What level of expense is currently required to process applications for federal firearms dealer licenses? Does the revenue realized from the license fee cover this expense? If not, how much would the license fee have to be raised if the current level of service were to be made self-supporting?
- 2) How much would the license fee have to be raised to pay for a thorough background check of each applicant for a federal firearms dealer license, including a premises inspection and a fingerprint check?
- 3) In your testimony, you indicated that every applicant for a federal firearm dealer license is now being contacted by a BATF agent. Do you have adequate resources to continue this initiative?
- 4) You also indicated that most of these contacts are conducted by telephone. What information is obtained in these interviews? For what portion of license applications does a BATF agent actually visit the premises from which the applicant proposes to sell firearms?
- 5) If the interviewing agent believes that an applicant does not intend actually to maintain a business at the address on the

application--by, among other things, opening the premises to the public and keeping regular business hours--does the agent have authority to deny the application?

- 6) How many federal firearms dealer licenses were revoked in each of the past five years because the licensee failed to comply with the conditions of licensure?
- 7) How many licensees were fined or criminally prosecuted in each of the past five years for failure to comply with the conditions of licensure?
- 8) Which, if any, of the following specific legislative proposals would aid BATF enforcement efforts:

- amending Title 18 to require that federally licensed firearms dealers maintain a business premises;
- requiring dealer license applicants to show compliance with state and local regulations before getting their licenses;
- eliminating the 45-day limit on the application review process for dealer licenses;
- eliminating the one-a-year limit on dealer inspections;
- increasing penalties for willful violations of dealer restrictions;
- requiring dealers to respond to BATF tracing inquiries by telephone;
- requiring dealers to report thefts of guns to BATF;
- requiring a common carrier who is shipping guns interstate to verify that the recipient is a valid licensee;
- drug testing licensees to ensure that they are not involved with narcotics trafficking?

Thank you for providing this information, and for your continued cooperation with the Subcommittee as we endeavor to combat violent crime.

Sincerely,

*Charles E. Schumer*

CHARLES E. SCHUMER  
 Chairman  
 Subcommittee on Crime and  
 Criminal Justice



DIRECTOR

DEPARTMENT OF THE TREASURY  
BUREAU OF ALCOHOL, TOBACCO AND FIREARMS  
WASHINGTON, D.C. 20226  
AUG 11 1993

Honorable Charles E. Schumer  
House of Representatives  
Washington, DC 20515-6216

Dear Mr. Schumer:

This is in response to your letter dated June 28, 1993, in which you request information pertaining to Federal firearms licensing.

In response to your specific questions, we have submitted the following information:

- 1) What level of expense is currently required to process applications for Federal firearms dealer licenses? Does the revenue realized from the license fee cover this expense? If not, how much would the license fee have to be raised if the current level of service were to be made self-supporting?

We estimate that it costs approximately \$100 to process an application for a Federal firearms license (FFL). This estimate does not include the costs of a preliminary or full field investigation normally performed by Bureau personnel in connection with the submission of each new application. When a preliminary investigation is warranted prior to the issuance of a FFL, the costs rise to as much as \$300. Full field investigations of applicants cost on average \$500.

Currently, an FFL costs \$10 per year. If the current level of service were to be made self-supporting, we estimate the cost of a license to be \$350-500.

- 2) How much would the license fee have to be raised to pay for a thorough background check of each applicant for a Federal firearms dealer license, including a premises inspection and a fingerprint check?

As stated above, we believe a license fee in the \$350-500 range would be sufficient to defray the expenses necessary to conduct either a preliminary or full field investigation, including a fingerprint check, on each applicant.

- 3) In your testimony, you indicated that every applicant for a Federal firearms license is now being contacted by a BATF agent. Do you have adequate resources to continue this initiative?

No, we have had to temporarily re-align program resources and detail inspectors to other geographic areas in order to execute the current firearms program.

- 4) You also indicate that most of these contacts are conducted by telephone. What information is obtained in these interviews? For what portion of license applications does a BATF agent actually visit the premises from which the applicant proposes to sell firearms?

ATF inspectors contact the applicant by telephone to inquire about their eligibility for a firearms license, the adequacy of the proposed business premises, and whether the applicant intends actually to engage in the business of buying and selling firearms. Inspectors also discuss the recordkeeping and conduct of business requirements with each applicant. To date, we have analyzed the results of over 11,000 reports of these contacts. Of those 11,000, 363 (3.3 percent) reports recommended that a field investigation be conducted prior to the issuance of the license. These investigations require a visit by an ATF inspector to the actual business premises, prior to the issuance of the license.

PLTF 100223

- 5) If the interviewing agent believes that an applicant does not intend actually to maintain a business at the address on the application--by, among other things, opening the premises to the public and keeping regular business hours--does the agent have authority to deny the application?

If an inspector determines at the time of initial contact that the applicant does not intend to actually maintain a business at the address on the application, a full field investigation will be conducted. If the investigation discloses that an applicant does not intend to engage in a firearms business at the location shown on the application, the applicant will be asked to withdraw the application. If the applicant refuses to do so, the inspector will recommend denial of the application. Since we have heightened our application investigation efforts, in excess of 28 percent of individuals who may have otherwise received a license have withdrawn or abandoned their applications.

- 6) How many Federal firearms dealer licenses were revoked in each of the past five years because the licensee failed to comply with the conditions of licensure?

<u>YEAR</u>	<u>NUMBER OF REVOCATIONS</u>
1988	4
1989	12
1990	9
1991	17
1992	24
1993 (to date or pending)	69

- 7) How many licensees were fined or criminally prosecuted in each of the past five years for failure to comply with the conditions of licensure?

<u>YEAR</u>	<u>NUMBER OF PROSECUTIONS</u>
1988	93
1989	101
1990	130
1991	118
1992	159

There are no provisions for fines.

- 8) Which, if any, of the following specific legislative proposals would aid BATF enforcement efforts:

-- amending Title 18 to require that federally licensed firearms dealers maintain a business premises;

Assuming "business premises" means a commercial building, requiring such premises would likely mean that in excess of 75 percent of existing licensees would not qualify for a firearms license. The bulk of these licensees operate from their residence and, at most, do a minimal amount of business.

-- requiring dealer license applicant to show compliance with State and local regulation before getting their license;

A licensing standard based upon compliance with State and local laws would eliminate many licensees who have no intent to actually engage in a firearms business. It would enhance one of the major purposes of the GCA; i.e., to assist the States in enforcement of their firearms laws. The amendment would substantially reduce the number of licensees and enhance ATF's enforcement efforts.

-- eliminating the 45-day limit on the application review process for dealer licenses;

ATF currently has the authority to determine that licensees have a premises from which they intend to engage in business and conduct background checks on applicants. Currently, proposed legislation could require that applicants submit fingerprints for identification purposes. Repeal of the 45-day limit for action on applications would remove a serious impediment to our having sufficient time to adequately scrutinize applicants for firearms licenses.

- eliminating the one-a-year limit on dealer inspections;

The current limitation on ATF's inspection authority enables unscrupulous licensees to conceal violations of the law and is an impediment to ensuring compliance with the provisions of the GCA. Elimination of the one-a-year limit would provide us with additional enforcement tools.

- increasing penalties for willful violations of dealer restrictions;

An increase in the penalty for making false statements on license applications would strengthen the GCA from a law enforcement standpoint. An increase in the penalty for willful recordkeeping violations would close the loophole in current law which does not provide felony treatment for serious recordkeeping violations; e.g., a licensee who willfully keeps no records or falsifies his records to conceal unlawful sales to the criminal element.

- requiring dealers to respond to ATF tracing inquiries by telephone;

ATF has statutory access to licensee records by physical inspection. The Bureau also may require written reports of licensees upon request. However, effective gun tracing often means asking licensees to provide information on firearms sales by telephone. While most licensees cooperate with ATF's telephone requests, some licensees have refused to respond. This proposal would resolve the problem by specifically requiring licensees to provide timely trace information by telephone in connection with an ongoing criminal matter.

- requiring dealers to report thefts of guns to ATF;

Under current law, ATF has the responsibility for enforcing 18 U.S.C. 922(j) which makes it unlawful to receive, conceal, store, or dispose of any stolen firearm. There is not, however, a requirement for licensees to report thefts of firearms directly to ATF. Absent such a requirement, firearms moving from legitimate businesses into the criminal element cannot be timely investigated. This proposal would enable ATF to make more timely investigations of these firearms.

- requiring a common carrier who is shipping guns interstate to verify that the recipient is a valid licensee;

This proposal would enhance the traceability of firearms and prevent the diversion of firearms into criminal channels.

- drug testing licensees to ensure that they are not involved with narcotics trafficking?

Current firearms law already makes it unlawful for illegal drug users to receive or possess firearms. We do not view this proposal as necessarily enhancing already existing statutes. Implementation of this proposal would be extremely costly and resource intensive.

We trust we have satisfactorily responded to your questions. If we may be of further assistance, please do not hesitate to contact us.

Sincerely yours,

(signed) Steve Higgins  
Director

Mr. SCHUMER. OK, why don't we bring the third panel up. It is going to be Shaw, Travis, Farley, and Archer, so you may as well sit in that order.

Our fourth panel today begins with Sgt. Bernard Shaw of the Maryland State Police. Sergeant Shaw has served the Maryland State Police for 22 years. He is currently supervisor of the firearms licensing section, and he is responsible for licensing and regulation of all Maryland pistol and revolver dealers. He was also instrumental in developing Governor Schaefer's gun show bill.

Mr. Jeremy Travis is the deputy commissioner for legal matters for the New York City Police Department. He has served New York City in numerous capacities, and briefly he was former chief counsel for this House Subcommittee on Criminal Justice. Ten years ago, Mr. Travis also served as law clerk to Judge Ruth Bader Ginsburg, who of course this week was nominated for Associate Justice of the Supreme Court. So we didn't know we were having such a distinguished witness working for two Madison High School graduates, myself being the other one.

Mr. Farley from Chesapeake, VA, also joins us this morning, William Farley. He is here to testify about the senseless murder of his wife—and I have read your testimony and very much appreciate your being here, Mr. Farley—and about his successful lawsuit against the gun dealer that sold the weapon used in that crime.

Our fourth witness on this panel is Attorney Steven Archer of L.A., CA. Mr. Archer represents Mrs. Lillian Goldfarb, who also sued a licensed firearms dealer successfully after the dealer sold a gun to a mentally unstable woman who then shot and killed Mrs. Goldfarb's husband, Gerald.

So obviously we have serious issues here.

I am going to try to ask all the witnesses to limit their testimony to the 5 allotted minutes. We have been going over that, but we are going to have more votes, unfortunately, and it is going to extend the hearing. So I would ask unanimous consent that every statement be read into the record in its entirety and begin with Sergeant Shaw.

**STATEMENT OF BERNARD SHAW, FIRST SERGEANT, MARYLAND STATE POLICE LICENSING DIVISION, WOODLAWN, MD**

Sergeant SHAW. Mr. Chairman, members of the committee, thank you for the opportunity to speak.

My testimony is in, and I am going to quickly go over that. The first thing I said in paragraph one is that presently the illegal sale of firearms may be as profitable as the illegal sale of drugs, and I think Mr. Daily, the first gentleman you had here who had been arrested, may have enforced such statement somewhat with the profit and the way—his manner of living.

Maryland identified a problem with gun shows back in 1991. As a result of that, we started attending gun shows and have made arrests at each one we have attended.

Mr. SCHUMER. That is a pretty good record, Sergeant Shaw, and it says a lot about the gun shows.

Sergeant SHAW. The picture I am showing you right now—and throughout my testimony I said that the people that come in, I am not talking simply of Federal firearms licensed dealers, I am talk-

ing about private citizens that work for Federal firearms licensed dealers, and the reason I brought this picture is, this gentleman at the Westminster Gun Show in June 1991 was basically that. This is a picture of his display, and I'll explain it. He had in excess of 35 regulated firearms, and when I say regulated firearms, Maryland does not regulate the sale of rifles and shotguns, so he had in excess of 35 regulated firearms, including an assault weapon, that he was selling.

He sold under the table a banned firearm for \$125. Now that may not sound like much, but when the value of the firearm is \$45, then you can understand the profit margin.

The problem that Maryland has identified is that Federal firearms licensed dealers from out of State come into the State of Maryland at gun shows. They sell whatever they have, no questions asked.

The Pikesville show—we just attended a show on May 29 at Pikesville. A Virginia Federal firearms licensed dealer sold me a gun directly across the table—of course I wasn't across the table—but directly across the table, no questions asked.

Mr. SCHUMER. I wouldn't think they would be that brazen, Sergeant.

Sergeant SHAW. No. No, he wasn't quite that brazen. But it goes on.

We have identified the problem. As a result of identifying the problem, the Governor of Maryland, Governor Schaefer, and the general assembly last year passed senate bill 330, and that dealt strictly with gun shows, which will be effective on October 1, 1993, and we are hoping that that will take care of some of our problems.

The problem is not simply with Federal firearms licenses, it is with some of the other Federal laws. In the Federal law right now, to be engaged in the business, it allows occasional sales. Maryland does not allow occasional sales, and when the Federal firearms licensed dealer goes into a gun show and sells what we consider a regulated firearm, and that goes back to the definition of engaged in the business by Federal law, it doesn't work in Maryland, and the problem is that people may be obeying Federal law but not the State laws, and they are coming out of State.

Mr. SCHUMER. Coming out of State, per se, is a violation.

Sergeant SHAW. And at the Pikesville Gun Show we had Federal firearms licensed dealers from New Jersey, New Hampshire, Vermont, Virginia, North Carolina, that are coming into our State selling firearms and, really, with no intent of obeying our laws.

The Westminster show that I am showing you a picture of—I also said in my testimony that the displays of private sales and FFL's embarrass the displays of the licensed dealers, and this is a display at the Frederick show. This gentleman had videos. He was selling something called Hellfire. He was selling assault weapons, no questions asked. If you have got the money, he has got the gun; that is it. We need to resolve this problem, and hopefully with our law.

At the Pikesville show, this gentleman was selling for \$1,750 and HK-91 assault rifle, which I believe is banned for importation into the United States.

The problem that we have in Maryland right now is, we have over 3,000 Federal firearms licensed dealers within the State limits. We have a total of 399 licensed pistol and revolver dealers. And the red light went off. I'm done.

[The prepared statement of Sergeant Shaw follows:]

PREPARED STATEMENT OF BERNARD SHAW, FIRST SERGEANT, MARYLAND STATE POLICE LICENSING DIVISION, WOODLAWN, MD

The illegal sale of firearms may be as profitable as the illegal drug trade. Persons who may be prohibited by Federal or State laws from purchasing a firearm will pay more for an unregistered sale. It is an attractive business for those who are willing to make short trips to any state that conducts weekly gun shows, such as Maryland, Virginia, Carolinas, Georgia, Florida, Oklahoma, Texas, and many others. Sales of firearms at these shows circumvent federal and state laws.

Some of the persons who attend these shows are Federal Firearms licensees with business addresses at their homes, who work out of their vehicle or work on consignment for other Federal Firearms licensees. These persons are known as "Hobby dealers" or "Gun show dealers". They sell and transfer firearms at gun shows with little or no restriction due to the lack of enforcement personnel to deal with the number of gun shows in the United States. These persons do not record the sales of these firearms in a permanent record and any possibility of tracing this particular firearms is lost.

An example of an illegal sale occurred in Maryland June 15, 1991 when an individual arrested and charged with several violations of the Maryland law at the Westminster gun show in Westminster, Maryland. This individual advised an undercover Corporal of the Maryland State Police that all guns were legal for sale in the United States. He sold a handgun that was banned in Maryland. In addition, he purchased a handgun from another citizen and resold that handgun to an undercover Sergeant of the Maryland State Police along with a switchblade knife and another handgun. This individual did not ask any questions as to residency or name, but if the Sergeant was a cop. His only concern was the amount of money he made on the sale. Upon arrest it was discovered that he had a Virginia drivers license and Virginia registration on his vehicle, yet was selling regulated firearms at a Maryland gun show. A search and seizure warrant was executed on several locked cases and copies of Federal Firearms licenses were located in other dealers names.

Another example is of an individual who was employed by a licensed Maryland Pistol and Revolver dealer who possessed a Federal Firearms license and was contacting prospective purchasers at the gun shop and ordering regulated firearms for them without a Maryland license. This person sold firearms without background checks, on parking lots, and on at least one occasion to a fugitive from justice.

A third example is when a person who possessed a Federal Firearms license in Virginia sold and transferred a pistol to an undercover First Sergeant in the Maryland State Police at the Pikesville gun show in Pikesville, Maryland without completing any registration forms and he did not ask for any identification until after the sale was completed.

Another problem at gun shows are the sale of so-called "private collections" that are put up for sale by individuals who sell their firearms to anyone who has cash in hand. Very often, the sellers of these "private collections" have table displays that rival those of the licensed dealers. They display video taped promotions, manufacturers' display set ups, and offer brand new firearms for sale in original factory packaging. Yet these individuals can sell their wares to anybody. The problem is straightforward. Individuals who are prohibited from purchasing of firearms through legal means find easy access to firearms from these private sellers. These non-registered sales completely undermine the validity of law enforcements' efforts to keep firearms out of the hands of convicted criminals.

Currently the Governor of Maryland and the Maryland General Assembly has taken measures to address these problems with Senate Bill 330 to be enacted on October 1, 1993. This new legislation will require anyone who does not have a State license to obtain a Temporary Transfer Permit prior to any sales of regulated firearms at gun shows. In addition they must comply with the same laws as a licensed dealer.

Federal Firearms licensees have been determined to be "engaged in the business" by the Maryland Attorney General's office and are not permitted to sell or transfer any regulated firearms at gun shows or elsewhere within Maryland without a Maryland Pistol and Revolver Dealers' License. Yet, as previously stated they continue to violate Maryland law.

Currently there are over 3,000 Federal Firearms licensees in Maryland as compared to 399 licensed Maryland Pistol and Revolver Dealers. With the number of Federal Firearms licensees growing each day, a unique problem is presented to Federal and State law enforcement agencies in preventing the sale of firearms to convicted criminals.

Mr. SCHUMER. Thank you not only for your testimony, Sergeant, but for your trailblazing work in this area. You have achieved a national reputation in terms of gun shows.

Sergeant SHAW. If I could take one more—

Mr. SCHUMER. Please. You can take 1 more minute.

Sergeant SHAW. OK. This is a gun show calendar, and to show you the problem that we have, not just in Maryland but in the United States, here is an example of Sooner Gun Shows, the Grand National Gun and Knife Show, on August 21 and 22, 1993, 2,200 tables at \$40 each [indicating poster]. Now who is going to regulate that? I think that identifies the problem for you. What law enforcement agency is going to control 2,200 tables? So it is going on, and we need to resolve it.

Mr. SCHUMER. Thank you, Sergeant.  
Jeremy Travis.

STATEMENT OF JEREMY TRAVIS, DEPUTY COMMISSIONER, LEGAL MATTERS, NEW YORK CITY POLICE DEPARTMENT, NEW YORK, NY

Mr. TRAVIS. Mr. Chairman, it is a particular honor for me to be here today with you this afternoon, and I would like to point out that I am joined by Lt. Kenneth McCann, who is sitting right behind me, who is the commanding officer of the New York City Police Department's Joint Task Force, which we operate with the Bureau of Alcohol, Tobacco and Firearms.

Mr. SCHUMER. Welcome, Lieutenant.

Mr. TRAVIS. And I would like to echo the Director's statement. This is an excellent example of Federal-local cooperation.

Let me just summarize my prepared statement. As the chairman is aware and I think this committee is aware, New York City and New York State have some of the toughest gun control laws in the Nation, and we are very proud of that fact. However, what we find is that in the absence of effective Federal legislation, gun traffickers are in a position to bring illegal guns into our city.

Just to make the point, last year the New York City Police Department took over 17,000 guns off the streets of the city of New York, and, according to a number of Federal studies, 90 percent of those guns were purchased outside the State of New York. So we are the victims, and the people who live in our city are the victims, of the lax Federal regulations as well as the lax State regulations in the supplying States.

We should ask ourselves, how did these illegal guns get into New York City? Our joint investigations with BATF have established two principal forms of gun smuggling. One is what we refer to as overland gun running, where individuals go to States with lax gun control statutes and purchase usually small quantities of guns and bring them back to New York City at a significant markup, as you heard testified to this morning from your first witness.

But guns are also smuggled into our city and other jurisdictions via common carriers by the criminal abuse of the Federal firearms

licensing system, and, compared to the overland gun runners, the FFL gun trafficker typically moves hundreds, sometimes thousands, of guns, as was demonstrated by the "Dirty Dozen" listing that the committee put together. We are hopeful that this hearing and what I think is a genuine public outrage over the FFL system will result in legislation to shut down this source of illegal guns into our city.

So in the prepared statement I have given you some examples, some of which you have already referred to in your "Dirty Dozen," of cases that we have made in New York City of people who have abused the FFL. It is with no pride that I note that four of the "Dirty Dozen" are individuals who were arrested in New York City.

Mr. SCHUMER. And we thank you, Mr. Travis, and NYPD for their help in putting that together.

Mr. TRAVIS. You are very welcome.

Our view of the current FFL system is that it operates on a fiction, and the fiction is that the individuals who hold the type 1 FFL license are, in fact, legitimate dealers, and, again, some New York City numbers may help just to make this point.

There are approximately 550 individuals who are New York City residents who hold the FFL dealer's license. However, there are only 88 individuals who are licensed as dealers by the New York City Police Department under the applicable State and local laws. So there are 400-plus people who have what is called a dealer's license. It is, in fact, a Federal dealer's license. Through that license, they are enabled, even though it may be illegal, to bring guns into the city.

What is a dealer in our definition? Let me just give you some sense of how we regulate dealers who deal in firearms. First, they must meet all Federal and State criteria to possess a firearm. The applicant is fingerprinted and fills out a detailed questionnaire. We conduct a criminal history check, a check of mental health records. Then we inspect the applicant's proposed business location. We verify that it complies with all local zoning regulations, fire codes regarding the storage of ammunition; we determine whether the location has adequate security devices to deter the theft of weapons. Once granted a dealer's license, the business is then subject to regular inspections of books and records, and the license can be revoked by the New York City Police Department for any violations.

I don't mean by making this comparison to suggest that all of the 400-plus FFL holders in New York City who are not regulated as dealers by us are engaged in criminal activity, that is not the case, but what we are finding is an abuse of the system.

As the Director of the BATF mentioned before, we have now a joint operation with ATF where we are contacting new applicants, and we, too, have witnessed the increase in applications following the publicity about the easy availability of the FFL license.

In the months of March and April, we in the New York City Police Department contacted the 67 individuals, New Yorkers, who applied for Federal firearms licenses. We spoke to them, usually over the phone but sometimes in a home visit, and informed them that if they possessed a firearm and weren't licensed by us we would arrest them, if they dealt in firearms and weren't licensed by us we would arrest them on the additional charge of dealing

without a license. Of those 67, 64 withdrew their application; one has filled out a local dealer's application; the remaining two we have not heard from.

I think this just underscores the soft underbelly of the FFL system that is not really licensing dealers. Dealers have another purpose and are legitimate business people and should be licensed.

Let me just make four quick suggestions for legislative reform, some of which have been alluded to already. First of all, following on this thought, we think that the FFL system should be changed so that it only allows legitimate dealers to receive the Federal dealer's license. In order for that to occur, we support the bill that was introduced last session that would require FFL applicants first to get approval, in essence, from their local licensing entity or from their local police department that they are a legitimate dealer. That would cut down on the numbers significantly.

Apropos some of the earlier dialog, it also makes us do the work of the primary investigation rather than the Federal agents, so we would be able to weed out some of the problems that come up much later in the process.

Second, we also strongly support the notion of a computerization of FFL records. During the break, Lieutenant McCann and I were talking about the computer system now in place for checking stolen cars. This is the analogous situation. There should be a computer in place for checking the trafficking in guns.

Third, we recommend that the shipment of guns also be controlled. Without saying that we have had particular problems with private common carriers, we think that the shipment of guns is so important in terms of the public health and the public safety of our communities that some of this should be limited to the U.S. Postal Service. This would enable us to work with Federal inspectors if there are problems in terms of theft or shipments going to somebody who is not authorized to receive them. It would also make the theft a Federal offense.

Fourth, we suggest that there be credible audit and revocation procedures. It is now possible for somebody who holds an FFL, who is in prison, convicted of gun trafficking offenses, to use a prison phone to order guns to be delivered to his home as long as a copy of the FFL is sent to the dealer or the wholesaler. There must be a system for revocation of the dealer's license so that those who abuse it will no longer be entitled to that privilege.

So we think, as the chairman indicated, that this is an area where there should be no debate that reform is necessary and stringent reform will be possible. We think that legitimate gun owners will support this. Speaking on behalf of the law enforcement community, since it is our personnel who are out on the streets every day facing these firearms, there is no question that you will get law enforcement community support, and we hope that reform is possible as soon as you can make it happen.

Mr. SCHUMER. I want to thank you, Mr. Travis, for comprehensive, well thought out testimony.

[The prepared statement of Mr. Travis follows:]

PREPARED STATEMENT OF JEREMY TRAVIS, DEPUTY COMMISSIONER, LEGAL MATTERS,  
NEW YORK CITY POLICE DEPARTMENT, NEW YORK, NY

Mr. Chairman, Members of the Subcommittee on Crime and Criminal Justice:

I consider it an honor to appear before you today to discuss the role of the federal firearms licensing system in supporting a pattern of illegal interstate gun trafficking.

I am joined this afternoon by Lt. Kenneth McCann, Commanding Officer of the New York City Police Department's Firearms Task Force, a joint Task Force with the federal Bureau of Alcohol, Tobacco and Firearms.

In New York City, we are faced with the following paradox: The gun control statutes of the State and City of New York are among the toughest in the nation. We have successfully kept most criminals from getting guns that originate in New York City. However, the absence of effective federal legislation has enabled gun traffickers to get guns in other states and sell them in New York City. As a result, we find ourselves facing more guns—and more deadly guns—on the streets each year. Last year, the New York City Police Department confiscated 17,635 guns. According to federal estimates over 90 percent of these guns were purchased outside the State of New York.

How did these illegal guns make their way into our City?

Our joint investigations with the Bureau of Alcohol, Tobacco and Firearms have established two principal forms of gun trafficking. Guns are smuggled into New York City by overland gun runners who travel to states that have lax gun laws, make purchases in small quantities (either directly or through a straw purchaser) and sell them at a significant mark-up on the streets of New York City. Through the arrests by the Task Force, and the enactment of tougher laws in the supplying states, we hope that this source of guns will be diminished.

Guns are also smuggled into New York City via common carriers by the criminal abuse of the Federal Firearms Licensing system. Compared to the overland gun runners, the FFL gun traffickers typically move hundreds and thousands of guns. We are hopeful that this hearing, and the widespread public outrage about the FFL system, will result in legislation to shut down this source of illegal guns into our City and others around the country.

How extensive is the problem posed by the criminal abuse of the FFL system? We cite three examples from our own experience:

David Taylor had a criminal history that included four misdemeanor convictions for charges such as gun possession and sale of dangerous drugs, yet he qualified for a Federal Firearms Dealers license. He used his FFL to order over 800 handguns to be shipped to his apartment in the Bronx. We arrested him when he was about to receive a United Parcel Service shipment of another 108 handguns.

John Zodda was granted a Federal Firearms Dealers License listing a fictitious business address. He used the FFL to purchase and distribute over 2,000 firearms after he defaced the serial numbers. He was indicted on 248 counts of illegal trafficking in firearms. He was found guilty in federal court, pleaded guilty in state court, and now awaits sentencing.

John Adams was an FFL holder living in a residential area of Queens. He purchased over one thousand guns for approximately \$95,000 and resold them, with defaced serial numbers, for a quarter of a million dollars. He was sentenced to 10 months in federal jail.

Between them, these three men pumped nearly 4,500 guns into the hands of criminals. We cannot begin to calculate the human misery, victimization, loss of life, loss of property that can be traced to their actions.

How could a federal licensing system make illegal gun trafficking possible? How could the FFL system undermine state gun control laws and thwart local law enforcement efforts?

In our view, the current FFL system operates on the fiction that holders of FFL Type 1 licenses are legitimate "dealers". There are currently 330 individuals in New York City who hold FFL dealers licenses. Yet the License Division of the Police Department only licenses 88 dealers under state law—and only 32 are authorized to sell handguns. These legitimate dealers must pass rigorous tests. We first determine whether the applicant meets all federal and state criteria to possess a firearm; the applicant is fingerprinted and fills out a detailed questionnaire; we conduct a criminal history check and a check of mental health records. Then, we inspect the applicant's proposed business premises and verify that it complies with local zoning regulations and fire codes regarding storage of ammunition. We determine whether the location has adequate security devices to deter theft of the weapons. Once granted

a dealers license, the business is then subject to regular inspections of books and records and the license can be revoked for any violations.

We are not suggesting that the remaining FFL holders are engaged in criminal activity—but they are certainly not legitimate firearms dealers. This has been dramatically underscored by a new pilot program, conducted jointly with BATF under a Department of Justice grant. During the months the March and April of this year, a police officer from the License Division and an inspector from the BATF personally contacted each new FFL applicant—explaining the federal, state and local laws on gun possession, gun selling and operating a gun dealership. Sixty-four of the sixty-seven applicants withdrew their applicants. One applicant has applied for a local dealers license and two are still pending.

We believe these results highlight the fiction that the FFL is a true dealers license. We intend to pay similar visits to the 550 current holders of FFLs in New York City. We expect similar results.

We believe that the Federal Firearms Licensing system needs fundamental reform and respectfully suggest that this Subcommittee consider the following recommendations.

1. *Dealers Licenses Reserved for Legitimate Dealers.* We support legislation introduced by Senator Moynihan and former Representative Green that would require applicants for FFL dealers licenses to first comply with state and local laws regulating gun dealers. In addition, this Subcommittee might consider establishing certain minimum federal standards, such as maintaining a business premise, installing anti-theft and fire safety devices, and recording all transactions contemporaneously with the ATF. If this legislation is enacted, the number of FFL holders in New York City will drop from 550 to approximately 88, thereby closing a major method for importing illegal guns into our City. New dealers would have to comply with existing regulations. If this system is implemented nationwide, the only interstate commerce in guns will be between manufacturers and legitimate dealers who comply with state law. All purchases for personal use will be through a local dealer, not through interstate carrier shipments. Local law enforcement agencies will know who is buying guns.

2. *Computerize FFL Records.* Under current federal law, the records of transactions by an FFL holder cannot be computerized. This prohibition has several serious consequences. Law enforcement investigators cannot readily trace gun shipments to determine how a gun used in a crime got into the criminals's hands. Manufacturers and dealers cannot verify whether the FFL of a prospective gun purchaser is valid, has been altered, or has been revoked. Prior to shipment, a manufacturer or dealer should be required to verify the status of the FFL holder, much as credit card checks are now conducted to retail stores.

3. *Control Gun Shipments.* Guns are now shipped by a variety of common carriers. Even though the bill of lading does not typically indicate that guns are contained in the package, there is a serious problem of theft. To control the flow of guns, we recommend that all shipments must be made by the United States Postal Service and that all shipments must be by registered mail. In this way, the postal inspectors can be part of law enforcement investigations of gun trafficking and theft of packages containing guns will be a federal offense.

4. *Establish Credible Audit and Revocation Procedures.* Now, BATF can only inspect FFL dealers once a year. Now, new applicants for FFLs can only be reviewed for 45 days at which time the FFL must be granted if not disapproved. Now, a person holding an FFL can continue to use his FFL even after he is convicted of the crime of gun trafficking—theoretically, an FFL felon in prison could use a prison phone to order guns shipped to his home. To be credible, the FFL system must be based on full investigations of applicants, frequent audits if appropriate, and swift revocation of the FFL for abuse or criminal conduct.

We believe these changes would end the abuse of the FFL system and reduce the flow of illegal guns across state lines. We believe legitimate gun owners will support these reasonable reforms—no one wants guns in the hands of criminals. We believe that the law enforcement community will support these reforms—police officers face these illegal guns on the streets every day and see their fellow officers and fellow citizens fall too often to deadly gunfire. We urge Congress to enact these reforms and stand ready to assist this Subcommittee in any way we can.

Mr. SCHUMER. Mr. Farley, you may read from your statement or proceed however you wish.

STATEMENT OF WILLIAM FARLEY, CHESAPEAKE, MD

Mr. FARLEY. OK. I will just basically summarize it.

Mr. SCHUMER. If you want to read it, that is fine, too.

Mr. FARLEY. OK. I will read it then.

On a weekend in September 1988, Nicholas Elliott, a 15-year-old who lived in Norfolk, VA, called his older cousin, Curtis Williams, and asked him to take him to a gun store to look at guns. I might add that Curtis Williams is about 30 years old. At first, Williams tried to put Elliott off but finally agreed to take him because he felt sorry for Elliott since he is from a broken home and didn't have a father figure in his life.

Williams picked up Elliott, and they headed for a gun store in nearby downtown Norfolk. Elliott said he didn't want to go there, he wanted to go to Guns Unlimited out in Isle of Wight County approximately 40 miles away. Williams said he wouldn't take him out there, but Elliott gave him \$20 for the gas, so they drove to Guns Unlimited.

Guns Unlimited has long been a favorite of those looking for cheap handguns where there is no waiting period. The store is located in the small community of Carrolton on U.S. Highway 17 about 8 miles south of Newport News, convenient to both the Tidewater and peninsula areas of Virginia, the total population of those areas being over a million people. There are several such gun stores headquartered in Isle of Wight County since there is no waiting period and a low overhead because of the rural area in which it is located.

When Williams and Elliott arrived at the store, they were waited on by Tony Massengill, a former police officer and part-time salesman. Massengill showed Williams and Elliott a couple of handguns, but Elliott said he wasn't interested in them. Then they began to look at a Cobray MAC-11 assault type pistol. Elliott was very interested in guns. While his classmates would be reading sports magazines, he would be reading magazines about handguns. At that time, he apparently owned a small handgun himself. He had previously had a difficult time in school and been suspended from public school at least six times. He was once quoted as saying, "The only friend I had was my gun."

As Massengill and Elliott began talking about the technical aspects of the gun—muzzle, velocity, et cetera—Williams started to look at other displays in the store. Williams didn't know about the technical aspects of the handguns and lost interest.

After a while, Williams came back near the counter and Elliott approached him saying that he had found the gun he wanted to buy but he wanted Williams to buy it so his mother wouldn't find out about it. Elliott handed the money to Williams in front of Clerk Massengill, and Williams paid Massengill for the gun. Massengill then informed Williams before he sold him the gun he would have to fill out the Federal firearms form 4473. Massengill told Williams that all he needed to do was give the proper response to all the questions and signed the form. Williams checked the appropriate box, signed the form, and returned it to Massengill. Massengill then wrote a receipt and handed the gun to Nicholas Elliott.

The gun Elliott chose was a Cobray MAC-11, a cheap copy of the Uzi. It was manufactured by the less than reputable S.W. Daniels Co., in Atlanta, GA. The only use for this gun, in my consideration, is to maim and kill. It is constructed so cheaply that it is very inac-

curate, but with a 32-round clip of 9-millimeter bullets that can be emptied in a matter of seconds, one can almost always hit something. Even an employee of Guns Unlimited admitted that it was "good for nothing."

On the morning of December 16, 1988, Nicholas Elliott came to school at Atlantic Shores Christian School in Virginia Beach. In his book bag he brought his MAC-11, 6 ammunition clips each containing 32 bullets, and over 400 rounds of ammunition. At about 10:30 a.m., Elliott entered the classroom of my wife, Karen Farley. He shot her to death at almost point-blank range. Then he went to the next classroom and shot another teacher, Sam Marino. Elliott then chased another teacher across the schoolyard, firing at her more than 10 times. Fortunately, due to the inaccuracy of the gun and the fact that it kept jamming, she was never hit. Elliott gave up on her and then went back to where he had shot Mr. Marino and, seeing that Marino was again on his feet, promptly shot him again.

Elliott went to the next classroom, where he confronted a student he didn't like. Elliott pointed the gun at the boy and pulled the trigger. The gun jammed, and the teacher in the room jumped Elliott and wrestled the gun away from him.

As a result of his actions, Elliott was sentenced to life in prison plus 114 years and is currently incarcerated. Williams also served time in prison for the straw purchase—giving the gun to Elliott. Also as a result of the straw purchase which took place at Guns Unlimited, my children and I sued Guns Unlimited for the straw purchase—participating in it—and won.

Since the incident at Atlantic Shores, it has been reported that Guns Unlimited has, one, sold a handgun to a man with a history of mental illness and didn't get him to sign the Federal firearms form; the man subsequently used the gun to shoot three people in Philadelphia; sold 23 handguns to a woman in a 2-week period; they, of course, reported the sale after they had their money and sold the guns; sold a handgun to a man when it was found that his girlfriend wasn't old enough to purchase the gun; he was told it was OK, you just had to sign the Federal firearms form for it; sold 5 handguns to a Maryland man who used one of them to kill someone; sold 48 handguns to a 22-year-old college student in a 1-month period; the man, a permanent resident of New York State, used a stolen Virginia driver's license for identification; the license was for a 5-foot-5 inch, 131-pound man; the buyer was a 215-pound weightlifter. They also sold 21 handguns to a local gang in a 2-month period. The guns wound up in New York being traded for crack cocaine.

To my knowledge, no action whatsoever has been taken against Guns Unlimited for any of these sales.

Showing their complete insensitivity, Guns Unlimited opened a branch store in the shopping center across the street from Atlantic Shores Christian School. If they had customers come into their store or their Portsmouth, VA, store that wanted to buy a gun the same day, a Guns Unlimited salesman would carry the gun to their Carrolton store so the sale could be made without the waiting period required in Portsmouth and Virginia Beach.

I believe the irresponsible actions by gun stores like Guns Unlimited are a major contribution to the proliferation of handgun violence.

Thank you, sir.

Mr. SCHUMER. Thank you, Mr. Farley. I know it is hard for you to testify about this. The events up to the slaying of your wife just tell it all.

I just have one quick question which I think is important to put into the record now. Was Guns Unlimited prosecuted for violating any law at all?

Mr. FARLEY. No. From what I understand from the Federal agents, they had not violated any laws whatsoever.

Mr. SCHUMER. Even by selling the gun to a straw—you know, to a different person right in front of them?

Mr. FARLEY. Like I say, from what I understood from Federal agents, as long as there was somebody there to sign the form that met the criteria, that is all they needed.

Mr. SCHUMER. Mr. Archer.

STATEMENT OF STEVEN ARCHER, SIMKE, CHODOS,  
SILBERFELD & ANTEAU, LOS ANGELES, CA

Mr. ARCHER. Thank you, Mr. Chairman.

My statement is based entirely upon facts that were obtained during the pretrial discovery in a case called *Goldfarb v. Ayers*. I represented the Goldfarbs in that case.

Pamela Ayers, as of 1989, was a 45-year-old woman with over a 20-year psychiatric history. Although she had been a modestly successful person in business, during the period of 1985 through 1989 she began to decompensate and became unable to manage her own affairs. During the year 1989, she became such a danger to herself and was so greatly disabled that she was the subject of two involuntary psychiatric hospitalizations totaling over 40 days as an inpatient. She was also the subject of two involuntary conservatorship petitions. She was seen and treated by over six psychiatrists in the year 1989, and each of them felt that she was disabled and required intensive long-term psychotherapy and psychopharmacology.

Nonetheless, despite a diagnosis of "paranoid psychosis of involuntional variety, possible underlying atypical manic depressive disorder, borderline personality with psychotic transference reactions, with severe erotic, psychotic transference and a tendency toward hysteria and obsessive-compulsive symptomatology," she was able to get out of that last hospitalization in April 1989, and she returned to her home in Newport Beach, CA.

Her decompensation continued, and ultimately she alienated most of her family and friends. One notable exception was her long-time friend Gerald Goldfarb, my client's husband. Gerald continued to show concern for Pamela and continued to attempt to convince her to get more care and treatment. She resisted. She became so unable to care for herself that she would sleep on the floor of her home amid piles of garbage. Periodically, she would leave her home for weeks at a time acting as a homeless person and living, with her dog, out of her car. Only in California do homeless people drive Mercedes Benzes.

She haunted various business establishments in Orange County, asking complete strangers to help her kill herself. Ultimately, she became convinced that she needed a gun to do that. On August 9, 1989, Gerald drove the 50 miles or so from his home to Pamela's. He again tried to convince her that she needed further care and treatment, and again she resisted. Unbeknownst to Gerald, while he was literally on his hands and knees cleaning up the garbage in her home, she was out buying a gun.

Earlier on that morning, she had called a local sporting goods/gun store. As luck would have it, she had spoken to the president of the company, who was also one of the sales people. She told him that she feared for her safety, and she gave him an address where she lived, or claimed to live. She told him that she needed a gun and wanted to go in that day and buy a handgun and take it home with her, and he told her she could buy the gun but under California law there was a 2-week waiting period.

About 15 or 20 minutes later, she placed an identical call to the same store and, as luck would have it, spoke to the same person; they had the same conversation. An hour later, Pamela went to the gun store and was waited on by that same person. She recounted to that person her version of the conversations—that she had been told she could come in and pick up a handgun and take it home that day. He identified her as the woman he had spoken to earlier that day. He knew she was lying to him because he remembered those conversations. He again told her she couldn't take a handgun, but then he suggested, "The 15-day waiting period doesn't apply to long weapons; let me show you and sell you a long weapon." He proceeded to sell her a pump action riot shotgun.

During the course of that transaction, he became so concerned about her, about the strange way she was behaving, that surreptitiously he asked one of his business workers to go and call the local police department to ask them to run a warrants check on her to, in his words, "give us a reason not to sell her a gun." There were no outstanding warrants, and the sales transaction continued.

During her time in the store, the sales person observed that Pamela avoided eye contact, was in a hurry, didn't properly respond to questions, was dirty and disheveled, was distraught and nervously pacing around the gun room floor, and that she appeared as if she was doped or in a daze, all classic symptoms of her psychosis. During the transaction, Pamela even asked the gun seller, "You are afraid of me, aren't you?" Still the transaction continued.

While the salesman was filling out that portion of the form 4473, the Alcohol, Tobacco and Firearms form, he filled it out for her. He discovered that she had given him a false address as to where she lived and telling him why she was fearful. Despite all of this, he sold this pump action riot shotgun to a 5-foot tall, 95-pound woman who was obviously disturbed.

He specifically told her she could only load it and keep it loaded at home or in a firing range, and then he watched her go out into the parking lot and load it in the parking lot. She was so shaky, she was dropping shells on the pavement. He went out and got the gun and escorted her back in. He unloaded the gun, put the shells back in their box, put the gun in its box, took her car keys from her, and escorted her out to her car. He put the weapon and the

ammunition in her trunk, slammed the lid, put her behind the wheel and told her to leave, and as soon as she left he called the local police and he described her as being dangerous, unstable, and in possession of a weapon.

Thirty minutes later, Gerald Goldfarb was murdered by Pamela Ayers. She then attempted suicide with this same riot shotgun, but because of the size of the weapon and her small stature she was unsuccessful, she only sustained an abdominal wound. When the SWAT team finally broke down the door and got into her home, Gerald was dead, Pamela was lying on the floor screaming that she wanted to die, and the pump action riot shotgun was between them with the price tag still on it.

Pamela was arrested and taken to the hospital ward for emergency surgery. She was later transferred to a jail ward and subsequently, while awaiting trial, hanged and killed herself.

I represented Gerald's widow and his father in the wrongful death case.

Mr. SCHUMER. How old was Gerald?

Mr. ARCHER. He was 49. He was a Harvard-educated appellate lawyer.

It became clear to both Mrs. Goldfarb and myself during the course of this case that this was a murder of opportunity. Had there been a 15-day wait that applied to all firearms and not just handguns, Pamela wouldn't have gotten that riot shotgun and Gerald wouldn't have been murdered that day.

Thank you.

[The prepared statement of Mr. Archer follows:]

PREPARED STATEMENT OF STEVEN ARCHER, SIMKE, CHODAS, SILBERFELD & ANTEAU,  
LOS ANGELES, CA

On behalf of both myself and my client, Lillian Goldfarb, I would like to thank the committee for the invitation to attend and testify at today's hearings.

It has been my privilege to represent Mrs. Goldfarb in a wrongful death lawsuit arising as a result of the death of her husband, Gerald. Mrs. Goldfarb is unable to attend today because to do so would reopen deep emotional wounds that she has and continues to attempt to deal with. Both she and I feel very strongly about the issue of gun control and appreciate the committee's willingness to accept my statement and testimony in her place.

My statement is based entirely upon facts obtained during the pretrial discovery phase of a lawsuit entitled *Goldfarb v. Ayers*. Mrs. Goldfarb's story has great relevance to today's hearings on the issue of firearm licensing and waiting periods.

In August, 1989 Pamela Ayers was a very troubled 45 year old woman, with a long and involved psychiatric history going back over 20 years. At times during her long history various treating mental health care providers diagnosed her as being or exhibiting:

1. Suicidal ideation beginning at 25;
2. Exhibiting a "strong neurotic transference";
3. Depressed and starving herself in an attempt to commit suicide;
4. "Gravely disabled and a danger to [her]self";
5. Exhibiting major depression with melancholia, obsessed with thoughts of poverty, and inability to conceive, and as being anorexic and bulimic.

Although she had been a modestly successful designer and businesswoman, during the years 1985-1989 she began to decompensate and became unable to manage her own affairs. During the year 1989 she became such a danger to herself and/or so greatly disabled that pursuant to California Welfare and Institutions Code Section 5150 she was the subject to 2 involuntary psychiatric hospitalizations—totalling over 40 days as an inpatient. She was also the subject of two petitions for conservatorship.

She was seen and treated by over 6 psychiatrists during 1989 and each of them felt that she was disabled and required intensive, long term psychotherapy and

psychopharmacology. Nonetheless, despite a diagnosis of "paranoid psychosis of involuntal variety, possible underlying atypical manic depressive disorder, borderline personality with psychotic transference reactions with severe erotic/psychotic transference and tendency toward hysteria and obsessive-compulsive symptomatology" she was able to obtain her release from the last hospitalization in April, 1989 and returned home to her condominium.

As a result of her increasing decompensation, she became alienated from her family and most of her friends. One notable exception was her friend, and my client's husband, Gerald Goldfarb. Mr. Goldfarb continued to show concern and attempted to convince Pamela that she needed more care and treatment. She resisted.

She became so unable to care for herself that she slept on the floor amidst piles of garbage. Periodically she would leave her home for weeks at a time, acting as a homeless person and living with her dog in the back seat of her Mercedes Benz.

She haunted various business establishments in Orange County, asking complete strangers to help her kill herself. Ultimately, Pamela became convinced that she needed a gun to kill herself.

On August 9, 1989 Gerald drove the 50 or so miles from his home to Pamela's condominium. Again he tried to convince Pamela of her need for further care and treatment and again she resisted. Unbeknownst to him, while Gerald was, literally, on his hands and knees cleaning up the garbage from the floor of her home, Pamela went in buy a gun.

Earlier on the morning of August 9, Pamela had called a local sporting goods/gun store. As luck would have it, she spoke to the president of the company who was also a salesperson, told him that she feared for her personal safety and expressed a desire to come in to the store, purchase and take possession of a handgun. The store president told her she could purchase the handgun, but that there was a 2 week hold before she could take possession of it.

Pamela called back to the store about 30 minutes later spoke with the same person and had the same conversation.

About an hour later, Pamela showed up at the gun store. She was waited on by the same person that she had spoken to that morning. During the course of the transaction, Pamela lied about what the person on the phone had told her, stating that she was told that she could buy and take possession of a handgun that day. The salesperson identified her as the person that he had spoken to on the phone earlier that morning. Although he knew she was lying about their conversations, he again told her of the waiting time requirement for purchase and possession of a handgun. Still the sales transaction continued:

The salesperson then told Pamela that since the delay only applied to handguns, he would be more than happy to show her some long guns and that she could purchase and take one home that day. They continued to look at weapons, the salesman became so concerned about Pamela that he had another employee call the local police department asking that they run a warrants check on her to "give us a reason not to sell her a gun." There were no outstanding warrants. Still the sales transaction continued.

During the course of the sales transaction, the salesperson observed that she avoided eye contact, was in a hurry, didn't properly respond to questions, was dirty and disheveled, was distraught and nervously pacing about the gun room floor, and appeared as if she "was doped or in a daze." During the course of the transaction Pamela even asked the salesman if he was afraid of her. Still the sales transaction continued.

While filling out the necessary Bureau of Alcohol, Tobacco & Firearm forms, the salesperson was shown Pamela's license and realized that she had given him a false address earlier. Still the transaction continued.

Ultimately, despite all of the foregoing, the salesman sold a 5 foot tall, 95 pound, obviously disturbed woman a pump action riot shotgun and a box of ammunition? They specifically told Pamela that she could only keep the weapon loaded at home or at a shooting rang. Then the salesperson and his cashier watched her go out into their parking lot and begin to load it. She was so shaky that she was, literally, dropping shells onto the pavement.

The salesman then went out into the parking lot, took the gun from Pamela and escorted her back into the store. He again reminded her that she could only load it at home or at the range. He unloaded the riot shotgun, put it back into its box, put the shells back into their box, took Pamela's car keys from her and escorted her into the parking lot. He placed the boxed gun and ammunition in her car trunk, slammed the lid, and put her behind the wheel. He then told her to leave and she drove off.

Immediately after watching Pamela drive away, the salesman went back inside the gun store called the police and described Pamela and her car. He described her as being mentally incompetent, in possession of a weapon and dangerous.

Approximately 30 minutes later Gerald Goldfarb was murdered by Pamela Ayers. She then attempted suicide with the riot shotgun but because of its size and her small stature she was unsuccessful. When the SWAT team finally broke into her home Gerald and Pamela were lying on the floor, the pump action riot shotgun between them, with the price tag still on it.

Pamela was arrested, taken to the hospital for emergency surgery, and later transferred to a jail ward where she was to be held awaiting trial. Shortly thereafter she hung herself and finally succeeded in committing suicide.

I represented Gerald's widow and elderly father in the wrongful death case against the gun store and Pamela's estate. What became clear during the course of that litigation was that this murder, like countless others, was a murder of opportunity. If the 15 day waiting period that applied to handguns had applied to long weapons Pamela wouldn't have gotten the shotgun and Gerald wouldn't have been murdered on August 9, 1989.

As a result of her husband's murder, just six short months after their marriage, Mrs. Goldfarb became committed to the cause of gun control. She became active in support of this cause, testified before various legislative groups within the State of California and was instrumental in the State of California's adoption of a mandatory waiting period for the purchase of any firearm, whether handgun or long weapon. She and I both hope that my testimony here today will have the same effect on Federal legislation and we urge you to amend the appropriate act or acts to require a mandatory 15 day waiting period apply to any and all firearms.

Thank you again for your kind invitation. I am happy to respond to any questions that you may have about my testimony or any of the facts of the underlying wrongful death litigation.

Mr. SCHUMER. Thank you, Mr. Archer, and, again, I think these two—Mr. Farley and your client's situation—sure show how we have to do something about this, and I want to thank all the panelists for their testimony. There is really very little to ask. You have all covered it. I just have a couple of questions, first for Sergeant Shaw.

From your knowledge, since you are one of the experts on this, gun shows—you mentioned the extent to which they exist in Maryland—are they all around the country? Do they exist in greater number in Maryland?

Sergeant SHAW. I believe Texas and the one that I gave you an example of with the 2,200 tables was in Oklahoma. Maryland probably has in the nature of 40 in a given year—40 to 50 in a given year.

Mr. SCHUMER. Some claim that the gun shows' real purpose is for antique firearms—you know, collectable type guns.

Sergeant SHAW. We don't regulate antique firearms in the State of Maryland; anything that was manufactured prior to 1899 is not regulated.

Mr. SCHUMER. If we were to outlaw gun shows—this is just off the top of my head—would legitimate gun owners have any trouble getting guns?

Sergeant SHAW. No, sir.

Mr. SCHUMER. You know, allowing that you keep the antique ones. I can understand you might need a show for something like that. OK.

Mr. Travis, you have really said it all, and now the Federal Government is evidently doing something the same, but it is obvious—and I just want to underscore this—that if there are interviews a lot of people back out of being dealers. You have pointed out an

anomaly in the law whereby the Federal Government helps people actually violate State law.

Mr. Farley, you said no enforcement action was taken against Guns Unlimited. So I guess the store is still in business.

Mr. FARLEY. Yes.

Mr. SCHUMER. I will have to check on this, but you were told the dealer, even though he obviously sold to a straw purchaser, didn't violate any—certainly didn't violate Virginia law.

Mr. FARLEY. Actually, they contend that they don't remember anything. They don't remember what happened, when it happened.

Mr. SCHUMER. I see. So they are saying it is an evidentiary question as much as anything.

Mr. FARLEY. Right. But in a Federal trial and a State trial, you know, they were found wrong by a jury.

Mr. SCHUMER. Mr. Archer, how about the gun store in the case where you have sued? Are they still in business?

Mr. ARCHER. They are still in business. They are doing a lot of business.

Mr. SCHUMER. OK. Well, I guess both of you gentlemen might advocate a Federal law making gun dealers liable for any injury caused by selling a gun negligently to a felon or to a minor. I guess that would make gun dealers more responsible.

Mr. ARCHER. We would hope.

Mr. SCHUMER. My guess is, in both of your cases gross negligence would really be a standard that would be applicable anyway if we wanted to go higher than a negligence standard.

OK, I don't have any more questions.

Mr. Sensenbrenner.

Mr. SENSENBRENNER. I have no questions, Mr. Chairman.

Mr. SCHUMER. OK. Well, I want to thank all four of you. It was really an excellent panel.

Mr. FARLEY. Thank you.

Mr. SCHUMER. Finally, our last panel. Senator Simon had been scheduled to testify, but he was held up by business in the Senate and he will not be able to make it. His statement will be read into the record at this point.

[The prepared statement of Mr. Simon follows:]

PREPARED STATEMENT OF HON. PAUL SIMON, A SENATOR IN CONGRESS FROM THE STATE OF ILLINOIS

First, I would like to thank Congressman Schumer for convening this hearing. He has been and continues to be one of the most powerful voices in Congress against gun violence. His efforts, and those of the subcommittee, have been a tremendous help in our joint desire to end the violence caused by guns.

The United States has the highest rate of violent crime in the developed world. One factor contributing to this onslaught of terror is clearly the proliferation of handguns: the Bureau of Alcohol, Tobacco and Firearms estimates that there are potentially 200 million firearms in civilian hands—with nearly 4 million new firearms added each year. Over the past two years, these firearms have killed 60,000 Americans, more than the number of U.S. soldiers killed in the Vietnam War and have been involved in one of every four deaths among persons age 15 to 24. In 1990 alone, guns involved in homicides, suicides or accidents caused the deaths of nearly 4,200 teenagers. Furthermore, a recent Atlantic Monthly article noted that: "Handguns terrorize more than they kill: Department of Justice statistics also show that every twenty-four hours handgun-wielding assailants rape thirty-three women, rob 575 people, and assault another 1,116".

In 1991, in Chicago, the number of firearm-related deaths was 927. In contrast, a Chicago Tribune story noted that "Toronto, which like Chicago has 3 million residents and tough handgun laws, noted only 17 firearm deaths in 1991."

Hard as it is to believe with all this violence, the number of firearm dealers in this country has increased by 112,000 since 1980 to a total of 286,000. That means there is 1 firearm dealer for every 1,000 Americans, or 1 dealer for approximately every 290 firearm owners (ATF). The Violence Policy Center put it into perspective when they noted that there are more gun dealers in our country than there are gas stations. There are 9,182 federally licensed firearm dealers in Illinois alone.

While the number of dealers has increased by 59% since 1980, the number of investigators assigned to inspect these dealers has decreased by 13%. In 1991, ATF issued 270 licenses a day, for a grand total of 91,000 new and renewed licenses that year. Only 37 of the 34,000 requests for new licenses that year were denied. Amazingly, fewer than 10% of dealer applicants undergo an actual inspection in the form of a personal interview or on-site visit. Bureau spokesman Jack Killorin noted: "There is no question that illegal activity by [dealers] is a threat to the community. The volume of licenses has outstripped our ability to keep up" (Washington Post, December 12, 1992).

Type I dealers (the basic federal license needed to sell guns in the U.S.) fall into two categories: those who operate storefront businesses, called "stocking dealers," and those who operate out of their homes, called "kitchen-table" dealers. ATF estimates that only about 20% of all federally licensed dealers are actually storefront operations. ATF also projects that a majority of these "kitchen-table" dealers acquire a license for the purpose of buying guns in bulk at special prices and in order to skirt state and local laws, such as waiting periods and other restrictions.

How much damage can one dealer do? At least 600 federally licensed dealers have been arrested on criminal charges in the last five years. A few examples:

More than a dozen federally licensed dealers in Detroit alone have been charged with providing more than 2,000 firearms to criminals in the city (Washington Post).

"During a six-month period in 1990, Gustavo Salazar, a [federally licensed gun dealer] in Los Angeles purchased more than 1,500 guns and sold them to gang members and other individuals. An ATF check on 1,165 handguns sold by Salazar revealed that only four had been registered under California law." [Violence Policy Center]

From February to June in 1990, Detroit kitchen-table dealer McClinton Thomas ordered hundreds of handguns. All of the guns were sold off the books, including 90 guns to a "big-time dope dealer". [Violence Policy Center]

Carroll Brown was a federally licensed dealer in Baltimore, who sold weapons from his home and car. Fewer than half of his gun sales were properly recorded and some weren't recorded at all. When he did bother to write down names and addresses, they were often bogus. Of the approximately 300 weapons Brown sold, most have not been recovered, including more than 100 Brown is believed to have sold to a single buyer. At least 14 of the weapons he sold have turned up at Baltimore crime scenes. [Washington Post]

Obviously, something must be done to ensure that gun licenses are not used for such improper purposes. Legislation I introduced earlier this year with Senators Feinstein, Kennedy and Lautenberg, S. 496, takes a number of important steps in this direction:

Specifically our bill would:

Raise the license fee for gun dealers.

This bill would raise the license fee for firearm dealers to \$750. The current fees, \$50 per year for pawnbrokers who deal in firearms and \$10 per year for all other dealers, have remained unchanged since enactment of the Gun Control Act of 1968. The proposed new fees will help absorb the increasing costs of processing and investigating license applications and renewals. In addition, the increased fee will help to discourage individuals from obtaining a dealer's license merely to obtain personal firearms at wholesale prices or to skirt state and local laws. *It is more expensive to join the nra than it is to get a federal firearms license!*

Senator Moynihan introduced a bill earlier this year that we are including in this package as well. The bill would require dealers to certify that they are in compliance with state and local laws before receiving a new license.

This provision would strengthen the licensing provisions of the Gun Control Act by requiring, as a prerequisite to the issuance of a new license, that the business to be conducted is not prohibited by any state or local law applicable in the jurisdiction where the applicant's premises are located. For example, to

receive a Federal firearm license, a dealer would need to be in compliance with local zoning laws.

Drop the 45-day requirement for action on firearm dealer license applications.

Current law requires the Secretary of the Treasury to approve or deny applications for federal firearms licenses within 45 days of receipt of such applications. Further, if action is not taken within such period, an applicant may seek mandamus to compel the Secretary to act. The 45-day period has proven to be unrealistic since the time needed to conduct a thorough background check of an applicant and to determine whether the applicant meets all of the eligibility requirements for licensing routinely takes longer than 45 days. In order to ensure that licenses are only issued to qualified applicants, S. 496 would omit the 4-day review period requirement from the Act.

Allow the Bureau of Alcohol, Tobacco and Firearms to investigate a dealer more than once a year, if necessary.

Under existing IGW a warrant is required to conduct more than one inspection of a federal firearms licensee to ensure compliance with the record-keeping provisions of the Act during any twelve-month period. This restriction against unannounced inspections enables unscrupulous licensees to conceal violations of the law and is too infrequent to ensure compliance with the Act's restriction. It should be noted that, prior to the amendment of the Gun Control Act in 1986, there was no limit on the number and types of warrantless inspections which could be conducted of firearms licensees, and such inspections had been upheld by the Supreme Court (*U.S. v. Biswell*, 406 U.S. 311 (1972)). Furthermore, the Bureau, which also has jurisdiction over federal alcohol regulations, has unlimited authority to inspect liquor wholesalers. The laws for gun dealers should be consistent with that standard.

Require dealers to report a shortage in a firearm shipment, or lost or stolen inventory to the Bureau.

Under current law, ATF has the responsibility for enforcing 18 U.S.C. 922(j) which makes it unlawful to receive, conceal, store, or dispose of any stolen firearm. There is not, however, a requirement for licensees to report thefts of firearms to ATF. S. 496 would require theft reports which will enable ATF to make more timely investigations of violations of the statute.

Require dealers to comply with the Bureau's firearm trace requests.

The Bureau of Alcohol, Tobacco and Firearms has statutory access to physically inspect licensee records. The Bureau may also require written reports of licensees upon request. However, effective gun tracing often necessitates that licensees submit information on firearm sales by phone. While most licensees cooperate with ATF's phone requests, some licensees have refused to respond to such requests. Our bill would resolve the problem by requiring licensees to provide trace information by telephone.

Require common carriers (UPS for example) to obtain identification from individuals who receive a firearm shipment.

Persons acquiring firearms for illegal purposes and for illegal firearms trafficking are known to receive shipments of firearms away from their place of residence. Taking delivery of firearms in this manner helps conceal the identity of the recipient. Our proposed legislation would help resolve the problem by requiring carriers to identify persons who take delivery of firearms.

Require identification (fingerprints and photograph) for individuals applying for a license to sell machine guns. (Currently, this is a requirement for individuals who are applying for a license to possess a machine gun, but not for those applying for a license to sell machine guns.)

Current law requires individuals to whom National Firearms Act weapons (e.g. machine guns) are transferred to be identified by photographs and fingerprints to ensure that the weapons may be lawfully received and possessed. Ironically, there is no similar requirement for individuals engaged in the firearms business of selling such weapons. This legislation would impose such a requirement on individuals doing business in these types of weapons prior to commencing such business.

Criminalize the sale of firearms or ammunition when there is reasonable cause to believe the weapon will be used in a crime of violence.

Dealers must be held responsible for selling guns to individuals who are likely to commit crimes of violence. This bill would make it unlawful for a dealer to sell or otherwise dispose of a firearm if that dealer has reasonable cause to believe that the firearm will be used in such a crime. The term "reasonable cause" is found throughout the firearm sections of the federal code. For example, one closely analogous provision in the code states that:

"Whoever, with knowledge or reasonable cause to believe that an offense punishable by imprisonment . . . exceeding one year is to be committed . . . ships, transports, or receives a firearm or any ammunition in interstate or foreign commerce shall be fined not more than \$10,000, or imprisoned not more than ten years, or both," 18 924(b).

S.496 extends the scope of this prohibition to cover all guns transferred between two individuals, not just those a dealer "ships, transports, or receives." Again, I thank you, Congressman Schumer, for your leadership in this area and I look forward to working with you in the months ahead on this and other important crime control issues.

## GUN DEALER LICENSING REFORM ACT

SENATOR PAUL SIMON, SPONSOR

### *Increase license fee for firearm dealers*

The bill would raise the license fee for firearm dealers to \$750. The current fees, \$50 per year for pawnbrokers who deal in firearms and \$10 per year for all other dealers, has remained unchanged since enactment of the Gun Control Act of 1968. The proposed new fees will help absorb the rising costs of processing and investigating license applications and renewals. It also will help discourage some from obtaining dealer's licenses merely to obtain personal firearms at wholesale prices or in interstate commerce.

### *Eliminate the 45-day requirement for action on firearms license applications*

Current law requires the Secretary of the Treasury to approve or deny applications for federal firearms licenses within 45 days of receipt of such applications. The 45 day period has proven to be unrealistic since the time needed to conduct a thorough background check of an applicant—and to determine whether the applicant meets all of the eligibility requirements for licensing—routinely takes longer than 45 days. In order to ensure that licenses are only issued to qualified applicants, this bill would omit the 45-day review period requirement from the Act.

### *Require licensees to comply with firearm trace requests*

The Bureau of Alcohol, Tobacco and Firearms has statutory access to licensee records by physical inspection. The Bureau also may require written reports of licensees upon request. However, effective gun tracing often means asking licensees to provide information on firearm sales by phone. While most licensees cooperate with ATF's phone requests, some licensees have refused to respond to such requests. This bill would resolve the problem by requiring licensees to provide trace information by telephone.

### *Require compliance with state and local laws before issuance of a firearm dealer license*

The bill would strengthen the licensing provisions of the Gun Control Act by requiring, as a prerequisite to the issuance of a new license, that the business to be conducted would not be prohibited by any state or local law applicable in the jurisdiction where the applicant's premises are located. For example, to receive a Federal firearm license, a dealer would need to be in compliance with local zoning laws. This provision would advance one of the major congressional objectives of the Act: to coordinate federal, state and local laws into an effective system of firearm regulation and to provide support to state and local law enforcement officials.

### *Eliminate restrictions on compliance inspections*

Under existing law, a warrant is required to conduct more than one inspection of a federal firearms licensee to ensure compliance with the record-keeping provisions of the Act during any twelve-month period. This restriction against unannounced inspections enables unscrupulous licensees to conceal violations of the law, it allows inspections too infrequently to ensure compliance with the Acts intent. Prior to the amendment of the Gun Control Act in 1986, there was no limit on the number and types of warrantless inspections which could be conducted of firearms licensees, and such inspections had been upheld by the Supreme Court [*U.S. v. Biswell*, 406 U.S. 311 (1972)]. Furthermore, the Bureau, which also has jurisdiction over federal alcohol regulations, has unlimited authority to inspect liquor wholesalers. This change would bring requirements for gun dealers into consistency with that standard.

### *Require dealers to report the theft or loss of firearms*

Under current law, ATF has the responsibility for enforcing 18 U.S.C. 922(j) which makes it unlawful to receive, conceal, store, or dispose of any stolen firearm. There is not, however, a requirement for licensees to report thefts of firearms to ATF. This bill to require theft reports would enable ATF to make more timely investigations of violations of the statute.

### *Require identification of persons engaged in commerce in national firearms act weapons*

Current law requires individuals to whom National Firearms Act weapons, e.g. machine guns, are transferred to be identified by photographs and fingerprints to ensure that the weapons may be lawfully received and possessed. Ironically, there

is no similar requirement for individuals engaged in the firearms business of selling such weapons. This legislation would introduce such a requirement on individual doing business in these types of weapons prior to commencing such business.

*Require common carriers to obtain identification before delivering firearms*

Persons acquiring firearms for illegal purposes and for illegal firearms trafficking are known to receive shipments of firearms away from their places of residence. Taking delivery of firearms in this manner helps conceal the identity of the recipient. The proposed legislation would help resolve the problem by requiring carriers to identify persons who take delivery of firearms.

*Criminalize the sale of firearms or ammunition when there is reasonable cause to believe the weapon will be used in a crime of violence*

Dealers should be held responsible for selling guns to individuals who are likely to commit crimes of violence. This bill would make it unlawful for a dealer to sell or otherwise dispose of a firearm if that dealer has reasonable cause to believe that the firearm will be used in such a crime.

Mr. SCHUMER. Our final panel today includes Mr. Richard Aborn. He is the president of Handgun Control and the president of the Center to Prevent Handgun Violence. He is a former prosecutor in the Manhattan District Attorney's Office where he handled homicide and illegal gun distribution cases. Our second panelist is Mr. Richard Gardiner. He is the legislative counsel for the National Rifle Association. He has been with the NRA since 1979 in a number of different capacities.

I think I am going to let Mr. Gardiner have his choice as to whether he would go first or second since he obviously is a lone witness among all the others.

Would you rather lead off, or would you rather follow Mr. Aborn?

Mr. GARDINER. I am always glad to follow up.

Mr. ABORN. Why did I think he would do that?

Mr. SCHUMER. OK, Mr. Aborn, you are on first. I have complete faith in your ability, so I knew you would do a good job no matter if you were first or second.

#### STATEMENT OF RICHARD M. ABORN, PRESIDENT, HANDGUN CONTROL, INC., WASHINGTON, DC

Mr. ABORN. Thank you.

Mr. Chairman, let me begin by commending you for your strong record of leadership on the gun violence issue. In your work for the Brady bill and for restrictions on assault weapons, you have been an eloquent voice for sanity in addressing our Nation's epidemic of gun violence.

And, Mr. Sensenbrenner, on behalf of Handgun Control, may I also thank you, sir, for your tireless work on behalf of the Brady bill. You represent all the Americans in this country who are also fighting tirelessly for that very sensible, sane gun law, and I think we will see that bill signed into law in this Congress. So we thank you for that help.

We at Handgun Control and at the Center to Prevent Handgun Violence are also grateful for the opportunity to share our views on another aspect of the gun violence problem, the very one that you are addressing today, the absence of meaningful regulations of the Nation's gun dealer.

Every year, nearly 640,000 violent crimes are committed with handguns, including more than 12,000 homicides. Although the path of a handgun into a wrongdoer's possession may involve mul-

iple transactions, virtually every handgun used in crime is obtained with a licensed gun dealer. Firearms are, without question, our most dangerous consumer product. A license to sell such a product should be regarded as a public trust carrying with it legal obligations that would not ordinarily govern the retail sale of other products.

According to ATF, there are approximately 286,000 Federal firearm licensees, but in contrast to the number of licensees it is estimated by OTA that only about 15,000 licensees operate storefront gun shops and another 5,000 operate retail gun sections in sporting goods stores. The vast majority of licensees, often referred to as kitchen table dealers, operate from their homes out of sight of Federal, State, and local authorities. We must stop the granting of licenses to persons who do not intend to engage in a bona fide business.

ATF could take several regulatory actions under current law to address the problem of the unregulated kitchen table dealers. Current Federal law already requires that a license applicant have premises from which he conducts business subject to license or from which he intends to conduct such business within a reasonable period of time.

The business of a licensed gun dealer as defined by the Gun Control Act would be a regular course of trade or business with a principal objection of livelihood and profit through repetitive purchase and resale of firearms. We see nothing in the statute which would preclude ATF from requiring dealers as a condition for license renewal to submit tax returns and aggregate purchase and sale information sufficient to demonstrate that they meet the statutory definition of engaging in the business of being a gun dealer.

The existing business premise requirement could be more aggressively enforced in other ways. According to ATF's interpretation of this requirement, licensees operating out of their homes must open up a part of their home to their clientele. Accordingly, ATF requires license applicants to specify the hours in which they are open for business. As a corollary to this business hour requirement, ATF could, by regulation, once again, require that licensees actually post their business hours. In addition, random checks by ATF, working with local law enforcement, could easily determine whether the licensee has misrepresented his business hours on his application, and such misrepresentations would be grounds for revocation.

Several legislative changes also are needed to ensure that dealer licensees operate bona fide businesses. First, to diminish the financial incentive to be a kitchen table dealer, legislation should be enacted to increase the license application fee from the current \$10 per year to at least \$500 per year.

Second, legislation should be passed to require as a condition for license grant and renewal compliance with all State and local licensing and zoning requirements. Only a small percentage of federally licensed gun dealers make a serious effort to comply with State and local law. For example, there are more than 1,100 Federal licensees in the city of Los Angeles, but fewer than 130 have obtained local permits required to sell more than five guns annually.

We also know far too little about the people entrusted to engage in the business of selling firearms. For the vast majority of applicants, issuance of a dealer license is virtually automatic upon payment of the \$10-per-year license fee and completion of a 2-page form. Of the 34,000 applications for new licenses in 1991, only 37 were denied. In too many cases, licenses have been granted to convicted felons and others prohibited by law from selling or buying firearms.

For instance, last year the L.A. Times reported the case of Federal licensee Charles MacDonald who was not only a convicted felon but also received a dishonorable discharge from the military. Over the course of 2 years, MacDonald sold 122 guns from a hotel room in Los Angeles, more than a dozen of which have been connected by authorities to specific crimes, including crimes of attempted murder.

Some important steps can also be taken without the new law. For instance, ATF in this area could require fingerprinting of license applicants and photo ID's. Neither of those steps would be prohibited by current existing law. ATF has the current statutory power to require that. Both fingerprinting and photo ID's could be required, and such would enable us to have a greater sense of who is actually applying for these licenses.

In addition, ATF should change its current policy of permitting licensees who are convicted of felonies to retain their licenses during the appeals process. The Gun Control Act permits licensees indicted for felonies to retain their licenses until any conviction pursuant to the indictment becomes final. Under ATF's rather unique interpretation, a conviction does not become final until all appeals are exhausted. I think, Mr. Chairman, you will recognize that that is inconsistent with the concept of finality that exists in other sections of the U.S. Code and certainly is not required by the Gun Control Act.

In order to ensure a sufficient background check not only for prior felony convictions but for other disqualifying conditions as well, Congress must change the current statutory requirement that a license be approved or denied within 45 days of ATF's receipt of the application. The 45-day limit is totally arbitrary and represents a perverse ordering of priorities in which the applicant's interest in speed is given more importance than the public's interest in being protected from unscrupulous gun sellers.

Legislation should also be enacted requiring that individuals employed by licensed gun dealers also undergo a background check, including fingerprinting, to determine eligibility for possession and sale of firearms, and to ensure compliance with the law once the license is issued, the current statutory limitation of one warrantless recordkeeping inspection per year added by Congress in the 1986 McClure-Volkmer Act should be eliminated.

As ATF has acknowledged, theft of guns from licensed dealers is a serious problem. Stolen guns inevitably fuel the interstate illegal market, yet many gun dealers take fewer precautions than the average jewelry store and implement adequate security measures only after they are victimized.

In 1978, a Federal court ruled that ATF has the authority to promulgate regulations requiring that licensees implement adequate

security measures—it is time for that authority to be used—in addition, facilitate a coordinated law enforcement attack on gun theft. New legislation should be enacted requiring that dealers report all firearm thefts and losses promptly to both ATF and to the local police.

In conclusion, we believe that new regulatory initiatives and legislation proposed here will do much to create order out of the chaos that is our current system for licensing gun dealers. At best, the current system occasionally punishes dealers for illegal conduct long after the illegality has committed the act of selling guns on the street and thus creating havoc in our communities.

We need a strategy to prevent unscrupulous gun dealers from diverting guns into the hands of the criminal element in the first place. We urge ATF to take those actions which can be initiated now under current law, and we urge Congress to enact new legislation to give ATF additional power to curb the flow of deadly firearms to the criminal element.

Thank you.

Mr. SCHUMER. Thank you, Mr. Aborn.

Mr. Gardiner.

STATEMENT OF RICHARD E. GARDINER, LEGISLATIVE COUNSEL, NATIONAL RIFLE ASSOCIATION OF AMERICA, WASHINGTON, DC

Mr. GARDINER. Thank you, Mr. Chairman.

First of all, Mr. Chairman, I would ask that my written testimony be—

Mr. SCHUMER. Without objection, your entire statement will be read into the record.

Mr. GARDINER. Thank you.

I would also ask, since we had believed that Senator Simon was going to be here earlier, that our correspondence with him about his bill be entered into the record as well.

Mr. SCHUMER. Without objection.

Mr. GARDINER. Thank you.

At the outset, I should emphasize that the NRA is, like everyone else here today, interested in having a responsible and fair firearms licensing policy. Without exception, the NRA is willing to work with all Members of Congress and the administration to craft legislation which addresses both the genuine needs of law enforcement to achieve real crime control and at the same time upholds the rights of law-abiding citizens and firearms dealers.

Turning to what we believe are the appropriate reforms of the Federal firearms licensing system, I should first point out that it is undisputed that the vast majority of firearms licensees are honest, hard-working citizens who strictly comply with Federal law. Certainly there has not been shown to be wholesale dishonesty or abuse in the firearms business in this country or that current laws need to be dramatically strengthened rather than actually enforced.

I should also point out that the large volume of Federal licenses was an intended consequence of the 1968 Gun Control Act. As those who were involved in the passage of that act will remember, the FFL process was devised in response to the prohibition on the

interstate sale and transfer of all types of firearms, which remains the law with the exception of long guns from dealers.

When the interstate sale or transfer of firearms was banned, Congress created various types of FFL's to ensure that no monopolies were created. In fact, it would not be incorrect to say that the original purpose of the FFL license was to create a sufficient number of licensees, all keeping records of transactions, to ensure that the legal supply of firearms could meet legal demand at reasonable prices so as not to make firearms ownership the exclusive realm of the elite and the wealthy.

I should point out that if the current fee for licenses is too low, BATF could, simply by regulation, lengthen the term of the license and, as a consequence, collect a larger license fee. For example, they could make it a 10-year license and collect the \$100 that Mr. Higgins earlier said was about what they need to do the background checks. The statute does not place any limits on their doing that. Indeed, up until about 10 years ago, it was a 1-year license; ATF, on its own, extended it to 3 years and charged \$30.

In keeping with that model of Federal law, ATF's enforcement and inspection powers were written to allow annual, unannounced inspections on every dealer and unlimited inspections when conducted in conjunction with a criminal investigation. Those who suggest that this inspection power is somehow inadequate are confusing enforcement power with lack of enforcement. The problem is not that BATF does not have the power to inspect dealers but, rather, they lack the personnel, and I might note, Mr. Chairman, that you were not correct in stating that the BATF cannot obtain records from dealers. In fact, subpoenas and search warrants and even the statutorily created administrative search warrant are available to ATF as they are to all other Federal agencies.

So too with ATF's ability to investigate and issue Federal firearms licenses. If there is a flaw in the current system it is again in lax enforcement and/or the lack of enforcement, and I was pleased to hear this morning—I guess earlier this afternoon—that Mr. Higgins is reorienting the directions of his inspectors.

The first reform of the current law that NRA would like to suggest relates to theft of firearms. NRA believes that trafficking in stolen firearms is a serious crime and deserves to be treated as such by Federal law. That is why we would like to see Federal legislation making it unlawful for a person to steal, take, or carry away from the person or premises of a person who is licensed to engage in the business of importing, manufacturing, or dealing in firearms any firearms in the licensee's business inventory that has been shipped or transported in interstate commerce. We believe that any person who commits such an offense during any robbery or riot should be sentenced to imprisonment for 30 years, no part of which may be suspended, or, if a death results, to life imprisonment without release or possibly even to the death penalty.

Second, we believe that the types of firearms a person with a collector's license—and that is one of the four types of licenses that is currently available—should be expanded so that collectors will be encouraged to obtain collectors' licenses and not dealers' licenses. I might note that this also could be done without additional legislation. It could be done simply by regulation by the BATF. In-

deed, I would think that this one change in the regulation, expanding the use of the collector's license—would probably eliminate virtually all of the concerns that have been expressed by a lot of the witnesses today. If that were to be done, BATF could therefore concentrate its inspections on true retail dealers.

Third, we would support a requirement that notification of the application for a license be provided to local law enforcement. Past and current legislative proposals to require approval by the chief local law enforcement officer before the issuance of a license are entirely inappropriate. When similar approval requirements have been mandated in the past, the rights of law-abiding individuals have been subject to abuse.

It is instructive to note, moreover, that such approvals cannot be mandated by the Federal Government under the U.S. Constitution pursuant to the U.S. Supreme Court's recent decision in *New York v. United States*. Requiring only notice removes the potential for arbitrary abuse while continuing to provide information to ensure compliance with State and local law.

Fourth, we would support a measure to help prevent the theft of firearms by limiting the unnecessary interstate shipping of firearms. ATF currently maintains that a licensee may not personally transfer a firearm to another licensee in a face-to-face exchange but must ship it from his licensed premises by common carrier, thereby exposing it to the risk of theft. We believe that a licensee should have the right to transfer or deliver firearms to, and receive firearms from, another licensee at any location without regard to the State which is specified on the license, thereby preventing thefts of firearms between licensees.

Fifth—and I think this is probably the most important because it fits in with what Mr. Higgins was saying earlier—we believe that adequate notice should be provided to all licensees of all State laws of revoked licenses and regulations. Indeed, the current law requires the ATF to publish and provide to all licensees a compilation of the State laws and published ordinances of which licensees are presumed to have knowledge. They are also required to provide all amendments to those laws.

Despite this law, passed in 1986, the last compilation of State laws provided by BATF to licensees is from 1989, and that information was already dated at that point. ATF has never provided to licensees amendments of State laws, much less done it on a yearly basis. We agree with Mr. Higgins that education about the Federal law is important. Complying with current law would be a very good place to start with that program.

In addition, ATF has no mechanism to inform licensees that a particular dealer's license has been revoked. We believe that such a mechanism should be created by Congress to mandate that.

Finally, ATF has no regular mechanism to notify licensees of rules, regulations, and rulings. The latest compilation of Federal laws was dated 1988, and I have set out in my written testimony some specific proposals about how to deal with some of these problems.

I would finally like to turn to the problems we see with the current administration of the law. In recent months, my office has received hundreds of inquiries from law-abiding citizens across the

United States concerning actions taken by agents of the BATF in regard to the issuance of Federal licenses. While not a comprehensive list of all the actions taken by ATF agents, the majority of inquiries involve the following:

ATF has informed applicants that a dealer license cannot be obtained unless the applicant is in compliance with State and local business and zoning laws. I was pleased to hear Mr. Higgins say this morning that he would look into that because that is not what he has directed the field to do. Unfortunately, that is what far too many agents in the field are doing. They have told applicants that they cannot have a dealer license for their residence, that they must sell a certain number of firearms per year and that they must have regular business hours. Indeed, in some cases applicants have been told that they must have permission of their landlord if their building is rented or leased or that they have to have an ATF-approved security system or security guards. In virtually all of these cases, the ATF has strongly urged the applicants to withdraw the application "voluntarily."

Mr. Chairman, none of these requirements is in Federal law. Indeed, it is ironic that the issues raised in the majority of inquiries have already been ruled on by the Federal appellate courts. The information being given to citizens is directly contrary to the rulings of those courts. For example, the U.S. Court of Appeals for the District of Columbia Circuit in an opinion by then Judge Scalia expressly held that Federal law does not require compliance with State and local law to obtain a Federal dealer license. As I said, I was pleased to hear earlier that Mr. Higgins is going to make some effort to ensure that agents in the field are going to start complying with that.

The court also held that Federal law does not require that an applicant for a Federal dealer license be engaged in a regular commercial enterprise. And in *NRA v. Brady*, out of the fourth circuit, the court held that Federal law does not require licensees who work out of private dwellings—and this is a quote—"to throw open their homes to the general public or even to observe regular business hours."

Yet despite these clear pronouncements of the Federal appellate courts, ATF agents, who are not generally members of the bar and in giving legal advice are likely engaging in the unauthorized practice of law, have intimidated law-abiding citizens into withdrawing applications.

I might note, Mr. Chairman, that the BATF's efforts I have just described may, to some degree, explain why ATF does not have the manpower, to enforce current law. If ATF would stick to enforcing the law as Congress has written it and the Federal courts have interpreted it, they would certainly have far more resources to go around.

In closing, Mr. Chairman, I am certain that while we may disagree as to what the law should be, we can agree that it is wrong for an enforcement agency to impose restrictions that Congress has not enacted. We hope that you and members of this committee will use your good offices to ensure that Congress, not the agencies, makes the laws.

Thank you.

Mr. SCHUMER. Thank you, Mr. Gardiner.  
[The prepared statement of Mr. Gardiner and correspondence with Senator Simon follow:]

PREPARED STATEMENT OF RICHARD E. GARDINER, LEGISLATIVE COUNSEL, NATIONAL RIFLE ASSOCIATION OF AMERICA, WASHINGTON, DC

Mr. Chairman and Members of the Committee, I appreciate having the opportunity to testify today on behalf of the 3.2 million members of the National Rifle Association and their families. My name is Richard Gardiner and I am the Legislative Counsel for the NRA. I have dealt extensively with the law on federal firearms licenses (FFLs) from a legislative and a litigation perspective, and am aware how and why the current system was developed. I am also aware of the impact which changes to the current system will have on FFLs.

At the outset, I should emphasize that the NRA is, like everyone else here today, interested in having a responsible and fair firearms licensing policy. Without exception, the NRA is willing to work with Members of Congress or of the Administration to craft legislation which addresses both the genuine needs of law enforcement to achieve real crime control and, at the same time, upholds the rights of law-abiding citizens and firearms dealers.

In regard first to the issue of firearms importers licenses, we support, and will continue to support, the right of law-abiding citizens to import lawfully produced products into our country. Under current law, a person who obtains an importer's license from the Bureau of Alcohol, Tobacco, and Firearms (BATF) may import firearms into this country that are "generally recognized as particularly suitable or readily adaptable to sporting purposes," rifles and shotguns that are "curios and relics" as defined by BATF, and handguns that are "curios and relics" if they also meet the "sporting purposes" test. To import a firearm, the licensed importer must apply for, and receive, specific authorization from the BATF. I might note that many imported firearms are semi-automatic firearms, which are the primary competition firearm produced today, are a mainstay of any firearms collection having been produced for over one hundred years, and remain a tool of self-defense for millions of decent, honest Americans and their families.

Turning to what NRA believes are appropriate reforms of the federal firearms licensing system, I should first point out that it is undisputed that the vast majority of firearms licensees are honest, hard-working citizens who strictly comply with federal law. Certainly there has not been shown to be wholesale dishonesty or abuse in the firearms business in this country, or that current laws need to be dramatically strengthened, rather than actually enforced. To those who suggest otherwise, I would urge that they examine the empirical evidence. For instance, how many FFL licenses have been revoked, how many gun trafficking charges have been prosecuted against firearms licensees, and what is the average sentence that has been levied on offenders? Obviously, if the law is being seriously enforced, this data should be available for review. The absence of such data should signal to an objective observer that there is either not a problem, or that those charged with enforcing the law are not taking the problem seriously.

I should also point out that the large volume of dealer licenses was an intended consequence of the 1968 Gun Control Act. As those who were involved in the passage of the 1968 Gun Control Act will remember, the FFL process was devised in response to the prohibition on the inter-state sale or transfer of firearms. When the inter-state sale or transfer of firearms was banned, Congress created the FFL to ensure that no monopolies were created. In fact, it would not be incorrect to say that the original purpose of the FFL license was to create a sufficient number of FFL dealers, keeping records of all transactions, to ensure that legal supply of firearms could meet legal demand at reasonable prices so as not to make firearms ownership the exclusive realm of the wealthy.

In keeping with that model, BATF's enforcement and inspection powers were written to allow annual unannounced inspections on every dealer, and unlimited inspections when conducted in conjunction with a criminal investigation. Those who suggest that this inspection power is somehow inadequate are confusing enforcement power with lack of enforcement. The problem is not that the BATF does not have the power to inspect dealers—but rather that they lack the manpower. So, too, with the BATF's ability to investigate and issue FFL's. If there is a flaw in the current system, it is, again, in lax enforcement and or the lack of enforcement. Any suggestion that BATF requires unlimited time is insupportable. In fact, a recently released GAO report found that, except in a very few cases, the 45 day maximum time period is more than adequate.

The first reform that the NRA would like to suggest relates to the theft of firearms. NRA believes that trafficking in stolen firearms is a serious crime, and deserves to be treated as such. Specifically, we believe that, until criminal behavior is penalized commensurate with the actual impact of the crime, such behavior is going to increase. That is why we would like to see federal legislation making it unlawful for a person to steal, take, and carry away from the person or the premises of a person who is licensed to engage in the business of importing, manufacturing, or dealing in firearms, any firearm in the licensee's business inventory that has been shipped or transported in interstate commerce. We also believe that any person who commits such an offense during any robbery or riot should be sentenced to imprisonment for thirty years, no part of which may be suspended or, if a death results, to life imprisonment without release or to death.

Second, we believe that the types of firearms a person holding a collector's license can collect should be expanded so that collectors will be encouraged to obtain the collector's license. BATF can therefore concentrate its inspections on true retail dealers. Collectors obtain firearms for their personal collection and not for a business inventory and retail sale.

Third, we would support a requirement that notification of the application for an FFL be provided to local law enforcement. Past and current legislative proposals to require approval by the local chief law enforcement officer before the issuance of an FFL are entirely inappropriate. When similar approval requirements have been mandated in the past, the rights of law-abiding individuals have been subject to abuse. It is instructive to note, moreover, that such approvals cannot be mandated by the federal government under the U.S. Constitution pursuant to the Supreme Court's recent decision in *New York v. United States*, 112 S.Ct. 2408 (1992). Requiring notice only removes the potential for arbitrary abuse, while continuing to provide information to ensure compliance with local and state ordinances. Moreover, the process removes BATF from the equation in what is not an issue of federal concern.

Fourth, we support a measure to help prevent the theft of firearms by limiting the unnecessary interstate shipping of firearms. BATF currently maintains that a licensee may not personally transfer a firearm to another licensee in a face to face exchange, but must ship it from his licensed premises by common carrier, thereby exposing it to the risk of theft. We believe that a licensee should have the right to transfer or deliver firearms to, and receive firearms from, another licensee at any location without regard to the State which is specified on the license, thereby preventing thefts of firearms shipments between licensees.

Fifth, we believe that adequate notice should be provided to all licensees of state laws, revoked licenses, and regulations. Section 110(a) of the Firearms Owners' Protection Act, P.L. 9908, 100 Stat. 460-61 (1986) provides:

(The Secretary shall publish and provide to all licensees a compilation of the State laws and published ordinances of which licensees are presumed to have knowledge pursuant to chapter 44 of title 18, United States Code, as amended by this Act. All amendments to such State laws and published ordinances as contained in the aforementioned compilation shall be published in the Federal Register, revised annually, and furnished to each person licensed under chapter 44 of title 18, United States Code, as amended by this Act.

Despite this command, and BATF's own regulation, 27 C.F.R. § 178.24, the last compilation of State laws provided by BATF to licensees is dated 1989. BATF has never provided to licensees any amendments to the State laws, much less done it on a yearly basis. Yet knowledge of State laws by licensees is necessary for compliance with the Gun Control Act.

In addition, BATF has no mechanism to inform licensees that a particular dealer's license has been revoked. Section 926(a) provides that the Secretary may prescribe regulations providing that a licensee shall provide to another licensee a certified copy of his license, and for the issuance of certified copies. See 27 C.F.R. § 178.95. The transferee of a firearm must furnish a certified copy of his license to the transferor, who may rely on that license until it expires. 27 C.F.R. § 178.94.

Finally, BATF has no regular mechanism to notify licensees of rules, regulations, and rulings. The latest compilation of federal regulations and rulings provided by BATF to licensees is dated 1988.

In the interests of both fairness and law enforcement, BATF should provide to licensees, on a timely basis, amendments to State laws, notice of revoked licenses, and notice of regulations and rulings. In view of the fact that such a requirement for annual notice has been ignored by BATF each year since 1989, such require-

ments must be coupled with mechanisms to make BATF follow Congress' commands. What we propose is that;

In addition to such other requirements of law as may be applicable, no rule or regulation shall be effective until thirty days after being mailed to all persons licensed under this chapter.

The Secretary shall publish and provide to all licensees a compilation of the State laws and published ordinances which are pertinent to compliance with this chapter. Each year thereafter, the Secretary shall publish and provide to licensees all amendments to such State laws and published ordinances. Failure of the Secretary to do so would create a rebuttable presumption that the licensee had no knowledge of the applicable law.

The Secretary shall publish and provide to all licensees, not less than on a quarterly basis each year, all official rulings concerning this chapter and concerning chapter 53 of Title 26, United States Code.

The Secretary shall publish and provide to all licensees, at such times as he shall deem necessary, the names and license numbers of all revoked firearms licensees.

I would finally like to turn to the problems we see with the administration of the current licensing system.

In recent months, my office has received hundreds of inquiries from law-abiding citizens across the United States concerning actions taken by agents of the BATF in regard to the issuance of federal dealer licenses. While not a comprehensive list of all the actions taken by BATF agents, the majority of inquiries have involved the following: the BATF has informed applicants that a federal dealer license cannot be obtained unless the applicant is in compliance with state and local business and zoning laws; that applicants cannot have a dealer license for their residence; that applicants must sell a certain number of firearms per year; and that applicants must have regular business hours. In some cases, applicants have been told that they must have permission of the landlord when their licensed premises are rented or leased or that they must have BATF-approved security systems. In virtually all of these cases, the BATF has strongly urged the applicants to withdraw the application "voluntarily" without explaining to the applicant what his federal statutory rights are.

Mr. Chairman, none of these requirements is in federal law. Indeed, it is ironic that the issues raised in the majority of inquiries have already been ruled on by the federal appellate courts. And the information being given to citizens is directly contrary to the rulings of the courts. For example, the U.S. Court of Appeals for the District of Columbia Circuit, in an opinion by then Judge Scalia, has expressly held that federal law does not require compliance with state and local law to obtain a federal dealer license. *National Coalition to Ban Handguns v. Bureau of Alcohol, Tobacco, and Firearms*, 715 F.2d 632 (D.C. Cir. 1983). The court also held that federal law does not require, that an applicant for a federal dealer license be engaged in a regular commercial enterprise. And, in *NRA v. Brad*, 914 F.2d 475 (4th Cir. 1990), the U.S. Court of Appeals for the Fourth Circuit held that federal law does not require licensees who work out of private dwellings "to observe regular business hours." Yet, despite these clear pronouncements of the courts, BATF agents—who are generally not members of the bar and, in giving legal advice, are likely engaging in the unauthorized practice of law—intimidated law-abiding citizens into withdrawing applications.

Mr. Chairman, I am certain that, while we may disagree as to what the law should be, we can agree that it is wrong for an enforcement agency to impose restrictions that Congress has not enacted. We hope that you, and members of the committee, will use your good offices to ensure that Congress, not the enforcement agencies, make the laws.



NATIONAL RIFLE ASSOCIATION OF AMERICA  
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April 19, 1993

The Honorable Paul Simon  
 United States Senate  
 462 Senate Dirksen Office Building  
 Washington, D.C. 20510

Dear Senator Simon:

I was recently contacted by an NRA member who told me, in response to his question regarding S. 496, a bill introduced by you which significantly alters current Federal Firearms License (FFL) standards, costs, and procedures, that your response was 'the NRA is very supportive of my bill'. Without having been privy to this conversation, I cannot respond to the veracity of this statement or the accuracy of the questions which you were asked.

In light of the importance of this issue to the literally hundreds of thousands of law-abiding firearms retailers and collectors who will be directly and dramatically affected by the changes you have proposed, I thought it instructive to reiterate our views presented to you in testimony by Richard Gardiner, Legislative Counsel for NRA-ILA, at the Senate Governmental Affairs, Subcommittee on Federal Oversight, on March 26, 1993. I have enclosed a copy of our written testimony which outlines in detail our comments on S. 496, and the outline of reforms to the current law which we think would help to promote a more fair and effective system. Briefly, the reforms we would like to see are as follows.

We strongly believe that the penalties for firearms theft and gun trafficking should be dramatically strengthened -- and stringently prosecuted. In particular, we strongly support life imprisonment, or the death penalty where applicable, when a death results from a crime committed against a federal licensee during a robbery, riot, or insurrection. We would support an affirmative fingerprint and photographic check on dealer, importer, and manufacturer applicants to minimize the risk of criminals being granted licenses. We welcome an interpretation by BATF of the law governing the use and responsibilities of a licensee in line with its original legislative intent. In particular, a more reasonable interpretation of "face-to-face" exchanges between FFL holders would facilitate a fairer, more honest and secure process for everyone. We would also welcome a more workable application of the uses to which a collector's license may be put, consistent with the actual needs of a bona fide collector.

It would also be extremely instructive to licensed dealers, and help to insure a more honest process, if BATF would comply with existing law in regard to publishing the annual notification to dealers of changes to state and local laws. It should also be noted that if BATF were actually to provide to dealers a regular listing of active dealers, as well as those dealers whose licenses have been revoked, it would substantially alleviate the problem of sales to such dealers. In regard to S. 496, our comments are as follows.

- Your proposal to increase the licensing fee from the current \$10 a year to \$750 is excessive and completely unjustified by current or past circumstance. We do not oppose increasing the licensing fee to recover the actual cost of the licensing process. However, a \$750 yearly fee will work a severe hardship on many small retail operations and dealers, and is more than five times what Stephen Higgins, the Director of BATF, testified as the actual cost of conducting an investigation and issuing a license.
- S. 496 displays a somewhat disconcerting perspective regarding the actual problems involved with legally moving firearms in interstate commerce. Strengthening the requirements that firearms moving in commerce be readily identifiable as such and that a carrier deliver only to a specific individual, with a signature for verification, will do little to effectuate a more honest process. The most profound effect of these new requirements will be to spotlight firearms and firearms dealers to the public at large, which should contribute the already significant problem of firearms theft. The affirmative delivery requirements will dramatically increase the liability of common carriers for errors, but add nothing to the prevention of fraudulent sales. To understand this issue from the proper perspective one need only substitute the word "currency" or "precious jewels" for the word "firearm" as used in this section.
- The requirement in S. 496 for BATF to issue or withhold licenses based on local laws is unworkable and will result in a diminution of the effectiveness of BATF's overall manpower and resources. As you may know, BATF currently has approximately fifty full time counsel nationwide. Requiring BATF to interpret local zoning and business ordinances would quickly become a full-time job which is neither feasible or desirable from anyone's perspective. We support requiring that a copy of the application be provided to the local authorities for review which should address the problem.
- The time period for the approval of a license should not be changed to make it open-ended, particularly since neither BATF nor a recent GAO report on this issue contends that the 45 day issuance period present a problem. If more time is actually required for the investigation and issuance of a license, we believe the case should be publicly made, at which time we would comment on the time period. Leaving the requirement open-ended is a prescription for abuse, and something we strongly oppose.

STATEMENT OF RICHARD E. GARDINER, LEGISLATIVE COUNSEL, NATIONAL RIFLE ASSOCIATION OF AMERICA, WASHINGTON, DC, BEFORE THE SENATE SUBCOMMITTEE ON FEDERAL SERVICES, MARCH 26, 1993

In regard to mandatory reporting of theft of loss of firearms, your bill confuses two very different issues. It is difficult to justify the imposition of criminal penalties, as S. 496 requires, juxtaposed against circumstances which may have less to do with wrongdoing than simple business inventory practices. Suffice it to say that we do not disagree with your ostensible intent, but we suggest that more equitable changes would prescribe only civil penalties and allow for a more reasonable time for reporting.

Lastly, we strenuously oppose asking licensee to allow BATF or any other law enforcement agency unrestricted access to their records and business premises, other than in the course of a criminal investigation. Moreover, given the fact that BATF now inspects only about 10% of all FFL holders yearly, it would seem reasonable, before changing current law, to justify how or why the needs of law-enforcement will be served by such a change. Further, increases resources for BATF inspectors should be considered under current federal restrictions.

There is absolutely no one more interested in advancing the common goal of keeping firearms out of the hands of criminals, and other prohibited persons, while maintaining essential constitutional guarantees, than the NRA. And, I might add, this fact pertains to the overwhelming majority of licensed dealers as well. We are sincere in our commitment to assist anyone concerned with drafting or advocating policies which will serve to maintain or advance responsible firearms ownership among law-abiding citizens. Please let me know how we can help.

Sincerely,

*James Jay Baker*  
James Jay Baker

Mr. Chairman and Members of the Committee, I appreciate having the opportunity to testify today. My name is Richard Gardiner and I am the Legislative Counsel for the National Rifle Association of America. I have dealt extensively with the law on federal firearms licenses (FFLs) from a legislative and a litigation perspective, and am aware how and why the current system was developed. I am also aware of the impact which changes to the current system will have on FFLs.

At the outset, I should emphasize that the NRA is, like everyone else here today, interested in having a responsible and fair firearms licensing policy. Without exception, the NRA is willing to work with Members of Congress or of the Administration to craft legislation which both addresses the genuine needs of law enforcement to achieve real crime control and, at the same time, upholds the rights of law-abiding citizens and firearms dealers.

Let me begin by expressing the NRA's neutrality regarding the question of whether allowing importation into this country of products manufactured by the Chinese military is an appropriate policy. In our view, this is a foreign policy issue; not a question of the Second Amendment rights of Americans nor, based on the criminological data available, a crime control issue. Organizationally, we believe it is, or perhaps should be, instructive to those who would disarm the American people that, in a country in which thousands, and perhaps tens of thousands, of young people we're slaughtered by the government a few short years ago, the only people who have firearms are the military and those firearms are produced by slave labor.

In regard to the issue of firearms importers licenses, we support, and will continue to support, the right of law-abiding citizens to import lawfully produced products into our country. Under current law, a person who obtains an importer's license from the Bureau of Alcohol, Tobacco, and Firearms (BATF), may import firearms into this country that are "generally recognized as particularly suitable or readily adaptable to sporting purposes," rifles and shotguns that are "curios and relics" as defined by BATF, and handguns that are "curios and relics" if they also meet the "sporting purposes" test. To import a firearm, the licensed importer must apply for, and receive, specific authorization from the BATF. It is under this law that firearms manufactured in China are imported. I might note that many of the imported firearms are semi-automatic firearms, which are the primary competition firearm produced today, are a mainstay of any firearms collection, having been produced for over one hundred years, and remain a tool of self-defense for millions of decent, honest Americans and their families.

I might further note that there is no evidence that these firearms, are at present, a significant factor in, or becoming a significant factor in, crime in the streets. To those who suggest otherwise, let them come forward with the empirical data to buttress their claims. NRA has repeatedly urged Congress and the Executive branch to request from the states information concerning the makes and models of firearms that are used to commit violent crimes so that the notion that certain types of firearms are used to commit violent crimes can be put to rest.

Turning to what NRA believes are appropriate reforms of the federal firearms licensing system, I should first point out that it is undisputed that the vast majority of firearms licensees are honest, hard-working citizens who strictly comply with federal law. Certainly there has not been shown to be wholesale dishonesty or abuse in the firearms business in this country, or the current laws need to be dramatically strengthened, rather than actually enforced. To those who suggest otherwise, I would urge that they examine the empirical evidence. For instance, how many FFL licenses have been revoked, how many gun trafficking charges have been prosecuted against firearms licensees, and what is the average sentence that has been levied on offenders? Obviously, if the law is being seriously enforced this data should be available for review. The absence of such data should signal to an objective observer that there is either not a problem, or that those charged with enforcing the law are not taking the problem seriously.

I should also point out that the large volume of dealer licenses was an intended consequence of the 1968 Gun Control Act. As those who were involved in the passage of the 1968 Gun Control Act will remember, the FFL process was devised in response to the prohibition on the inter-state sale or transfer of firearms. When the inter-state sale or transfer of firearms was banned, Congress created the FFL to ensure that no monopolies were created. In fact, it would not be incorrect to say that the original purpose of the FFL license was to create a sufficient number of FFL dealers, keeping records of all transactions, to ensure that legal supply of firearms

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could meet legal demand at reasonable prices so as not to make firearms ownership the exclusive realm of the wealthy.

In keeping with that model, BATF's enforcement and inspection powers were written to allow annual unannounced inspections on every dealer, and unlimited inspections when conducted in conjunction with a criminal investigation. Those who suggest that this inspection power is somehow inadequate are confusing enforcement power with lack of enforcement. The problem is not that the BATF does not have the power to inspect dealers—but rather that they lack the manpower. So, too, with the BATF's ability to investigate and issue FFL's. If there is a flaw in the current system it is, again, in lax enforcement, and or the lack of enforcement. Any suggestion that BATF requires unlimited time is insupportable. In fact, a recently released GAO report found that, except in a very few cases, the 45 day maximum time period is more than adequate.

The first reform that the NRA would like to suggest relates to the theft of firearms. NRA believes that trafficking in stolen firearms is a serious crime, and deserves to be treated as such. Specifically, we believe that, until criminal behavior is penalized commensurate with the actual impact of the crime, such behavior is going to increase. That is why we would like to see federal legislation making it unlawful for a person to steal, take, and carry away from the person or the premises of a person who is licensed to engage in the business of importing, manufacturing, or dealing in firearms, any firearm in the licensee's business inventory that has been shipped or transported in interstate commerce. We also believe that any person who commits such an offense during any robbery or riot should be sentenced to imprisonment or thirty year, no part of which may be suspended or, if a death results, to life imprisonment without release or to death.

Second, we believe that applicants for an importer's, manufacturer's, or dealer's license should be required to submit fingerprints for the purposes of conducting a criminal record check. By no stretch of the imagination do we believe, however, that such a requirement should be extended to any transactions involving private citizens, and would strenuously oppose such an extension.

Third, we believe that the types of firearms a person holding a collector's license can collect should be expanded so that collectors will be encouraged to obtain the collector's license. BATF can therefore concentrate its inspections on true retail dealers. Collectors obtain firearms for their personal collection and not for a business inventory and retail sale.

Fourth, we would support a requirement that notification of the application for an FFL be provided to local law enforcement. Past and current legislative proposals to require approval by the local chief law enforcement officer before the issuance of an FFL are entirely inappropriate. When similar approval requirements have been mandated in the past, the rights of law-abiding individuals have been subject to abuse. It is instructive to note, moreover, that such approvals cannot be mandated by the federal government under the U.S. Constitution. Requiring notice removes the potential for arbitrary abuse, while continuing to provide information to ensure compliance with local and state ordinances. Moreover, the process removes BATF from the equation in what is not an issue of federal concern.

Fifth, we would support increase in the fees for FFL licenses, but certainly not to the levels suggested in S. 496, recently introduced by Senator Simon, that would increase the fees seventy-five times current levels.

Sixth, we support a measure to help prevent the theft of firearms by limiting the unnecessary interstate shipping of firearms. BATF currently maintains that a licensee may not personally transfer a firearm to another licensee in a face to face exchange, but must ship it from his licensed premises by common carrier, thereby exposing it to the risk of theft. We believe that a licensee should have the right to transfer or deliver firearms to, and receive firearms from, another licensee at any location without regard to the State which is specified on the license, thereby preventing thefts of firearms shipments between licensees.

Seventh, we believe that adequate notice should be provided to all licensees of state laws, revoked licenses, and regulations. § 110(a) of the Firearms Owners' Protection Act, P.L. 99-308, 100 Stat. 460-61 (1986) provides:

[The Secretary shall publish and provide to all licensees a compilation of the State laws and published ordinances of which licensees are presumed to have knowledge pursuant to chapter 44 of title 18, United States Code, as amended by this Act. All amendments to such State laws and published ordinances as contained in the aforementioned compilation shall be published in the Federal Register, revised annually, and furnished to each person licensed under chapter 44 of title 18, United States Code, as amended by this Act.

Despite this command, and BATF's own regulation, 27 C.F.R. § 178.24, the last compilation of State laws provided by BATF to licensees is dated 1989. BATF has never provided to licensees any amendments to the State laws, much less done it on yearly basis. Yet knowledge of State laws by licensees is necessary for compliance with the Gun Control Act.

In addition, BATF has no mechanism to inform licensees that a particular dealer's license has been revoked. § 926(a) provides that the Secretary may prescribe regulations providing that a licensee shall provide to another licensee a certified copy of his license, and for the issuance of certified copies. See 27 C.F.R. § 178.95. The transferee of a firearm must furnish a certified copy of his license to the transferor, who may rely on that license until it expires. 27 C.F.R. 178.94.

Finally, BATF has no regular mechanism to notify licensees of rules, regulations, and rulings. The latest compilation of federal regulations and rulings provided by BATF to licensees is dated 1988.

In the interests of both fairness and law enforcement, BATF should provide to licensees, on a timely basis, amendments to State laws, notice of revoked licenses, and notice of regulations and rulings. In view of the fact that such a requirement for annual notice has been ignored by BATF each year since 1989, such requirements must be coupled with mechanisms to make BATF follow Congress' commands. What we propose is that;

In addition to such other requirements of law as may be applicable, no rule or regulation shall be effective until thirty days after being mailed to all persons licensed under this chapter.

The Secretary shall publish and provide to all licensees a compilation of the State laws and published ordinances which are pertinent to compliance with this chapter. Each year thereafter, the Secretary shall publish and provide to licensees all amendments to State laws and published ordinances. Failure of the Secretary to do so would create a rebuttable presumption that the licensee had no knowledge of the applicable law.

The Secretary shall publish and provide to all licensees, not less than on a quarterly basis each year, all official rulings concerning this chapter and concerning chapter 53 of title 26, United States Code.

The Secretary shall publish and provide to all licensees, at such times as he shall deem necessary, the names and license numbers of all revoked firearms licensees.

I would finally like to turn to Senator Simon's bill, S. 496, which would make substantial changes to the current FFL system. Some of the "reforms" which the bill suggests as necessary will not only have a detrimental impact on the conduct of legal firearms transactions, but will also lead to an increased incidence of theft and illegal firearms trafficking and black market activity.

Mr. Chairman, there are sections of the Simon bill that we can support, there are provisions with which we do not agree, and we will tell you exactly why, and there are particular areas that Senator Simon touches on in which we believe the process should be strengthened.

#### POINT-BY-POINT ANALYSIS OF S. 496

Section 1, "Identification of Recipient of Firearm", would amend Section 922(e) in two interrelated ways. First, it would require a person to notify a common carrier that the person is shipping a firearm to a licensee, such as to a manufacturer for repair of a firearm. Current law does not require such notice, and with good reason. Firearms, like cash, jewels, drugs or a host of other products are a fungible commodity. Current law helps prevent theft by employees of the common carrier, because a shipper need not disclose the nature of the article being shipped.

There are no exact figures for the amount of firearms which are stolen each year moving in commerce, but just last year some 850 firearms were stolen from by a UPS driver in Alexandria, Virginia. All rhetoric to the contrary, an unloaded firearm is not an inherently dangerous item to be transported at the peril of the carrier, such as hazardous chemicals or nuclear materials. Attaching a "this box contains a firearm" label in the real world, as S. 496 suggests is appropriate, is roughly analogous to attaching a "steal this box" label. We believe that legislation expressly forbidding identification of a container as containing a firearm is far preferable.

The second part of Section 1 would make it a crime for a common carrier not to identify the person to whom a firearm is delivered. Current firearms law requires that firearms transported in interstate shipping be conveyed only to lawful parties. If there is a problem with fraud, or receipt by an unlawful party, it is impractical to place a burden of knowledge on a common carrier that is not sustained by the original transferor. While we understand and agree with the intent of this section,

we believe that the language can be improved upon to remove ambiguity and clarify the exact duties of common carriers when delivering firearms. Thus, we would support language which would require the signature of the recipient of a firearm, an already common practice in the industry.

Section 2, "Sale of Firearm or Ammunition Having Reasonable Cause to Believe it will be Used by Another Person to Commit a Crime of Violence". Section 2 would further criminalize what is already a serious felony under state homicide law, which punishes an accessory before the fact, conspirators, and aiders and abettors. We agree with the ostensible intent of the section, and urge only that language be inserted to maintain the interstate commerce nexus of current federal law.

Section 3, regarding the "License Application Fees for Dealers" is unreasonable and excessive. We agree that there should be an increase in the fee, particularly since the fee for an FFL has not increased since 1968. However, in proposing a fee of \$750.00 the drafters of this legislation are unaware of the realities of the current firearms industry. \$750.00 may be a pittance in Washington D.C., but at the general store in Clifton, Tennessee, or Piggot, Arkansas or Grafton, Illinois it is the difference between keeping the odd shotgun or rifle for your local customers and making them drive to the Wal-Mart. A fee increase to \$50 per year we believe is a fair increase. Certainly, if evidence is presented to justify a larger increase, we would consider it objectively. However, using licensing fees to drive out the smaller dealers is entirely inappropriate.

Section 4, "Action on the Application for License". This section would repeal Section 923(d)(2). This particular change highlights a rather sad irony. As currently written, the provision requires the Secretary to act on a license in 4 days; allows a person to sue for a writ of mandamus to require the Secretary to act on the license if the Secretary does not do so; and requires the Secretary, once he approves the application, to issue the license upon payment of the fee. These requirements are necessary to protect the due process rights of applicants. We would support, however, extending the time period, in line with what the actual time required to do a thorough background check, although we would object strenuously to leaving the time frame open-ended and therefore subject to abuses.

The irony to which I previously referred, is that some of the proponents of the Brady Bill—of which Senator Simon is one—which requires a 5-7 day wait, depending on the version of the bill, argue strenuously that this is adequate time to do a background check on handgun purchasers. Yet, some of those same individuals supporting this bill, now appear to be arguing that multiplying the time period by 9 times is inadequate. It would be interesting, and perhaps instructive, to discover the rationale for such an inconsistency.

In regard to Section 5, "Compliance with State and Local Law as Condition to License", we believe this puts the federal government in the business of interpreting thousands of often complex and changing zoning ordinances that are within the purview of local civil authorities and are not even local law enforcement matters. Federal regulations should remain focused on the enforcement of laws that seek to prevent the acquisition of firearms by criminals, the ostensible rationale for introducing this legislation.

As an alternative, and in addressing an ongoing concern regarding obedience by FFL holders of local and state ordinances, we propose that an applicant show evidence of having notified local authorities. We believe this is both the most feasible and fair mechanism for insuring compliance by an FFL holder. Moreover, it should serve notice to, and help to screen those applicants who are attempting to receive or conduct a firearms business under false pretenses.

Section 6, "Inspections of Firearms Licensees". This would delete current federal requirements that compliance inspections take place no more than once every year. Obviously our concern with this provision centers on balancing the reasonable requirements of law enforcement with the necessity of being free from unnecessary harassment. Under current law, BATF may conduct an unannounced yearly inspection of any FFL dealers records and inventory at any time. Additionally, BATF has access to the records and inventory of the licensee at any time to conduct bona fide criminal investigations. Given the demands an inspection may place on an FFL holder and his business establishment in providing access to an agent or a team of agents, it is not unreasonable to require that such inspections be limited to the actual need to conduct them.

Section 7, "Reports of Theft or Loss of Firearms". We believe that it is not appropriate to treat theft and loss equally; penalties for not reporting losses should not be included. First, licensees already have every incentive to report firearm thefts to local authorities, who are free to contact BATF should any need arise. As a practical matter, BATF is hardly in a position to collect, collate, store, or even to access information on stolen firearms within 24 hours. It is unjust to punish a crime victim

with a felony—again involving severe criminal penalties for noncompliance—not reporting the crime within 24 hours. We would, therefore, urge to at the time to report thefts be expanded to a more reasonable 5 business days and that the report be made either to the BATF or the chief law enforcement officer of the locality.

In regard to requiring that the "loss" of a firearm to be reported within 24 hours, there are a few points which should be raised. First, it is hard to discover what purpose is served by to this provision. As a matter of routine business, large firms frequently cannot locate inventory on their premises for commercially reasonable periods of time. The important fact remains that such items remain within the control of the business and, as such, may normally be expected to be located in time; a criminal penalty is unwarranted. It must also be remembered that a felony penalty, for which the sentence is in excess of one year's time, permanently bars the owner of a firm from continuing in business. To levy a such a penalty would result not only on a hardship for an individual but would extend to other individuals dependent on the firm for employment.

Section 8, "Responses to Requests for Information." Currently, licensees already communicate with BATF in connection with lawfully conducted traces. Thus, we would have no objection to this proposal if it was made clear that the request had to be in writing or in person to ensure that it was the BATF communicating with licensees. In addition, the proposal should make clear that it applies only to traces of firearms in the course of a bona fide criminal investigation.

Section 9, "Registration to Require a Photograph and Fingerprints". We concur with this proposal.

In closing, Mr. Chairman, we support many of the provisions of S. 496 and general reforms to the FFL process and stand ready to assist in the drafting of more responsive provisions where we do not agree.

Mr. SCHUMER. Let me ask you a couple of questions here. First, I have received testimony from the National Alliance of Stocking Gun Dealers which basically agrees with the kinds of things that I am talking about, and these are legitimate gun dealers who sell guns, and none of us want to put them out of business.

[The prepared statement of the National Alliance of Stocking Gun Dealers follows:]



## NATIONAL ALLIANCE OF STOCKING GUN DEALERS

15 May 1993

Mr David Yassky  
Majority Counsel  
Crime And Criminal Justice Subcommittee  
Room 362, Ford House Office Building  
Washington, D.C. 20515

Dear Mr Yassky,

As Congress once again lays out its plans to defeat the criminal element, I would like to offer any assistance that we can possibly be in your efforts. No one has a greater self-interest in seeing to it that criminals don't get their hands on firearms than those of us who have invested our life's savings in the legitimate firearms trade.

No legitimate manufacturer, distributor or retail dealer wants to lose his life's savings, his business, his means of earning a living because some human predators misuse the product that we sell.

Over the next few months and years you will hear all sorts of proposals that will "solve" all our problems with predators who use firearms in the conduct of their criminal activities. The problem with most of the proposals that you will hear is that the proponents don't understand what is really happening now and thus are ill equipped to offer workable solutions.

I have always believed that you cannot devise a real solution until you have properly defined the problem that is to be solved.

If we can start with the assumption that we must come to grips with the flow of firearms to the criminal element and to children, then we can start defining the problem.

Conventional "wisdom" of the kind touted by the Bureau of Alcohol, Tobacco and Firearms (BATF) information office is that the principle source of firearms for criminals are stolen firearms. There are two flaws in this argument.

1. The sheer volume of firearms in criminal hands and in the hands of unauthorized youth, exceeds by orders of magnitude, the numbers of firearms reported or known to be stolen.

2. The best way to derail an attempted trace of a firearm that was deliberately sold into the black market is to simply report to the BATF tracing officer that the firearm was stolen. End of trace!

In addition the simple fact that the BATF is unsuccessful in so many trace efforts of firearms used by criminals should have long ago rung a bell that their vaunted "tracing system" has holes in it as big as Greyhound buses.

After several years of careful research, we say to you that in your state as in the other 49 states, the principle source of firearms for the criminal element is that self-same BATF! Now let me tell you how it is done.

The BATF is charged by federal statute with the regulation of the firearms industry. Most law enforcement agencies and most law-makers in the various states believe that the BATF truly does regulate the firearms industry. It simply isn't true! Here's why.

The BATF has issued more than 286,000 Federal Firearms Dealer's Licenses throughout the United States. It is imperative that you understand what this \$30.00 piece of paper really does.

This little federal license (FFL) allows interstate access to the entire gamut of firearms (excluding machine-guns) anywhere in the United States. This little piece of paper is all that is required to obtain all these firearms at dealer's prices direct from any distributor or manufacturer in the country.

The FFL allows an unscrupulous individual to simply ignore local and state requirements of any kind and operate in the

firearms black market at will. Also quite profitably. For example a Davis 380 semi-auto pistol that costs \$59.95 and may bring a legitimate dealer a sales price of \$69.95 can earn a street price of \$250.00 and up.

No papers, no permits, no questions earns a much higher price on the street where no criminal wants to positively identify himself in the purchase of a firearm.

So, how do you take part in this lucrative firearms black market? Easy, call the BATF and they will send you a Form 7 application for a license. Fill out the form, lie when they ask for real business information(it truly is a business license in the law but the BATF hasn't treated it that way for years) enclose \$30.00 for three year's fees and send the form to the BATF.

In a short period of time the BATF will send you a Federal Firearms Dealer's License.

Now if you wish to stay in the black market unhampered by anyone, don't tell the state, county or city that you are peddling firearms and don't put up any signs that would point out that you are a gun-peddler. Besides the state, county and city will want to license you, regulate you and tax you if they find out about you. They also might frown on your black market activities.

You must now obtain a copy of Shotgun News or the Gun List wherein you will find listings of all the thousands of firearms from anywhere in the country that you now have access to and the prices that you will pay to order them and have them shipped to your doorstep by UPS. The folks who are ostensibly "distributors" doing business through these papers know full well that most of their sales are to black-marketeers, so they won't ask very many questions that might tend to expose you and lose the sale for them.

Two days later the UPS man pounds on the door of your home and asks you to sign for this heavy package. You do so, and

lo and behold when you open the package you are fondling your very first shipment of firearms.

The next step is to not log them in your bound book as required by Federal law but to load them in the trunk of your car and do a slow cruise through the portion of your town where you never see a police cruiser and learn to bargain with the denizens of the street for the most dollars you can get for the favored small autos and revolvers.

If you wish to maximize profits as a street dealer than you should find a "friend" from one of the larger cities in any state where the firearms laws are most stringent. The same Davis 380 that will bring \$250.00 in Charlotte or Raleigh will easily earn \$400.00 on the streets of Washington, D.C. or New York or Jersey City. A trip to D.C or New York City every other weekend will earn enough that you won't need your "regular" job any more.

Top dollar for your efforts, work out of your own home, work any hours that you choose, no local, state or federal taxes and the BATF will send you a license renewal to your home before the thing expires. What more could an entrepreneur ask for?

In addition the BATF doesn't inspect your operation for compliance with the federal laws unless you have a storefront business open to the public the way it is supposed to be. Since no one at the state or local level even knows that you exist, you are free to do as you choose.

If doing business directly with street predators and the night hours are a little more than you bargained for, then there is another consideration for a little black market income. The BATF has established rules and regulations for these things they call "gun shows". The opportunity for the black marketeers is that the BATF doesn't enforce those regulations and there isn't anyone else to do so.

Consequently there are literally hundreds of "gun shows" scattered around the country where you may rent tables, display your wares, sell what you please to whomever you

please and once again the sale that is made with no records, no questions and no papers, earns the highest sales price.

The near weekly Charlotte, N.C. show is fairly small in comparison with shows like Houston, Texas but it is a reliable source of firearms for North Carolina's criminal element. There will be the traveling gun show dealers from out of state in addition to our own black marketeer dealers to provide a plethora of firearms to please any desire.

If there are any legitimate dealers there who are selling only with pistol purchase permits, there is almost always someone who has a pad of permit forms that you can buy and fill out yourself so that you won't miss a purchase.

In addition if you want conversion parts to create a full-auto machine gun from your semi-auto, you should have no trouble finding exactly what you need at the show or in the parking lot outside.

Should you be concerned that some law officer might see you peddling firearms at a show, you must realize that federal law only applies to "licensed firearms dealers" and very few states have laws that deal with an individual selling his own "collection" of firearms. So go to the show as an "individual" and neither the state nor the federal governments care what you do. You only need to be a "dealer" when you are purchasing firearms.

Finally, should the state ever find out that you have an FFL and inquire about your firearms sales, simply tell them that you haven't sold any firearms. Neither the state nor the feds have any way of ever determining how many firearms you have received and they are totally dependent upon you to tell them what you did with them.

Thus the BATF will provide an access license to firearms for anyone with the fee of \$30.00 and the ability to fill out a form 7 application. The Alliance can identify and represents approximately 16,000 legitimate storefront independent firearms dealers. There are approximately 5500 chain and

department stores such as K-Mart, Wal-Mart and Heiman-Marcus that also have retail firearms outlets. They are certainly legitimate in their operations but they are not members of the Alliance.

That leaves 264,900 that the BATF has licensed and put into the business. Despite their denials these folks do sell firearms, they just don't do it legally because the black market is more profitable.

There are wide open "gun shows" the length and breadth of the United States, wherein anyone may do as he chooses, including buy firearms for children. The BATF simply does not enforce their own regulations at gun shows and the states all assume that the BATF is in charge. NO ONE IS IN CHARGE!

Neither the federal government nor the state governments have addressed the sale of firearms by an "individual".

These last four paragraphs, are the problem when we consider criminal (and youth) access to firearms because this is how the black market is created and allowed to operate with impunity.

If we treat the criminal use of firearms by attacking the source of the firearms, then we may well be successful, all else is much ado about nothing. Nothing done to legitimate firearms dealers will have any effect whatsoever on the thriving black market in these 50 states.

The current idea of piling more and more restrictions on the purchaser of firearms can only have an effect on those citizens who are willing to obey the restrictions. We can already see at any gunshow that there are thousands of citizens who are going to traffic in firearms illegally despite a plethora of laws against such actions.

Possible solutions to the real problem might well start with state Attorneys General raising Cain with the Secretary of

the Treasury to force the BATF to simply comply with current law that says that the FFL is a business license. No proof of an existing business, no license. This is not likely to happen.

Therefore the choice returns to Congress. If you intended that the federal government sponsor the world's largest firearms black market then do nothing and it will continue.

If you believe that we cannot tolerate armed gangs of children roaming the streets and halls of schools then join with the firearms industry in applying a solution in the only area where there is a chance to do some good -- the source of firearms.

That source is or should be under the firm control of the BATF by its position of being the sole source of the licenses that allow entry into the firearms industry.

Insist that the BATF only license legitimate businesses instead of every twit whose only interest is how much money he can make in the black market this month. Give the BATF the authority to revoke a license when the holder ignores state and local law. Get the federal government out of the business of sponsoring the world's greatest firearms black market.

Do something about the "gun shows". Either shut them down or regulate them and restrict their activities to legal transactions in firearms. The Grand Bazaar approach that we now have ensures that every pugnacious child with a grudge to settle and every other form of human predator have easy access to all the firearms that they might desire, while the legitimate firearm owner is increasingly saddled with more and more onerous restrictions.

Sincerely

B. R. Bridgewater  
Executive Director

PLTF 100248



## NATIONAL ALLIANCE OF STOCKING GUN DEALERS

15 May 1993

Ms. Rachel Jacobson  
Subcommittee on Crime  
Room 362  
Ford House Office Building  
3rd & D SW  
Washington, D.C. 20515

Dear Ms Jacobson,

Included herein are the summary comments that the Alliance submitted to the Senate Judiciary Committee concerning "The Gun Dealer Licensing Reform Act" by Senator Paul Simon.

I hope that you will find the comments useful

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### INCREASE LICENSE FEE FOR FIREARM DEALER

The proposed fee increase to \$750.00 is a bit excessive. There is no question that the current fee of \$10.00 is inadequate to cover the cost of processing and issuing the license. Even if a full FBI check is done, and it should be, it shouldn't cost that much. A fee range of \$350.00 to \$500.00 should be quite adequate.

### ELIMINATE THE 45-DAY REQUIREMENT FOR ACTION ON FIREARMS LICENSE APPLICATIONS.

If 45 days are inadequate to properly process the license application then increase the time to 60 or 90 or even 120 days. But set a time limit at whatever is deemed adequate. Open ended processing delays with no set limit lend themselves too easily to abuse.

### REQUIRE LICENSEES TO COMPLY WITH FIREARMS TRACE REQUESTS

I was shocked to learn that some licensees refuse to cooperate with trace requests by law enforcement. Require cooperation and if someone causes any problem burn his license.

REQUIRE COMPLIANCE WITH STATE AND LOCAL LAWS BEFORE ISSUANCE OF A FIREARM DEALER LICENSE

Considering that at least 200,000 federally licensed firearms "dealers" use the license to deliberately sidestep state and local laws, it is high time that this requirement was imposed. The statute already requires that licensees comply with all state and local laws but no enforcement of the statute has ever been attempted. At least this way they will start out in compliance with the law.

ELIMINATE RESTRICTIONS ON COMPLIANCE INSPECTIONS

I see no useful purpose in restricting unannounced inspections. It simply allows those who hold the law in utter contempt adequate time to cover up illicit activities. It might be a good idea to consider some form of redress for a licensee who is harassed by a vengeful inspector.

REQUIRE DEALERS TO REPORT THE THEFT OR LOSS OF FIREARMS

This could prove to be quite useful not only in the law enforcement efforts to find stolen firearms but also to thwart one of the most often used methods of stopping a trace on a firearm that was deliberately sold into the black market.

REQUIRE THE IDENTIFICATION OF PERSONS ENGAGED IN COMMERCE IN NATIONAL FIREARMS ACT WEAPONS

This requirement totally misses the mark! Why just one category of dealer? In these fifty United States we require a firearms purchaser to jump through hoops of the most unbelievable kinds to buy one firearm. But if you want obtain one of the federal firearms licenses that allows you access to the entire array of firearms, interstate for three years, you pay a \$30.00 fee, fill out a form 7 application with any name on it from the graveyard and you will get the bloody license! This is INSANE!!!!

All applicants for any kind of firearms license or pawnbrokers license should be required to submit two photos, side and front, and a full spread of ten fingerprints taken and certified by the local police department or sheriffs office.

Pray tell what earthly purpose any kind of check on the applicant serves without POSITIVE IDENTIFICATION of the applicant to start with. Maybe this will help the BATF stop licensing felons and dogs!

REQUIRE COMMON CARRIERS TO OBTAIN IDENTIFICATION BEFORE DELIVERING FIREARMS

This should have been done a long time ago.

CRIMINALIZE THE SALE OF FIREARMS OR AMMUNITION WHEN THERE IS REASONABLE CAUSE TO BELIEVE THE WEAPON WILL BE USED IN A CRIME OF VIOLENCE

While there can be no question that the dealer must always reserve the right to refuse to sell a firearm or ammunition to anyone who is under the influence of alcohol or drugs, I am not sure how you can tell otherwise that the firearm will be used in a crime. This smacks of telling the dealer that he is responsible for the future actions of someone else. For what length of time into the future is the dealer responsible? Just the immediate future of tomorrow or five years from now? I think this needs a little more definition.

Put yourself behind the counter with the dealer and refuse to make a sale to a black or a latino no matter how questionable the sale may be. We have spent the last forty five years taking people to court for doing this.

I believe that the dealer needs to fully understand that he has the clear right, the moral obligation and the duty to refuse a sale that he believes, for any reason, may

be questionable. Many dealers believe that they can be sued for violating someone's civil rights if they refuse to sell where there is no clear proof of disqualification of the purchaser.

Perhaps this portion of the bill should read "Criminalize the act of knowingly selling a firearm that will be used in a crime".

Sincerely,

*Bill Bridgewater*  
Bill Bridgewater  
Executive Director



## NATIONAL ALLIANCE OF STOCKING GUN DEALERS

15 May 1993

### DISCUSSION OF FEDERAL FIREARMS LICENSE

A careful reading of the statute governing the issuance of Federal Firearms Dealers Licenses (FFL) leaves absolutely no doubt that the intention of the statute is to regulate the "business" of selling firearms at retail.

The Form 7 application for a federal dealer's license contains fifteen references to the "business" to be licensed. Thus it is a little difficult to understand how the BATF came to the position of having issued TWO HUNDRED EIGHTY SIX THOUSAND (286,000) firearms dealers licenses to engage in the "business" of selling firearms at retail.

Even the BATF readily admits that the majority of those that they have licensed are "hobbyists" not businesses. Nowhere in chapter 44 of title 18, US Code is there even a passing reference to licensing "hobbyists", so it is difficult to understand where the BATF believes they obtained the authority to license "hobbyists" as firearms businesses.

By so doing, what the BATF has created is one of the most efficient black markets in firearms in history. Through the simple process of filling out a Form 7 application with a fictitious name or one that is "clean" and forwarding \$30.00 one can obtain a Federal Firearms Dealers License that gives the licensee access, interstate, to every source of firearms in the United States. The licensee can engage in buying and selling firearms from the day he receives the license and need do nothing else!

The licensee may simply ignore all state and local laws and requirements and most do exactly that. There is no state in the land that licenses firearms dealers that is regulating more than a very small portion of those that BATF has placed in the "business". Do not delude yourself that these other "dealers" who are intentionally disregarding the state and local laws are NOT selling firearms.

The reason that they don't want state and local folks to know they are in the business is because they are selling in the black market. This is done several ways.

One of the most popular ways among the various gangs such as Hell's Angels, various Jamaican groups and other groups of street thugs and extremists is to simply have one of the group with no record or who uses a phony name, obtain a Federal firearms License. Thus was born the Gang Armorer who can obtain all the firearms that the gang could possibly need, no strain, no pain.

A "black market street dealer" can purchase a box of small semi-auto pistols for \$49.00 each and sell them on the street for at least \$250.00. If he wants to team up with a street wise partner from one of the states with harsh gun laws he can obtain \$350.00 to \$400.00 for the same pistol.

Meanwhile the legitimate storefront dealer who is selling into the legal market will obtain about \$69.95 for the self-same pistol.

Should you feel a little queasy about the late night hours and the face-to-face negotiations with the street folk then you can become a "gun-show cowboy". Simply drive by your friendly "distributor" who supports the gun show trade, load up 250 handguns and hit the weekend circuit of gunshows where you may exhibit and sell your wares for green pictures of dead presidents.

If you choose to do the "cash and carry" routine then you will command higher prices than those who insist on selling lawfully with all the attendant ID and paperwork. However, since you will most probably be selling at gunshows in states other than where you are licensed, it is unlawful for you to sell and deliver on the spot, so you will not want to identify yourself either.

Attendees (purchasers) at gunshows include the entire spectrum of the criminal element: Felons, gangs who don't

have their own armorer, underage youth, buyers for underage youth, multi-state gun runners and such. There are very few in this country who want a firearm for illicit purposes who do not know that they can get anything they want at the gunshows.

Though the gunshow cowboys won't achieve quite as high a profit as the street seller, he can sell in very high volume and easily earn the same dollar amount and feel a lot safer.

Perhaps now the two stage black market (direct street/gang and the "gunshow") that the BATF has created through the profligate issuance of a license that allows access to firearms is more clear. The fact that the BATF has licensed both dogs and felons is not at question. The only real question is, "When will the BATF's black market, the primary source of firearms for felons, be shut down?"

For starters the BATF could begin to comply with existing law and issue the dealer's license to those who are in fact operating legitimate businesses.

1. Require all applicants to submit two photos, one side, one front and a full fingerprint card taken and certified by the local police department or sheriffs office.
2. Require a photo of the intended business location both inside and outside, accompanied by a statement from the cognizant zoning inspector that a firearms business may be operated at that location.
3. Require copies of all state and local permits and licenses with the application.
4. Upon receipt of the application conduct a thorough background check (preferably by the FBI) to determine whether the applicant is a dog, human, felon, or a clean citizen.

5. Charge a fee sufficient to defray the cost of processing the application, doing a comprehensive background check, preferably by the FBI, and accomplishing the other administrative tasks. I believe that this can be accomplished properly for a fee in the range of \$350.00 to \$500.00.

6. Do a compliance audit six to eight months after the licensee opens for business to ensure that the new licensee starts out properly.

7. If notified by a responsible state or local agency that the licensee is not in compliance with state or local law, give licensee notice that he has 30 days to comply with local law or lose his license. If licensee fails to comply, burn his license.

8. Note that there is no Federal Firearms License for "personal use". Nor is there a "hobbyists license", so prohibit the issuance of a business license for these purposes.

9. At present there is no Gunsmith's License. Gunsmithing is simply lumped in together with the retail dealers license, yet many gunsmiths do not sell firearms and do not wish to sell firearms in the future.

Consideration might be given to creating a Service License that would allow a gunsmith to order, stock and install all firearms parts necessary to the repair of a firearm to include a serialized frame or receiver. This license would specifically exclude the sale of new or used firearms and is intended solely for the use of a gunsmith in the conduct of a repair facility.

PLTF 100252

Mr. SCHUMER. Let me ask you—and they support all of these—what your views are on these specific issues. This is what the Alliance of Stocking Gun Dealers says we ought to do: "Insist that the BATF only license legitimate businesses instead of every twit"—I wouldn't use quite that language—"whose only interest is how much money he can make in the black market this month. Give the BATF the authority to revoke a license when the holder ignores State and local laws. Do something about gun shows; either shut them down or regulate them, and restrict their activity to legal transaction in firearms."

Now let me ask you if you agree with some of the specific measures that they call for in their written testimony.

Mr. GARDINER. Let me make two initial observations. Then if you could take them one at a time—I don't have the testimony in front of me.

Mr. SCHUMER. That is OK.

Mr. GARDINER. First of all, most dealers, people who have Federal licenses, in this country are legitimate. They are lawful, law-abiding people, and I would dispute the characterization that anybody who doesn't have a storefront is not a legitimate person.

Mr. SCHUMER. Let the record show I don't think they are all twits either—

Mr. GARDINER. Well, at least we can agree on something.

Mr. SCHUMER [continuing]. Whatever a twit is. Yes.

Mr. GARDINER. Second of all, I want to make it clear that that organization, which is not in any way affiliated with NRA, has a different interest than NRA does. Our interest is in protecting the rights of consumers. Their interest is in protecting the rights of a business. So there is going to be a clear conflict between us, and we do not agree with many of their positions.

Mr. SCHUMER. That is understood, but they are a very legitimate organization, and—

Mr. GARDINER. They certainly are a legitimate organization.

Mr. SCHUMER. Right. So let me ask you if you would agree with the specific measures they call for, and others have called for these too. How about requiring dealers to comply with State and local law?

Mr. GARDINER. With regard to the sales of firearms, that is already current Federal law. That is section 922(b)(2).

Mr. SCHUMER. Yes, but what about other State and local laws which apply to gun dealers?

Mr. GARDINER. With regard to local business laws to get licenses, you mean?

Mr. SCHUMER. There are a whole variety of local laws about what you can and cannot do.

Mr. GARDINER. There are really only two sets of laws. One is dealing with licensing generally. The other is dealing with sales and possession of firearms.

Mr. SCHUMER. For instance, there are some States that would want to measure the character, not simply that they weren't a felon or whatever the words are on the form Mr. Sensenbrenner read. We do this for liquor licenses in New York State; we do it for gun licenses in New York State. It is not an attempt on the part of the

liquor . . . . .cies to bring back Prohibition or in the gun licensees to have no one have firearms.

If a State had that, would you support that the Federal Government not give a license to someone the State thought was in bad character and shouldn't have that license?

Mr. GARDINER. I don't mean to be difficult, Mr. Chairman, but I am not sure I understand your question. Are you talking about with regard to the sale of firearms—that is, if a purchaser is not allowed by State law to purchase a firearm?

Mr. SCHUMER. To sell firearms, deal in firearms. These are dealers, correct?

Mr. GARDINER. That is, the eligibility for a State license is what you are talking about?

Mr. SCHUMER. Correct.

Mr. GARDINER. No, I don't think that the Federal Government should be in the business of enforcing State and local laws.

Mr. SCHUMER. No, that is not the issue.

Mr. GARDINER. OK.

Mr. SCHUMER. You made that point clear in your testimony, and Higgins agreed with you, but this is a different issue. This is the issue of passing a law that says that the Federal Government ought not give a license, a Federal license, to someone who would not qualify for a license in that State.

Mr. GARDINER. As I said in my testimony, I don't have any problem with the State and local agencies being notified, but I don't believe that ATF—they only have 50 lawyers all over the country.

Mr. SCHUMER. Well, let's say they had adequate personnel.

Mr. GARDINER. I think you are talking about a lot of personnel. There are thousands and thousands of State and local laws.

Mr. SCHUMER. There was a law introduced last year by Senator Moynihan and I believe it was Congressman Green that would have done just that. Do you have a position on that bill? It was a bill, sorry, not a law.

Mr. GARDINER. That bill, as I remember it, indicated that when you applied for a Federal dealer's license you had to just merely provide evidence of compliance with State and local laws.

Mr. SCHUMER. Right.

Mr. GARDINER. The only problem I have with that is, in many, many areas, as Mr. Higgins notified, there is no law to comply with, so I am not sure how, as an administrative issue, we deal with that.

Mr. SCHUMER. OK. You are not unequivocally opposed to such a law, your organization?

Mr. GARDINER. No. I think there are ways to write it.

Mr. SCHUMER. OK. That is good. I understand.

Mr. GARDINER. Now let me just hasten to add that I believe at the same time, as I said in my testimony, that the collector's license, the rights that a person has under a collector's license, should be expanded.

Mr. SCHUMER. I understood that from your testimony.

Mr. GARDINER. And if you look at the history of the 1968 act—I will just finish with this point—it is very, very clear that the intent of Congress then was to have people get collectors' licenses, not dealers' licenses.

Mr. SCHUMER. I'll tell you, my view is, if there is a legitimate way to define collectors by what we are both meaning here, I would not have a problem having two sets of rules, one for legitimate collectors and one for real dealers, and squeezing out those people who are now using the dealer license to traffic illegally.

Mr. GARDINER. And we would not either. That is where we think the act ought to go.

Mr. SCHUMER. All you are trying to do in your reluctance is, because there are collectors who legitimately want to have their own collections and at times trade them—I understand that.

Mr. GARDINER. That is right, and this can be done, as I said, by regulation, you do not need a statute to do it.

Mr. SCHUMER. OK. Let me ask you this one. What about requiring dealers to report thefts?

Mr. GARDINER. We don't have any problem with it as long as there is a reasonable time period within which it is done, maybe 5 business days.

Mr. SCHUMER. You like that number.

Mr. GARDINER. Well, it has a certain symmetry to it.

Mr. SCHUMER. OK. How about requiring common carriers to verify that the recipient of a firearms delivery is a real dealer?

Mr. GARDINER. I think you have got an administrative problem with that because a common carrier is a private entity, not a government official, and of course if they are delivering firearms to nondealers that would be a crime already, so there is already an implied requirement that they verify that.

Mr. SCHUMER. I don't think it works very well.

Mr. GARDINER. I will not disagree with you that the enforcement of much of the laws now is not very good; there is no doubt about that.

Mr. SCHUMER. OK. Let me ask you this one. What about requiring dealers to respond to BATF telephone inquiries?

Mr. GARDINER. The problem I have with that is, you don't know if it is an ATF agent on the other end; you don't know if it is some joker, or some twit, calling up and just trying to get information, and I believe that it should be required that the ATF somehow provide evidence, their badge of office. Now if they want to do it by letter, I don't have any problem with that, or if they want to do it by personal visit, but some way—

Mr. SCHUMER. So you are not against phone inquiries, per se. Here is a way you could do it. You could ask the dealer, the legitimate dealer, to call back on a number that he or she would know would be a legitimate ATF phone number.

Mr. GARDINER. That would certainly be one way to do it, and I have never heard of a problem with that being done.

Mr. SCHUMER. No, but I think what you raise is a legitimate point of view there.

What about eliminating the 45-day limit on license application reviews, given how many there are now? And a secondary question not related to this: Do you have any idea why the number of applications for licenses has gone up so dramatically?

Answer the first one and then the second part.

Mr. GARDINER. All right. With regard to eliminating it totally, we would be very much opposed to that. We believe there has got to

be some kind of very clear statutory limit. Now if 45 days is inadequate and ATF can make the case that it is inadequate, then there is certainly no reason that consideration couldn't be given to a different time period. I note that if these changes that we are talking about with regard to collectors' and dealers' licenses were implemented, the problem would probably evaporate.

To move on to your second question, why have licenses gone up—

Mr. SCHUMER. Applications for them.

Mr. GARDINER. I'm sorry—applications. I think Mr. Higgins was quite right when he said that after the Washington Post article I think it was, he mentioned a series of media articles, and unfortunately people hear that and they think, "Well, I'll apply for one." I believe all the reasons he gave were correct, and I would endorse those.

Mr. SCHUMER. All right. These are not now in the proposal by the Stocking Gun Dealers, but let me ask you about this. What about FFL applicants should be drug tested to be sure they are not involved with narcotics trafficking?

Mr. GARDINER. That question I have never heard before. It is troubling to me, and I am not sure, without giving it a lot of consideration and looking at the case law, that I would be prepared at this point to give you an answer.

Mr. SCHUMER. All right.

Finally, what about some kind of standards to promulgate security standards for the dealer? You talked about how many guns are stolen, and that is something we agree on. In fact, I put into the crime bill last year the very penalties that you have asked for in terms of making it a Federal crime to steal.

What about promulgating security standards for the dealers?

Mr. GARDINER. I think that is not a very good idea. I don't think the Federal Government should be in that particular business. I think insurance companies are probably by and large going to deal with that adequately.

Mr. EDWARDS. And can I ask a question on that?

Mr. SCHUMER. Yes. We are going to come back, but please go ahead.

Mr. EDWARDS. Yes, but I have to go.

Mr. SCHUMER. Go ahead.

Mr. EDWARDS. What about requiring fingerprints so we can see if he has a criminal record?

Mr. GARDINER. I think with regard to dealer license applicants, again, if we end up with a regime that we have in mind, I don't see a particular problem with that.

Mr. EDWARDS. Why? No particular problem?

Mr. GARDINER. No particular problem.

Mr. EDWARDS. It would cost at least \$25 or \$30.

Mr. GARDINER. Right. I think \$17 is the current fee. As I said, what we would recommend is that ATF, as it has done before, simply by regulation, expand the length of the license, and then they can charge, if they want, \$150; they can make it a 15-year license.

Mr. SCHUMER. How about a 200-year license?

Mr. GARDINER. Whatever.

I might note, one of the earlier witnesses—let me just make this point—observed that there is no mechanism for revoking a Federal dealer's license. That is already found in section 923(e). I don't know where that idea came from, but I am sure you don't have that misperception.

Mr. SCHUMER. OK. That finishes up my questions, but I know Mr. Sensenbrenner has questions. And do you, Mr. Smith?

Mr. SMITH. Yes, I do.

Mr. SCHUMER. So we will come back. This is only one vote, so let's try to do it by 20 of 4. We will try to be back by 20 of 4 and finish up.

Mr. GARDINER. We will be here.

[Recess.]

Mr. SCHUMER. Mr. Sensenbrenner has the floor for as long as he wishes.

Mr. SENSENBRENNER. It won't be very long, Mr. Chairman. I have a couple of questions of Mr. Gardiner.

I think that your proposal to increase the application fee and extend the license period from 3 to 10 years is interesting. Do you support legislation that would increase the fee, however it is done, so that the fee would pay for the full cost of the background check of an applicant for a Federal firearms license?

Mr. GARDINER. We don't have any problem with the applicant paying for the cost. As I said, I don't think it requires legislation. I think the ATF could issue a regulation tomorrow and take care of the problem.

Mr. SENSENBRENNER. But if the ATF does as you have suggested and charges \$100 for a 10-year license, doesn't that mean that there is no money to enforce the law on existing licensees?

Mr. GARDINER. Obviously, it would have to be phased in over time. As 3-year licenses would expire, people would reapply for a new license.

Mr. SENSENBRENNER. That doesn't answer my question. You know, if all the money is being used from the fees to investigate people who have applied for the license, where is there money to investigate violations by existing licensees?

Mr. GARDINER. That is what the existing budget from the Congress is used for.

Mr. SENSENBRENNER. OK.

Now do you think the taxpayers should end up paying for the regulation of a licensed profession, or do you believe that the license holders of that profession should pay for the regulation of it?

Mr. GARDINER. When you say regulation, are you including criminal investigations and criminal prosecutions of dealers who have violated Federal law?

Mr. SENSENBRENNER. License revocation for whatever reason.

Mr. GARDINER. I wouldn't have a problem with the dealer whose license was revoked being fined in some way to cover the cost of that activity, but I don't think that the license fees should go up so that the 99.9 percent, or whatever the number is, of the law-abiding dealers are paying those costs.

Mr. SENSENBRENNER. I am a member of the State Bar of Wisconsin. All lawyers licensed in my State have got to be members of the bar pursuant to a State supreme court order. Every year I get a

bill in addition to my bar dues for the policing mechanism of the bar commissioners, where they investigate allegations of unethical activity by members of the bar. Some of these allegations are followed up, a lot of them are dismissed as being without merit, but, nonetheless, the taxpayers of my State do not pay for the regulation of the bar, the license holders do that through the assessment that is imposed upon them, and the same thing is true with every other licensed profession in my State, whether it is medical doctors or nurses or barbers or cosmetologists or security firm operators. Anybody who has got a license from the State of Wisconsin to engage in a trade or profession is required by law. Those license fees pay for the whole operation of the licensing agency. Shouldn't the same thing be true here with Federal firearms licenses?

Mr. GARDINER. I don't think so. I think that assumes that we would agree, or I would agree, with that concept at the bar. I am a member of the D.C. Bar and the Virginia Bar, and I pay those dues as well, but I don't think that is necessarily appropriate.

Mr. SENSENBRENNER. Why isn't it necessarily appropriate?

Mr. GARDINER. If you are acting in the interest of the public, which is the purpose for that kind of law, then it ought to be the public that pays the costs.

Mr. SENSENBRENNER. But 99 percent of all lawyers are honest, and barbers are honest, and cosmetologists are honest, and medical doctors are honest, and, you know, the honest people are paying for the policing of those professions. Why shouldn't everybody who holds a license pay for the policing of the gun dealer profession?

Mr. GARDINER. Because I think that is a special tax imposed only on a small number of people for the general good of the public, and I think that is the kind of thing that the public generally should pay for.

Mr. SENSENBRENNER. But getting back to the whole purpose of licensure, isn't licensure a requirement that someone who applies for and obtains a license meet certain qualifications and maintain certain standards?

Mr. GARDINER. Yes.

Mr. SENSENBRENNER. That includes firearms dealers?

Mr. GARDINER. Right.

Mr. SCHUMER. Would the gentleman yield?

Just for the good of the public. A cosmetologist's license is not for the cosmetologist, it is for the public who might be served by them. I yield back.

Mr. GARDINER. I agree with the chairman.

Mr. SENSENBRENNER. Then why should firearms dealers be treated differently and have the taxpayers end up borrowing money, adding to the national debt, and paying interest on that debt, because the fees are not adequate to pay for the activities of issuing and maintaining the licenses?

Mr. GARDINER. With all due respect, I don't think two wrongs make a right. Just because it is going on somewhere else doesn't mean that it should go on everywhere.

Mr. SENSENBRENNER. Does that mean that your and my bar license fees ought to be reduced and the taxpayers pay for getting at the bad apples in our profession and revoking their licenses?

Mr. GARDINER. I believe so, yes. I don't believe that a special tax should be imposed on me and the however many other thousand lawyers there are in Virginia.

Mr. SENSENBRENNER. Then what you are saying is that it is not in the interest of the honest lawyer to help kick the dishonest lawyers out of the profession.

Mr. GARDINER. I don't know because, as a lawyer, I am paying—

Mr. SENSENBRENNER. Then do you know if it is in the interest of the honest firearms dealer to kick the dishonest firearms dealer out of that trade?

Mr. GARDINER. It is in his interest as well as the interest of all the public, and I pay taxes to the Commonwealth of Virginia, which I believe is used for law enforcement activities, which would include enforcing the law on the legal practice of law.

Mr. SENSENBRENNER. Mr. Gardiner, I think you are being a little bit inconsistent, you know. Having said that, let me ask one other series of questions relating to your suggestion that the fee be raised to \$100 on application and the license term be extended to 10 years. Isn't it a lot easier for a government agency not to renew a license than it is to revoke an existing license?

Mr. GARDINER. Yes, it is more difficult to revoke a license, but I said that if a license is revoked I don't have any problem with the revoked licensee paying the cost of the revocation process.

Mr. SENSENBRENNER. Well, you know, most of these people whose licenses would be revoked for firearms violations would be in jail, and they would be spending all of their money on lawyers' fees defending themselves in the criminal trial that provoked the revocation.

Mr. GARDINER. Mr. Sensenbrenner, in that case they are not going to litigate the revocation of their license, because under the current revocation process they are sent a letter revoking their license. If they don't ask for a hearing within 15 days, the revocation becomes final.

Mr. SENSENBRENNER. But that costs money.

I would really urge the NRA, if you are interested in protecting the honest firearms dealer, that maybe the honest firearms dealer should pay a little bit more money to get the dishonest people out of the business, and maybe the reputation of that trade, which isn't very high at the present time, would be increased.

Thank you.

Mr. SCHUMER. Thank you, Mr. Sensenbrenner.

Mr. Smith.

Mr. SMITH. Thank you, Mr. Chairman.

Mr. ABORN, let me start my questions with you. You mention in your opening statement, and I am reading from it, that every year nearly 640,000 violent crimes are committed with handguns. A couple of questions in regard to that figure, the 640,000 violent crimes committed with handguns. I guess the first question is, what percentage or what number are obtained illegally from gun dealers? Of the weapons used in those 640,000 violent crimes, do you have a figure or number?

Mr. ABORN. The Department of Justice in 1989 estimated that about 27 to 30 percent of all guns used in crime originate illegally

over the counter. We don't have a further breakdown on that because there are so many blocks on the tracing mechanisms that ATF could utilize.

Mr. SMITH. So something around a quarter of those—

Mr. ABORN. No, sir, I would not say it is a quarter. I would say it is possibly much, much more than that, but because of all the administrative and congressional blockages on the ability of ATF to do systematic tracings we don't have that information.

Mr. SMITH. Do you have any information as far as the number of handguns used in these crimes that were purchased within a week of the crime?

Mr. ABORN. I don't know if that data is available. I don't know off the top of my head. I would have to check. I don't know if that is available.

Mr. SMITH. Do you have any figures at all as far as the number or percentage of handguns purchased within any time period of the crime?

Mr. ABORN. Well, yes, you could go back and compile it. I don't have that piece of information with me. That I could provide to you though.

Mr. SMITH. Because it seems to me that Handgun Control in particular has made much, for instance, of the Brady bill, which I realize is not being considered today, but I am just wondering if you have any statistics, any figures at all, to show that the Brady bill would have any significant impact on crime based upon the number of weapons or handguns purchased within—

Mr. ABORN. Oh, absolutely, and I will be happy to go into those now, but it is a lengthy discussion.

Mr. SMITH. I don't mean to make it lengthy. Give me the percentage of handguns, that are used in crimes, that are purchased within a week of the crime.

Mr. ABORN. I'm sorry, I don't know that off the top of my head. I will be happy to provide that to you in writing. I think that information is available. I don't know it off the top of my head.

Mr. SMITH. The Department of Justice once told me that 2 percent of all weapons, I believe it was, were purchased within a month of the crime. So would you have any problem with saying it was less than 2 percent?

Mr. ABORN. I would have a problem with that, yes.

Mr. SMITH. Why so? Do you disagree with the Department of Justice?

Mr. ABORN. Because their data regarding the number of guns used in crime is in excess of 27 percent. What I don't know is the amount of time it took for that gun to be used in the crime from its date of purchase; I just don't know that information.

Mr. SMITH. It is amazing to me, with all the times that you must have testified in regard to the Brady bill, that you don't know the percentage of handguns, used in crimes, that were purchased within a week. But, you don't have that figure?

Mr. ABORN. I do not have that.

Mr. SMITH. Do you have that figure available, did you say?

Mr. ABORN. I believe, sir, it is.

Mr. SMITH. OK, and you don't have any idea what it is?

Mr. ABORN. I think I am clear. I am not sure that it is. I believe it is. I will be happy to provide it to you in writing if, in fact, that information is available.

Mr. SMITH. I would like to have it. I am just amazed that you don't have it.

[The information follows:]

## HANDGUN CONTROL

ONE MILLION STRONG . . . working to  
keep handguns out of the wrong hands.

Richard M. Aborn  
President

June 29, 1993

The Honorable Lamar Smith  
2443 Rayburn House Office Building  
Washington, DC 20515

Dear Congressman Smith,

This letter is in response to your question at the recent hearing conducted by the Subcommittee on Crime. At the hearing you asked whether I knew how many handguns had been used to commit a crime within five days of purchase. As I originally responded and have now confirmed, such data does not exist. We do, however, have many examples of the effectiveness of waiting periods in keeping handguns out of the hands of persons dangerous to themselves or to others. I would point out that in the states where a waiting period/background check system is in place, thousands of prohibited persons are stopped each year from buying guns.

In both 1991 and 1992 in California, which has a fifteen-day waiting period, nearly 6000 prohibited persons—including murderers—were stopped from buying guns. Illinois denied 2,274 individuals Firearms Owners Identification cards, and revoked more than 2500 previously issued cards in 1991, due to felony convictions. In New Jersey, nearly 1,000 criminals—and in Oregon, more than 200 criminals were screened out through the waiting period and background check in these states in a one year period.

The following are examples of incidents where the Brady Bill may have prevented a tragedy:

On April 23, 1987, Georgia Power Company payroll employee Mozella Dansby purchased a .38 calibre snub-nose revolver in Smyrna, Georgia. The next morning she shot two of her supervisors and then killed herself because she was distraught at having been passed over for a promotion. Although an Atlanta resident, Dansby went to Smyrna to avoid Atlanta's background check and waiting period law.

In May, 1987, 21-year old Eddy Beermann bought a .357 Magnum and killed himself four hours later. Beermann purchased the gun in Martin County, Florida, because his own county, Palm Beach, had a 14-day waiting period law. Eddy's father believes, "If my son had been forced to wait and think about owning a gun, this might not have happened."

In August, 1987, Tulsa, Oklahoma resident, Larry Dale, bought a .22 calibre revolver and 24 hours later opened fire in a grocery store, killing one customer and wounding another before turning the gun on himself. Dale had been previously convicted of unlawful possession of a sawed-off shotgun, a felon which should make him ineligible for purchasing another firearm. He simply falsified the form and left the gun store with his gun and ammunition.

In August 1987, a man named Dwain Wallace was gunned down after brandishing a handgun in the Pentagon. Wallace has purchased the handgun just two days earlier from a Youngstown, Ohio, pawn shop. If police had the opportunity, they could have learned that Wallace had a history of mental illness and it was unlawful for him to purchase a handgun.

On October 26, 1987, Arthur Kane, distraught over the stock market crash, purchased a handgun and only 45 minutes later murdered his stockbroker in his Miami Merrill, Lynch office. Had police undertaken a background check, they would have determined that Kane was a convicted felon who was prohibited from purchasing the gun.

On May 20, 1988, a Gainesville, Texas, woman named Sharon Wilson pawned two diamond rings to buy a .38 calibre handgun. Later that same day, she killed her 13-year old son, 8-year old daughter, and herself.

In October, 1988, Doug Marx bought a .357 Magnum in Wichita, Kansas. The next day he used it to kill his two children and himself. His sister, Paula Sue Marx, said, "We'll never know what was on Doug's mind. He loved his kids so much, I guess he wanted them to be with him. But I think there's a strong possibility they wouldn't be dead now if there was a waiting period."

On January 8, 1989, Robert Hughes robbed a West Chester, Pennsylvania, McDonald's and shot to death restaurant workers, Jean Reider and Charles Hegarty, execution-style. Hughes had worked at the McDonald's in the summer of 1988 but lost his job when he was arrested for stealing license plates, pleaded guilty, and was sent to jail and to a state mental hospital. After his release, Hughes went to a local gun shop and lied about his record on the federal form in order to purchase a .38 calibre pistol, ammunition, and targets. Although Pennsylvania has a 48-hour waiting period which the gun dealer obeyed, it was simply too short a period of time for the police to investigate Hughes. The handgun was picked up from the dealer on January 6, less than 48 hours before the robbery/murder occurred.

On April 24, 1989, Richard Papineau bought a handgun in Winchester, New Hampshire, and hours later shot and killed Frank Thibeault. Papineau was both a convicted felon with a criminal record and a former state and federal mental hospital patient.

On August 22, 1989, 85-year old Angelo Nicosia bought a .38 calibre handgun in Florence, South Carolina, and hours later used it to kill Police Lieutenant Rick Gould. Nicosia then shot and killed himself. Nicosia's family had notified Florence police that Nicosia had mental problems, and Lt. Gould had made extraordinary efforts to help him, but Nicosia was obsessed with the thought that Gould had wronged him.

On April 23, 1990, James Calvin Brady was released from an Atlanta, Georgia, mental hospital where he had been involuntarily committed and hours later purchased a revolver from a DeKalb County pawn shop. Brady went to DeKalb County because Atlanta had a handgun waiting period. The next day, Brady randomly shot five people at Perimeter Mall. Michael Musick was shot and killed.

On June 16, 1990, David Stewart bought a 9mm pistol in Shawnee, Kansas. The next day, he travelled to Beatrice, Nebraska to shoot and kill a 31-year old school teacher, Melody Wolken. Nine hours later, Stewart committed suicide. Stewart had been previously arrested for attempted murder and the charge was still pending.

On April 18, 1991, Chung Dinh Vu bought a Polaroid camera and a .45 calibre pistol in Houston, Texas. Less than eight hours later, he lined up his four children aged 8, 12, 16, and 18, took their pictures, and shot each one in the head. All four died. Vu then committed suicide. He was distraught because his wife had left him four days before, and that morning had filed for divorce. Apparently, the killing of the children was meant as revenge upon his wife.

In April 1991, in Odessa, Texas, Richard Law was admitted to a state psychiatric hospital because he was threatening to kill himself over his separation from his wife. Officials decided he was not a threat to society and released him. The next day, he purchased a pistol and one hour later killed his wife, his step-daughter, his two sons, and himself.

In Tempe, Arizona, in April, 1992, Donald Lonny Prunty, 25, bought a .45 calibre handgun and one hour later killed a pregnant waitress in a restaurant where his estranged wife worked. He wounded his wife and two other people before killing himself.

On March 5, 1993, in Wichita, Kansas, using a .25 calibre handgun bought that day at a pawn shop between liquor purchases, Brent Alford showed up at a Burger King restaurant where his former girlfriend worked, and shot her at least four times. Because Alford went to prison in Oklahoma on a felony embezzlement conviction, he was not allowed to purchase or own a gun under federal law...but no one checked.

On March 20, 1993, Brian Shults bought a .32 calibre semi-automatic handgun and a box of bullets from an Arlington, Texas pawn shop. The same day, Shults, a Fort Worth Star-

Telegram journalist, reviewed a comedy act, turned in his story before the 11:00 p.m. newspaper deadline, and then shot himself in a field across from his apartment.

On May 22, 1993, Jimmy Sweeney bought a .38 calibre revolver and went to Dillard's Department Store in Little Rock, Arkansas where his former girlfriend worked. Sweeney shot her several times and then turned the gun on himself.

Handgun Control, Inc. has never offered up the Brady Bill as a panacea to end all gun-related violence. Rather, we have advocated—along with every major law enforcement organization in the country—that it is a means to keep handguns out of the wrong hands, the hands of those who have a criminal record, or who are bent on committing an act of violence in the heat of passion.

I trust that this letter has responded to your inquiry and also illuminates why we feel so strongly about the importance of the Brady Bill.

Very truly yours,



Richard M. Aborn

Mr. SMITH. You also make the statement that virtually every handgun used in crime originated from a licensed gun dealer. It seems to me that that is sort of stating the obvious. The only time that would not be true would be if someone stole a firearm that was coming off the assembly line at a factory—

Mr. ABORN. Or from a military base.

Mr. SMITH [continuing]. That produced firearms.

So I don't see anything necessarily nefarious about that particular statement.

Mr. ABORN. There is nothing nefarious, but I think what it does, if I may, is, it illustrates the need for increased regulations over these dealers.

Mr. SMITH. OK. What is your figure on the number of gun dealers? We will go to that.

Mr. ABORN. Two hundred and eighty-six thousand.

Mr. SMITH. OK. Give me a rough estimate as to what percentage of those gun dealers you feel engage in illegal activity as far as selling or buying firearms.

Mr. ABORN. You know, Mr. Smith, in all due respect—

Mr. SMITH. Do you have any figure for that at all?

Mr. ABORN. It is unfair to say give us this sort of information when Congress itself has blocked ATF from compiling that sort of information. These are exactly the sorts of information, of data, that we want to compile.

Mr. SMITH. My point is, we are talking about legislation that is going to impact the lives of a lot of law-abiding citizens, we are talking about legislation that is going to cost a lot of people money perhaps, and I am just appalled by the lack of any figures or statistics that are available to either back up this legislation or to prove some of the accusations that are being made.

Let me give you a figure in return, and tell me if you think this is somewhat in the ball park. I am told that of those, whatever it is, 200 and—what did you say?—80—

Mr. ABORN. Six.

Mr. SMITH [continuing]. Six thousand gun dealers, that last year I think BATF investigated 6 percent of that—say that is 18,000 or something like that—and revoked three licenses, which would come out to 1 out of every 6,000 that they investigated. That is not a very high percentage of gun dealers who are engaged in illegal activity. I realize you would like and a lot of people would like to have everyone investigated every year, but as far as those who are investigated, it doesn't seem like very many are doing anything wrong.

Mr. ABORN. But I am not sure what that tells us, because out of the 8,766 inspections that they did in 1991, there were 7,500 violations found, and that is 88 percent of all the inspections result in a violation. Also, if I may, sir, if you look at another piece of data, of the 286,000 licenses that are out there, OTA has said that there are only 15,000 licensed gun dealers in retail operation and only another 5,000 in sporting good shops.

Mr. SMITH. I understand all of that, but to me violations is not really getting to the nub of the problem. We talk about illegal activity. Most of those violations were paperwork violations, for example. It wasn't that these gun dealers were illegally buying and

selling or exchanging firearms. So I think it is also a question of what kinds of violations you are talking about. But the fact that only 3 licenses out of 18,000 that were pulled once again says to me that most are engaged in very legitimate activity.

Mr. ABORN. Or it tells us that there is not enough enforcement.

Mr. SMITH. Let me go to the next question, if I may. You say in another part of your testimony here, "The ATF is only able to conduct compliance inspections of a minuscule fraction of licensed dealers." As you say, it is incumbent upon Congress to provide more funds so that more personnel can engage in those types of inspections.

The minuscule fraction, I think, as I mentioned a while ago, is 6 percent. Is the thrust of what you want to see done—do you want more inspections to occur, more detailed inspections to occur, or are you primarily interested in reducing the number of gun dealers themselves?

Mr. ABORN. I would say both. In fact, our principal interest is more on the prevention side and making sure that those individuals that seek FFL's really intend to engage in the retail sale of guns as the law requires. If Congress were to give ATF the power to deny licenses to those that really do not intend to engage in the retail sale of guns, I think you would not need to vastly expand the number on the force, but I think unless Congress does that you do need a lot more enforcement.

Mr. SMITH. I agree with the enforcement. I agree with the need for more funds.

Mr. Gardiner, before I go to your questions, Mr. Aborn, when will you be able to get me those statistics that I asked for in writing as far as the percentage of crimes committed with handguns within a week of purchase?

Mr. ABORN. Certainly by Monday or Tuesday.

Mr. SMITH. OK.

Mr. SCHUMER. If the gentleman would yield.

Mr. SMITH. I would be happy to.

Mr. SCHUMER. Just two points for the record. One is, and I am not exactly sure what this means, but in ATF's testimony they said 12 percent of all dealers whom they inspected surrendered their license during the inspection. So maybe three went through a lengthy fight of the revocation, but 12 percent is a heck of a lot.

Mr. SMITH. Voluntarily gave up their licenses?

Mr. SCHUMER. Well, all it says here, and I am just reading—

Mr. SMITH. OK. Let me just respond to that figure. I don't know what someone else might say, but the fact that they gave it up may mean that they haven't used it in 10 years. It is not any—and you don't mean to imply that there is anything wrong—

Mr. SCHUMER. Right. Neither is the revocation.

Mr. SMITH [continuing]. Or that they have done any illegal activity whatsoever.

Mr. SCHUMER. No, no, no. Neither is the revocation. It may just be that the people who fought it all the way up—

Mr. SMITH. And perhaps the 10-year limit, that is where you catch perhaps most of that percentage.

Mr. SCHUMER. The only other point I would make in terms of the efficacy of Brady, with the 5-day waiting period and even in the

conference agreement, that if and when an instant check system were truly applicable in the States, there would be no waiting period.

I think for many of us who support Brady or the waiting period is somewhat important; but far more important was the selling of guns to felons, and in States that have such laws we have found ample evidence of lots of felons attempting to buy guns from gun dealers.

So whatever the statistic is, if it is available—and I am less sanguine that it is available than Mr. Aborn—that I don't think the cooling off period is the main reason that most of us are so eager to pass Brady.

Mr. SMITH. I am glad to hear that because so often when this subject is discussed—that is, the Brady bill—you oftentimes read this figure, the 640,000 violent crimes, and the implication is, if we had the Brady bill, we would reduce a substantial number of those crimes, and I am glad to hear you say that that is not—

Mr. SCHUMER. Well, I think that is true. I am just saying the cooling off period isn't the reason for most of those crimes.

Mr. SMITH. Right, and my point and the point I am trying to make is that because so few crimes are probably committed with firearms that are purchased within a week, you are not going to substantially reduce the number of crimes that is often cited as going to be impacted.

Mr. SCHUMER. My point, again, is the felons part of Brady that is far more important, as our compromise indicated, than the cooling off period. A felon could have bought the gun 3 weeks before and be prohibited in Brady from having gotten the gun altogether if he or she used that gun in a crime.

Mr. SMITH. Yes.

Mr. SCHUMER. OK. We are not here to debate Brady.

Mr. SMITH. We are both probably agreed on the need for background checks, and the instant background checks is the ultimate goal, but the waiting period itself is not going to substantially reduce the number of crimes.

Mr. Gardiner, just to follow up on something that was brought out earlier, I am told, for example, that New York State alone has something on the order of 20,000 gun laws. Maybe that is wrong. Tell me what your feeling is.

Mr. GARDINER. The 20,000 figure generally refers to nationwide, when you include Federal, State, and local laws.

Mr. SMITH. And is it not incumbent on the Department of Treasury, by law, to compile those laws and be sure that gun dealers are aware of those laws?

Mr. GARDINER. Yes. In my testimony, my formal written testimony, I have the statute actually quoted. It is required.

Mr. SMITH. We have the statute up here and the Criminal Code, and it is your understanding as well that since 1989 the Department of the Treasury has not mailed out any compilation of those laws to the gun dealers?

Mr. GARDINER. That is correct.

Mr. SMITH. What would be the impact if they did? Would that help alert gun dealers to the laws that they might be regulated by?

Mr. GARDINER. It would be tremendously helpful.

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PLTF 100259

Mr. Higgins was correct when he said that education about what the law is is something that needs to be done, and we couldn't agree more because the vast majority of gun owners and gun dealers in this country want to be law abiding. The problem is that they don't necessarily always know what the law is, they don't know how to go about finding out what it is, and that was the reason that in 1986 Congress imposed that requirement on the Treasury Department.

Mr. SMITH. I appreciate your confirming that with me.

Mr. Chairman, I don't have any other questions except to say that unless someone else comes forward with evidence that we are not aware of, it seems to me that the vast majority, a high percentage, of gun dealers are law-abiding citizens of this country, and I think that we need to avoid legislation that would be an undue burden upon them and we need to pass legislation that would stop the traffic and illegal sale or purchase and exchange of firearms.

Mr. SCHUMER. On that note, which I agree with, we have had a hearing that has had more consensus than we have had on guns in a long time, and maybe we can do something good.

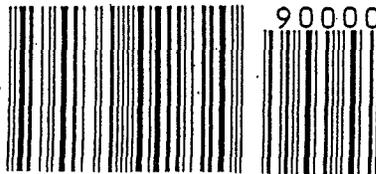
I want to thank the final two witnesses for their patience. It is, after all, 4 hours and 15 minutes since this hearing began. I also want to thank all the staff who did a great job on this: David Yassky—I think this was an excellent hearing in terms of laying out the problem and its scope—as well as Andy Fois, the subcommittee counsel; Rachel Jacobson, the clerk; Leonard McCullough; an intern who helped on the hearing; as well as Lyle Nirenberg, who is the minority counsel; and finally, I always like to thank the unsung heroes of these hearings—if there are any heroes, you are it, Alma Kristoffersen—who is the stenographer.

With that, the hearing is adjourned.

[Whereupon, at 4:15 p.m., the subcommittee adjourned, to reconvene subject to the call of the Chair.]

PLTF 100260

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**EXHIBIT 35**



DEPARTMENT OF THE TREASURY  
BUREAU OF ALCOHOL, TOBACCO AND FIREARMS  
World Trade Center  
350 S. Figueroa Street - Suite 800  
Los Angeles, California 90071

November 28, 1994

LE:L:CA:GAR/cvm  
3314.0

Memorandum To: Chief, Firearms Division

Thru: Deputy Associate Director  
Criminal Enforcement Field Operations (West)

From: Special Agent in Charge  
Los Angeles Field Division

Subject: Firearms Trace Studies  
Los Angeles Field Division

Last year, the Secretary of Treasury Lloyd Bentsen mandated that ATF conduct ten trace studies of crime guns in the United States. Three of the ten areas (Los Angeles County, Orange County, and San Diego County) fell within the jurisdiction of the Los Angeles Field Division. Attached you will find the comprehensive study for the three county area. Also attached for your information is the Orange County study which ran for a longer time period.

If you have any questions regarding these studies, please do not hesitate to call the Los Angeles Field Division at (213) 894-4812.

*George A. Rodriguez*

George A. Rodriguez

PROJECT LEAD  
FIREARMS TRAFFICKING REPORT  
SANTA ANA FIELD OFFICE  
ORANGE COUNTY, CALIFORNIA

The following report is a yearly report of the Santa Ana Field Office Firearms Trafficking report, and its related investigations/leads, that have been, and are, being conducted.

BACKGROUND OF PROJECT

The Firearms Trafficking Project/Database that the Santa Ana ATF office is maintaining has been operational since November 1, 1993. The results and findings that are compiled in this report represent the reporting year of November 1, 1993 to November 1, 1994.

The Firearms Trafficking Project is being reported on monthly in Project AEGIS, investigation number 93170 94 0006R, and quarterly in Project LEAD, investigation number 93170 94 0028V.

The tracing project consists of coordinating investigative efforts with various law enforcement agencies located in the County of Orange, California. ALL firearms recovered by the Santa Ana Police are being traced and followed up on by ATF in the course of this project. The amount of firearms recovered by Santa Ana Police constitute approximately 85 percent of all firearm recoveries for the County of Orange. Other police agencies who have contributed firearms traces in the course of this project are: Garden Grove, Westminster, Fountain Valley, Buena Park, Orange County Sheriffs, Laguna Beach, La Habra, and Irvine.

The above participation of outside ATF agencies, particularly Santa Ana PD, enabled ATF Santa Ana to report on a good percentage of Orange County gun recoveries, and subsequently conduct follow up leads produced from such a project.

The total amount of firearms traced in ATF's Orange County project was 631 for the reporting year. The breakdown of said firearms, crimes, etc, follows:

ORANGE COUNTY PROJECT LEAD  
FIREARMS TRAFFICKING PROJECT

## STATISTICAL FINDINGS - FIREARMS DATABASE

The following are breakdowns of all firearms entered into the ATF Santa Ana database from 11-1-93 to 11-1-94. The following is broken down into the make and calibers of firearms recovered, traced, and reported on:

## 9mm FIREARMS

1. Total of 9mm firearms traced in project: 128  
( 20 percent of all firearms in database)  
( 1 out of every 5 firearms in database)

MAKE	NUMBER
Smith & Wesson	17
Glock	15
Beretta	15
Ruger	12
Taurus	10
AA Arms	10
Star	8
Bryco/Jennings	7
Browning	7
FEG	5
Norinco	4
Walther	3
SG	3
SWD	2
Colt	1
Springfield	1
Echervia	1
FIP	1
Hi Point	1
CZ	1
Intratec	1
Targa	1
Detonics	1
IMI	1

ORANGE COUNTY PROJECT LEAD  
FIREARMS TRAFFICKING PROJECT

## .380 CALIBER FIREARMS

2. Total amount of .380 caliber firearms traced in  
project: 102  
( 16 percent of all firearms in database )  
( 1 out of every 6 firearms in database )

MAKE	NUMBER
Lorcin	27
Davis	26
Bryco/Jennings	22
Colt	5
Astra	4
FEG	3
Beretta	2
RPB	2
Kurz	1
FAB	1
Court Unique	1
Interarms	1
Walther	1
Remington	1
Sig Sauer	1
Bersa	1
Taurus	1
Excam	1
AMT	1

271

ORANGE COUNTY PROJECT LEAD  
FIREARMS TRAFFICKING PROJECT

## .25 CALIBER FIREARMS

3. Total of .25 caliber firearms traced in project: 75  
 ( 11.8 percent of all firearms in database )  
 ( 1 out of every 8.4 firearms in database )

MAKE	NUMBER
Raven	25
Phoenix	13
Beretta	12
Lorcin	10
Jennings	5
Colt	3
Sundance	2
Titan	2
Excam	1
Rigami	1
Kassner	1

## .22 CALIBER FIREARMS

4. Total of .22 caliber firearms traced in project: 74  
 ( 11.7 percent of all firearms in database )  
 ( 1 out of every 8.5 firearms in database )

MAKE	NUMBER
Jennings	17
Ruger	11
Lorcin	5
Beretta	5
Davis	4
H&R	4
RG	3
Colt	2
Walther	2
Sterling	2
Phoenix	2
Excam	2
North Am. Arms	2
Browning	2
Glock	1
Astra	1
Sedco	1
Remington	1
Intratec	1

ORANGE COUNTY PROJECT LEAD  
FIREARMS TRAFFICKING PROJECT

.22 CAL. Cont..

MAKE	NUMBER
Iver Johnson	1
Hi Standard	1
AA Arms	1
S&W	1
Regent	1
Mitchell	1

## .38 CALIBER FIREARMS

5. Total of .38 caliber firearms traced in project: 54  
 ( 8.5 percent of all firearms in database )  
 ( 1 out of every 11.6 firearms in database )

MAKE	NUMBER
Smith & Wesson	21
Colt	8
RG	5
Rossi	4
Taurus	3
Arminius	2
Charter	2
Llama	2
Ruger	1
Springfield	1
Derringer	1
Randall	1
Interarms	1
RPB	1
Other	1

ORANGE COUNTY PROJECT LEAD  
FIREARMS TRAFFICKING PROJECT

## .45 CALIBER FIREARMS

6. Total of .45 caliber firearms traced in project: 37  
( 5.8 percent of all firearms in database )  
( 1 out of every 17 firearms in database )

MAKE	NUMBER
Colt	21
Llama	5
Ruger	4
Glock	2
Uzi	1
RPB	1
EEA	1
EMF	1
Springfield	1
Sig Sauer	1
Webley	1
Interarms	1
Haskell	1

## .357 CALIBER FIREARMS

7. Total of .357 caliber firearms traced in project: 45  
( 7 percent of all firearms traced in database )  
( 1 out of every 14 firearms in database )

MAKE	NUMBER
Smith & Wesson	23
Colt	8
Ruger	8
Taurus	3
Charter	2
Rossi	1

ORANGE COUNTY PROJECT LEAD  
FIREARMS TRAFFICKING PROJECT

## .32 CALIBER FIREARMS

8. Total of .32 caliber firearms traced in project: 11  
 ( 1.7 percent of all firearms in database )  
 ( 1 out of every 57 firearms in database )

MAKE	NUMBER
Bryco	2
Walther	2
H&R	2
Colt	1
Iver Johnson	1
Llama	1
Regent	1
Davis	1

## .44 CALIBER FIREARMS

9. Total of .44 caliber firearms traced in project: 6  
 ( .9 percent of all firearms in database )  
 ( 1 out of every 105 firearms in database )

MAKE	NUMBER
Smith & Wesson	3
Taurus	3

## .41 CALIBER FIREARMS

10. Total of .41 caliber firearms traced in project: 3  
 ( .4 percent of all firearms in database )  
 ( 1 out of every 210 firearms in database )

MAKE	NUMBER
Ruger	3

## .40 CALIBER FIREARMS

11. Total of .40 caliber firearms traced in project: 2  
 ( .3 percent of all firearms in database )  
 ( 1 out of every 315 firearms in database )

MAKE	NUMBER
EAM	1
GLOCK	1

ORANGE COUNTY PROJECT LEAD  
FIREARMS TRAFFICKING PROJECT

## SHOTGUNS

12. Total of all shotguns traced in project: 49  
 ( 7.7 percent of all firearms in database )  
 ( 1 out of every 12.8 firearms in database )

MAKE	NUMBER
Mossberg 12 ga.	16
Remington 12 ga.	8
H&R 12 ga.	6
Maverick 12 ga.	4
Remington 410 ga.	2
Beretta 12 ga.	2
Stevens 12 ga.	1
Savage 20 ga.	1
New England 12 ga.	1
Mossberg 20 ga.	1
Winchester 12 ga.	1
H&R 16 ga.	1
H&K 12 ga.	1
Westfield 12 ga.	1
Smith & Wesson 12 ga.	1
Savage 12 ga.	1
Winchester 16 ga.	1

## RIFLES

13. Total of all rifles traced in project: 45  
 ( 7.1 percent of all firearms in database )  
 ( 1 out of every 14 firearms in database )

MAKE	NUMBER
Norinco 7.62	14
Ruger 22 cal	6
Marlin 22 cal	6
Universal 30 cal	3
General Motors 30 cal	3
Remington 30-06	2
Glenfield 22 cal	1
Remington 22 cal	1
Colt 223 cal	1
Remington 308 cal	1
Norinco 5.56 cal	1
Ruger 7.62	1
Inland 30 cal	1
Marlin 30/30 cal	1

ORANGE COUNTY PROJECT LEAD  
FIREARMS TRAFFICKING PROJECT

## RIFLES (Cont...)

MAKE	NUMBER
Bushmaster 223 cal	1
Remington 223 cal	1
Ruger 223 cal	1

## CRIME/RECOVERY INFORMATION

The following statistical findings pertain to the types of crimes database firearms were involved in, and/or reasons traces of firearms were conducted. The information was compiled from obtaining police reports, conducting interviews, etc. Of the 631 gun traces conducted, there were 32 instances that did not have crime related information. This occurred as a result of firearms being taken from lawful owners and held by the police for safekeeping purposes, etc. However, there were 599 instances that serious crimes occurred that in some way database firearms were involved. The breakdown of such is as follows:

CRIME	# OF FIREARMS
Carry Concealed Weapons (CCW) ( T-I or similar state offense)	283
( 45 percent of all traced firearms) ( 1 out of every 2.2 firearms traced)	
Assualts	84
( 13 percent of all traced firearms) ( 1 out of every 7.5 firearms traced)	
Found Firearms	54
( Firearms that were in some way located by police in the performance of their duties - but could not be shown as being possessed by any subjects)	
( 8.5 percent of all traced firearms) ( 1 out of every 11.6 firearms traced)	

## CRIME (Cont..)

Domestic Disputes/Violence	44
( 6.9 percent of all traced firearms)	
( 1 out of every 14.3 firearms traced)	
Narcotic Offenses	40
( 6.3 percent of all traced firearms)	
( 1 out of every 15.7 firearms traced)	
Murder	38
( 6 percent of all traced firearms)	
( 1 out of every 16.6 firearms traced)	
Burglary Offenses	21
( 3.3 percent of all traced firearms)	
( 1 out of every 30 firearms traced)	
Robbery Offenses	16
( 2.5 percent of all traced firearms)	
( 1 out of every 39.4 firearms traced)	
Title II firearm Offenses	14
( 2.2 percent of all traced firearms)	
( 1 out of every 45 firearms traced)	
Suicide	5
( .8 percent of all traced firearms)	
( 1 out of every 126 firearms traced)	

298

ORANGE COUNTY PROJECT LEAD  
FIREARMS TRAFFICKING PROJECT

STOLEN GUNS

The amount of firearms found to be stolen through the tracing project for the reporting year are as follows:

STOLEN GUNS = 36

PERCENT OF ALL FIREARMS TRACED IN PROJECT = 6 %  
( 1 out of every 17.5 firearms traced )

JUVENILES WITH FIREARMS

The amount of firearms found to be possessed/used by juveniles under 18 years of age through the tracing project for the reporting year are as follows:

JUVENILES WITH FIREARMS = 84

PERCENT OF ALL FIREARMS TRACED IN PROJECT = 13.3 %  
( 1 out of every 7.5 firearms traced )

FIREARMS FROM OUT OF STATE

The following breakdown represents the statistical findings of firearms traced to purchasers from out of state. Furthermore, it was broken down as to which states the firearms had emanated from that ended up in the Orange County area, recovered by police.

OUT OF STATE FIREARMS = 68

PERCENT OF ALL FIREARMS TRACED IN PROJECT = 10.7 %  
( 1 out of every 9 firearms traced )

STATES/AMOUNT

AZ = 12	IL, LA, SC = 3 ea
GA = 7	OR, UT, NC, IN = 2 ea
NV = 6	
TX, FL = 5	MS, NY, VA, MO, MI, AK, CO, WA,
OH = 4	NM, MA, KY, TN = 1 ea

293

ORANGE COUNTY PROJECT LEAD  
FIREARMS TRAFFICKING PROJECT

## INVESTIGATIONS GENERATED

The following is a synopsis of investigations initiated by ATF pursuant to results obtained through the Orange County Project LEAD. Besides the below outlined cases, ATF Santa Ana has generated 7 collaterals to ATF LE and CO throughout the United States on potential illegal FFL activities / firearms trafficking. Furthermore, ATF Santa Ana has placed 13 "look outs" with the California Dept. of Justice Firearms Registration Unit on suspected "straw purchasers" and "ITAR" targets, that obtain and/or distribute firearms in the Orange County area.

This investigation has been a 8 month investigation into a licensed at home FFL who is illegally dealing firearms without any paperwork, and to juveniles with gang ties. This case was generated through two firearms traces in Project LEAD. To date, a criminal case report charging 5 subjects ( including the FFL) with conspiracy to deal firearms without a license has been submitted to Los Angeles Division. The FFL in question has been found to have illegally dealt over 1700 firearms over the past 4 years. Through ATF's investigative efforts, the IRS is submitting a case report charging at least 2 subjects with money laundering and other related charges. IRS and ATF, it is anticipated, will be seizing the main subjects \$700,000 estate and other assets. Indictments are pending as of this writing.

This case is a guns to Mexico and T-II investigation involving a target who has purchased about firearms, including large amount of assault rifles recently, and is suspected of taking them to Mexico. This subject has border crossing in the vears. The subject also claims to work as an This subject has ties to T-II investigation involving the largest storefront dealer in who is suspected of a number of illegal ac

separate  
caliber ammunition into Mexico.

This case is a guns to Mexico case involving a subject who has given ATF written statements confessing to purchasing and smuggling 15 firearms to Mexico over a 4 month period. This subject

ORANGE COUNTY PROJECT LEAD  
FIREARMS TRAFFICKING PROJECT

cooperated with ATF and is now an informant for ATF Santa Ana. To date, this subject produced a buy bust of 1/2 kilo from Santa Ana drug dealers who were attempting to trade said amount of dope for several firearms.

This case involves 2 large storefront dealers of Orange County that are diverting large amount of firearms on their books. The diversion consists of putting thousands of firearms into the names of at home FFLs who provided them copies of FFL in the course of other business. Over 10 at home FFLs have been shown to have "received" thousands of firearms when in reality they have rarely dealt with these storefront dealers. The firearms being diverted have turned up in mass in the countries of Denmark, Japan, Philippines, and Australia. This case is a FFL and ITAR case, which is currently a task force case with ATF SAs working full time on it.

This case involves a subject from Thailand who used fictitious identification and information to purchase firearms from subject dealers described in ATF investigation showed that has been disassembling the firearms and shipping them back to

## ATTACHMENTS

The following attachments are included herein for the readers benefit:

1. Copies of (32) LEAD REPORTING FORMS perfected by ATF Santa Ana to document numerous follow ups conducted by ATF in the course of Project LEAD. These forms have been completed and sent to Los Angeles Firearms Trafficking Coordinator for inclusion into the ATF LA firearms trafficking report.

2. Copy of news articles documenting the protest of Bryco/Jennings manufacture of Irvine, CA. (Within Orange County ATF area). Protest is due to fact that this country has little or no quality control standards for firearms. Hence, inexpensive firearms production

ORANGE COUNTY PROJECT LEAD  
FIREARMS TRAFFICKING PROJECT

sales, and use - primarily by urban criminals - are flourishing.

This fact is corroborated in part by this study (refer to 380 caliber stats; the 2nd most used firearm in this county). Cheap guns are a concern. Quality controls would only make the industry safer and more respectable as a whole, while at the same time bring the number of cheap guns made and sold, down to a controllable level, hence limiting the accessibility to the criminal element. This would almost assure that a decrease in shootings would occur, since most gang shootings/murders have been with cheaper handguns. This problem however is not just an Orange County problem, but a problem prevalent throughout the United States. Quality Controls on firearms needs to be addressed on a national level.

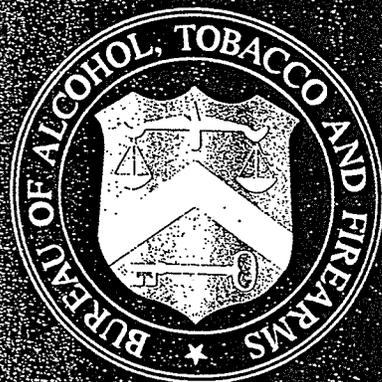
Along this line of recommendations, this project produced the viewpoint that firearms manufacturers should have to implement a minimum amount of security at their manufacturing plants. Noted is the problem at the plant as well as at the in At both these locations, ATF SAs have noted little or no security. Anyone could walk off with boxes of firearms (again inexpensive firearms). several thefts have occurred this year. handguns were recovered in Santa Ana in a three week period. guns in question often had not even been given a serial number before they were stolen. ATF has opened an IN on subjects who have been stealing guns out of plant and selling them to ATF UCAs. has documented the fact that several gang members, some of which are convicted felons, work at the plant. as had thefts of firearms over the past three years - again due to the fact of flimsy security.

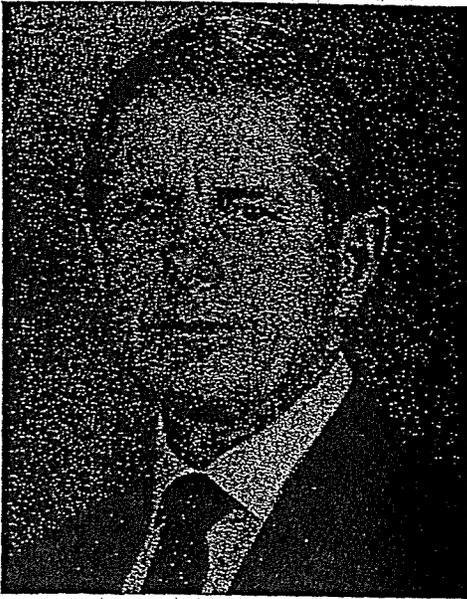
3. Copies of memos from ATF HQ directing ATF field offices to conduct this study on firearms trafficking.

**EXHIBIT 36**

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

**1994**  
**FIREARMS**  
**ENFORCEMENT**  
**INVESTIGATIVE**  
**REPORT**





## *Message from the Director*

*In 1968, passage of the Gun Control Act (GCA) gave the Secretary of the Treasury the scope of the firearms enforcement responsibilities. The Secretary of the Treasury designated the Bureau of Alcohol, Tobacco and Firearms (ATF) with primary jurisdiction for the investigation of violations of the Federal firearms laws. In the preamble of this landmark legislation, Congress declared that "the purpose of this title is to provide support to Federal, State, and local law enforcement officials in their fight against crime and violence..." We, at ATF, have taken this mandate as our mission and responsibility under the provisions of this legislation and subsequent amendments.*

*ATF has been at the forefront of the battle against violent crime not only because of our unique position of being vested with the primary enforcement of the Federal firearms statutes, but also because of the investigative expertise and tools developed to enforce these laws. Our firearms enforcement programs are specifically tailored to fulfill the prescription that has been written by Congress.*

*The Bureau utilizes our Federal jurisdiction to impact upon violent crime. This publication will provide an overview of the impact that ATF strives to make in the arena of Federal firearms enforcement.*

*John W. Magaw*

*ATF:*  
*A Historical*  
*Perspective*



PLTF 100263



Headquartered in Washington, DC, ATF has offices throughout the United States, its territories, and select foreign countries. ATF is a unique Federal agency. Its special agents, inspectors, auditors, and support personnel are

involved in investigating the most violent criminals in our society; in regulating the firearms, explosives, alcohol, and tobacco industries in America; and in ensuring the annual collection of billions of dollars in taxes. While ATF is one of the newest bureaus, it has a lineage that is full of experience and tradition. Although the Bureau has only been established since 1972, ATF's history extends back to the earliest days of the United States.

Faced with debts incurred during the Revolution, Congress imposed the first Federal tax on distilled spirits on March 3, 1791. This tax proved to be unpopular, and subsequently in 1794, violent resistance to the tax exploded into the Whiskey Rebellion. The uprising was led by Albert Gallatin, who later as Secretary of Treasury, levied these same taxes. To restore order, President George Washington organized 15,000 militiamen. This action firmly established the new Federal Government's authority to enforce such taxes.

Between the Whiskey Rebellion and the Civil War, taxes on distilled spirits were alternately repealed and enacted to meet the Government's revenue needs. In order to finance the Civil War, Congress passed the act of July 1, 1862. This law

created the Office of Internal Revenue and imposed a tax on distilled spirits that has become a permanent part of the Federal revenue system. In 1863, Congress authorized the hiring of three detectives to aid in the prevention, detection, and punishment of tax evaders. These laws are the foundation for both ATF and the Internal Revenue Service (IRS).

In 1875, Federal investigators broke up the infamous "Whiskey Ring" of corrupt grain dealers, politicians, and revenue agents. This cartel defrauded the Government of millions of dollars in taxes on distilled spirits; disclosure of this ring caused a major scandal. Subsequently, Congress enacted the first civil service laws, recognizing that quality of the people who administered the law was as important as the existence of the law itself.

In 1919, the 18th amendment to the Constitution was ratified, ushering in the Prohibition Era. Combined with the Volstead Prohibition Enforcement Act, the law gave the Commissioner of Internal Revenue, through the newly created Prohibition Unit, jurisdiction over the illicit manufacture, sale, or transportation of intoxicating liquors for beverage purposes.

Distillers were required to dispose of the on-hand products, amounting to an estimated 58-60 million gallons of alcoholic beverages.

The decade of the "Roaring Twenties" spawned organized criminal mobs, who fed on the public reaction to Prohibition. Syndicates led by racketeers, such as Al



Capone and others, became front-page figures. Corruption, gang slayings, bootlegging, and moonshining flourished. In response to the growing problem, the Prohibition Unit became the separate Bureau of Prohibition. Special squads were formed to go after the emerging criminal empires. One of the best known squads was headed by Eliot Ness in Chicago. Today's ATF special agents are the successors to those legendary "Untouchables."

The Prohibition Era ended with the passage of the 21st amendment. With the repeal, the Bureau of Prohibition, which had been moved to the Department of Justice in 1930, turned over its responsibilities to a newly created Alcohol Tax Unit (ATU) within the Bureau of Internal Revenue. The legal liquor industry set about rebuilding itself.

As the legal liquor industry started back to business, with inadequate equipment and supplies, Congress recognized that the illegal liquor barons, who were still able to meet the public demand, posed a real threat to legitimate distillers and brewers. In 1935, the Federal Alcohol Administration (FAA) Act was passed, creating licensing and permit requirements and establishing regulations designed to ensure an open and fair marketplace to the legal businessperson and to the consumer. Until 1940, a separate FAA in Treasury enforced the FAA Act. In that year, it merged with ATU, successfully combining related law enforcement and regulatory authorities in a pattern that continues today within ATF.



One of the offshoots of Prohibition was an unprecedented wave of criminal violence. Mobs and gangs that were so prevalent during the Prohibition Era made war on each other and on the public. Hence, in 1934, the National Firearms Act (NFA) was passed, controlling what Congress termed "gangster type weapons," such as machineguns and sawed-off shotguns. The NFA, America's first Federal gun control law, was followed in 1938 by the Federal Firearms Act (FFA), which established limited regulation of the firearms industry and made it a Federal crime for felons and fugitives to receive firearms in interstate commerce. In 1942, responsibility for administering these laws was given to the ATU, whose experience in both law enforcement and industry regulation especially suited it for these new responsibilities.

In 1951, tobacco tax duties were also delegated to ATU, and the unit's title changed in 1952 to Alcohol and Tobacco Tax Division of the IRS (ATTD). The division now enforced the laws for alcohol, tobacco, and firearms.

Against the background of rising crime rates during the 1960's and the assassinations of President John F. Kennedy, Senator Robert Kennedy, and Martin Luther King, Jr., the Government created stricter Federal firearms laws that were intended to address firearms-related violence. The Omnibus Crime Control and Safe Streets Act of 1968 and the subsequent GCA, which absorbed the firearms provisions of the Omnibus Act, replaced the FFA and NFA of the 1930's. Bombs and other destructive devices

were added to machineguns and sawed-off shotguns as items strictly controlled by the Government, and ATTD was given the first direct Federal jurisdiction directed at criminal use of explosives. The GCA also created stricter licensing and regulation of the firearms industry and established new categories of offenses involving firearms. The scope of the responsibilities was such that ATTD was renamed as the Alcohol, Tobacco, and Firearms Division of the IRS (ATFD).

By the end of the 1960's, the Federal Government's almost 200-year-long war against "moonshining" had been reduced by economics and effective enforcement to only sporadic skirmishes. While industry regulation and tax collection remained vitally important, ATFD's law enforcement resources were being redeployed in the battle against organized crime and criminal violence. In 1970, the Organized Crime Control Act was passed. This law included sections known as the Explosives Control Act (ECA) which was modeled after the GCA passed 2 years earlier. The ECA contained provisions for stricter industry regulations and established certain bombings and arsons as Federal crimes. As with the GCA, ATFD was clearly the agency with the primary expertise and resources to administer the new law.

With the passage of the ECA, it also became apparent that ATFD was responsible for an interrelated scope of activities that were clearly distinguishable from the primary missions of the IRS. Therefore, ATFD was separated from the IRS and given full Bureau status in the Treasury Department on July 1, 1972.

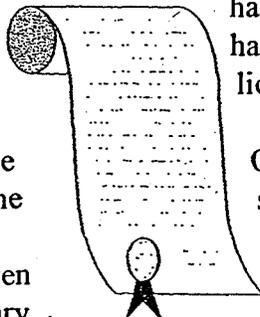
The new Bureau gained new responsibilities. In 1976, ATF briefly assumed the duty of enforcing the wagering laws from IRS. In 1978, in response to the millions of dollars being lost to the States by cigarette smuggling from low tax to high tax States, ATF was charged with enforcing a new Contraband Cigarette Act. ATF was also tasked with helping State enforcement agencies improve their enforcement and revenue collection capabilities. At the same time, ATF was developing an entirely new Federal effort against an emerging crime problem--arson.

In recent years, ATF was able to determine that certain accelerants used in arsons meet the definition of explosives in the ECA. By the mid-1970's, ATF was able to present major arson cases to the Department of Justice for prosecution. In 1982, that effort was recognized with the passage of the Anti-Arson Act, which amended the ECA to include destruction of property by fire along with destruction by explosives.

In 1986, Congress passed amendments to the GCA. These amendments established mandatory sentences for armed drug traffickers and violent career criminals.

The Brady Law, which became effective on February 28, 1994, created a mandatory waiting period for purchasing handguns. This provision allows law enforcement officers to check the background of each handgun purchaser before delivery of handguns are made by Federal firearms licensees.

On September 13, 1994, the President signed the Violent Crime Control and Law Enforcement Act of 1994, better known as the "Crime Bill." This legislation covers a wide range of law enforcement activities, some of which ATF is directly responsible for enforcing.



*Firearms  
Enforcement  
Programs*



PLTF 100267

ATF's mission is dedicated to reducing violent crime, collecting revenue, and protecting the general public. As such, ATF enforces the Federal firearms laws by working directly and in cooperation with others to suppress and prevent crime and violence through enforcement, regulation, and community outreach; ensure fair and proper revenue collection; provide fair and effective industry regulation; support and assist Federal, State, local, and international law enforcement; and provide innovative training programs in support of enforcement and regulatory functions.

ATF's expertise in conducting investigations continues to expand since Congress first mandated that the Secretary of the Treasury enforce the Federal firearms laws. The Secretary of the Treasury designated ATF to enforce these laws. Through the enforcement of the Federal firearms laws, ATF has the ability to significantly impact on violent crime by targeting armed career criminals and violent offenders. ATF is recognized as a leader in the fight against violent crime through its investigative expertise and partnerships with other Federal, State, and local law enforcement agencies.

ATF's specialized expertise allows the Bureau to effectively address criminal activity on a national level. ATF's unique assets include the following:

### **Statutory Jurisdiction**

The GCA (as amended) is the recognized, definitive legislation directed toward firearms-related violence and illegal firearms trafficking. Congress

directed the Secretary of the Treasury, through ATF, to enforce the provisions of the GCA and other Federal firearms laws. By utilizing the Federal firearms laws, ATF fills the void created by ineffective, diverse, and conflicting State and local firearms statutes. Federal firearms laws are specifically designed to address the investigative requirements associated with the interstate movement of firearms.

### **Investigative Expertise**



Because ATF has been successfully conducting firearms investigations since the enactment of Federal firearms legislation, ATF has the jurisdiction and expertise to offer its leadership role to the law enforcement community in the attempt to impact upon firearms violators. Through the programs initiated by the Bureau, ATF personnel have been able to develop expertise in a variety of areas that identify illegal sources of firearms and disrupt the flow of firearms to the criminal element.

### **ATF Exclusive Information**

Because ATF has primary responsibility for regulating the firearms industry and enforcing the Federal firearms laws, the Bureau possesses several investigative tools that facilitate the investigation of illegal firearms trafficking. These investigative tools include the Firearms and Explosives Licensing Center, the National Firearms Registration and Transfer Record, and the National Tracing Center. Through the application of these and additional systems, information can be obtained which provides investigative leads to the law



enforcement community to assist in the identification of individuals who illegally supply firearms to the criminal element.

## Technical Services

ATF provides expert technical services, including forensic laboratory examinations, technical firearms information and testimony, special agents, inspectors, auditors, support personnel, ballistics and forensic capabilities, and legal expertise regarding the Federal firearms laws.

## Specialized Training

ATF has provided specialized training to ATF personnel, as well as other Federal, State, local, and foreign law enforcement officers to assist in the enforcement of the Federal firearms laws.

## Public/Industry Education

ATF attempts to educate the firearms industry and public by publishing informative literature, and it strives to develop positive collaborative working relationships that promote information sharing and cooperation. Additionally, ATF, working with our State and local counterparts, participates in the Gang Resistance Education and Training, which targets at-risk youths. Furthermore, ATF educates and assists the American public through a national hotline utilized to solicit information on gangs, guns, and drugs.

ATF's specialized experience in addressing criminal activity draws upon the Bureau's existing resources and firearms enforcement programs. The

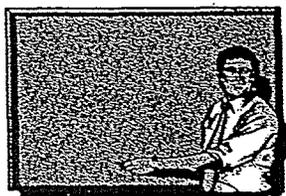
following will provide an overview of some of ATF's firearms enforcement programs and initiatives.

# ACHILLES PROGRAM

In 1986, ATF responded to the Comprehensive Crime Control Act mandate by developing a national firearms enforcement strategy called "Achilles." ATF believes violent criminals are particularly vulnerable to the application of these laws because, unlike narcotics or other forms of contraband, firearms are not easily disposable. They often provide a history of the criminal by linking the criminal to other crimes and providing valuable intelligence about the violent offender's criminal associates. For these reasons, possession of firearms by violent criminals becomes their "Achilles heel."

ATF's Achilles Program is an initiative which focuses the Bureau's resources in communities with the highest levels of firearms-related violence. It utilizes the most effective firearms statutes that provide lengthy mandatory sentences to incarcerate violent offenders.

ATF is responsible for enforcing the provisions of the Armed Career Criminal Act and the Comprehensive Crime Control Act. ATF primarily utilizes the Federal firearms laws to address the issues of violent crimes being committed by armed career criminals, armed drug traffickers, and other violent offenders who use firearms in their illegal activities. ATF identifies, targets, investigates, and recommends Federal prosecution of individuals within these



categories under 18 U.S.C. §§ 924 (c) and (e), which call for mandatory minimum sentences.

As the result of ATF investigations, from October 1, 1987, when the Bureau began to track its accomplishments under the Achilles Program, through December 31, 1994, 1,630 suspects have been sentenced under 18 U.S.C. § 924(e) to a cumulative 28,769 years in prison. This is an average sentence of 18 years per prisoner. Additionally, 27 defendants have received life sentences. Under 18 U.S.C. § 924 (c) prosecutions, 4,782 defendants have been sentenced to a cumulative 28,420 years in prison, including 2 life sentences. This is an average sentence of 6 years' incarceration per prisoner.

Specifically, in calendar year 1994, 257 suspects have been sentenced under 18 U.S.C. § 924(e) to a cumulative 4,580 years in prison. Additionally, five defendants received life sentences. Under 18 U.S.C. § 924 (c) prosecutions, 554 defendants have been sentenced to a cumulative 3,327 years in prison.

ATF measures the benefits of the Achilles Program through the statistical analysis obtained from a National Institute of Justice report and ATF's study entitled, Protecting America, which indicate a reduction in the number of violent crimes due to the incarceration of these violent criminals. Statistics revealed that violent offenders commit an average of 160 violent crimes per year. For the period January 1, 1988, through December 31, 1994, based on the number of years a violent offender is incarcerated and the number of violent crimes committed per year by these individuals, it was determined that approximately 4.4 million violent offenses were averted.

These statistics also estimate a savings of approximately \$10.2 billion to the potential victims and society, along with preventing inestimable pain and suffering.

## **ACHILLES TASK FORCES**

The Achilles Program is in place in all 24 of ATF's field divisions. Since this program began, the Bureau has established 21 congressionally mandated Achilles task forces in 20 major cities with high violent crime rates. These task forces are comprised of ATF special agents and other Federal, State, and local law enforcement officers who work in targeted high crime neighborhoods where the highest incidents of gang-related violence, drug trafficking, homicides, aggravated assaults, rape, and other violent crimes occur. The mission of these task forces is the apprehension of Federal firearms offenders, not State offenders. The statutes that ATF enforces benefit the entire Nation by incarcerating offenders to mandatory prison sentences, therefore, making communities safer by removing offenders for longer periods of time.

## **VIOLENT OFFENDER PROGRAM (VOP)**

The VOP encompasses the enforcement successes of the Achilles Program's statute, 18 U.S.C. § 924(e), to pre-identify career criminals who meet the following criteria: a minimum of three prior felony convictions for crimes of violence or drug trafficking; a felony conviction for a violent crime involving a firearm or other weapon; a conviction for a crime where the subject injured or killed his/her victim, three convictions for crimes in which a weapon was used; and the subject has either been on

probation, parole, or released from prison within the last 5 years.

Subjects meeting this criteria are entered into National Crime Information Center's (NCIC) ATF violent felon file. When one of these violent felon offenders is encountered by a law enforcement officer and is in possession of a firearm, ATF will immediately be notified to respond and commence criminal prosecution. Upon conviction, the violent offender is eligible for significant mandatory sentencing of 15 years to life, without probation or parole.

Currently, ATF is authorized to enter 1,000 of the Nation's most violent offenders in NCIC's ATF violent felon file. The entry of these violent offenders allows law enforcement officers who are querying NCIC to immediately be aware they may have possibly encountered an armed career criminal. The number actually entered at any given time fluctuates because of removal of subjects from the file due to incarceration, death, or change in the status of the offender.

The average offender entered in the VOP has suffered six felony convictions and has been sentenced to more than 35 years of imprisonment. To date, 47 subjects, who are entered in the VOP, have been sentenced to 60 life sentences. These individuals are the "worst of the worst." These are precisely the type of individuals who are committing the violent crimes that victimize our society.

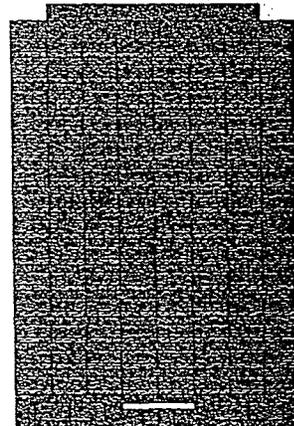
## **ENFORCEMENT WITHIN PUBLIC HOUSING DEVELOPMENTS**

When public housing legislation was enacted in the United States, it was an attempt by the Federal Government to

assist States and local communities in providing temporary, safe, and sanitary dwellings for families of modest means. However, many of today's public housing developments can no longer provide these basic essentials to their residents. They have become infested with crime, and many residents are fearful for their own safety and that of their families; however, because of economic circumstances, they cannot leave their surroundings.

Public housing developments represent a unique enforcement and tactical problem to law enforcement agencies in their struggle against illegal firearms and narcotics trafficking. In public housing developments, there are high concentrations of people within a limited amount of space. Many housing authority officials claim that nonresidents are responsible for the vast majority of the narcotics trafficking and illegal activities that occur within the housing facilities. The criminal activity that exists in some public housing developments feeds the violent crime that threatens individuals and families and hampers the Government's effort to provide temporary, safe, and low-cost housing for those in financial need.

ATF developed a successful enforcement



strategy aimed at addressing those public housing developments that are plagued with violent crime for use by law enforcement agencies and public housing authorities experiencing such problems in their communities.

ATF, working along with other Federal law enforcement agencies and our State/local counterparts, is working to impact upon firearms availability through illegal channels and the escalation of armed violence that is directly proportional to the narcotics market. ATF working along with local authorities developed Project Uptown in New York City in 1990. ATF's role in Project Uptown addresses the use of firearms offenses in designated public housing developments.

Project Uptown has been very successful since its inception, and a similar task force approach to crime within housing developments received congressional funding in Baltimore, Maryland, during fiscal year (FY) 93. ATF has several informal task forces that concentrate their enforcement efforts within select public housing developments having high violent crime rates.

During 1994, ATF and the Department of Housing and Urban Development published a booklet entitled Addressing Violent Crime in Public Housing Developments. This publication is a landmark guide in the effort to decrease violent crime in our Nation's public housing developments.

## **CEASEFIRE PROGRAM**

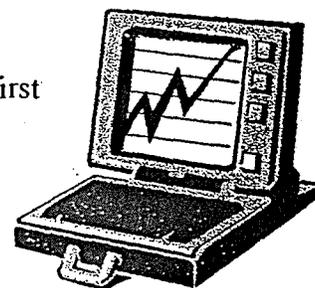
The purpose of the CEASEFIRE Program is to provide support to law

enforcement agencies in areas of the country experiencing serious organized criminal gang and drug-related shooting incidents. Currently, ATF is utilizing a state-of-the art system that allows firearms technicians to digitize and automatically sort bullet and shell casing signatures and aids in providing matches at a greatly accelerated rate. The equipment expeditiously provides investigators with leads to solve greater numbers of crimes in a shorter period of time. The technological advances of this initiative draws upon the Integrated Ballistics Identification System (IBIS).

IBIS will, for the first time, provide a single system

capable of comparing both

types of ballistic evidence found at crime scenes. This integrated and automated imaging system permits firearms examiners to enter and review large numbers of fired bullets and expended cartridge cases and cross reference hits made from each system. The ballistic comparison of crime scene bullet or cartridge casing evidence can be automatically compared with other bullet or cartridge casing images previously entered into the system.

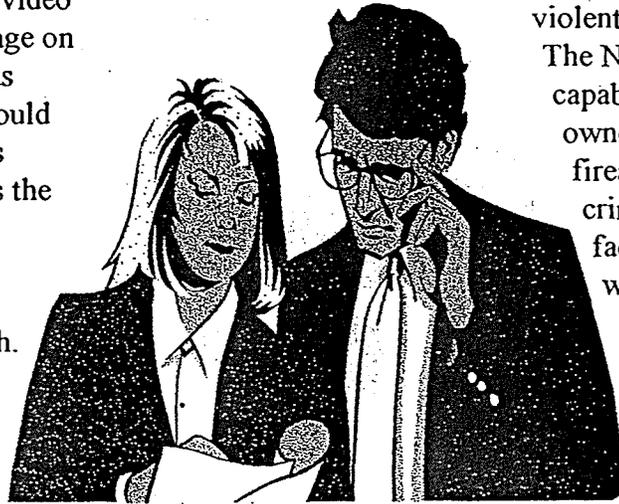


The ballistic comparison system does not positively identify (match) bullets or casings fired from the same weapon—that must be done by a firearms examiner. However, the system does produce a short list of candidates for the match. The numerical probability of a match is given for each candidate on the list. By doing automated searches, IBIS speeds up and increases the time efficiency spent conducting comparisons. The best

evidence in linking a firearm to a specific crime is matching the recovered projectile and cartridge casings to the suspect firearm.

As stated earlier, the system does not make identifications; the firearms examiner must make the identification if two bullets or cartridge cases come from the same firearm. Since, the system produces a list of scores that indicates the relative and quantitative probability of a match (high to low), the firearms examiner can retrieve selected images for evaluation on the video screen. If the image on the screen looks as though a match could exist, the firearms examiner inspects the specimens on a comparison microscope to confirm the match.

To initiate the CEASEFIRE project, ATF is utilizing a part of its most successful firearms enforcement program--Achilles. During FY-94, ATF coupled the CEASEFIRE pilot initiative with the Achilles task forces located in Washington, DC; Atlanta, Georgia; and San Francisco, California. These locations are being utilized to measure the effectiveness of CEASEFIRE and to serve as a feasibility test for expansion to additional cities. The CEASEFIRE strategy has been expanded to include ATF's regional laboratories located in Atlanta, Georgia, and San Francisco, California, and the Boston, Massachusetts, Police Department.



The CEASEFIRE initiative utilizes IBIS, and it draws upon existing ATF enforcement programs and its unique resources in conducting criminal investigations.

## FIREARMS TRACING

ATF's National Tracing Center (NTC) provides 24-hour assistance to Federal, State, local, and foreign law enforcement agencies in their fight against violent crimes involving firearms. The NTC maintains the capability to trace the origin and ownership of recovered firearms that were used in crimes. The NTC is the only facility of its kind in the world.

Firearms tracing has become an integral part of any investigation involving the criminal use of firearms, not only in the worldwide fight against violent crime and firearms trafficking, but also against narcotics trafficking and terrorism. The systematic tracking of firearms from the manufacturer to the purchaser (or possessor) aids law enforcement in identifying suspects involved in criminal violations, determines if the firearm was stolen, and proves ownership. The NTC conducted over 79,000 firearms traces in FY-94. As such, a valuable investigative link between crimes and suspects was provided. It is anticipated that in FY-95, the NTC will conduct over 100,000 traces. The NTC is also the prescribed Federal repository for firearms records of Federal firearms dealers who have gone out of business.

The NTC firearms tracing data base provides crucial intelligence and investigative information allowing illegal firearms traffickers and firearms trafficking organizations to be identified. The data base information, which is from recovered and traced firearms only, can be requested by any Federal, State, local, or foreign law enforcement agency. Additionally, foreign law enforcement agencies may obtain this database information by submitting their requests through ATF's International Enforcement Branch, Intelligence Division.

The NTC records fall under the purview of the Freedom of Information Act.

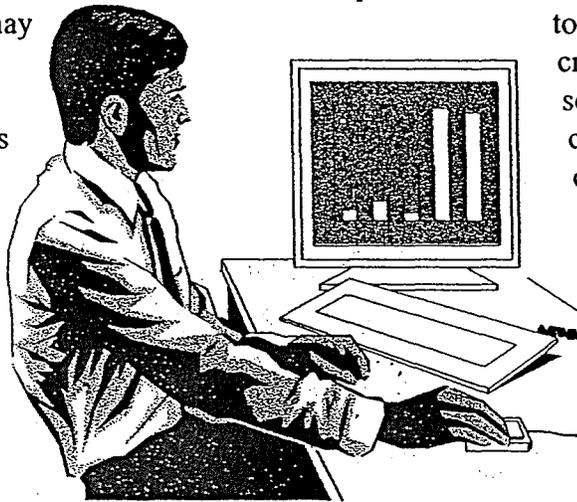
Civilians are allowed to access the NTC to obtain information about firearms they have purchased but cannot locate or have been stolen. The NTC does not release personal information unless it pertains directly to the requester. Individuals wishing to access the NTC for this reason should contact ATF's Disclosure Branch at (202) 927-8480.

Investigations of violent crime and illegal firearms trafficking have historically been ATF priorities. Recently, ATF has undertaken or expanded the following enforcement programs/initiatives in response to the criminal firearms trafficking problem.

## **FIREARMS TRAFFICKING/PROJECT LEAD**

Illegal firearms trafficking is defined as

the illegal acquisition of firearms for the principal purpose of making firearms available to the criminal element and/or to persons in areas where State and local laws limit their availability. Illegal firearms trafficking negates the intended effect of restrictive State and local firearms laws and significantly adds to the frequency of violent crime. Illegal firearms trafficking has become a very profitable venture for individuals willing to assume the risk of criminal prosecution. In some instances, a firearm can bring 5-6 times its original purchase price when sold in major cities with restrictive firearms laws.



Historically, firearms trace studies have proven to be an excellent tool in identifying illegal firearms trafficking patterns, illegal purchasers, problem firearms dealers, and source areas supplying firearms. Building upon the success of tracing projects, ATF has developed Project LEAD. Project LEAD is state-of-the-art computer software that utilizes available trace data maintained at the NTC. Project LEAD analyzes NTC data that will enable law enforcement to focus resources and initiate criminal investigations against illegal firearms traffickers and their source of supply.

Furthermore, amendments to the Crime Control Act of 1990, the Brady Act, and the Crime Bill have provided ATF with additional jurisdiction regarding potential illegal firearms traffickers. ATF is currently developing a national illegal firearms trafficking strategy that would allow ATF to concentrate personnel and

resources solely to this enforcement challenge that affects violent crime.

## **STOLEN FIREARMS INITIATIVE**

The number of stolen firearms that find their way to the streets of America's cities has increased substantially by the theft of firearms from interstate carriers and Federal firearms licensees (FFL). ATF's stolen firearms initiative provides for the voluntary reporting by common carriers of the loss or theft of firearms from interstate shipments. Mandatory reporting by FFLs of firearms thefts or losses from their business became effective September 13, 1994, with the passage of the Crime Bill.

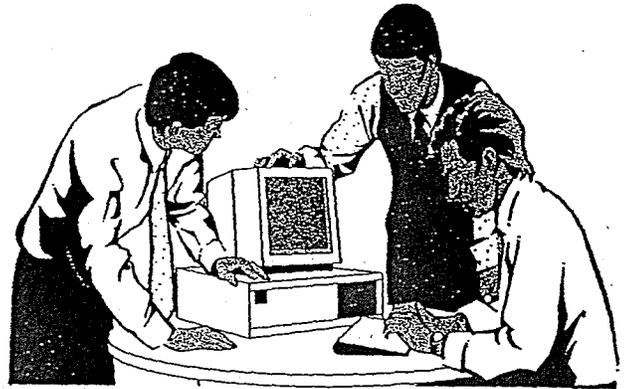
Information obtained from FFLs and common carriers assists ATF in identifying theft patterns, parties responsible for the thefts, and the stolen firearms intended market. More than 15,500 incidents of loss or theft have been reported since the inception of ATF's stolen firearms initiative.

## **EXPERT TECHNICAL SUPPORT**

The Firearms Technology Branch (FTB) provides expert technical support to ATF, other Federal agencies, State and local law enforcement, the firearms industry, Congress, and the general public. FTB is responsible for the technical determination concerning types of firearms approved for importation into the United States. In accordance with the Undetectable Firearms Act, FTB provides the standard for the detectability of firearms. This branch is also

responsible for rendering opinions regarding the classification of illegal firearms and newly designed firearms. FTB maintains an extensive firearms reference collection, as well as technical firearms reference files, a library, and firearms data bases.

In addition, ATF provides the U.S. Department of Justice, State prosecutors'



offices, district attorneys' offices, and military courts with expert firearms testimony. This testimony includes the identification and origin of firearms and other matters relating to firearms and the firearms industry.

## **RESTORATION OF FIREARMS PRIVILEGES**

The Restoration Section within the Firearms Enforcement Division is responsible for the processing of applications for restoration of Federal firearms privileges in accordance with 18 U.S.C. § 925(c), and applications for restoration of explosives privileges in accordance with 18 U.S.C. § 845(b). These applications are submitted by individuals and/or corporations who have incurred disabilities imposed under 18 U.S.C. §§ 922(g) and 842(d).

PLTF 100275

Prior to October 6, 1992, any person under Federal firearms disabilities could apply for relief from his/her Federal firearms disabilities pursuant to 18 U.S.C. § 925(c). On October 6, 1992, Public Law No. 102-393, 106 Stat. 1729, containing ATF's appropriations, became effective. This law prohibited the expenditure of funds for investigating and acting upon applications for relief from Federal firearms disabilities filed by individuals. This restriction was retained in Public Law No. 103-123, 107 Stat. 1226, containing ATF's appropriations for 1994, and in Public Law No. 103-329, 108 Stat. 2382, containing ATF's appropriation for 1995. As long as this provision is included in ATF's appropriations legislation, the Bureau cannot act upon applications for restoration of Federal firearms privileges, as submitted by individuals.

The FY-95 Public Law restriction did not pertain to corporations that were applying for firearms and/or explosives restoration. Nor did it pertain to FFLs who submitted their application in accordance with 18 U.S.C. § 925(c). Consequently, these FFLs were advised, by letter, of the Public Law restriction, and that in accordance with 18 U.S.C. § 925(b), they shall not be barred from operating their business as a result of their felony convictions until final action has been made on their application for firearms restoration.



## JUVENILE FIREARMS TRACING INITIATIVE

In late 1993, ATF began a tracing initiative specifically designed to determine the source of firearms recovered on school property and from juveniles who use them to commit violent crimes. This initiative grew from an increase in juvenile-related violent crime, including juvenile gang activity and shootings on or near school property, and from the number of instances in which juveniles brought firearms to school or committed acts of violence at school.

State and local law enforcement agencies were informed of this initiative and encouraged to participate in our efforts to reduce the frequency of firearms violence involving juveniles, identify and stem the illegal flow of firearms to juveniles, and apprehend and prosecute adults who violate firearms laws by purchasing firearms for, or providing firearms to juveniles.

Historically, the only Federal laws that dealt with the acquisition of firearms by juveniles concerned their acquisition from FFLs, and in those cases, the law is designed to prevent licensed gun dealers from knowingly selling handguns to persons under 21 years of age and long guns to persons under 18 years of age.

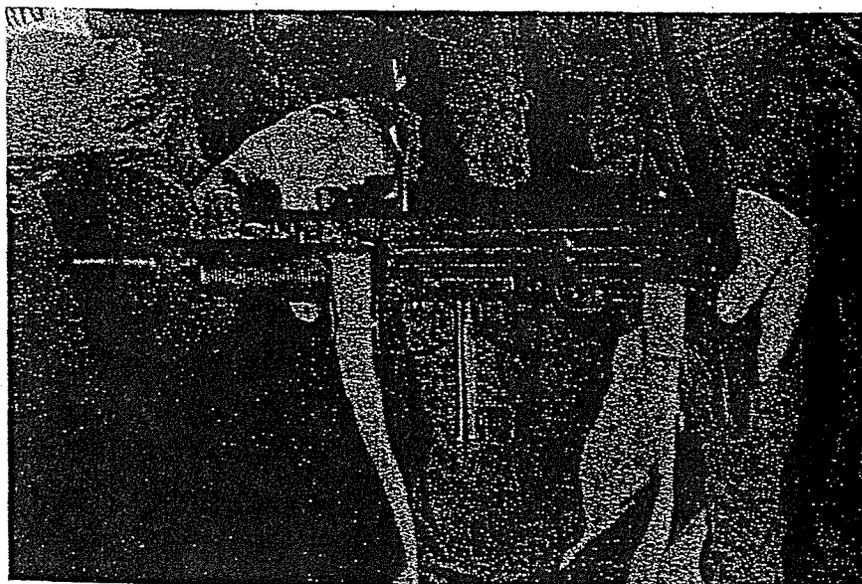
With the enactment of the Crime Bill, there exists for the first time specific Federal firearms laws that deal with the possession of firearms by juveniles and the transfer of firearms to juveniles.

ATF is committed to reducing juvenile access to firearms, and we have encouraged our field personnel to continue to trace firearms associated with violent juvenile crime and those possessed or recovered from school property. Additionally, we are committed to developing local initiatives in cooperation with State and local law enforcement and school authorities that are directed at reducing the frequency of juvenile firearms possession and firearms violence.

ATF is proud of the role we have played in the national strategy to reduce violent crime through the effective enforcement of the Federal firearms laws. ATF is clearly the quintessential ingredient in any national strategy to combat firearms violence. We have historically been the linchpin that has held together this Nation's struggle for the reduction of firearms-related violence through the fair and effective enforcement of the firearms laws. Our future enforcement efforts, guided by our strategic plan, will prove even more effective.



# *Firearms Enforcement Cases*



## ATLANTA FIELD DIVISION

In November 1992, ATF's assistance was requested by the Georgia Bureau of Investigation (GBI) and the Treutlen County Sheriff's Office concerning an investigation in which a subject was allegedly in possession of silencers and wanted the local sheriff murdered.

As a result, an ATF confidential informant (CI) introduced an ATF undercover agent to the subject.

Subsequently, the special agent purchased an unregistered silencer from the subject. In addition, the subject provided the special agent with a

semiautomatic pistol equipped with an unregistered silencer, which was to be used to murder the sheriff.

On February 17, 1993, the subject and the ATF special agent did a dry run of the murder plan. At the same time, the special agent told the subject that he had sold the two silencers. As a result, the subject provided a third unregistered silencer to the special agent. GBI and ATF special agents conducted surveillance of their activities and recorded their conversations.

The following day, the special agent and the subject "executed" the murder plan. They drove to a location near the sheriff's residence and assumed an ambush position. The subject then went to a pay telephone and called the sheriff's residence. The call was a ruse to get the sheriff to exit his residence. Upon

concluding the conversation, which was recorded by the sheriff, the subject was arrested by ATF and GBI special agents. The subject was indicted on Federal and State charges.

On December 17, 1993, the subject, as the result of his guilty plea to violation of possession of an unregistered silencer, was sentenced to 87 months' confinement and 3 years' supervised release. On August 25, 1994, the subject was additionally sentenced to 10 years of imprisonment for criminal attempt to commit murder.

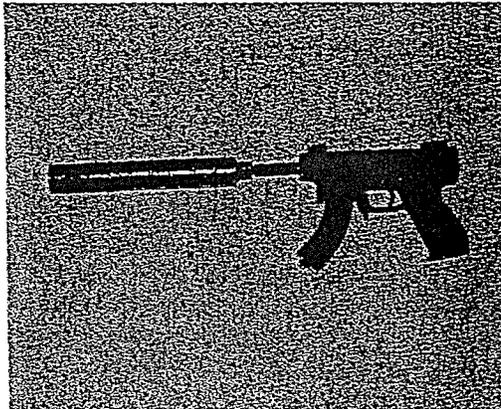
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In August 1993, an FFL burglary occurred in Athens, Georgia, and over 600 firearms were

stolen, resulting in Georgia's largest gun theft. On May 3, 1995, two of the three defendants, who were charged in a 13-count indictment, were sentenced. One defendant was sentenced to 260 months of incarceration as a result of an enhanced sentence under 18 U.S.C. § 924(e). The second defendant was sentenced to 97 months of incarceration. The third defendant was found not guilty of the charges.

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On March 26, 1994, there was a firearms theft that occurred from an FFL in Lilburn, Georgia. Early the next morning, the DeKalb County Police Department arrested two individuals during a routine traffic stop. A search of the vehicle revealed two firearms that were stolen during the FFL robbery.

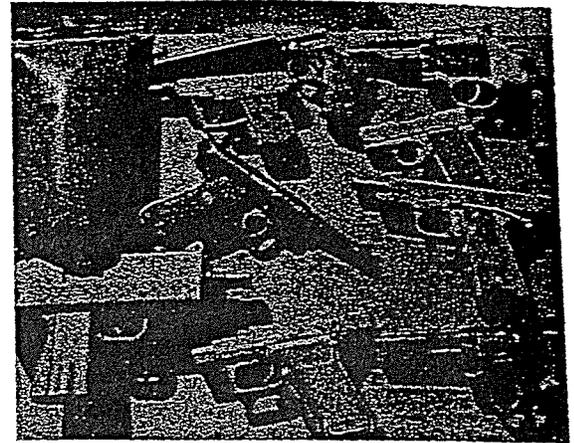


Also, the search yielded a ski mask and baseball cap worn by one of the suspects during the robbery. During the investigation, ATF identified a suspect, who was indicted in July 1994.

Subsequently, the subject entered a guilty plea to theft of a firearm from a federally licensed dealer (18 U.S.C. § 922(u)) and using a firearm during a Federal crime of violence (18 U.S.C. § 924(c)). As the result of his guilty plea to the aforementioned violations, the defendant was sentenced to 73 months' incarceration. The subject was also ordered to pay \$796.76 restitution, fined \$2,000, and he was placed on 3 years' supervised release upon completion of the sentence.

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In June 1994, a defendant was sentenced for the August 1993 burglary of an FFL. At the time of the burglary, over 500 firearms valued at more than \$200,000 were stolen. A second suspect was arrested in September 1993, when he was found in possession of six of the stolen firearms. In an effort to cooperate with the investigation, through his attorney, he turned over eight additional stolen weapons. The suspect told ATF special agents that he had received approximately 150-200 firearms from two individuals who dropped the weapons off at his grandparents' residence. The suspect said he agreed to sell the firearms for the two individuals and to pay them a percentage of the sale of the firearms. In March 1994, the defendant pled guilty and was sentenced to 100 months' imprisonment followed by 3 years of supervised release. In addition, he was ordered to pay a fine and a special assessment.



## BALTIMORE FIELD DIVISION

In May 1991, ATF received a Report of Multiple Sales from an FFL in New Castle, Delaware. This form documents the purchase of several firearms to a young female. As a result, a followup interview was scheduled with the Wilmington Police Department (WPD) as part of the Wilmington Field Office' Project Lead program.

ATF and the WPD interviewed relative of the young female and learned that she had purchased the guns with a stolen credit card. She had also gone to a second FFL and purchased a box of 9mm ammunition with the same stolen credit card. As a result of the interview with the female's relatives, probable cause was established to arrest the female for theft and unauthorized use of a credit card.

On May 30, 1991, ATF and the WPD interviewed the female who admitted that she was a crack cocaine user and that she and a friend were also selling crack in a housing development for New York drug dealers. She and the friend also sold crack at various bars throughout the city of Wilmington. In addition, a subject

would bring the cocaine from New York for the female and her friend.

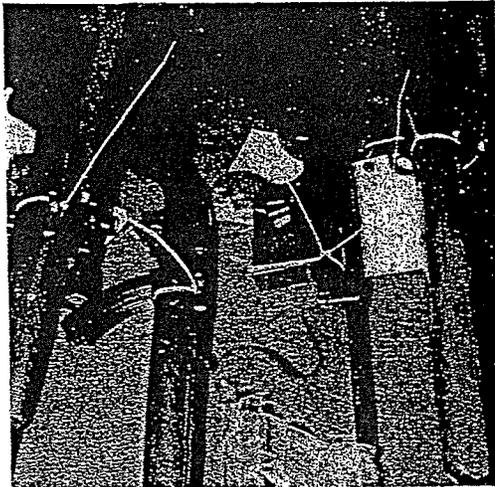
Additionally, the female relayed that, on May 15, 1991, the subject had asked her to purchase some firearms. The female and an associate of the subject entered the FFL's premises, and the associate showed her the firearms that were to be purchased. The subject also joined the female and associate in the FFL's store before the actual purchase transpired. The female completed the required ATF

F 4473 for two firearms, and the associate carried the guns out of the store. At that point, the subject and associate drove to the Wilmington train station where the female was instructed by the subject to purchase a round-trip ticket to New York for the associate. After purchasing the ticket, the three individuals traveled to another FFL's store where the female purchased 9mm ammunition. The female stated that, the last time that she saw the guns, they were wrapped in two shoe boxes when the associate boarded the train. The associate traveled to New York and sold the guns to his cousin for \$2,000.

The female also stated that her aforementioned friend had purchased six firearms for the subject. As a result of this information, ATF and the WPD determined that the friend had purchased a total of six firearms from two different FFLs. The friend admitted to purchasing the firearms for the subject, and she was

aware that the subject was making a profit when he sold them in New York. She also stated that the subject paid her for straw purchasing the firearms with cash and cocaine powder.

A second associate told ATF and the WPD that he was a drug user and cooks drugs for the subject. He also relayed that the New York drug dealers had taken over his house. Additionally, he had straw purchased three firearms for the subject.



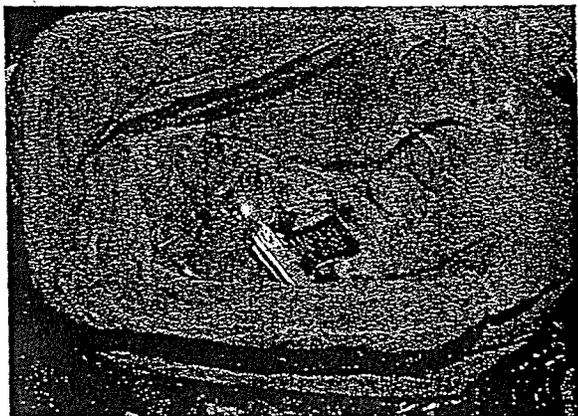
On June 7, 1991, ATF and the WPD arrested the second associate and a former business partner for possession of 135 vials of crack cocaine. An interview with the business partner corroborated information about the subject's drug raid in Delaware, and the former partner also told

special agents and officers that he and the subject initially came to Delaware, to set up a drug trade business together, but the subject became greedy and split to start his own business.

ATF sent collateral requests to New York in an attempt to locate some of the straw purchased firearms, to Reading, Pennsylvania, for an interstate nexus determination, and to Georgia for FFL checks and verification of Federal firearms licenses for the two FFLs.

On July 2, 1991, ATF was informed of the recovery of a loaded pistol in the Bronx, New York. The person in possession of the loaded pistol had earlier been arrested in the Bronx. The firearm

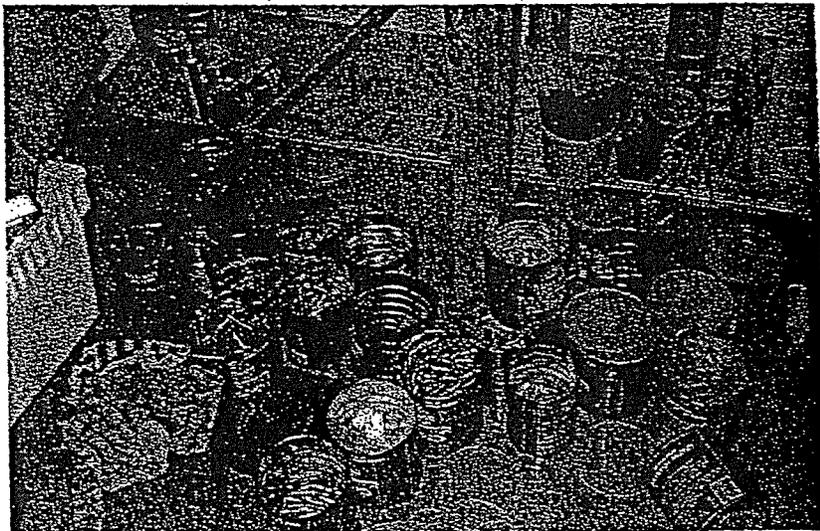
had been straw purchased in May by the  
aforementioned friend.



In September 1991, the subject was  
arrested by the Yonkers Police  
Department for criminal possession of a  
loaded weapon that had been straw  
purchased by the friend. At the time of  
his arrest, the subject told police that the  
gun was his, and he had found it in the  
Bronx, New York.

On October 17, 1991, ATF was informed  
that earlier in the month, a firearm straw  
purchased by the second associate was  
found on a homicide victim in the  
Bronx. The victim had a gunshot wound  
to the chin and neck. The victim had an  
extensive criminal history, including  
weapons violations.

In January 1993, the  
female, friend, and  
second associate testified  
before a Federal grand  
jury. As a result, the  
subject and associate were  
indicted for violations of  
18 U.S.C. §§ 922(a)(6), 2,  
922(a)(3), and 371, and  
arrest warrants were  
issued for the two  
individuals.



Subsequently, on February 4, 1993, the  
subject was arrested by ATF and the  
WPD at his residence in the Bronx.  
Attempts to locate the associate were  
futile.

During June 1993, the subject was found  
guilty on all counts of the indictment.  
In addition, the judge revoked the subject's  
bail and remanded him to the custody of  
the U.S. Marshals Service. In  
September, the subject was sentenced to  
18 months' imprisonment and 36 months  
of supervised release. Additionally, he  
was fined \$500 and a \$250 special  
assessment fee.

On June 21, 1994, the associate was  
arrested at his girlfriend's residence in  
Wilmington, Delaware. In August, the  
associate pled guilty to one count of the  
indictment, and the judge revoked the  
associate's bail prior to sentencing  
because of his continued use of cocaine  
while on pretrial release. On November  
3, 1994, the associate was sentenced to  
18 months' imprisonment and 36 months of  
supervised release and fined \$500 and a  
\$50 special assessment fee.

This investigation demonstrates the way  
ATF perfects criminal cases from  
Multiple Sales Report Forms.

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In August 1992, ATF initiated Project Intercept. This was a joint investigative effort with State and local law enforcement that was designed to intercept and arrest straw and true purchasers immediately following the firearms acquisition, thus, preventing the firearms from being used illegally. Additionally, the project attempted to develop evidence of wider conspiracies and perfect criminal cases against all involved with and/or associated with the illegal firearms transactions.

At the conclusion of the investigation in May 1994, ATF, the Baltimore City Police Department, and the Prince George's Police Department arrested 35 subjects for violation of Federal and State firearms laws. During the course of Project Intercept, 208 firearms were seized and over 400 firearms were identified as suspect guns and sold in violation of Federal and State laws.

## **BIRMINGHAM FIELD DIVISION**

On August 18, 1993, an individual approached an FFL concerning the purchase of a large quantity of handguns. The individual represented himself as a resident of Mississippi when completing the ATF F 4473. The FFL manager became suspicious and contacted ATF. ATF advised the manager to proceed with the sale but to delay it until later in the week.

On August 20, 1993, when the individual purchased a consignment of 30 Lorcin pistols, he was arrested by ATF and the



Meridian Police Department's SWAT Team. A second individual, who was waiting in the vehicle, was also arrested. After being advised of their rights, the first individual was identified as being a native of Romania, which is where the firearms were destined.

The individual also gave consent to search his hotel room, and special agents and officers arrested a third individual, who was an illegal alien from Honduras. They also recovered 25 additional Lorcin and Raven Arms pistols in two canvas bags and 150 rounds of ammunition that were hidden in an ice cooler. During the subsequent investigation, the three suspects' movements were traced from New York to Miami where they attended a gun show, to Dallas, Texas, where they attended another gun show and purchased a majority of the firearms located in the hotel room, to Meridian, Mississippi, where they were arrested.

The first individual was sentenced to serve a term of imprisonment of 17 months and 3 years' supervised release. In addition, he was scheduled for deportation upon his release from prison. The third individual was sentenced to serve a term of 3 months' and 4 days' imprisonment. Her sentence was commuted as she was deported by the

U.S. Border Patrol. All charges against the second individual were dropped.

As a result of this investigation, a pawnshop that had forged ATF F 4473s to cover the sale of several handguns to the first individual was closed, and its owner signed an agreement with the U.S. attorney's office to never again participate in the gun trade.

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On April 25, 1994, a Mississippi Highway Patrol trooper attempted a routine traffic stop of a suspicious vehicle occupied by two males near Jackson, Mississippi. This routine traffic stop resulted in the high-speed pursuit of the suspects' vehicle and an ensuing intense gun battle with the suspects. Although the trooper's vehicle received more than 50 bullet holes, the trooper was able to wound both suspects after they wrecked their vehicle and attempted to continue the gun fight.

The suspects were identified as two recent prison escapees from North Carolina, who were operating a stolen Florida vehicle. The owner of the vehicle, a young mother of two infants, was missing, and her raped body (executed with a .22 caliber weapon) was later found in Florida near the Georgia State line.

The two firearms recovered from the suspects were traced by ATF, and before the results were received, one of the firearms, a 12 gauge shotgun, was reported stolen during an April 24, 1994, burglary in Mississippi. The other firearm in question, a 30-30 caliber rifle, was found to have been stolen in North Carolina shortly after the suspects'

escape from prison. The trace was further pursued, and a review of the North Carolina burglary reports disclosed that a .22 caliber rifle was also stolen during this same burglary. Both suspects cooperated with law enforcement officials and implicated each other in the rape and execution murder of the young mother.

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In February 1992, an ATF-led task force, which is also comprised of special agents from DEA, the Mississippi Bureau of Narcotics, the Forrest/Perry County Narcotics Task Force, IRS Criminal Investigative Division, and the U.S. Marshals Service, initiated an investigation that targeted a group of armed narcotics traffickers who were operating in numerous rural counties of Mississippi.

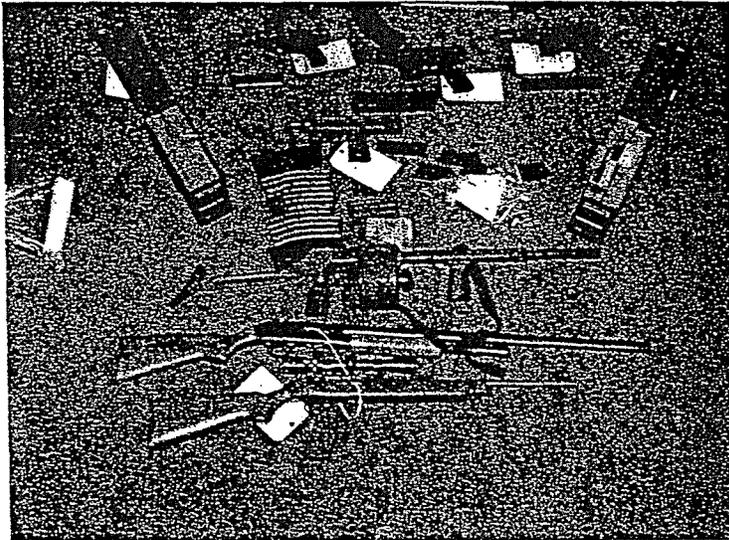
This investigation culminated in August 1993 with the indictment of the principle target, his wife, and his girlfriend. Four Federal search warrants for residences, two search warrants for safe-deposit boxes, and nine seizure warrants for personal property and bank accounts were executed on August 23, 1993, with the assistance of 50 State and local law enforcement officers. As a result, the principle target, his wife, and his girlfriend were arrested, and property, funds, and 150 ounces of crack cocaine were seized.

Following the initial arrest and seizures, a Federal grand jury superseded the original indictment and included five additional defendants. The indictment charged violations of 21 U.S.C. §§ 846 and 841(a)(1) and 18 U.S.C. § 922(g).

This investigation also uncovered three local law enforcement officers who were accepting money from the ring leader and one of his associates. This was corroborated by a CI, who said that large amounts of cocaine and currency were at the residence the night before the search warrants were executed.

On May 25, 1994, the organization leader was sentenced to 21 years' incarceration for violations of 21 U.S.C. § 846 and 20 years of imprisonment for money laundering, to run concurrent.

Other members of the organization received various sentences ranging from 15 months to 60 months for violations of 21 U.S.C. § 841(a)(1) and 18 U.S.C. §§ 924(c) and 922(g)(1).



becoming involved in intimidation and assaults against minorities and homosexuals. Many of these acts were identified as being committed by members and associates of the Unified KKK. By May 1994, intelligence was developed that this group was acquiring large numbers of assault weapons and handguns.

ATF initiated a criminal investigation of the group and more specifically, the grand dragon for alleged violations of Federal firearms laws. A CI infiltrated

the group and eventually became closely allied with the grand dragon and members of his inner circle. The grand dragon headed the Unified KKK in Connecticut, Massachusetts, and Rhode Island.

## BOSTON FIELD DIVISION

In late 1993, Connecticut law enforcement agencies began documenting increased incidents of hate-related/biased crime throughout the State. Agencies observed increased activities in recruitment, rallies, and protest by various white supremacist groups, e.g., the Ku Klux Klan (KKK), National Alliance, and the Confederate Hammerskin Skinheads.

The Connecticut State Police began collecting intelligence on these groups, whose members were increasingly

ATF's investigation determined that klansmen, who were convicted felons or otherwise prohibited from possessing firearms, were unlawfully arming themselves. The investigation also determined that certain klan members and associates were straw purchasing firearms for other members.

As additional intelligence was developed, the investigation identified an alliance between the Unified KKK, Confederate Hammerskin Skinheads, and the National Alliance. These white supremacist organizations were actively supporting one another in recruitment efforts, rallies,

and other activities. A member of the National Alliance was identified as being engaged in the manufacture of destructive devices. These individuals also offered devices to members of the Unified KKK.

ATF's investigation took a dramatic turn when it was determined that the grand dragon and members of his inner circle were seeking to acquire destructive devices and firearms with silencers. To prevent the group from acquiring the contraband, the CI was in a position to act as a potential source for the items. The grand dragon conspired with another klansman to obtain a timed pipe bomb to use against an undisclosed building and a handgun with a silencer. This other klansman sought the handgun to use against his sister's boyfriend. The grand dragon and the other klansman's plans to acquire the contraband resulted in the formulation of plans to conduct a reverse sting operation. On January 21, 1994, an undercover ATF special agent and the CI delivered the components of a timed pipe bomb and a silenced handgun to the grand dragon, who upon taking possession of the contraband was immediately arrested.

As a result, five Federal and State search warrants were executed at locations throughout Connecticut, and assault weapons, handguns, ammunition, and bombmaking materials were recovered. Nine klan members and associates were arrested for violations of Federal and State firearms, explosives, hate/bias, and narcotics laws.

The Unified KKK investigation resulted in the Federal convictions of the grand dragon and four of his inner circle associates on firearms and explosives



charges. Four other klan members were convicted by the State of Connecticut on narcotics, hate/bias, and bombmaking violations. This klan investigation resulted in the successful dismantling of the Unified KKK's hierarchy in Connecticut, Massachusetts, and Rhode Island.

## **CHARLOTTE FIELD DIVISION**

As the result of a 13-month investigation by a violent offender task force, which consisted of ATF, the Durham Police Department, the Durham County Sheriff's Department, the North Carolina State Bureau of Investigations, and the Durham Public Housing Authority, members of a violent street gang were arrested and convicted. This organized gang, which had been in existence since about June 1989, had operated as an armed, drug-trafficking organization in a public housing development in Durham, North Carolina. The gang was considered a very violent unit that used strong-arm tactics to take complete control of this public housing

development for its armed, drug-trafficking enterprise.

From June 1993 to July 1994, an undercover operation was conducted in which firearms and crack cocaine were purchased from members of the gang. Subsequently, five Federal search warrants were executed, and firearms, ammunition, photographs, drug records, and paper documentation that tied the organization together were taken into custody.

A Federal Grand Jury in the Middle District of North Carolina returned an eight-count indictment against the gang members charging them with violations of Federal firearms and narcotics laws.

Several individuals who testified before the Federal grand jury regarding the criminal activities of the gang were harassed and threatened with bodily harm by unidentified persons believed to be gang members' girlfriends.

One of the leaders of the gang received 360 months' incarceration concerning the crack cocaine conspiracy and 60 months for violations of 18 U.S.C. § 924(c). A second member received 324 months for conspiracy to distribute crack cocaine and 60 months for violation of 18 U.S.C. § 924(c), armed narcotics trafficking. The leader of this gang was sentenced to 35 years on drug conspiracy charges and received 5 years' imprisonment as a felon in possession of ammunition.

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This investigation was initiated by ATF in October 1989 targeting a violent drug trafficking organization in Greenwood, South Carolina. The 32 members of this

organization were responsible for the distribution of 300 kilograms of crack cocaine. This armed narcotics trafficking group had been terrorizing the Greenwood, South Carolina, community for years with virtual immunity from prosecution. The number of violent acts committed by this organization were immense. A major characteristic of the group was their prolific use of firearms to assault, kill, and intimidate individuals.

During the culmination of this case, 10 Federal search warrants and 32 Federal arrest warrants were executed. Furthermore, all assets acquired by this organization were seized for forfeiture. This organization's assets were extensive and included: 68 vehicles, 4 boats, 2 motorcycles, 7 residences, 2 businesses, and over \$200,000 in personal property and U.S. currency.

There was a 100 percent prosecution rate with all 32 members of this organization pleading guilty. During the prosecution of this investigation, organization members threatened witnesses and law enforcement officials often utilizing firearms while they made their threats. The violations applicable to each member of the group include 18 U.S.C. §§ 2(a), 371, 922(g), 922(o), 924(c), and 1956, and 21 U.S.C. §§ 841, 846, 848, and 856. The members of the organization received sentences ranging from 57 months to 10 years.

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In August 1992, ATF initiated an investigation that targeted an unlicensed firearms dealer who was selling firearms to children as young as 10 years old.

Undercover ATF special agents purchased Raven Arms, .25 caliber pistols, Lorcin, .380 caliber pistols, and Davis Industries, .380 caliber pistols, from the subject. Additionally, the serial numbers on the firearms had been altered. The ATF Laboratory was able to identify the serial numbers on some of the firearms. Firearms traces revealed that the firearms had been received by a gunsmithing service in Erwin, Tennessee, which was owned by an FFL. The alterations to the serial numbers involved rechroming of the firearms and detailed changes that would necessitate the type of equipment that a gunsmithing service would have. During the course of the investigation, it was determined that the FFL had been supplying large quantities of firearms to four specific individuals after altering the manufacturers' serial numbers.

As the investigation continued, undercover purchases of firearms were made from the identified suspects, and additional documentary evidence was acquired in order to obtain Federal search and arrest warrants.

On March 2, 1993, ATF special agents from Charlotte, North Carolina, and Knoxville, Tennessee, executed simultaneous search warrants at four locations in North Carolina and at one location in Tennessee.

In Erwin, Tennessee, Federal search and

arrest warrants were executed at the FFL's residence/business. Special agents seized three firearms, including a sawed-off shotgun and various equipment allegedly used to alter the serial numbers of firearms.

The four individuals, who conspired with each other to sell firearms with altered serial numbers, were arrested in North Carolina. These firearms with altered serial numbers were sold to individuals, including juveniles and drug traffickers, in North Carolina and Tennessee.

The FFL had sold over 10,000 firearms with obliterated or altered serial numbers. A number of the firearms have been recovered after being utilized in violent crimes.

The five subjects, including the FFL, were indicted for violations of 18 U.S.C. §§ 371, 922(k), 924, and 922(a)(1)(A). As a result, they were sentenced to imprisonment for terms that ranged from 12 to 25 months.

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In May 1992, ATF participated in the development of the Career Criminal Section (CCS), inside the Wilmington City Police Department Detective Unit. This section was created to proactively identify persons who qualified as armed career criminals under ATF's guidelines. One of the initial targets of this unit possesses a criminal history that spans 20 years in four States and includes more than 25 felony arrests that have resulted in prison sentences in excess of 30 years. The subject's criminal history includes robbery, burglary, assaults with intent to kill (firearms), felon escape from prison,

and assault on corrections officers while in prison.

At the time this investigation began, the subject was considered one of the most violent people in Wilmington, North Carolina. He was known to operate a tight-knit drug-trafficking operation out of a subsidized housing development often using juveniles as runners and lookouts. His control of the operation was characterized by specific acts of violence and shootings to collect money and to intimidate other, smaller drug dealers.

An investigative lead came after the subject was implicated in the shooting of another drug dealer. ATF and the CCS collected physical evidence from the shooting scene, e.g., a .25 caliber casings, and numerous statements from victims and witnesses. The witnesses' statements relayed that the subject had received the firearm from another felon as collateral during a drug transaction. Efforts to locate the subject ended when he turned himself into police later the same day and was jailed on State charges.

A subsequent search of his residence led to the recovery of a firearm that met witness descriptions as the one utilized during the shooting. The firearms and recovered casing were submitted for examination and found to match.

The subject and the felon who provided him with the firearms were indicted on one count of violation of 18 U.S.C. § 922(g)(1), felon in possession of a firearm. After the indictment, the primary subject of the investigation began a campaign of witness intimidation and attempted to influence witness

testimony. An intense historical investigation by ATF and the Wilmington Police Department resulted in a superseding seven-count indictment.

On May 10, 1994, the subject was found guilty on all charges, less one narcotics count. The primary subject was subsequently sentenced to 240 months for his narcotics convictions and a consecutive sentence of 420 months for firearms charges.

The second subject pled guilty to one count of 18 U.S.C. § 922(g)(1) and was sentenced to 42 months in prison.

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From August 1989 through September 1993, a narcotics organization conspired to sell, possess, and distribute crack cocaine in Charlotte, North Carolina. The members of this organization used firearms to conduct armed robberies, home invasions, kidnappings, aggravated assaults, and murders of rival drug dealers and others.

On March 20, 1993, two members of this organization were arrested in Forest City, North Carolina, for armed, drug-trafficking charges. During their arrests, they were in possession of firearms and 28.82 grams of crack cocaine.

On October 6, 1993, a Federal grand jury indicted nine members of the organization for violations of Federal racketeering laws, which includes acts of murder, kidnaping, assaults, carrying a firearm during a drug-trafficking crime, and carrying a firearm during a crime of violence. In September 1994, as a result of guilty verdicts, eight of the defendants

were sentenced from 4 years' imprisonment to 9 life sentences plus 105 years, and the ninth defendant received 5 years of probation.

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On February 8, 1993, a subject in ATF's VOP was stopped for a traffic violation in Spartanburg, South Carolina. As the deputy sheriff approached the vehicle, the subject pulled a firearm on the deputy, and a struggle ensued. The subject was finally apprehended and arrested on local assault charges. ATF was notified and secured a Federal arrest warrant for the violent offender.

On July 28, 1993, the subject was indicted for felon in possession of a firearm. On June 18, 1994, the subject was found guilty of possessing a firearm as a felon. On August 30, 1994, the subject was sentenced as an armed career criminal in U.S. District Court, Greenville, South Carolina, to 180 months' imprisonment.

This violent offender has been convicted of 7 prior felonies and has been previously sentenced to 41 years' confinement.

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On October 29, 1993, a subject entered in ATF's VOP was arrested by ATF in Charleston, South Carolina, as a result of an investigation into allegations of violations of Federal firearms laws. A State search warrant was executed on the violent offender's residence by ATF and the Charleston Police Department. Seized from the residence were two firearms, 30 bags of heroin, and a small amount of crack cocaine. The violent

offender was arrested by ATF for felon in possession of a firearm and using a firearm during a drug trafficking crime.

On March 1, 1994, the violent offender pled guilty to possession of a firearm by a convicted felon in U.S. District Court, Charleston, South Carolina. On April 18, 1994, the violent offender was sentenced in U.S. District Court, Charleston, South Carolina, to 212 months' imprisonment and 5 years' supervised release. On May 23, 1994, the violent offender's sentence was reduced to 168 months due to substantial assistance provided during a murder prosecution.

This violent offender has 8 prior felony convictions and has been previously sentenced to 25 years' incarceration.

## CHICAGO FIELD DIVISION

In October 1992, ATF received a referral of information from an individual who alleged that his Illinois Firearms Owners Identification Card (FOID) had been stolen by a subject, who was a convicted felon and member of the Hell's Henchmen outlaw motorcycle gang. The subject was involved in the trafficking of narcotics, explosives, and firearms to violent outlaw motorcycle gang members within the United States.

Further investigation revealed that the subject had purchased 13 firearms from four separate FFLs. Each FFL was interviewed and positively identified the subject from a photo lineup.

In February 1993, ATF special agents interviewed the subject. During the interview, the subject admitted that he was a convicted felon, had stolen an

individual's FOID card, and purchased a quantity of firearms; however, he no longer was in possession of these firearms. The U.S. attorney's office was contacted, and plea negotiations were arranged with the subject.

In June 1993, ATF was contacted by a CI who provided information that the aforementioned subject was in illegal possession of firearms that were stored in two storage facilities located in Round Lake Heights, Illinois. During the execution of the search warrant, ATF seized 49 handguns, 27 rifles, 10 shotguns, 16 machineguns, 11 silencers, 3 M-1 military boobytraps, 3 Mark 12 type baseball handgrenades, 2 homemade boobytraps, 1 box containing 7 cans of black powder explosives, 3 electrical matches, 1 box of baggies, 10 digital scales, and 32,000 rounds of ammunition from the lockers.

Subsequent to the search warrant, the subject was arrested by ATF. The search warrant, seizure of the numerous firearms, and arrest of the subject made major media coverage. At that time, it was revealed that an informant was used by ATF. As a result, the subject placed a \$15,000 bounty on ATF's CI and his/her two dependents. Additionally, information was received that numerous members of the Hell's Henchmen outlaw motorcycle gang had been inquiring about the CI's current location. The CI was relocated.



Prior to the subject's trial in April 1994, ATF had to prove these storage lockers belonged to the subject, since the storage lockers had been rented under fictitious names by other individuals at the subject's direction. To prove that these were the subject's lockers and that the contents belonged to the subject, all 113 recovered firearms were traced. All of the FFLs from which the firearms had been purchased were interviewed and shown a photo lineup. Through this process, an individual who had purchased 20 of the firearms found in the storage lockers was identified and interviewed. This individual testified at the trial that he had sold these firearms to the subject and had been with the subject in the storage lockers.

As a result, the subject was sentenced to 151 months' imprisonment, 3 years of supervised probation, and fined \$5,350 for multiple violations of 18 U.S.C. §§ 922(g)(1), 922(k), 922(o), and 922(a)(6).

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In August 1991, ATF was contacted by a warrant officer in the U.S. Army who relayed information that a captain in the Illinois Army National Guard was purchasing large amounts of firearms through perjury and fraud. The warrant officer further relayed that his son, who is a private in the Illinois Army National Guard, was paid by the captain for his signature on a form letter requesting the purchase of two assault rifles.

The captain paid privates \$50

to sign their names to firearms forms that he (the captain) was sending to a gun dealer to purchase assault rifles for himself. These form letters were preprinted on official Army stationery that certified that the signee was a member of the Illinois Army National Guard and was purchasing these weapons for the purpose of using them for official duties. Several other Army personnel were also paid by the captain for their signatures.

Through investigation, it was determined that from July 16, 1990, through August 15, 1991, the captain and several other military personnel had purchased 26 Steyr AUG rifles. Also, an FFL and other coconspirators were identified.

On September 6, 1991, ATF special agents made a controlled delivery of 14 Steyr AUG assault rifles and 6 special receivers to the FFL in Bloomington, Illinois. These firearms had previously been seized from the captain. At the time of the delivery, the captain, who was cooperating with ATF, wore a body wire. The FFL made several inculpatory statements during the transfer of the weapons, indicating his knowledge of the illegal transaction.

Subsequently, ATF executed a Federal search warrant at the FFL's business and seized 26 Steyr AUG assault rifles, 10 special receivers, miscellaneous related documents, and a videotape from the FFL's security surveillance system that recorded the controlled delivery.

A review of the FFL's Acquisition and Disposition book revealed that the captain and an associate, who is a sergeant in the Illinois National Guard, sold the FFL a total of 59 Steyr AUG

rifles, including the 14 rifles in the controlled delivery.

The captain stated that he had an agreement with the FFL in which he (the captain) would continue ordering Steyr AUG rifles, and the FFL would buy them. The captain made a profit of \$400-700 on each firearm he sold to the FFL. On several occasions, the FFL told the captain that he was converting the rifles to fully automatic.

During this time, the captain approached a major in the Illinois National Guard, who was also an FFL. The captain relayed his scheme to purchase and sell Steyr AUG rifles. The major agreed to falsify the necessary documentation to acquire eight rifles for the captain.

On September 12, 1991, the captain testified before a Federal grand jury regarding his involvement, as well as the involvement of the FFL, a major, and a sergeant. Additionally, the captain testified about the involvement of several other Illinois National Guard members who participated in the conspiracy.

In November 1991, four individuals were indicted on various criminal charges. As a result, on March 10, 1992, the captain pled guilty to conspiracy to defraud the United States, making false statements to a Federal agency, and mail fraud. In May 1992, he was sentenced to 2 months of home confinement, and fined \$5,000.

The major and the FFL were found not guilty. The FFL's business was found guilty of conspiracy and mail fraud. On July 17, 1992, the FFL's business was sentenced to a fine of \$20,000.

The sergeant was found guilty of making

false statements to a Federal agency. The FFL and captain appealed, and on August 10, 1993, the U.S. Court of Appeals affirmed the guilty plea of the captain on the aforementioned charges. Additionally, the court reversed the mail fraud convictions of the FFL's business but affirmed the conspiracy conviction. The Court of Appeals also granted the FFL a new trial because the defense attorney was not granted the opportunity to poll the jury after the conviction.

On September 12, 1994, the president of the FFL's business appeared in Federal Court, Peoria, Illinois, and pled guilty to one count of failure to maintain records in violation of 18 U.S.C. § 922(m). In return, the felony charge of conspiracy filed against the corporation was dismissed.

## **CLEVELAND FIELD DIVISION**

A joint investigation by ATF and the Columbus, Ohio, Police Department identified two felons who had robbed at least 15 small businesses in the Columbus area with handguns. During the course of these robberies, one subject, who was dressed as a woman, along with a coconspirator brandished their firearms and threatened to kill their victims as they ordered them to lie down and submit to having their wrists, legs, and mouth duct taped. An undercover ATF special agent and a documented CI made contact with one of the subjects. As a result of these undercover contacts, a search warrant was executed at their residence. Rolls of the same type of duct tape were recovered along with wigs, women's clothing that was worn during the robberies, and items taken during the robberies. ATF executed a consent search at another location that resulted in

the recovery of additional evidence that was stolen during the robberies. The investigation eventually revealed that a third subject served as the driver on at least four of these robberies.

Sentences for the three subjects ranged from 3 to 20 years.

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From February 1991 to May 1993, an organized gang of crack cocaine dealers from Detroit, Michigan, set up operation in Columbus, Ohio. This organization eventually established 30 crack houses operating under their control. An undercover ATF special agent and several documented CIs penetrated this group. Seven search warrants were executed, and 10 firearms were taken into custody. One defendant was arrested by the Missouri State Police while en route to Columbus transporting 16 kilos of cocaine from Houston, Texas.

The gang's crack cocaine connections were located in Houston and Los Angeles. This organization distributed at least 20 kilos of cocaine a month in the Columbus area.

As a result of the investigation, 20 of these defendants have pled guilty, and 5 more recently were convicted of violations of Federal firearms and narcotics laws. Subsequently, several of these defendants were sentenced to lengthy prison sentences.

Some of these gang members were known to be extremely violent and had been involved in murders and attempted murders. One of the members

was convicted on two counts of attempted murder in Indiana prior to being convicted of 21 U.S.C. §§ 846, 841(a)(1), and 2 counts of 18 U.S.C. § 924(c). He had been successful in having a murder case against him dropped in Columbus prior to being convicted in Indiana.

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Between July 31 and October 26, 1993, five suspects and several other persons conspired to violate Federal firearms laws. During this time period, two of the suspects, who are felons and residents of the Bronx, New York, paid three other suspects to straw purchase 70 firearms from Springfield, Ohio. These firearms were subsequently transported to New York, where they were sold for a substantial profit.

On March 4, 1994, two suspects from New York appeared in U.S. District Court, Southern Judicial District of Ohio. The first subject received a 60-month prison sentence for violations of 18 U.S.C. §§ 924(a)(1)(A) and 2. He was ordered to serve 3 years of supervised release, 100 hours of community service, and pay a \$1,000 fine.

The second subject was sentenced to serve 57 months in prison for violation of 18 U.S.C. §§ 924(a)(1)(A) and 2. He was also ordered to serve 3 years of supervised release, 100 hours of community service, and pay a \$1,000 fine.

Prosecution was declined against the remaining defendants because they cooperated in the investigation. It should be noted that the first subject

subsequently received a 9-year prison sentence for Federal violations committed in New York. The second subject also received a 20-year prison sentence for Federal violations committed in New York.

## DALLAS FIELD DIVISION

During March 1994, a State game warden requested that ATF initiate a trace on a semiautomatic pistol that was found under the seat of a truck being operated by a juvenile who had been arrested by the State game warden. The trace of the firearm revealed that the juvenile purchased the firearm from an FFL. Additionally, the FFL was aware that the purchaser was a juvenile. As a result, a full FFL investigation was initiated. The FFL has since relinquished his license and books to ATF's Office of Regulatory Enforcement.

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On May 1, 1994, a violent offender was arrested by the Fort Worth, Texas, Police Department following a traffic stop in which the driver was suspected of driving while under the influence of alcohol. While retrieving a bottle of alcohol from the vehicle, the police officer observed a .38 caliber revolver. The driver was subsequently identified as an ATF violent offender.

On May 10, 1994, the violent offender was indicted by a Federal Grand Jury in Fort Worth, Texas, for violation of 18 U.S.C. § 922(g)(1). On October 11, 1994, the violent offender was sentenced to 293 years of imprisonment as a result of his conviction for being a felon in possession of a firearm.

PLTF 100294

This violent offender has previously been convicted for burglary, probation violation, larceny, possession of a firearm by a felon, rape, aggravated kidnaping, aggravated assault with a firearm, and causing bodily harm to a child.

## DETROIT FIELD DIVISION

During November 1991, ATF initiated an OCDETF

investigation into an organization that was securing murder contracts from Detroit's drug kingpins and manufacturing/selling cocaine, crack cocaine, heroin, and marijuana. It is estimated that this

organization is responsible for as many as 50 homicides in the Detroit area over the past few years. This organization operates by having complete control over subordinates. The use of firearms is essential because the associates of the organization operate on fear and intimidation of their potential victims. These associates, in turn, were deathly afraid of the two leaders of the organization.

During the investigation, ATF special agents executed Federal search warrants on the organization's target houses. As a result, sources of information were developed to identify the massive scope of the organization. Title III monitoring of the telephones disclosed murder-for-hire, drug trafficking, obstruction of justice, armed robbery, and related

firearms violations.

In February 1993, the investigation culminated with the execution of 22 Federal search warrants and 21 Federal arrest warrants. A total of 21 defendants were arrested in this investigation. Subsequently, all defendants have pled guilty or were found guilty for violations of Federal firearms laws, narcotics laws, conspiracy to murder, murder, and



obstruction of justice. The defendants' sentences ranged from 21 months to life in prison.

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During December 1994, ATF received information that a subject was in possession of firearms and selling narcotics. A criminal history check revealed that the subject had previously been convicted of robbery, delivery of cocaine, and two separate first-degree rape charges. The subject was currently on parole for the rape of an 11-year-old girl. Based on these prior convictions, it was determined that the subject was classified as an armed career criminal. An ATF undercover special agent met with the subject on three separate occasions and purchased crack cocaine from him. Subsequently, the subject was

arrested and charged with violations of 18 U.S.C. § 922(g). The subject received enhanced sentencing and was sentenced to 168 months' imprisonment.

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An 18-month investigation by ATF into firearms stolen from the Detroit Police Department identified a Detroit police officer as the main suspect. At least 12 of the 31 firearms that were recovered following the burglary of the police officer's cabin had been stolen from the Detroit Police Department Evidence Vault. The firearms had been recorded as being destroyed in police records. The thieves who broke into the officer's cabin and stole these recovered firearms alleged that there were over 200 firearms in the cabin at the time of the theft. ATF perfected a criminal case, and with the cooperation of the thieves, was able to recover 31 firearms in Michigan and Florida. It was determined that the officer could not have perpetrated this crime without the assistance of other officers, but no other suspects have yet been identified. The police officer was sentenced to 33 months' incarceration.

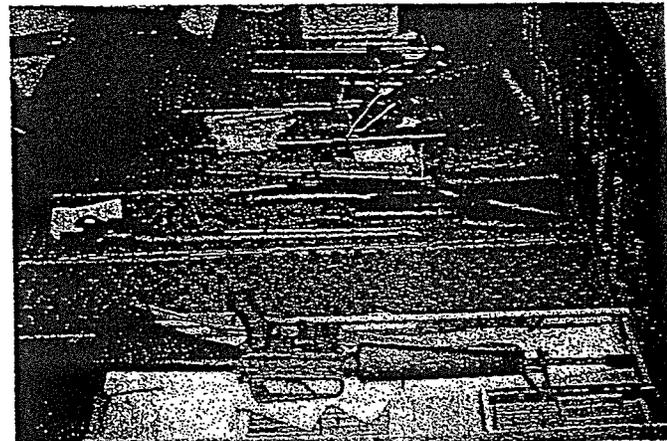
### **HOUSTON FIELD DIVISION**

During August 1994, ATF traced a firearm that was used as the murder weapon in the death of a college professor's wife. The firearm was traced, and the results of the trace indicated that the firearm was purchased by a male resident of Kingsville, Texas, on February 3, 1990, from a department store. The purchaser was identified as the professor, who subsequently confessed to the murder.

### **KANSAS CITY FIELD DIVISION**

In November 1993, ATF initiated an investigation of a number of subjects who were trafficking in crack cocaine and firearms. Many of these subjects were identified as members of the Car Park Crips from Compton, California, well as local gang members. This group was involved in the transport of powder cocaine from Los Angeles to Colorado, the manufacture and distribution of cocaine base in Colorado Springs, the unlawful acquisition and possession of firearms, and the assault and intimidation of persons in competition with their unlawful enterprise.

During the course of the investigation, crack cocaine and firearms were seized, and an undercover operation was begun with a CI and an undercover ATF special agent. Crack cocaine was purchased from a number of the targets. On February 1, 1994, the undercover special agent attempted to purchase three firearms from an individual who had previously sold crack cocaine to the special agent. Three other individuals accompanied the suspect. During the encounter, one of the suspects attempted to rob the special agent. A gunfight ensued in which the undercover special agent and the one suspect sustained





gunshot wounds to their legs. The suspects were able to flee the scene, but they were all identified and arrested within 10 days.

As a result of the investigation, eight subjects were arrested. The following contains the sentencing information:

- Subject 1 was sentenced to 90 months of imprisonment for violation of 18 U.S.C. § 1114 and 60 months of incarceration for violation of 18 U.S.C. § 924 (c). In addition, he was ordered to pay restitution of \$3,750 to ATF for the wounded special agent's medical expenses. He was ordered to complete 36 months of supervised release.
- Subject 2 was sentenced to 60 months of imprisonment for violation of 21 U.S.C. § 841 and 63 month of incarceration for violation of 18 U.S.C. § 922(g).
- Subject 3 was sentenced to 46

months of imprisonment for violation of 18 U.S.C. § 3.

- Subject 4 was sentenced to 36 months of imprisonment for violation of 21 U.S.C. § 841.
- Subject 5 was sentenced to 60 months of imprisonment for violation of 18 U.S.C. § 924(c) and 77 months' incarceration for violation of 18 U.S.C. § 922(g).
- Subject 6 was sentenced to 60 months of imprisonment for violation of 18 U.S.C. § 924(c)(1), 188 months' incarceration for violation of 21 U.S.C. § 841, and 188 months' imprisonment for violation of 18 U.S.C. §§ 2(b) and 111.

- Subject 7 was sentenced to 100 months of imprisonment for violation of 18 U.S.C. §§ 2 and 2112.

-Subject 8 was sentenced to 60 months of imprisonment for violation of 18 U.S.C. § 924(c)(1) and 60 months' incarceration for violation of 18 U.S.C. §§ 2(b) and 111.

These eight defendants were sentenced to a cumulative incarceration period of 861 months (71.75 years).





## LOS ANGELES FIELD DIVISION

In October 1992, ATF initiated an investigation into the Main Street Crips gang, who were believed to be responsible for recent burglaries of FFLs. All of the burglaries were similar, e.g., time of occurrence, method of entry, theft of only handguns from cases, and the amount of time spent inside of the store (under 2 minutes). In addition, the gang members usually gained entrance to the premises by breaking a window and cutting through security bars.

During the investigation, ATF special agents determined that from February 10, 1992, to approximately April 26, 1994, Main Street Crips members burglarized 21 FFLs in Los Angeles and Orange Counties. During these burglaries, over 1,000 firearms were stolen.

On July 1, 1994, eight subjects were indicted by a Federal grand jury for violation of 18 U.S.C. §§ 371, 922(j), 922(u), and 922(g)(1). Later in that month, three of the subjects pled guilty in U.S. district court to one count of 371, conspiracy, and 922(u), burglary of an

FFL. As part of the plea agreement, all three subjects agreed to testify against their codefendants. These subjects will be sentenced at the conclusion of all judicial activity. In November 1994, a jury trial began in U.S. District Court, Los Angeles, California, against four of the subjects. As a result of the trial, one of the subjects was acquitted, and the other three were found guilty of violations of 18 U.S.C. §§ 371, 922(u), 922(j), 922(u), and 922(g)(1).

Additionally, Federal charges against the remaining subject were dropped so that a minimum-mandatory 25 years to life for a third felony conviction, for his role in the burglaries. One of the subjects is still a fugitive. When he is arrested, he will also be charged in State court under the aforementioned provision.

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Beginning in January 1993, an FFL and two coconspirators diverted over 1,300 firearms during a 6-month period. The FFL and his associates used the FFL license at a local firearms distributor to purchase firearms that were later resold. In addition, ATF special agents observed one of the associates pick up 32 firearms from the distributor. Working with the other associate, the guns were taken to various locations, including an apartment and a business owned by one of the suspects. That night, the special agents observed five of the guns being delivered to a small restaurant. ATF special agents then observed as these firearms went "out the back door" to an illegal alien. Subsequently, the alien was detained. At that time, he admitted that he had ordered the firearms from the manager of the restaurant the previous day.

PLTF 100298

In September 1993, ATF special agents executed Federal search warrants at the FFL's residence/business and at the residence of one of the suspects. No guns or FFL records of any type were found. More than 200 of these guns have been recovered by local police from a variety of crimes, including robbery and murder.



In January 1994, the FFL was indicted for violations of 18 U.S.C. §§ 922(b)(5), felony failure to maintain records of disposition; 371, conspiracy; and 2, aiding and abetting unlicensed dealing. Additionally, the associates were charged with violations of 18 U.S.C. §§ 371, conspiracy, and 922(a)(1), unlicensed dealing.

In August 1994, as a result of his guilty plea, one of the subjects was sentenced to 8 months' community service and 3 years of probation. In September 1994, the second associate was sentenced to 30 months' incarceration for his guilty plea of violation of 18 U.S.C. § 922(b)(5). On October 3, 1994, the FFL was sentenced to 46 months of imprisonment and 3 years of supervised release.

## LOUISVILLE FIELD DIVISION

On April 17, 1992, four subjects, all of whom claimed to be members of the Indiana Knights of the KKK, conducted an assault, involving a Title II firearm, on a family in South Bend, Indiana. During the evening hours of this date, the subjects, who identified themselves as KKK members, began yelling racial slurs toward the window of a residence, which was being occupied by a couple and a 6-

month-old baby. Three of the subjects then ran to the residence and walked part of the way to the top of the internal staircase where the male of the residence met them.

The subjects displayed a knife and a handgun and threatened the occupant who went back into the residence. The subjects began to beat on the door and were again yelling various racial slurs. One of the subjects threw a brick through a side window next to the door. Two of the subjects then ripped down an awning support post and began beating the occupant through the broken window. The occupant screamed for someone to call the police. As a neighbor began to telephone the police, one of the subjects ripped the line from the building and disengaged the telephone; however, another neighbor was able to telephone the police. Additionally, one of the subjects fired a shotgun blast at the front door, but the occupants of the dwelling were not hit. The gunfire was heard by members of the South Bend Police Department who were en route to the disturbance.

As the officers arrived, all of the subjects ran away from the residence; some of the subjects were observed entering a second residence on that street. Also, one of the

subjects was observed picking up an object resembling a sawed-off shotgun. A juvenile from the second residence stated that once the subjects were inside of the house, they went to the basement where the aforementioned sawed-off shotgun was placed in a clothes hamper. A consent search was conducted on the residence, and the subjects were arrested by the South Bend Police Department for various State violations. A weapon made from a shotgun with an obliterated serial number was recovered.

ATF's assistance was requested by the local law enforcement agency. Subsequently, on October 7, 1993, the Federal Grand Jury, South Bend, Indiana, returned a true bill indictment charging the subjects with violations of 18 U.S.C. §§ 241, 2, 924(c)(1); 42 U.S.C. § 3631(a); and 26 U.S.C. §§ 5861(d) and 5861(i).

On October 12, 1993, three of the subjects were arrested by ATF, and one of the subjects was brought into custody pursuant to the aforementioned Writ of Habeas Corpus. In November and December 1993, three of the subjects pled guilty to the aforementioned charges. In March 1994, the fourth subject was found guilty by jury. As a result, in June 1994, the subjects were sentenced between 90 and 266 months' incarceration.

## **MIAMI FIELD DIVISION**

In February 1993, eight subjects were arrested for conspiracy with intent to distribute cocaine. At the time of their arrests, the subjects were in possession of several firearms, including machineguns and silencers. In addition, several firearms were located in secret compartments of their vehicles. During the undercover investigation, the subjects

offered to "rip off" 400 kilograms of cocaine that the undercover special agent led them to believe was being imported into the United States by associates of the undercover special agent. After their arrests and while being held in pretrial detention, three of the eight subjects attacked/intimidated a witness who was also incarcerated at that time.

On June 2 and 9, 1995, the subjects were sentenced from 264 to 360 months' incarceration for violation of 18 U.S.C. § 841(a)(1). All of the subjects were sentenced to 360 months' imprisonment (concurrent with the above-mentioned violation) for violation of 18 U.S.C. § 924(c). In addition, all subjects were sentenced to 120 months (concurrent) for violations of 18 U.S.C. §§ 2, 922(o)(1), 924(a)(2) and 26 U.S.C. §§ 5861(d) and 5871.

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On July 29, 1994, at 7:30 a.m., two victims were murdered and one victim was wounded outside an abortion clinic in Pensacola, Florida. Police responded to the scene, arrested a suspect, and recovered a Mossburg 12 gauge shotgun, which was a short distance from the scene. At 8:57 a.m., a trace was initiated on the shotgun.

At 1:45 p.m., the firearm trace revealed that the suspect had purchased the firearm from a gun shop in Pensacola, Florida, on July 27, 1994. On October 5, 1994, the suspect was convicted of violating three counts of the Freedom of Access to Clinic Entrance Act of 1994 and one count of using a firearm during the commission of a Federal act of violence. The suspect also faces State charges of murder in the deaths of the victims.

PLTF 100300

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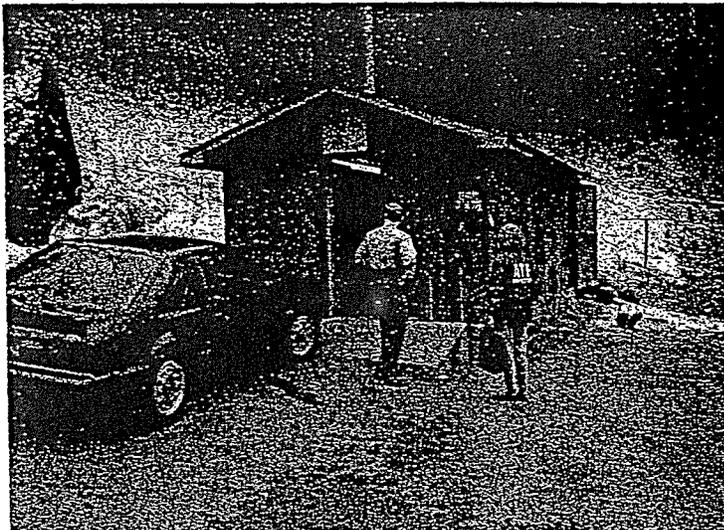
On August 5, 1993, a subject entered into ATF's violent offender program was arrested by the Florida Highway Patrol after he was observed standing beside a disabled vehicle holding a rifle.

On August 12, 1993, this violent offender was indicted for violation of 18 U.S.C. § 922(g)(1). On January 11, 1994, this violent offender was convicted following a jury trial in U.S. District Court, Fort Pierce, Florida, of violating 18 U.S.C. § 922(g)(1). On April 19, 1994, this violent offender was sentenced as an armed career criminal to 282 months of imprisonment.

This violent offender has five prior felony convictions.

**NEW  
ORLEANS  
FIELD  
DIVISION**

On October 20, 1992, a subject forced a female to straw purchase 27 handguns at a pawnshop in Shreveport, Louisiana. During the investigation, ATF determined that the subject was a member of the Englewood Family Bloods gang in California. In addition, the subject had a 1988 felony conviction for second-degree murder for a drive-by shooting. Before this case was completed, the subject was implicated in two other area homicides and arrested in



January 1993 for one of the homicides.

In July 1993, the subject was indicted on four counts of 18 U.S.C. § 922(g)(1), being a felon in possession of a firearm. The following month, the subject was arrested during a stop for a traffic violation in Lennox County, California. Subsequently, he was returned to Louisiana and held without bond.

On November 27, 1993, just 3 days before the subject's Federal trial was to begin, he was able to obtain a firearm while inside the jail. Using the firearm, he and three other inmates forced their escape. In the ensuing weeks, the subject led investigators on a chase across the United States. During that time, while

eluding arrest, he robbed drug traffickers of money and drugs.

In February 1994, the Los Angeles, California, Sheriff's Office arrested the subject during a traffic stop for no tail light. During the traffic stop, he was found in possession of 1 pound of cocaine.

The subject was placed in jail and was again able to smuggle in a firearm. During the subsequent escape attempt, the subject's gun failed to fire when pointed at a jailer. In November 1994, the subject was found guilty of attempted murder of a police officer along with five other charges in California resulting from the attempted jail break. As a result, he was sentenced to 26 years of imprisonment.

In April 1994, the subject pled guilty to being a felon in possession of a firearm. As a result of this plea, he was sentenced to 40 months' incarceration, to be followed by 36 months' supervised release.

Additionally, the subject was sentenced to 26 years' incarceration for charges relating to his escape from the Shreveport City Jail. This term is to be served consecutively to the State charges in California of 26 years.

## **NEW YORK FIELD DIVISION**

On April 20, 1994, ATF special agents arrested an FFL subsequent to the execution of a Federal search warrant. During the search, it was determined that 128 firearms were not recorded in the FFL's acquisition/disposition books, as required by law. The FFL's arrest is relative to the earlier arrests of three Mohawk Indians who sold three machineguns, which were supplied by the FFL, to an undercover special agent. The FFL admitted diverting over 100 firearms to members of an Indian Reservation. Many of the firearms diverted by the FFL have been recovered in crimes by Canadian law enforcement agencies.

On July 19, 1994, ATF special agents arrested a subject, who is a member of the machinegun trafficking organization. Earlier the subject, an FFL, and a second

subject were indicted for conspiracy to possess and distribute machineguns with obliterated serial numbers. This organization is being investigated for illegally trafficking machineguns to the criminal element in Canada from the Indian Reservation. To date, five

members of this group, including the aforementioned FFL, have been arrested. The subject was identified as the individual in the group who converted semiautomatic firearms to fire fully automatic. In addition, the subject also obliterated the serial numbers of the firearms. Subsequent to his arrest, the subject admitted converting 150 firearms.



As a result of this investigation, the FFL was sentenced to 36 months of imprisonment for violation of conspiracy to possess and distribute machineguns with obliterated serial numbers. Additionally, the subject was sentenced to 57 months' imprisonment and fined \$5,000 pursuant to his guilty plea for conspiracy to possess and distribute machineguns.

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On December 7, 1993, an individual on a Long Island commuter train began firing a semiautomatic pistol into the crowd of passengers, killing 6 and wounding 14 people. The NTC traced the recovered firearm and determined that the suspect

PLTF 100302

had illegally purchased the weapon in California. The results of the trace culminated with a criminal case being made, charging the suspect with violations of the Federal firearms laws, specifically 18 U.S.C. §§ 922 (a) (3), 922 (a) (6), and 924 (c).

The subject was subsequently sentenced to serve 4 life sentences.

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During 1992 through 1994, ATF investigated a large-scale heroin and crack/cocaine distribution organization.

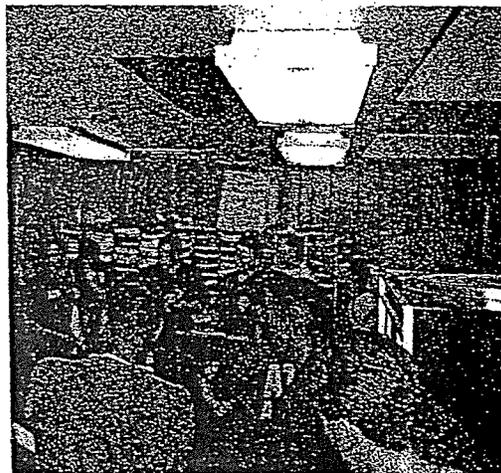
This investigation was initiated after ATF special agents and the New York City Police Department executed a search warrant in the Bronx, New York area. During the search, special agents and officers recovered a loaded machinegun, three pistols, 191 glassines of heroin, crack/cocaine, \$6,337 in U.S. currency, and a computer with narcotics information on its hard drive. At the time of the warrant, three occupants were in the stash house, and one of these individuals agreed to cooperate with officials.

During the investigation, ATF undercover special agents made numerous purchases of heroin and observed the street sellers being protected by armed security men. Subsequently, ATF special agents arrested 10 members of the organization for various violations of Federal firearms and narcotics laws. All of the members, with the exception of the leader, pled guilty to a variety of firearms and narcotics charges. As a result, they received sentences ranging from 10 years' incarceration to life imprisonment. In June 1994, the leader was convicted of

being the head of a narcotics organization, and he faces a 35-year-to-life sentence for distributing heroin on the streets of New York.

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On July 18, 1994, a Federal search warrant, which was based on interstate shipments of firearms, was executed at a tattoo shop in New Jersey. As a result, an employee was arrested for violations of the Federal firearms laws. In addition, a consent search was conducted at the employee's residence, and 30 firearms, including a Street Sweeper shotgun and a sawed-off shotgun, were recovered. The employee later provided a written statement regarding his involvement in this investigation.



In October 1994, the employee pled guilty to violations of 18 U.S.C. § 922(a)(3) and 26 U.S.C. § 5861(d). As a result, he was sentenced to 33 months' imprisonment and 3 years of supervised release.

## PHILADELPHIA FIELD DIVISION

On August 25, 1993, ATF and the Philadelphia Police Department executed a Federal search warrant at the licensed premises of an FFL. During the search, it was determined that the FFL did not maintain any firearms records. Additionally, 100 firearms with obliterated serial numbers were seized.

This FFL began operating on June 1, 1993, at a barbershop in Philadelphia, Pennsylvania. From June 1, 1993, to the date of the execution of the warrant, the FFL received 893 handguns from 14 different wholesalers. The FFL and a codefendant did not maintain any firearms records. Additionally, they obliterated the serial numbers of at least 250 handguns that were sold to the criminal element in Pennsylvania, New Jersey, and New York City.

In February 1994, the FFL pled guilty to violations of the Federal firearms laws, including conspiracy concerning obliterating serial numbers and recordkeeping. On April 19, 1994, the FFL was sentenced. Prior to the sentencing, ATF provided the assistant U.S. attorney with the most recent statistics regarding the recovery of firearms distributed by the FFL; 6 percent of the FFL's firearms have been recovered by police agencies from homicides, armed robberies, assaults, and narcotics crimes. Additionally, ATF showed that a large number of these recovered firearms were seized from juveniles and had obliterated serial numbers. At the time of sentencing, the judge departed upward by 18 months, and the FFL was sentenced to 48 months' imprisonment, fined \$7,200, and received 3 years of supervised release.

The judge stated that this was the first time that he had departed upward in over 10 years on the bench.

## PHOENIX FIELD DIVISION

In June 1993, ATF and the U.S. Customs Service initiated an investigation that targeted a subject who was a U.S. Customs Service K-9 handler. The subject, who was also an FFL, sold an unregistered silencer and two machineguns and arranged to sell five machineguns and several handguns to an ATF undercover special agent during various meetings. At the same time, the subject was attempting to establish routes for the transportation of firearms to Mexico and the arrival of narcotics to the United States. During all of the undercover contacts, the subject was always armed and made statements that he would never be taken down without a fight.

On August 20, 1993, the subject sold five machineguns to the ATF undercover special agent. Subsequent to this transaction, the subject was arrested. Prior to his arrest, the subject attempted to elude arrest by driving away in his motorhome, but he was stopped as snipers from the Tucson Police Department SWAT Team shot out the tires on his vehicle.

Subsequent search warrants executed at the subject's two residences revealed a home workshop that contained numerous parts and accessories for the manufacture and/or conversion of several semiautomatic rifles and carbines into machineguns.

The subject entered a guilty plea to violations of manufacturing and transferring unregistered machineguns.

As a result, on January 27, 1994, the subject was sentenced to 24 months' imprisonment and 3 years of supervised release.

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In 1993, as the result of information obtained during an ATF High Intensity Drug Trafficking Area project in southern Arizona, an investigation was initiated that targeted an FFL in Nogales, Arizona, which borders Mexico.

ATF special agents interviewed individuals who had purchased multiple firearms, profiling the type that were believed to be firearms of preference utilized by narcotics traffickers. Numerous subjects who were interviewed confessed to straw purchasing firearms from the aforementioned FFL. A few of the subjects stated that the FFL had knowledge of the straw purchases, and the FFL recruited people himself to complete the ATF F 4473s and then paid them for their services.

During the investigation, an ATF informant introduced an ATF undercover special agent to the FFL. The special agent was posing as a narcotics trafficker interested in purchasing a large quantity of assault rifles to supply his narcotics source in Mexico. Subsequently, the FFL sold the ATF undercover special agent 51 firearms, a majority of which were assault-type rifles, while possessing knowledge that they were destined for Mexico. The FFL sold some of the firearms without having the required paperwork completed.

Special agents executed three Federal and State search warrants, and the FFL's complete inventory, which included

firearms, ammunition, and firearms accessories with an estimated retail value of \$750,000, was seized.

Seven defendants were charged with violations of Federal firearms laws. On June 16, 1994, the FFL was sentenced to 41 months of incarceration as a result of his guilty plea to violation of 18 U.S.C. § 922(b)(3) and 26 U.S.C. § 5861(d).

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From December 24, 1992, to March 10, 1993, two subjects illegally purchased 200 firearms from six FFLs in the Phoenix, Arizona, area. One of the subjects used several aliases to purchase the firearms. This subject also had associates, who also had many aliases, and they purchased firearms for him. The subject would then illegally transport these firearms to California, via commercial airliners, for resale to gang members.

During this investigation, the NTC was utilized to locate these suspect firearms. Many of the firearms were found as a result of raids on crack houses in the Los Angeles, California, area. Two firearms were found in relation to a homicide.

As a result of this investigation, 17 firearms were seized when the second subject, who is a convicted felon, attempted to smuggle them aboard an airline flight from Phoenix, Arizona, to Los Angeles, California. A search warrant was later served at this subject's residence, and a large number of firearms receipts and documentation were recovered. As a result, both subjects were arrested for violations of Federal firearms laws.

The second subject pled guilty to one count of being a felon in possession of a firearm, and he testified on behalf of the U.S. Government. On April 8, 1994, subject one was found guilty of nine counts of Federal firearms violations and was sentenced to 46 months' imprisonment.

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In January 1994, an investigation was initiated on a methamphetamine trafficking organization.

The group was purported to be trafficking large quantities of methamphetamine from a clandestine laboratory in southern California. The members of this organization were armed

Mexican nationals. An informant stated that group members purchased firearms to sell in Mexico.

On April 14, 1994, two members of the organization traded 1 pound of methamphetamine with an undercover ATF special agent for two AK-47 machineguns and U.S. currency. After the transaction, the subjects were subsequently arrested.

On November 3, 1994, both subjects were found guilty of 21 U.S.C. §§ 841(a)(1) and (b)(1) and 18 U.S.C. §§ 924(c) and 922(g)(5). As a result, one of the subjects was sentenced to 35 years in prison followed by 5 years' probation,

and the second subject received a 36-year sentence and 5 years of probation.

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On May 17, 1993, ATF received information from a CI that a subject, who was a convicted felon, was in possession of unregistered silencers. During the investigation, an undercover ATF special agent and the CI met the subject in the desert near Phoenix for the purpose of shooting automatic firearms. The subject

arrived with an AR-15 firearm that had been converted to a machinegun, and an M203, 40mm grenade launcher was attached.

As a result, a Federal search warrant was executed at the subject's residence, and special agents

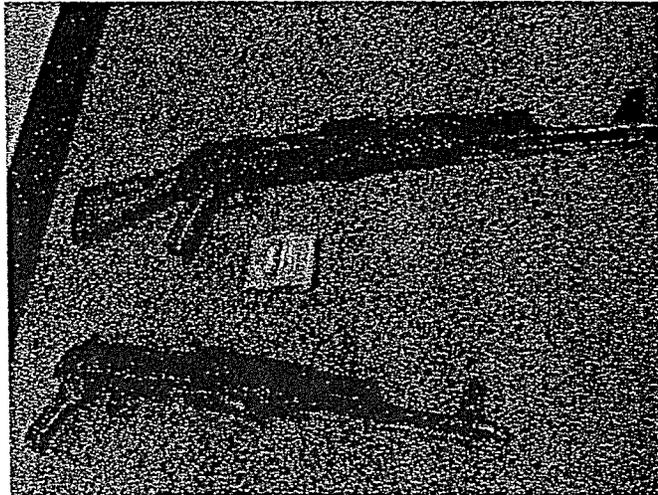
recovered 35 firearms and/or destructive devices, including 5 machineguns, 2 silencers, 2 short-barreled rifles, 2 grenades, and 3 grenade launchers.

On March 2, 1994, the subject pled guilty to violation of 18 U.S.C. § 922(o) and 26 U.S.C. § 5861(d). As a result, the subject was sentenced to 12 months' incarceration and fined \$3,000.

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PLTF 100306

In December 1988, a subject began buying and selling firearms in the Phoenix, Arizona, area. Between July 1990 and June 1991, the subject purchased 258 handguns from one FFL. The subject purchased 100 additional



handguns from another FFL during the same time period. During November 1990, the subject purchased 55 of the above-mentioned 100 firearms on the same day.

Between January 1991 and January 1992, 23 firearms purchased by the subject had been recovered by law enforcement agencies in Illinois, Rhode Island, and New York. Between December 1993 and January 1994, an ATF undercover special agent and CI purchased eight firearms from the subject on two separate occasions.

In January 1993, the subject traded the undercover ATF special agent and CI two revolvers and \$450 for an ATF prop machinegun.



On the same date, a Federal search warrant was executed at the subject's residence, and 17 firearms were seized. Records recovered from the residence indicated that at one time in 1994, the subject had approximately \$50,000 in inventory invested in his firearms business. Records also indicated that the

subject was the main firearms supplier for a local Phoenix pawnshop that was an FFL.

In February 1994, the subject was convicted of dealing in firearms without a Federal firearms license and possession of an unregistered machinegun. As a result, the subject was sentenced to 41 months for dealing in firearms without a license and 33 months for possession of an unregistered machinegun.

### **SAN FRANCISCO FIELD DIVISION**

On May 23, 1993, two subjects were indicted for violations of 18 U.S.C. §§ 922(a)(1)(A), 922(a)(3), 922(a)(6), and 371. The two subjects conspired and traveled to Reno, Nevada, on several occasions and unlawfully purchased firearms, subsequently transporting the firearms to Bakersfield, California. The two utilized their contacts with narcotics traffickers and sold firearms to illegal aliens, juvenile gang members, and narcotics traffickers.

During the investigation, surveillance was established, and it was determined that the subjects were using a hotel room as the base of their operations for the distribution of firearms. A Federal search warrant was executed, and 11 firearms were seized. Additionally, two subjects were arrested.

It was determined that the subjects had purchased approximately 55 firearms for distribution.

On January 10, 1994, both subjects were sentenced to 30 months' incarceration and 36 months of supervised release.

PLTF 100307

## ST. LOUIS FIELD DIVISION

In November 1993, ATF special agents executed an arrest warrant for a subject. On January 2, 1994, the subject, who was a convicted felon and a key suspect in a murder, appeared before a Federal judge in St. Louis, Missouri, in the Eastern Judicial District of Missouri and pled guilty to violation of 18 U.S.C. § 922(g)(1). In March 1994, the subject was sentenced to 37 months of imprisonment for the aforementioned violation.

The subject was a violent convicted robber and gang member. Additionally, he was a suspect in at least two murders in the St. Louis, Missouri, area. One of these murders involved a 16-year-old female. This subject is the first defendant to be indicted and convicted of a Federal firearms violation by the newly formed and highly publicized ATF Homicide Task Force. This task force is a joint project between St. Louis ATF special agents and St. Louis Metropolitan Police Department officers.

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In October 1993, the Poplar Bluff, Missouri, Police Department received information regarding a subject's illegal narcotics activity. Combining this information with additional intelligence supplied by the Missouri State Highway Patrol, a Federal search warrant was obtained for the subject's residence. ATF's assistance was requested in this investigation.

Prior to the execution of the warrant, it was determined that the subject was always armed, even at his residence. Additionally, he had several attack dogs

in his yard. As a result, it was decided that an undercover approach would be used. Hence, on October 14, 1992, when ATF special agents executed the warrant at the subject's residence, the Special Response Team van was utilized, and the driver and front passenger posed as satellite television installers who were attempting to locate another individual's residence in the rural area. The ploy worked perfectly--the subject not only exited his residence and secured the dogs, but he walked to the driver's window of the van and spoke to the undercover special agent. Two additional undercover special agents arrested the armed subject.

During the search of the residence, special agents recovered 15 pounds of marijuana, \$22,000 in U.S. currency, methamphetamine, narcotics paraphernalia, and 13 firearms. It should be noted that anywhere a special agent recovered narcotics, a firearm was also located. In one instance, a firearm and a 1-pound bag of marijuana were found in an old clothes dryer on the front porch of the residence. Additionally, special agents recovered 12 pounds of marijuana in the basement that were being guarded by at least six poisonous copperhead snakes.

The subject was charged with violations of 18 U.S.C. § 924(c)(1) and 21 U.S.C. § 841(a)(1). On January 10, 1994, the subject pled guilty to the aforementioned charges. Subsequently, he was sentenced to a total of 121 months of imprisonment on five counts of narcotics violations, 5 years on one count of 18 U.S.C. § 924(c)(1), and 20 years on a second count of 18 U.S.C. § 924(c)(1).

## ST. PAUL FIELD DIVISION

In February 1994, unknown subjects used a tire iron to break a window in order to gain entrance to an FFL's business in Manitowoc, Wisconsin, and stole 17 handguns. It was suspected that gang members were responsible for the incident. When fleeing the burglary scene, the subjects used a stolen vehicle as a getaway car. The car was abandoned approximately 3 miles from the scene of the burglary.



Later in February, one of the subjects was stopped by the Green Bay Police Department. When the officer was returning to his vehicle, he was fired at by the subject. The officer was able to return fire; however, he sustained a gunshot wound to his foot. The subject was subsequently arrested, and he agreed to cooperate and gave a statement concerning the shooting of the police officer. In addition, the subject admitted that he and two others had committed the burglary of the FFL.

As a result, two search warrants were executed by ATF and the Green Bay Police Department. During the search, two firearms stolen from the burglary of the FFL and numerous photographs,

including those depicting allegiance with the Menace of Destruction gang, were recovered. At the time of the search, two additional subjects were also arrested. In March 1994, a fourth subject, a juvenile, was arrested for his involvement.

On August 19, 1994, as a result of his guilty plea in Federal court to violation of one count of 18 U.S.C. § 922(u), burglary from an FFL, the first arrested subject was sentenced to 37 months of imprisonment. In addition, this subject had also been sentenced in State court to 10 years of imprisonment for violation of one count of party to the crime of armed burglary. These terms are to be served concurrently.

On the same date, a second subject was also sentenced as a result of his guilty plea to violation of 18 U.S.C. § 922(u) to 18 months of incarceration. Charges against the third subject were dismissed because he was being prosecuted in State court with violation of receiving stolen property. As a result of his guilty plea in State court, this subject was sentenced to 1 year of imprisonment and 4 years in the Department of Intensive Sanctions.

On July 11, 1994, the juvenile subject, who had been waived into adult court and had earlier pled guilty to the State violation of party to the crime of armed burglary was sentenced to 8 1/2 years.

## SEATTLE FIELD DIVISION

During November 1993, ATF's assistance was requested by the Boise, Idaho, Police Department to conduct an urgent trace on a firearm. Two brothers, ages 12 and 15, had found a loaded gun in a canal near their residence. The boys took the gun home, and one boy

accidentally discharged the firearm, killing his brother. As a result of the trace, it was determined that the gun had been stolen during a burglary of a neighbor's house and was tossed in the canal.

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On March 10, 1994, an off-duty Washington County Sheriff's Department deputy observed a subject taking a rifle from his pants leg and placing it in a vehicle. The subject was followed to a shopping center and was seen placing the rifle in the trunk of the vehicle. The subject eluded the deputy; however, he was seen at another shopping center where he hid the rifle in the bushes and buried it under leaves and debris. The subject was stopped by police but escaped with another individual. Subsequently, the subject was arrested.

Police recovered the rifle, which had been stolen in an earlier residential burglary where the subject had initially been seen. Also, the subject was positively identified by the deputy and witnesses.

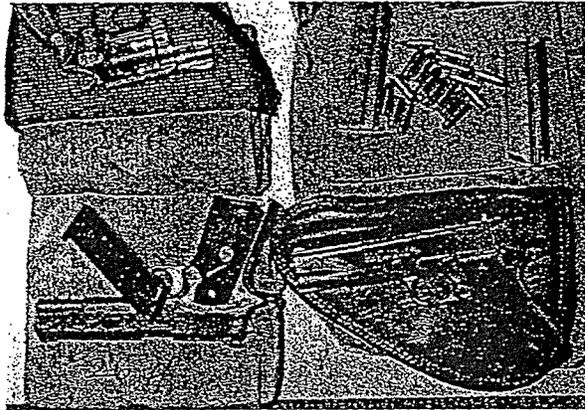
On October 12, 1994, the subject was found guilty of violations of 18 U.S.C. § 922(g)(1). At the time of sentencing, the subject received 235 months of imprisonment as a result of sentencing enhancement under 18 U.S.C. § 924(e).

The subject had earlier convictions for burglary (eight counts), robbery, and rape.

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In April 1993, officers from the State Parole and Probation Department and the Klamath County Sheriff's Office took a subject into custody outside of his apartment in Klamath Falls, Oregon.

When the subject exited the apartment, he was observed by officers as having a shirt wrapped around his right hand, and the shirt was carried in a manner in which it appeared that the subject was concealing something. The officers approached the subject and directed him to lay on the ground. The subject ignored the officers and walked to his girlfriend and gave her what was in his hands. Officers seized a semiautomatic pistol from the girlfriend. The subject was subsequently arrested.

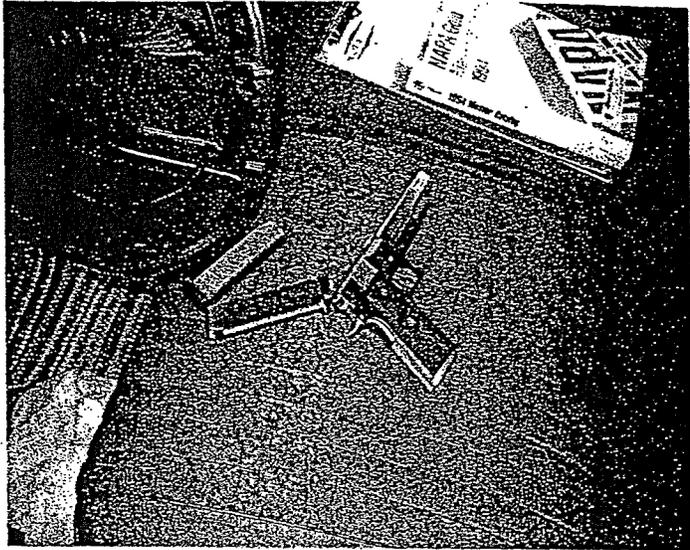


This case was referred to ATF because of the subject's extensive criminal history, which included convictions for assault by means of force likely to produce great bodily injury, burglary, and robbery (15 counts).

In January 1994, the subject pled guilty to violation of 18 U.S.C. § 922(g). On March 29, 1994, the subject was sentenced to 210 months of incarceration as a result of sentencing enhancement under 18 U.S.C. § 924(e).

## WASHINGTON FIELD DIVISION

In August 1994, ATF's Knoxville, Tennessee, and Bristol, Virginia, Field Offices made undercover purchases of Title II weapons from a subject, who was a member of the Peacemaker outlaw motorcycle gang. During the investigation, an undercover ATF special agent purchased converted SKS trigger groups, converted sten guns, and homemade handgrenades from the subject.



As a result, in September 1994, ATF executed a Federal search warrant in Meadowview, Virginia, at the subject's residence. Special agents seized three fully automatic firearms, three silencers, one SKS drop-in trigger group, two empty grenade hulls, smokeless powder, and 8,000 rounds of ammunition.

In October 1994, the subject was indicted for 16 felony violations of Federal firearms and explosives laws. Hence, the subject pled guilty to illegally manufacturing and possessing two sten machineguns and three handgrenades and to possession of 13 firearms by a convicted felon. Subsequently, the subject was sentenced to two concurrent terms of 50 months' incarceration in the Western District of Virginia. In addition, the subject was also sentenced to a third term of 50 months of imprisonment in the Eastern District of Tennessee, which is to be served concurrently with the sentencing in Virginia.

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In April 1994, ATF initiated an investigation of alleged violations of Federal firearms laws by a subject, who was allegedly in unlawful possession of

unregistered firearms silencers at his residence in Pulaski, Virginia. In addition, the investigation determined that the subject allegedly planned to form a militia group that would be prepared for armed conflict with Government authorities should Federal firearms legislation become too restrictive. An alleged goal of this group would be to effect a break-in of the local National Guard Armory in order to obtain military weapons and equipment; police officers responding to this break-in would be shot. During the investigation, it was determined that members of this militia group advocated/admitted straw purchasing firearms and rifles with silencers.

Through CIs, controlled purchases, and Federal search warrants, ATF netted 31 firearms, including 4 silencers, 1 machinegun, and 1 short barreled rifle, all unregistered. The subject and others were arrested and charged in a 22-count indictment with violations of conspiracy, the GCA, and the NFA.

As the result of the guilty plea to seven counts of violations of the GCA, FFA, and conspiracy, the subject, who was the

ringleader of the group, was sentenced to 60 months of imprisonment for each count to run concurrently.

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In early 1993, ATF initiated an investigation of violations of the GCA, the Controlled Substances Act, and applicable Federal money laundering and forfeiture statutes, in addition to conspiracy to commit these violations. Through this investigation, it was determined that a group of eight subjects led by an individual, who is a native of Thailand and a British citizen, was a major supplier of crack cocaine and firearms in York County and Newport News, Virginia, areas. This group was responsible for the sale of over 500 kilograms of crack cocaine, the use of firearms in protecting their operation, trading firearms for narcotics, and the laundering of money to Thailand.



In October 1993, an ATF-led Organized Crime Drug Enforcement Task Force (OCDETF) investigation began a coordinated effort to monitor the criminal activities of the group. Other involved agencies included DEA, IRS, York County Sheriff's Department, and the Newport News Police Department. Through the use of CIs, undercover buys of cocaine, 18 witnesses testifying before a Federal grand jury, execution of Federal search warrants, and electronic surveillance, a 30-count Federal indictment was returned. The indictment

charged the eight gang members with conspiracy to distribute narcotics, being a member of a continuing criminal enterprise, distribution and possession of narcotics, use of a firearm in relation to a drug trafficking crime, and money laundering.

As a result of the indictment, six of the eight gang members were arrested, and two of the six pled guilty and testified against the four other members during the trial. In April 1994, the trial resulted in guilty verdicts against the four members. Two of the subjects were sentenced to life without parole, and the other four subjects were sentenced from 27 to 900 months' imprisonment.

Two gang members remain fugitives, and it is believed that one of them has fled to Thailand with drug proceeds estimated at over \$300,000 in U.S. currency.

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An investigation was subsequently initiated as a result of IBIS linking five homicide cases. The links were made through ballistic tests conducted by the Metropolitan Police Department Firearms Identification Unit. The system was used as part of a pilot program in support of the CEASEFIRE Program.

IBIS linked the following homicides to the source weapon, a Glock 9mm semiautomatic pistol.

- On November 8, 1993, an individual was shot to death in southwest

Washington, DC, after a physical confrontation with another subject.

- On November 22, 1993, a subject was murdered as he stood with a group of people in his neighborhood in northeast Washington, DC.

- On November 30, 1993, a mother and son were murdered in their homes in southeast, Washington, DC, by several subjects and several different weapons, but the source weapon was used in this double homicide.

- On December 7, 1993, a subject was murdered as he sat in his vehicle in the northeast section of the city

- On December 11, 1993, a subject was murdered approximately 50 yards from his residence in southwest, Washington, DC, by three subjects. The victim was shot multiple times in the head.

- On December 17, 1993, four subjects were arrested by the Metropolitan Police Department and found in possession of a fully loaded 9mm semiautomatic pistol.

On February 4, 1994, an ATF special agent from Washington, DC, traveled to Lynchburg, Virginia, to interview the gun purchaser. During the interview, the purchaser stated that he made three firearms purchases for his son, who is also a known drug dealer in Lynchburg. One of the three weapons purchased was the Glock pistol, which was used in the murders in Washington, DC.

The purchaser was arrested by ATF and the Lynchburg Police Department. The purchaser fully cooperated with law enforcement and pled guilty to making a false statement with respect to information kept in an FFL's records. In

addition, while special agents were attempting to locate the purchaser's son in Lynchburg, the special agents witnessed a drive-by shooting involving drug dealers from New York and the son. There were no injuries.

On February 16, 1994, ATF and the Lynchburg Police Department arrested the son for aiding and abetting the making of a false statement with respect to the information kept in an FFL's records. The son refused to cooperate with law enforcement regarding the Glock pistol recovered in Washington, DC, on December 17, 1993.

The aforementioned investigation is an example of how the CEASEFIRE Program was designed to work--a weapon being recovered, test-fired, and traced. The projectiles are entered into the computer system, and a link is made between several shootings and/or homicides. The leads obtained from the trace information are followed up, and if possible, arrests are made based on the followup investigative efforts. A total of six subjects have been indicted and arrested for the aforementioned homicides. One of the six subjects is allegedly involved in at least 12 murders.

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On October 29, 1994, a subject, who is a convicted felon, brandished an assault rifle and fired approximately 30 rounds at the White House. ATF special agents executed an emergency search warrant on the subject's vehicle, and they recovered a Mossberg shotgun, assorted ammunition, and personal papers, that contained handwritten threats against the President of the United States and other high ranking Government officials. This evidence later became instrumental in

charging the subject with attempted assassination of the President of the United States.

The NTC conducted emergency traces. Through the traces, it was revealed that the subject purchased the firearms in Colorado Springs, Colorado, in September 1994, subsequent to his felony conviction.

Based on this information, the ATF Kansas City Field Division executed a search warrant at the subject's Colorado Springs residence. The search recovered assorted ammunition and paperwork relative to the subject's purchase of several firearms including a Glock pistol and the previously recovered shotgun and rifle.

On November 17, 1994, the subject was indicted for violations of attempted murder of the President of the United States, assault on an officer of the U.S. Government (four counts), felon in possession of a firearm (two counts), destruction of Government property, use of a firearm in a crime of violence (six counts), and interstate transportation of a firearm with intent to commit a felony. The defendant was sentenced to 40 years of imprisonment without the possibility of parole.

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In January 1993, ATF initiated an investigation on an FFL located in Newport News, Virginia. The FFL was observed at several gun shows purchasing large quantities of small caliber semiautomatic pistols. It was determined that a high number of firearms involved in crimes in the Newport News and Hampton areas were purchased from the FFL.



Interviews were conducted of the purchasers of the weapons, and it was discovered that most were female and crack addicts. Additionally, during the interviews, it was uncovered that a blatant pattern of straw

purchases was occurring at the FFL's business, and the FFL was knowingly allowing straw purchases to be made.

As a result, several teams of ATF special agents began purchasing firearms at the store. The male agent would examine and identify the firearms he wished to purchase but would tell the FFL that he could not sign any paperwork. The undercover male special agent asked the FFL if the undercover female special agent could purchase the firearms for him. At that point, the FFL would instruct the male special agent to go outside and give the money to the female special agent. On several occasions, the male special agent gave the money to the

female special agent in the FFL's presence.

During March and April 1993, while the undercover operation was being conducted, information was received by ATF in New York City. This information revealed that 11 firearms which ATF had purchased in another investigation were traced to the FFL. Further information indicated that ATF's New York Field Division was in the process of purchasing 70 firearms within the next 3 days. Based on this information, it was determined that surveillance would be conducted at the store to determine if any large purchases would take place. As a result of the surveillance, an unknown male arrived at the store in a cab with a large gym bag. The subject entered the store, stayed for several minutes, and left. He was followed to a motel in the area. The next day, a UPS truck made a delivery to the FFL. Immediately, thereafter, the subject departed the motel and traveled to the FFL's premises. The subject exited the store with the gym bag completely full, and later traveled, via train, to New York City and delivered 60 small caliber pistols to the ATF undercover special agent. This scenario repeated itself during the next month, resulting in the arrest of the New York courier at the local train station while in possession of 60 small caliber pistols destined for resale in New York City.

In July 1994, the FFL was subsequently arrested and indicted for aiding and abetting in the straw purchase of over 60 weapons to the ATF undercover special agents and other individuals identified through the investigation. The FFL pled guilty to one count of conspiracy to make false statements to an FFL. As a result, the FFL was sentenced to 24 months of

incarceration and 3 years of supervised release.

.....

During the early morning hours of March 23, 1994, a Kinova, West Virginia, police officer responded to a burglary of an FFL. The officer found signs of a forced entry and subsequently discovered 11 firearms had been stolen. The officer also found a key ring on the floor bearing a dogtag with a name he personally recognized. The officer quickly proceeded to the residence of the individual, who lived one block from the burglary scene. When the officer arrived, the individual was in a vehicle in the driveway. The officer ordered the individual from his vehicle and immediately observed 11 firearms on the front seat. The officer arrested the individual and then contacted ATF for assistance.

The case was found to warrant Federal prosecution because it is a Federal offense to steal firearms from a federally licensed premises. In addition, the individual was a fugitive from Florida for parole violations.

The defendant pled guilty to violation of 18 U.S.C. § 922(u). He was sentenced to



46 months of imprisonment, followed by 2 years of supervised release, and ordered to pay restitution for damages to the licensed premises.



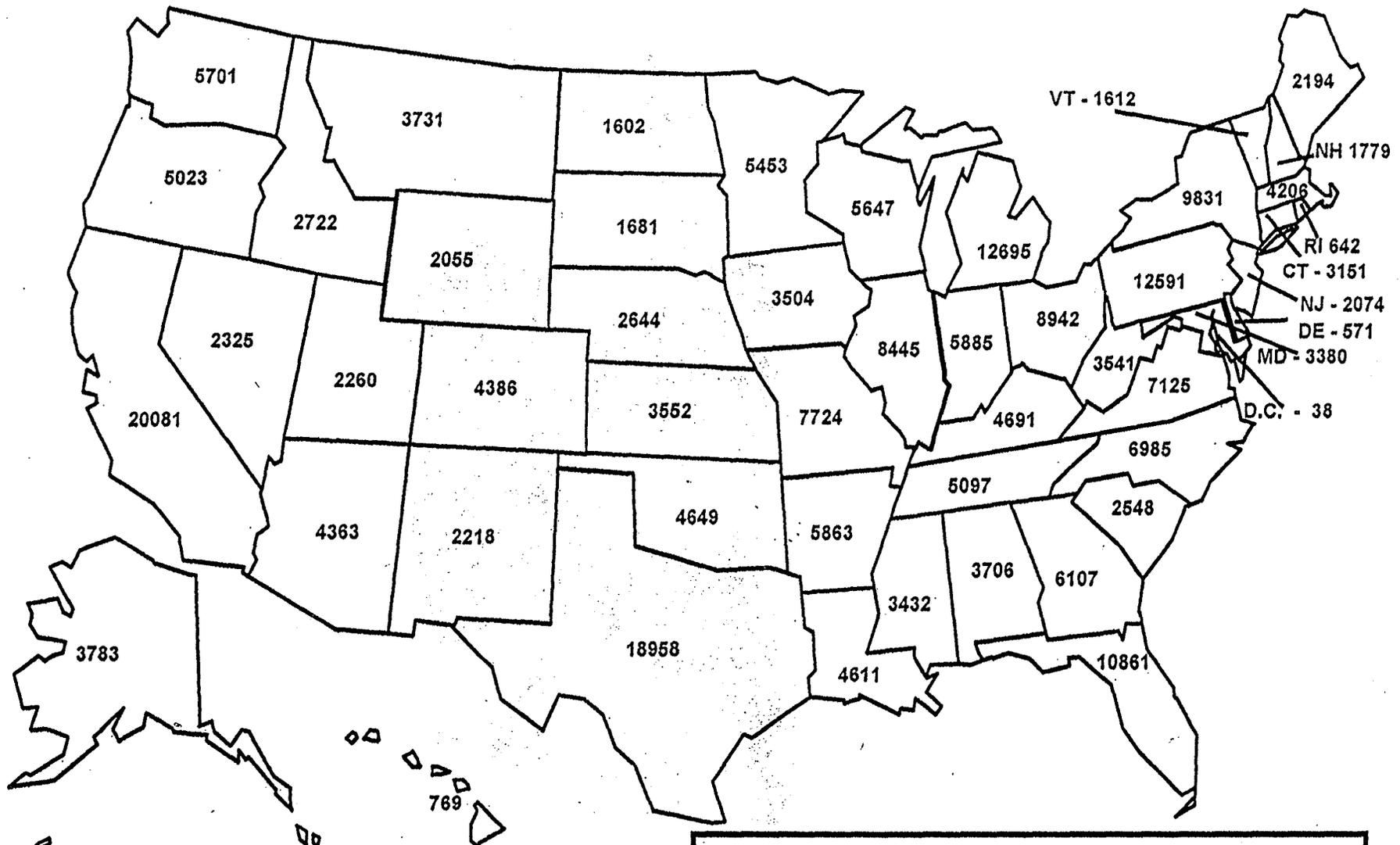
PLTF 100316

# Statistics



PLTF 100317

# FEDERAL FIREARMS LICENSEES BY STATE



TOTALS ARE FOR ALL TYPES OF FFLS WITHIN THE UNITED STATES

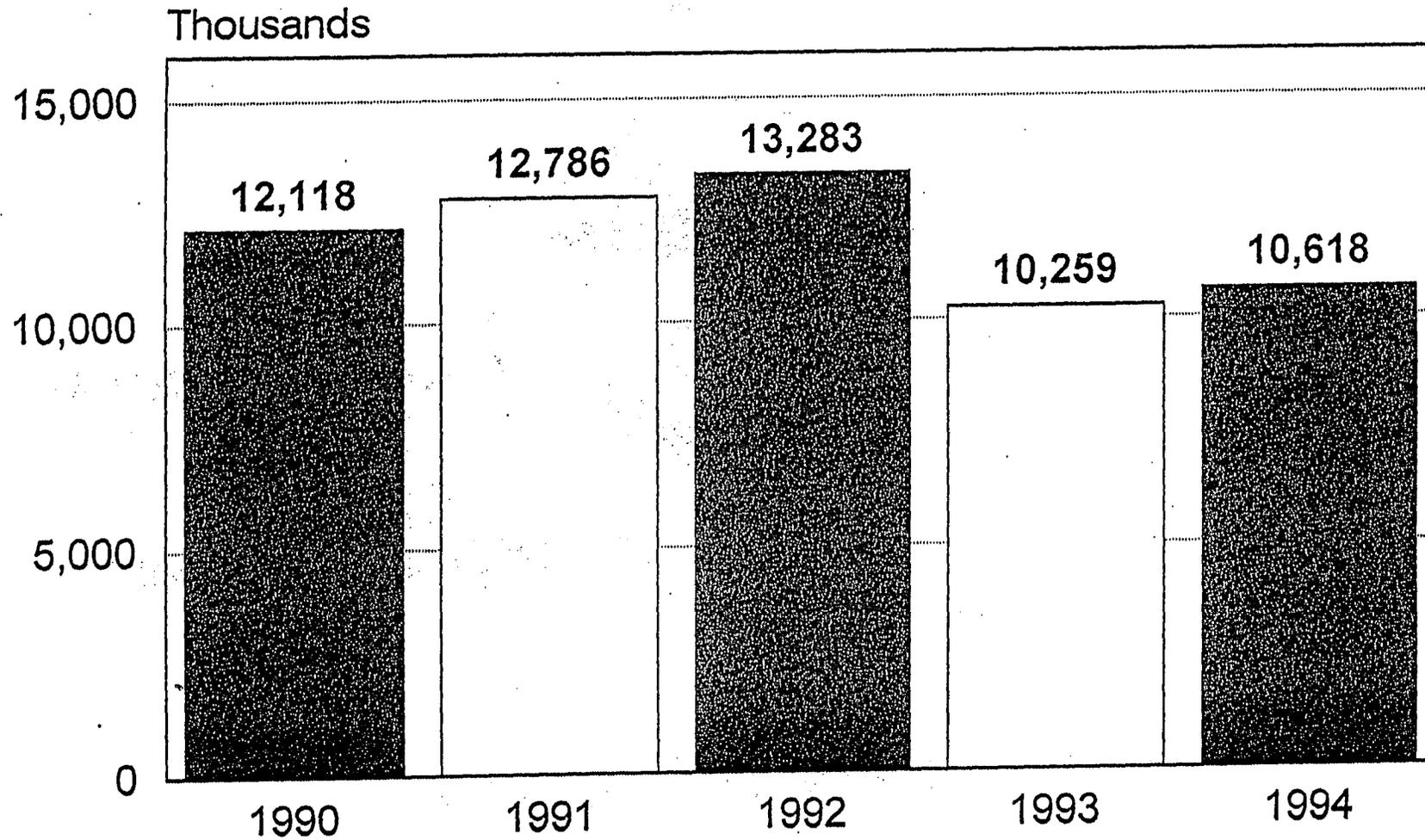
SOURCE: BUREAU OF ALCOHOL, TOBACCO AND FIREARMS  
JULY 1985

65

PLTF 100318

# FIREARMS CASES INITIATED

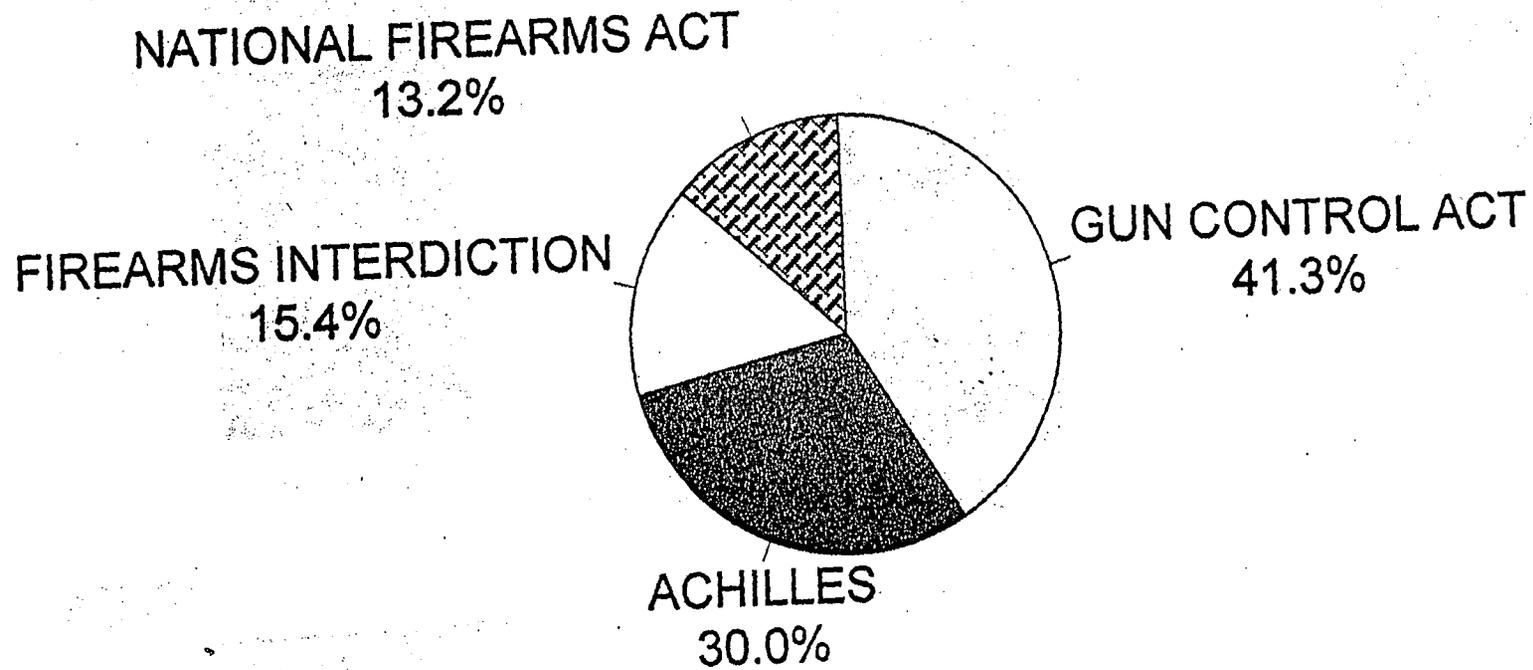
## BY CALENDAR YEAR



SOURCE: BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

# TYPES OF FIREARMS CASES INITIATED

## CALENDAR YEAR 1994



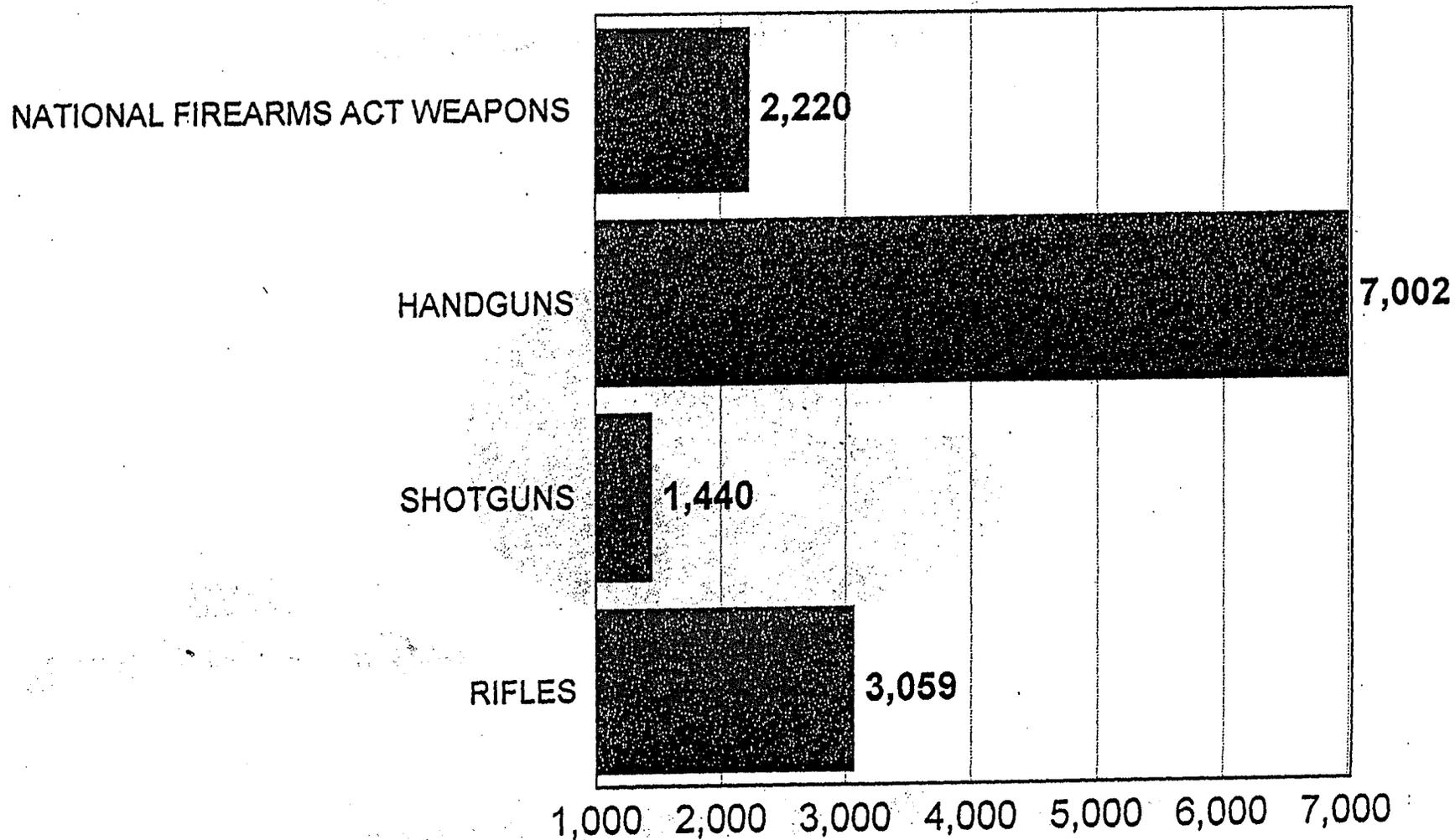
69

PLTF 100320

Source: Bureau of Alcohol, Tobacco and Firearms

# PROPERTY TAKEN INTO CUSTODY

CALENDAR YEAR 1994

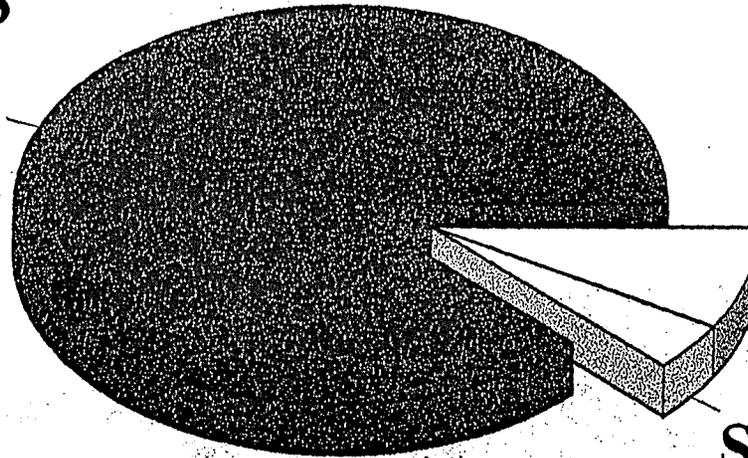


PLTF 100321

# COMBINED INTERSTATE AND FFL THEFTS

January 1, 1994 - December 31, 1994

Handguns = 5,928  
88%

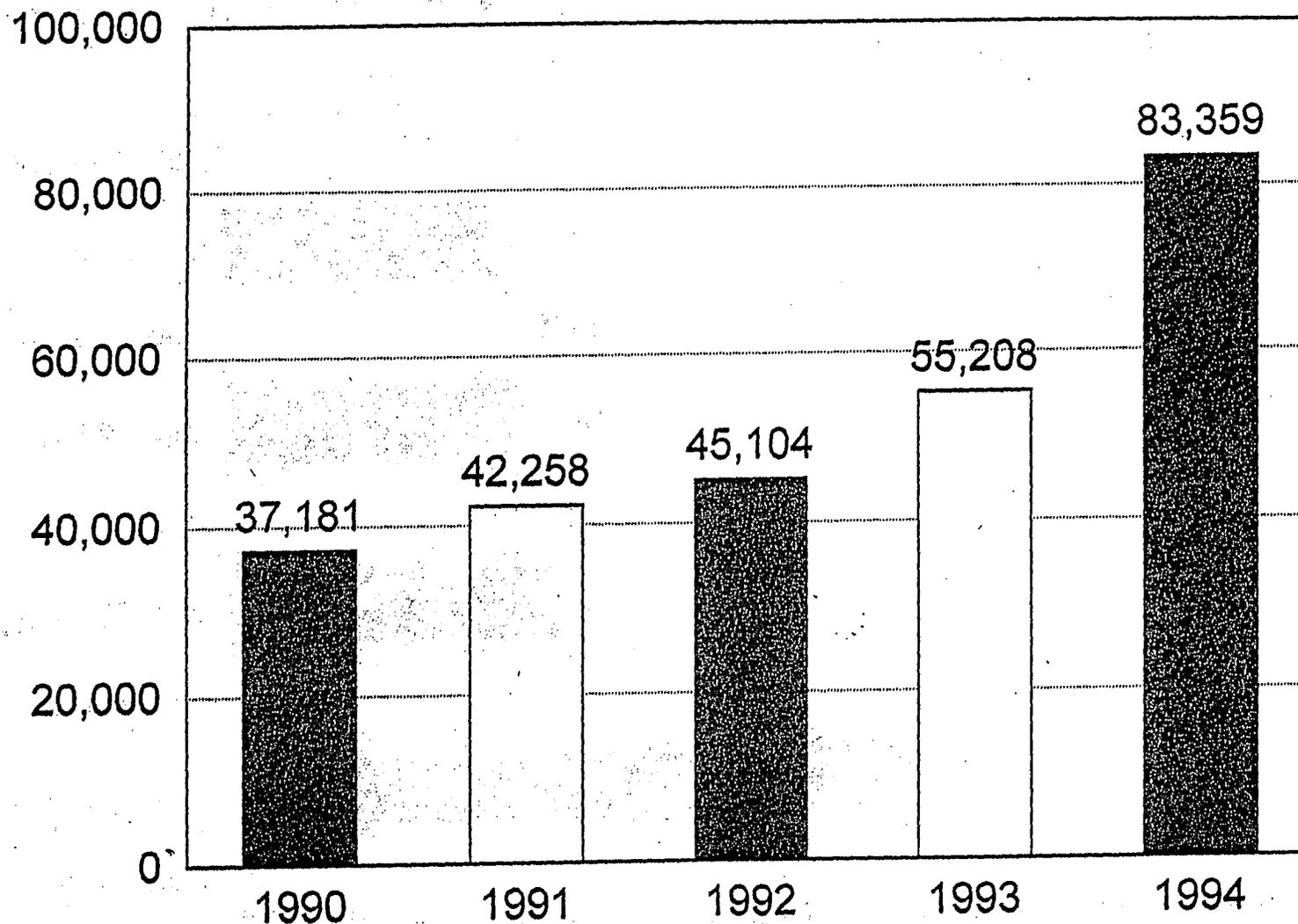


Rifles = 558  
8%

Shotguns = 274  
4%

Firearms Stolen from Interstate  
Carriers and Licensees = 6,760

# Firearms Traces Submitted by Calendar Year

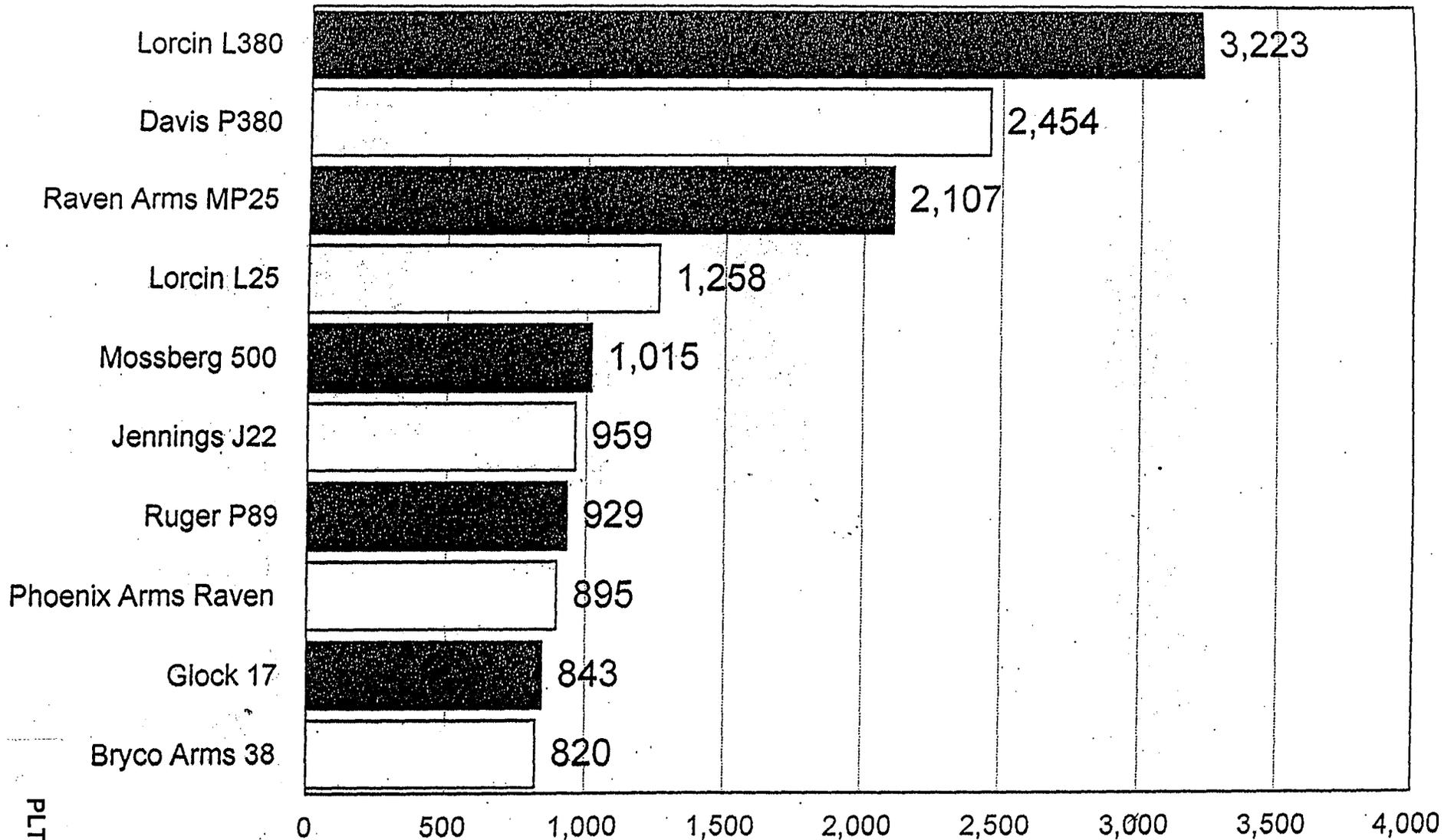


Source: Bureau of Alcohol, Tobacco and Firearms

PLTF 100323

# Top Ten Firearms Traced

Calendar Year 1994



Source: Bureau of Alcohol, Tobacco and Firearms

PLTF 100324

# *Statutes Violated*



PLTF 100325

18 U.S.C. Chapter 44

- Section 922(a)(1) Dealing in Firearms Without a License*
- Section 922(a)(2) Interstate Shipment of Firearms/FFL to non-FFL*
- Section 922(a)(3) Interstate Receipt of Firearms*
- Section 922(a)(4) Interstate Transport of an NFA Firearm*
- Section 922(a)(5) Interstate Transfer of a Firearm*
- Section 922(a)(6) Providing False or Fictitious Information When Buying Firearms*
- Section 922(a)(7) Armor-Piercing Ammunition - Manufacture or Import by Non-FFL*
- Section 922(a)(8) Armor-Piercing Ammunition - Manufacture or Import by FFL*
- Section 922(a)(9) Alien (Nonresident) Receiving Firearm*
- Section 922(b)(1) FFL Selling a Gun to an Underage Person*
- Section 922(b)(2) FFL Selling a Gun in Violation of Local Laws*
- Section 922(b)(3) FFL Selling a Gun to a Nonresident*
- Section 922(b)(4) FFL Selling an NFA Firearm Unlawfully*
- Section 922(b)(5) FFL Failing to Keep Required Records*
- Section 922(d)(1) Selling/Giving a Firearm to an Indicted Person*
- Section 922(d)(2) Selling/Giving a Firearm to a Fugitive*
- Section 922(d)(3) Selling/Giving a Firearm to a Drug User*
- Section 922(d)(4) Selling/Giving a Firearm to an Adjudged Mental Defective or to a Person Who Has Been Committed to a Mental Institution*
- Section 922(d)(5) Selling/Giving a Firearm to an Illegal Alien*
- Section 922(d)(6) Selling/Giving a Firearm to One Who is Dishonorably Discharged From the Military*
- Section 922(d)(7) Selling/Giving a Firearm to One Who Has Renounced Citizenship*

<i>Section 922(d)(8)</i>	<i>Selling/Giving a Firearm to One Who is Under a Restraining Order</i>
<i>Section 922(e)</i>	<i>Failing to Notify a Common Carrier of a Firearm Shipped or Carried</i>
<i>Section 922(f)(1)</i>	<i>Common Carrier Transporting/Delivering a Firearm in Violation of the Law</i>
<i>Section 922(f)(2)</i>	<i>Common Carrier Delivering a Firearm Without a Written Receipt</i>
<i>Section 922(g)(1)</i>	<i>Possession of a Firearm/Ammunition by a Convicted Felon</i>
<i>Section 922(g)(2)</i>	<i>Possession of a Firearm/Ammunition by a Fugitive</i>
<i>Section 922(g)(3)</i>	<i>Possession of a Firearm/Ammunition by a Drug User</i>
<i>Section 922(g)(4)</i>	<i>Possession of a Firearm/Ammunition by an Adjudged Mental Defective or by a Person Who Has Been Committed to a Mental Institution</i>
<i>Section 922(g)(5)</i>	<i>Possession of a Firearm/Ammunition by an Illegal Alien</i>
<i>Section 922(g)(6)</i>	<i>Possession of a Firearm/Ammunition by One Who Has Been Dishonorably Discharged</i>
<i>Section 922(g)(7)</i>	<i>Possession of a Firearm/Ammunition by One Who Has Renounced Citizenship</i>
<i>Section 922(g)(8)</i>	<i>Possession of a Firearm by a Person Under a Restraining Order</i>
<i>Section 922(h)</i>	<i>Possession of a Firearm by a Bodyguard/Employee of a Prohibited Person</i>
<i>Section 922(i)</i>	<i>Interstate Transportation or Shipment of Stolen Firearms</i>
<i>Section 922(j)</i>	<i>Possession of a Stolen Firearm</i>
<i>Section 922(k)</i>	<i>Receiving/Shipping/Transporting a Firearm With Obliterated Serial Numbers</i>
<i>Section 922(l)</i>	<i>Unlawful Importation or Possession of Unlawfully Imported Firearm</i>
<i>Section 922(m)</i>	<i>FFL Omitting or Falsifying Required Information</i>
<i>Section 922(n)</i>	<i>Indicted Person Receiving/Shipping/Transporting Firearm</i>
<i>Section 922(o)(1)</i>	<i>Possessing or Transferring a Machinegun Unlawfully</i>

<i>Section 922(p)</i>	<i>Possessing, Transferring, or Manufacturing an Undetectable Firearm</i>
<i>Section 922(q)</i>	<i>Unlawful Possessing/Shooting of a Firearm in a School Zone</i>
<i>Section 922(r)</i>	<i>Assembly of a Nonimportable Firearm From Parts</i>
<i>Section 922(s)</i>	<i>FFL Selling a Handgun Without "Brady" Background Check and Documents</i>
<i>Section 922(u)</i>	<i>Theft of a Firearm From FFL's Inventory</i>
<i>Section 922(v)</i>	<i>Making, Transferring, or Possessing "Ungrandfathered" Assault Weapons</i>
<i>Section 922(w)</i>	<i>Possessing/Transferring "Ungrandfathered" Large Capacity Magazines</i>
<i>Section 922(x)(1)</i>	<i>Unlawfully Selling a Handgun or Handgun Ammunition to a Juvenile</i>
<i>Section 922(x)(2)</i>	<i>Unlawful Possession of a Handgun or Handgun Ammunition by a Juvenile</i>
<i>Section 2</i>	<i>Principals in a Federal Offense</i>
<i>Section 34</i>	<i>Death Penalty Provisions</i>
<i>Section 36</i>	<i>Drive-by Shooting/Shooting Into Group of Two or More</i>
<i>Section 111</i>	<i>Assault on a Federal Agent</i>
<i>Section 115(a)(1)</i>	<i>Threatening/Injuring the Family of a Federal Agent</i>
<i>Section 241</i>	<i>Conspiracy to Violate Civil Rights</i>
<i>Section 371</i>	<i>Conspiracy to Commit a Federal Crime</i>
<i>Section 372</i>	<i>Conspiracy to Impede/Injure an Agent</i>
<i>Section 373</i>	<i>Solicitation to Commit a Crime of Violence</i>
<i>Section 545</i>	<i>Smuggling (Guns) Into the United States</i>
<i>Section 924(c)(1)</i>	<i>Additional Five Years for Using a Gun in a Federal Drug/Violent Crime</i>

*Section 924(c)(1) Additional Ten Years for Using a Short-Barreled/Assault Gun in a Federal Drug/Violent Crime*

*Section 924(c)(1) Additional Thirty Years for Using a Machinegun/Bomb/Silencer in a Federal Drug/Violent Crime*

*Section 924(c)(1) Additional Twenty Years for Second and Subsequent Convictions Under This Section*

*Section 924(c)(1) Additional Sentence of Life Without Parole for Second Use of Machinegun/Bomb/Silencer*

*Section 924(e) Armed Career Criminals (Three or More Violent/Drug Felonies) Additional 15 Years (Penalty Provision)*

*Section 924(g) Traveling Interstate to Acquire/Transfer Firearm(s) to Commit Specific Crimes*

*Section 924(h) Transferring a Firearm to be Used in a Violent/Drug Crime*

*Section 924(j) Smuggling a Firearm(s) Into the United States to Commit a Violent/Drug Crime*

*Section 924(k) Stealing a Firearm Affecting Interstate Commerce*

*Section 924(l) Stealing a Firearm From an FFL*

*Section 924(m) Traveling Interstate to Promote Illegal Firearms Trafficking*

*Section 924(n) Conspiracy to Commit an Offense Under Section 924(c) - 20 Years*

*Section 929(a) Using/Possessing Armor-Piercing Ammunition in a Federal Drug/Violent Crime*

*Section 930(a) Possessing a Firearm in a Federal Building*

*Section 930(b) Possessing a Firearm in Federal Building to be Used for a Crime*

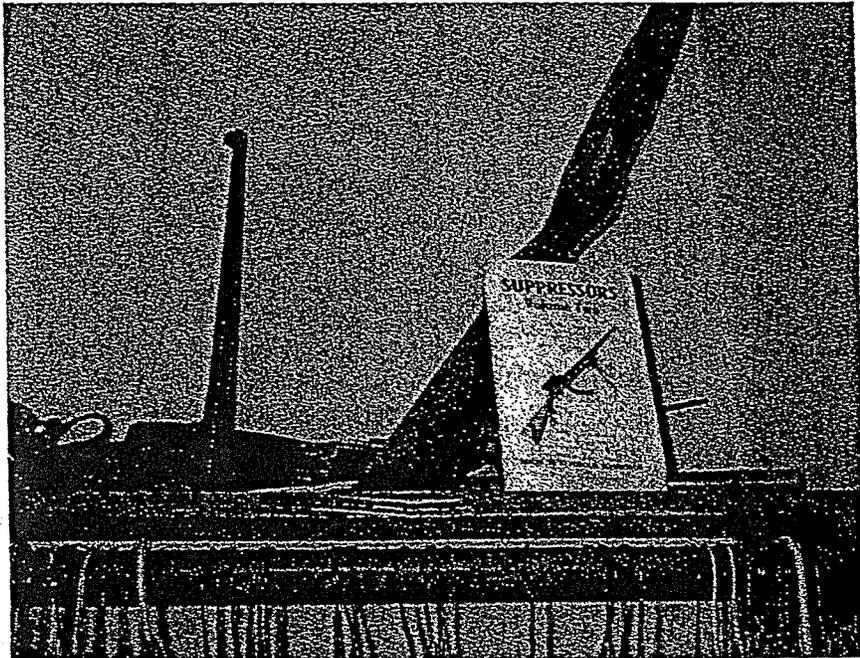
*Section 930(c) Killing/Attempting to Kill in a Federal Building With a Firearm*

*Section 930(e)(1) Possessing a Firearm in Federal Court*

*Section 1001 Making a False Statement to a Federal Agent*  
*Section 1959 Violent Crime in Aid of Racketeering Activity*

*Section 1961 R.I.C.O.*

<i>Section 2119</i>	<i>Carjacking</i>
<i>Section 3559</i>	<i>The Three Strike Rule (Penalty Provision)</i>
<u><i>21 U.S.C.</i></u>	
<i>Section 841(a)(1)</i>	<i>Narcotics - Manufacturing or Possessing With Intent to Distribute</i>
<u><i>22 U.S.C.</i></u>	
<i>Section 2778(c)</i>	<i>Violation of the Arms Export Control Act</i>
<u><i>26 U.S.C. Chapter 53</i></u>	
<i>Section 5861(a)</i>	<i>Engaging in the Making/Importing/Dealing in NFA Weapons Without Paying Tax</i>
<i>Section 5861(b)</i>	<i>Receiving/Possessing an NFA Firearm in Violation of the Law</i>
<i>Section 5861(c)</i>	<i>Receiving/Possessing an NFA Firearm That was Made in Violation of the Law</i>
<i>Section 5861(d)</i>	<i>Receiving/Possessing an NFA Firearm not Registered to Person in the National Firearms Registration and Transfer Record</i>
<i>Section 5861(e)</i>	<i>Transferring an NFA Firearm in Violation of the Law</i>
<i>Section 5861(f)</i>	<i>Making an NFA Firearm in Violation of the Law</i>
<i>Section 5861(g)</i>	<i>Changing/Removing/Obliterating a Serial Number on an NFA Firearm</i>
<i>Section 5861(h)</i>	<i>Receiving an NFA Firearm With a Changed/Removed/Obliterated Serial Number</i>
<i>Section 5861(i)</i>	<i>Receiving/Possessing an NFA Firearm Not Identified With a Serial Number</i>
<i>Section 5861(j)</i>	<i>Receiving, Transporting, or Delivering an Unregistered NFA Firearm</i>
<i>Section 5861(k)</i>	<i>Receiving or Possessing an Illegally Imported NFA Firearm</i>
<i>Section 5861(l)</i>	<i>Making or Causing a False Entry on Required NFA Paperwork</i>



PLTF 100331

# ATF DIRECTORY



PLTF 100332

## ATF Headquarters

Bureau of Alcohol, Tobacco and Firearms  
Associate Director, Enforcement  
Room 8100  
650 Massachusetts Avenue, NW.  
Washington, DC 20226  
(202) 927-7970

Bureau of Alcohol, Tobacco and Firearms  
Deputy Associate Director, Criminal Enforcement (Programs)  
Room 8110  
650 Massachusetts Avenue, NW.  
Washington, DC 20226

(202) 927-7940

Bureau of Alcohol, Tobacco and Firearms  
Chief, Firearms Enforcement Division  
650 Massachusetts Avenue, NW.  
Room 7400  
Washington, DC 20226  
(202) 927-7770

Bureau of Alcohol, Tobacco and Firearms  
Chief, Firearms Technology Branch  
650 Massachusetts Avenue, NW.  
Room 6450  
Washington, DC 20226  
(202) 927-7910

Bureau of Alcohol, Tobacco and Firearms  
Special Agent in Charge  
Firearms Enforcement Branch  
650 Massachusetts Avenue, NW.  
Room 7400  
Washington, DC 20226  
(202) 927-7770

Bureau of Alcohol, Tobacco and Firearms  
Special Agent in Charge  
National Tracing Center  
Spring Mills Office Park  
2029 Stonewall Jackson Drive  
Falling Waters, WV 25419  
(304) 274-4100 or 1-800-788-7133

## ATF Field Divisions

All addresses given below should be preceded by:  
Special Agent in Charge  
Bureau of Alcohol, Tobacco and Firearms

### State

### Address

PLTF 100333

### Alabama

2121 8th Avenue North  
Room 725  
Birmingham, AL 35203-2307  
(205) 731-1205

### Arizona

3003 North Central Avenue  
Suite 1010  
Phoenix, AZ 85012  
(602) 640-2840

### Alaska

Jackson Federal Building  
Room 806  
915 Second Avenue  
Seattle, WA 98174  
(206) 220-6440

### Arkansas

Counties of  
Mississippi  
and  
Crittenden  
Nashville Koger Center  
215 Centerview Drive  
Suite 215-A  
Brentwood, TN 37027  
(615) 781-5364

**Arkansas**All other  
countiesHermitage Plaza  
111 Veterans Boulevard  
Suite 1050  
Metairie, LA 70005  
(504) 589-2048**California**

Southern

World Trade Center  
350 South Figueroa Street  
Room 800  
Los Angeles, CA 90071  
(213) 894-4812**California**Northern  
and  
Central221 Main Street, Suite 1250  
San Francisco, CA 94105  
(415) 744-7001**Colorado**221 Main Street, Suite 1250  
San Francisco, CA 94105  
(415) 744-7001**Connecticut**Boston Federal Office Building  
10 Causeway Street, Room 701  
Boston, MA 02222-1081  
(617) 565-7042**Delaware**103 South Gay Street  
Room 210  
Baltimore, MD 21202  
(410) 962-0897**District of  
Columbia**607 14th Street, NW.  
Suite 620  
Washington, DC 20005  
(202) 219-7751**Florida**8420 NW 52nd Street  
Suite 120  
Miami, FL 33166  
(305) 597-4800**Georgia**101 Marietta Street, NW.  
Suite 406  
Atlanta, GA 30303  
(404) 331-6526**Hawaii**Jackson Federal Building  
Room 806  
915 Second Avenue  
Seattle, WA 98174  
(206) 220-6440**Idaho**Jackson Federal Building  
Room 806  
915 Second Avenue  
Seattle, WA 98174  
(206) 220-6440**Illinois**Northern  
and  
Central300 South Riverside Plaza  
Suite 350 South  
Chicago, IL 60606  
(312) 353-6935

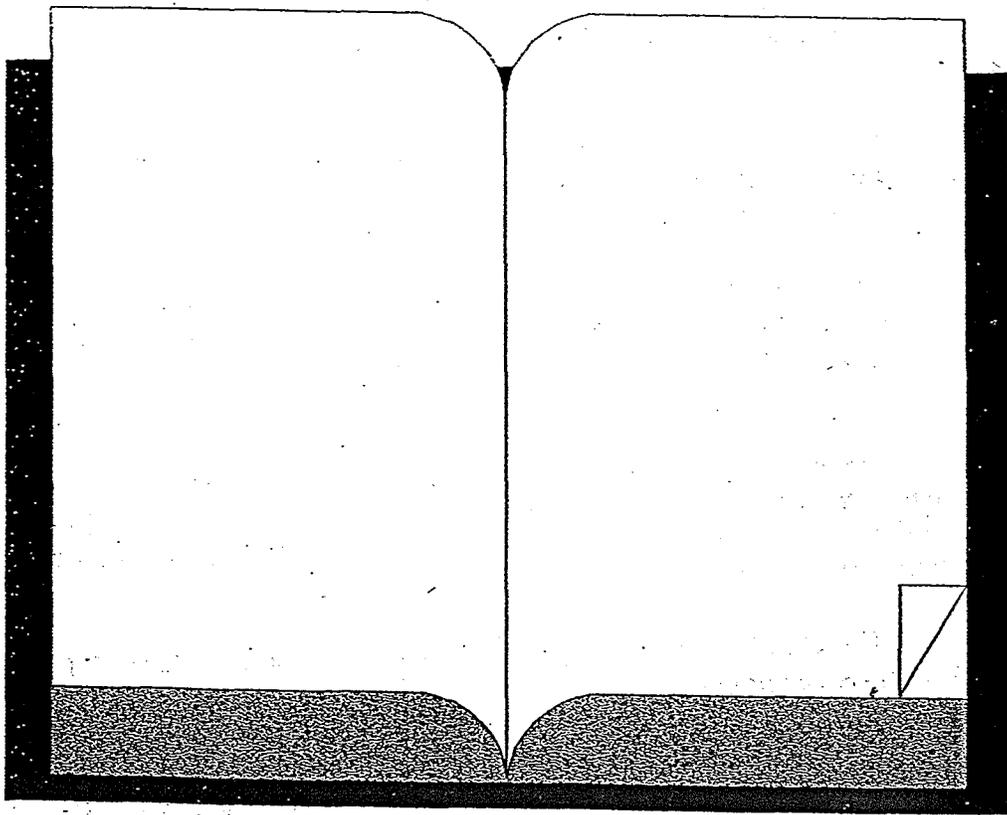
Southern

100 South 4th Street  
Suite 550  
St. Louis, MO 63102  
(314) 425-5560**Indiana**Northwest  
counties300 South Riverside Plaza  
Suite 350 South  
Chicago, IL 60606  
(312) 353-6935All other  
countiesBank of Louisville Building  
510 West Broadway  
Suite 807  
Louisville, KY 40202  
(502) 582-5211**Iowa**2600 Grand Avenue  
Suite 200  
Kansas City, MO 64108  
(816) 421-3440**Kansas**2600 Grand Avenue  
Suite 200  
Kansas City, MO 64108  
(816) 421-3440**Kentucky**Counties of  
Campbell,  
Kenton,  
and  
BoonePlaza South One, Room 301  
7251 Engle Road  
Middleburg Heights, OH 44130  
(216) 522-7210All other  
countiesBank of Louisville Building  
510 West Broadway  
Suite 807  
Louisville, KY 40202  
(502) 582-5211

<b>Louisiana</b>	Hermitage Plaza 111 Veterans Boulevard Suite 1050 Metairie, LA 70005 (504) 589-2048	<b>Nebraska</b>	2600 Grand Avenue Suite 200 Kansas City, MO 64108 (816) 421-3440
<b>Maine</b>	Boston Federal Office Building 10 Causeway Street, Room 701 Boston, MA 02222-1081 (617) 565-7042	<b>Nevada</b>	221 Main Street, Suite 1250 San Francisco, CA 94105 (415) 744-7001
<b>Maryland</b>	103 South Gay Street Room 210 Baltimore, MD 21202 (410) 962-0897	<b>New Hampshire</b>	Boston Federal Office Building 10 Causeway Street, Room 701 Boston, MA 02222-1081 (617) 565-7042
<b>Massachusetts</b>	Boston Federal Office Building 10 Causeway Street, Room 701 Boston, MA 02222-1081 (617) 565-7042	<b>New Jersey</b>	
<b>Michigan</b>	1155 Brewery Park Boulevard Suite 300 Detroit, MI 48207-2602 (313) 393-6000	<b>Northern</b>	90 Church Street Room 1016 New York, NY 10007 (212) 264-4657
<b>Minnesota</b>	1870 Minnesota World Trade Center 30 East Seventh Street St. Paul, MN 55101-4901 (612) 290-3092	<b>Southern</b>	U.S. Custom House Room 504 2nd and Chestnut Streets Philadelphia, PA 19106 (215) 597-7266
<b>Mississippi</b>	2121 8th Avenue North Room 725 Birmingham, AL 35203-2307 (205) 731-1205	<b>New Mexico</b>	
<b>Missouri</b>		<b>Northern and Southern</b>	3003 North Central Avenue Suite 1010 Phoenix, AZ 85012 (602) 640-2840
<b>Eastern</b>	100 South 4th Street Suite 550 St. Louis, MO 63102 (314) 425-5560	<b>Southern</b>	15355 Vantage Parkway West Suite 210 Houston, TX 77032 (713) 449-2073
<b>Western</b>	2600 Grand Avenue Suite 200 Kansas City, MO 64108 (816) 421-3440	<b>New York</b>	90 Church Street Room 1016 New York, NY 10007 (212) 264-4657
<b>Montana</b>	Jackson Federal Building Room 806 915 Second Avenue Seattle, WA 98174 (206) 220-6440	<b>North Carolina</b>	4530 Park Road Suite 400 Charlotte, NC 28209 (704) 344-6125
		<b>North Dakota</b>	1870 Minnesota World Trade Center 30 East Seventh Street St. Paul, MN 55101-4901 (612) 290-3092

<b>Ohio</b> Counties immediate to tri-State area	Bank of Louisville Building 510 West Broadway Suite 807 Louisville, KY 40202 (502) 582-5211	<b>Texas</b> Southern	15355 Vantage Parkway West Suite 210 Houston, TX 77032 (713) 449-2073
<b>Ohio</b> All other -counties	Plaza South One, Room 301 7251 Engle Road Middleburg Heights, OH 44130 (216) 522-7210	<b>Utah</b>	221 Main Street, Suite 1250 San Francisco, CA 94015 (415) 744-7001
<b>Oklahoma</b>	1200 Main Tower Building Suite 2550 Dallas, TX 75250 (214) 767-2250	<b>Vermont</b>	Boston Federal Office Building 10 Causeway Street Room 701 Boston, MA 02222-1081 (617) 565-7042
<b>Oregon</b>	Jackson Federal Building Room 806 915 Second Avenue Seattle, WA 98174 (206) 220-6440	<b>Virginia</b>	607 14th Street, NW. Suite 620 Washington, DC 20005 (202) 219-7751
<b>Pennsylvania</b>	U.S. Custom House, Room 504 2nd and Chestnut Streets Philadelphia, PA 19106 (215) 597-7266	<b>Washington</b>	Jackson Federal Building Room 806 915 Second Avenue Seattle, WA 98174 (206) 220-6440
<b>Rhode Island</b>	Boston Federal Office Building 10 Causeway Street, Room 701 Boston, MA 02222-1081 (617) 565-7042	<b>West Virginia</b> Northwest Panhandle area	U.S. Custom House Room 504 2nd and Chestnut Streets Philadelphia, PA 19106 (215) 597-7266
<b>South Carolina</b>	4530 Park Road Suite 400 Charlotte, NC 28209 (704) 344-6125	<b>All other counties</b>	Bank of Louisville Building 510 West Broadway Suite 807 Louisville, KY 40202 (502) 582-5211
<b>South Dakota</b>	1870 Minnesota World Trade Center 30 East Seventh Street St. Paul, MN 55101-4901 (612) 290-3092	<b>Wisconsin</b>	1870 Minnesota World Trade Center 30 East Seventh Street St. Paul, MN 55101-4901 (612) 290-3092
<b>Tennessee</b>	Nashville Koger Center 215 Centerview Drive Suite 215-A Brentwood, TN 37027 (615) 781-5364	<b>Wyoming</b>	Jackson Federal Building Room 806 915 Second Avenue Seattle, WA 98174 (206) 220-6440
<b>Texas</b> Northern	1200 Main Tower Building Suite 2550 Dallas, TX 75250 (214) 767-2250		

# *Glossary of Terms*



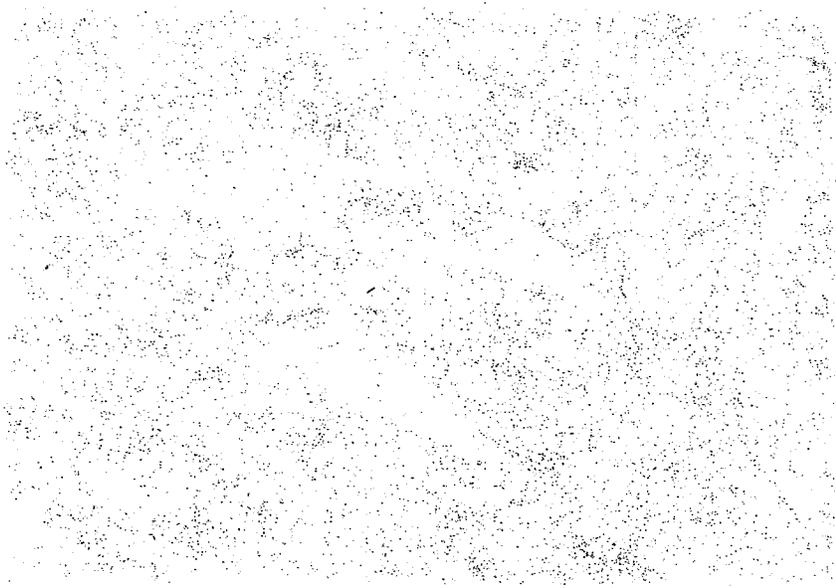
PLTF 100337

- ❖ Automatic - An autoloading action that will fire a succession of cartridges, so long as the trigger is depressed, or until the ammunition supply is exhausted. Automatic weapons are machineguns subject to the provisions of the National Firearms Act. The term automatic is often incorrectly applied to semiautomatic rifles, pistols, and shotguns.
- ❖ Caliber - A term used to describe ammunition. Caliber is the approximate diameter of a projectile. In the United States, caliber is usually written in inches, e.g., .30 caliber. In most other countries of the world, caliber is usually written in millimeters, e.g., 9mm.
- ❖ Destructive Device - Any explosive, incendiary, or poison gas, e.g., bomb, grenade, rocket, having a propellant charge of more than 4 ounces, missile having an explosive or incendiary charge of more than one-quarter of an ounce, mine, or a device similar to the aforementioned. Additionally, any type of weapon (other than a shotgun or a shotgun shell which the Secretary finds is generally recognized as particularly suitable for sporting purposes) by whatever name known will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than one-half of an inch in diameter, and any combination of parts either designed or intended for use in converting any device into any destructive device described above and from which a destructive device may be readily assembled.
- ❖ Federal Firearms Licensee (FFL) - An FFL is any person, partnership, or business entity holding a valid license issued under the authority of 18 U.S.C. chapter 44. This includes any agents or employees of a person, partnership, or business entity acting on behalf of the licensee.
- ❖ Firearms trafficking - The acquisition of firearms for the principle purpose of making firearms available to the criminal element and/or to persons in areas where State and local laws limit the availability of firearms.
- ❖ Handgun - A weapon originally designed, made, and intended to fire a small projectile (bullet) from one or more barrels, when held in one hand, and having a short stock (grip) designed to be gripped by one hand and at an angle to, and extending below, the line of the bore(s).
- ❖ Machinegun - A weapon that shoots, is designed to shoot, or can be readily restored to shoot automatically more than one shot without manual reloading, by a single function of the trigger. Additionally, a machinegun is also the frame or receiver and a part or combination of parts designed for use in converting a weapon into a machinegun.
- ❖ Multiple Sales - The Gun Control Act requires that each FFL prepare an ATF F 3310.4, Report of Multiple Sales or Other Disposition of Pistols and Revolvers, whenever a licensee sells or otherwise disposes of, at one time or during any 5 consecutive business days, two or more pistols or revolvers to an unlicensed person. The report is then forwarded to an ATF office no later than the close of business on the day that the multiple sales or other disposition occurs (18 U.S.C. § 923(g)(3)). A report is not required to be made when pistols and/or revolvers are returned to the same person from whom they were received.

PLTF 100338

- ❖ Pistol - Any handgun that does not contain its ammunition in a revolving cylinder. Pistols may be single shot, manually operated repeaters, multiple-barreled, semiautomatic, or fully automatic.
- ❖ Revolver - A handgun that contains its ammunition in a revolving cylinder.
- ❖ Rifle - A weapon designed to be fired from the shoulder and having spiral grooves rifling in the bore.
- ❖ Semiautomatic - An autoloading weapon that will fire only a single shot for each single function of the trigger.
- ❖ Serial numbers - Current regulations (18 U.S.C. § 923(i) and 27 CFR § 178.92) require that the serial number of a firearm be conspicuously located on the frame or receiver. Common serial number locations would include: the side of the frame, on the butt, under the crane (yoke), or on the front strap.
- ❖ Shotgun - A weapon designed to be fired from the shoulder and having a smooth bore barrel.
- ❖ Straw purchase(r) - A purchase or purchaser of a firearm by an individual for whom the firearm is not intended. It is being purchased at the request of another, who may legally purchase/possess a firearm.
- ❖ Submachinegun - A simple fully automatic weapon that fires a pistol cartridge. Submachineguns are also referred to as machine pistols.





**EXHIBIT 37**

Sources  
of  
Crime Guns

*in  
Southern California*

Bureau of Alcohol, Tobacco  
and Firearms



*Los Angeles Field Division*

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This report describes the results of a firearms trace study that was conducted by the Los Angeles Field Division. Special agents and intelligence specialists reviewed police reports and submitted trace requests for 1764 guns that were recovered by selected law enforcement agencies in Los Angeles, Orange and San Diego counties between January 1, 1994 and November 10, 1994. Our objectives were to help determine the source of crime guns and to suggest practices to counter the menace posed by the illicit traffic in firearms.

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## Trace Projects

Due to an established relationship with Los Angeles police, a majority of the guns traced were seized by Los Angeles police officers. Significant numbers of traces were also submitted for guns recovered by police officers in the cities of Long Beach (Los Angeles County), San Diego (San Diego County) and Santa Ana (county seat of Orange County). Four separate tracing projects were involved:

- Los Angeles Police, South Bureau (Los Angeles County): Guns recovered by police in south central Los Angeles. This is an ongoing trace project that began in 1989. Approximately 4,000 guns are recovered by LAPD South Bureau officers each year. 1151 (65%) of the 1764 guns included in this study were recovered by LAPD South Bureau officers.
- City of Long Beach (Los Angeles County): Guns recovered by Long Beach police. Approx. 1,500 guns are recovered by Long Beach police officers each year.
- City of Santa Ana (Orange County): Guns recovered by Santa Ana police. Approx. 700 guns are recovered by Santa Ana police officers each year.
- City of San Diego (San Diego County): Guns recovered by San Diego police officers. About 3,000 guns are recovered by San Diego police officers each year.

PLTF 101043

All guns were entered into the LAFD firearms tracing database. This database currently contains data for 5242 guns, mostly those recovered by LAPD South Bureau officers since 1989.

As indicated above, our sample is limited to 1764 guns that were recovered between January 1, 1994 and November 10, 1994. Due to delays in processing police reports and the normal lag in the tracing process, complete information for guns that were recovered after August 31, 1994 was not available.

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### Multiple Sales

Information from multiple sales cards is also entered into the firearms database. Our study includes an analysis of 5743 separate instances of multiple sale, reflecting the sale of 13,181 guns by Los Angeles and Orange County licensees during the study period.

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### Casework

LAFD Special agents are heavily involved in firearms trafficking casework. Significant cases and leads that were developed or under active investigation as of January 1, 1994, are cited in this report.

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### Limitations of the Sample

Our study does not purport to represent all guns recovered within Los Angeles, Orange and San Diego counties. For practical reasons only a limited number of traces could be submitted (12,000 guns are recovered each year by Los Angeles Police alone.) This led us to focus our efforts on the trace projects identified above.

Several factors affect the reliability of our conclusions. The satellite tracing projects (Long Beach, Santa Ana and San Diego) were overwhelmed by the sheer number

of recoveries, so they generally avoided tracing long guns. Each project also had considerable difficulty in gathering all necessary data from police reports. This undoubtedly led to an undercount of stolen guns, helped confound long guns with hand guns, and made it impossible to obtain an accurate count of T- II weapons, such as sawed-off shotguns. In addition, an absence of importer information meant that relatively few guns of foreign manufacture were traced.

Due to the relatively small sample size, trace data from each project was placed into a single pool. All four areas have comparable demographics, suffer from street gangs and violent crime and, as shown through ATF casework, share common sources of crime guns.

In the LAPD South Bureau trace project, which contributed a majority of the guns mentioned in this report, we trace all guns recovered by police. There are no specific criteria for inclusion, such as gun type, circumstances of recovery or characteristics of the offender -- even "found" guns are traced. These practices are meant to yield representative results. Although the other trace projects could not follow such a strict protocol, we believe that our findings accurately portray the kinds of guns and circumstances of recovery that are typical of the areas where the studies took place.

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## Sample Description

This section describes some general characteristics of our sample.

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### Guns

Only one out of three traces successfully identified a retail dealer. Reasons for trace failures include guns that were too old to trace, problems with distributor records and incorrect or incomplete information from police reports; especially, no importer name. (Failed traces are somewhat overstated as a few are still in progress )

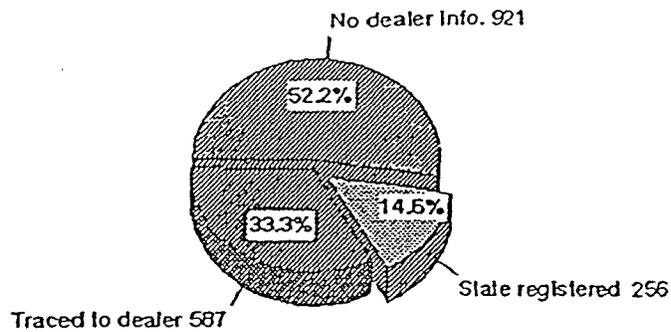


Fig. 1, Trace Results (N=1764)

As depicted in Figure 2, traces became considerably more successful once a dealer was identified.

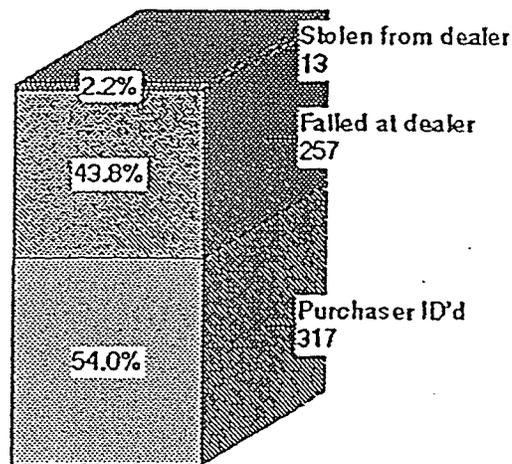


Fig. 2, Traces Through a Dealer (N=587)

Retail purchasers were identified for 573 guns; 256 from State registration records and 317 from dealer records (Refer to the "Licensed Dealers" section for additional data on dealer traces )

### Gun Types and Calibers

As expected, most recovered guns were handguns, predominantly pistols. Long guns were equally divided between rifles and shotguns (the latter were nearly all 12-gauge, a somewhat disquieting fact.) Pistols and revolvers were more frequently represented in the larger calibers. This parallels a recent finding of the California Dept. of Justice that more powerful handguns are becoming the criminal's weapon of choice.

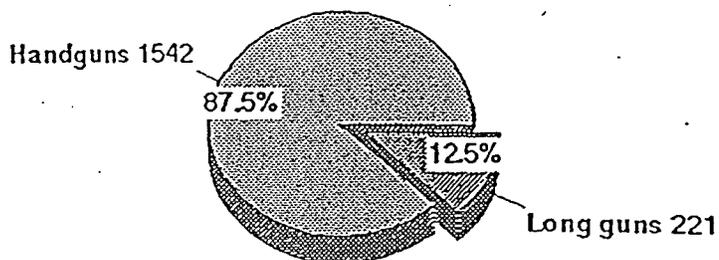


Fig. 3, Gun Types (n=1763)

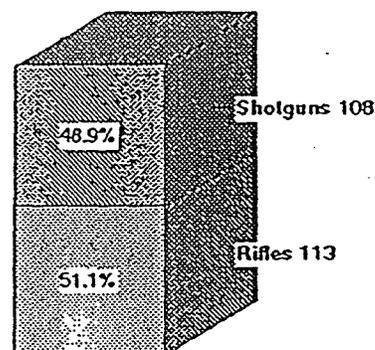
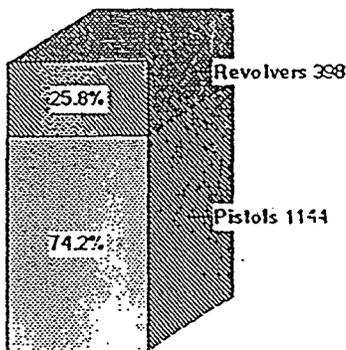


Fig. 4, Handguns (n=1542)

Fig. 5, Long Guns (n=221)

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As the following graphics illustrate, many criminals have apparently given up "Saturday night specials" in favor of larger caliber handguns.

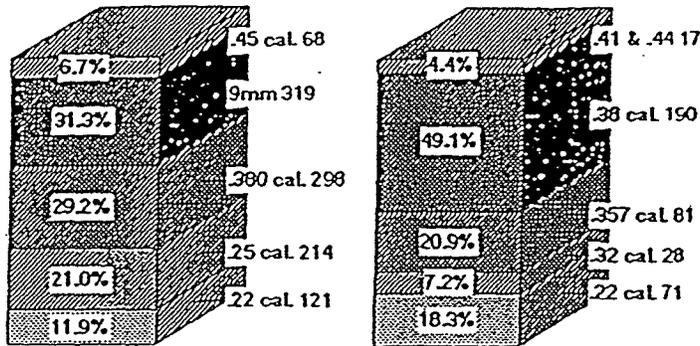


Fig. 6, Pistols by Caliber (n=1020)      Fig. 7, Revolvers by Caliber (n=387)

Gun Makes

Following are the top twelve recovered firearms in our sample (N=1764). Note that the first mention of a long gun is in the last position.

1	Smith & Wesson	178	10%
2	Lorcin	133	8%
3	Colt	118	7%
4	Jennings/Bryco	108	6%
5	Davis	103	6%
6	Raven/Phoenix	97	5%
7	Ruger	97	5%
8	Beretta	72	4%
9	Taurus	56	3%
10	Glock	48	3%
11	RG	43	2%
12	Mossberg	32	2%
		1055	61%

## Possessors and Purchasers

Below we depict the age distribution for 1275 instances of possession where the individual's age was known. (We use the term "instances" because a few persons possessed more than one firearm.)

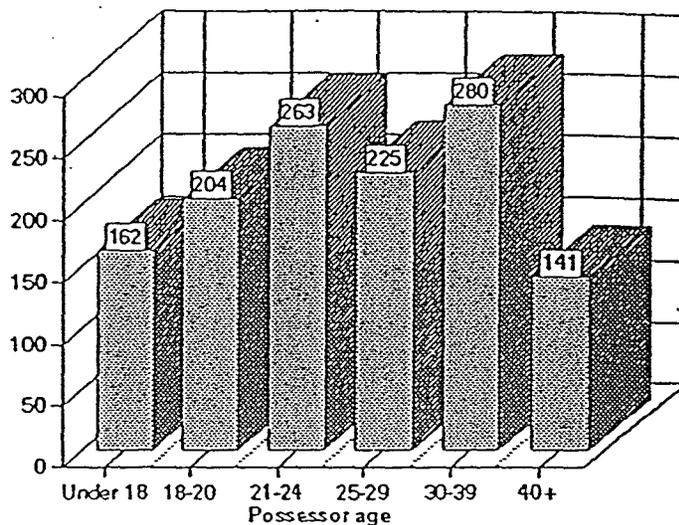


Fig. 8, Age Distribution of Possessors

As expected, most possession and purchase involved males. Females were proportionately represented in twice as many instances of purchase as possession. We will comment on this disparity later.

	Guns Bought		Guns Possessed	
Male	495	86%	1289	93%
Female	80	14%	99	7%
	575		1388	

## Crimes

As shown below, slightly more than fifty percent of the guns were recovered from incidents classified as "CCW". This category includes gun-related status offenses such as carrying a concealed or loaded weapon, careless discharge of a firearm and ex-con with a gun.

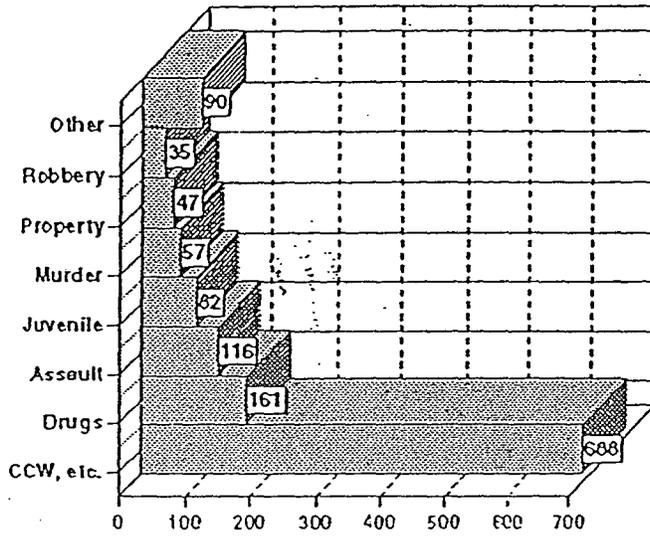


Fig. 9, Distribution of Crimes (n=1276)

Violent crimes such as assault, murder and robbery were next in frequency, cumulatively accounting for 16% of recoveries (sex crimes and violent offenses involving juveniles were included in this category). And, although this is no news to law enforcement officers, we can also see that the pernicious combination of drugs and guns was a relatively common occurrence.

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## Findings

Analysis of statistical data and information gathered from recent casework identified six important sources of crime guns:

- Corrupt at-home ("kitchen table") dealers
- Corrupt commercial dealers
- Unlicensed street dealers
- Straw purchasers
- Interstate traffickers (weak-law State to strong-law State)
- Gun thefts

Our study did not prove helpful in evaluating the impact of gun shows. In California, all gun transfers -- hand-gun *and* long gun -- *must* go through a dealer. Record checks and a 15-day waiting period are mandatory. For those with an illicit purpose, such restrictions make California gun shows a problematic (but certainly not impossible) place to covertly acquire or sell significant numbers of weapons.

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## Licensed Dealers

Many significant trafficking cases perfected by LAFD agents during the past several years involved an "at-home" dealer who purchased large quantities of firearms from distributors, then resold them without paperwork. Several recent cases have led to prosecution and conviction on felony licensing and recordkeeping violations.

In the past, commercial gun outlets were rarely investigated for criminal wrongdoing. That may be changing.

At present, LAFD agents are conducting at least two inquiries concerning major "off-the-books" diversions by retail gun stores. We also suspect that some retailers acquiesce, "turn the other way" or even abet obvious instances of straw purchase.

Currently, two of our "problem" commercial dealers have female owners of record who took over when the previous licensee's FFL was revoked. In both cases we suspect hidden ownership since the former principals still seem to be actively involved.

Statistics

As previously indicated, 587 recovered guns (excluding 256 whose purchase was registered with the Calif. Dept. of Justice) were traced by ATF to a dealer. Review of the data yielded a total of 307 dealers. Dealer trade-names were used to distinguish between commercial and at-home dealers.

	No. of dealers	%	Guns recovered	%
Commercial	247	80%	490	83%
At-home	60	20%	97	17%
	307		587	

Gun recoveries were in proportion to type of dealer. However, as shown below, at-home dealers accounted for a disproportionate rate of failure among the 532 traces that were submitted prior to September 1, 1994. (This subset was selected to allow lag time for tracing. Seven guns known to have been stolen from a dealer were excluded.)

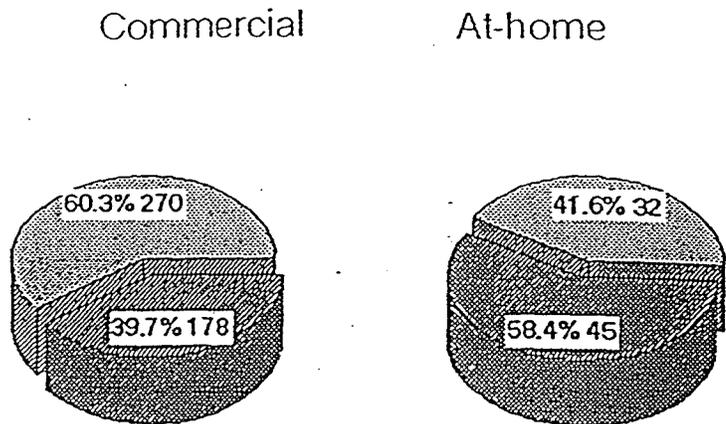


Fig. 10, Trace Success by Dealer Type (n=525).

Below are examples of FFL cases that were initiated or remained under investigation after January 1, 1994.

#### Casework — "At Home" Dealers

93120-93-2029K (Long Beach Field Office). An at-home FFL and two conspirators diverted 1,300 guns in six months. These guns were picked up from various distributors and were resold without paperwork. Many of these guns have been recovered by local police. The FFL and two conspirators pled guilty and were sentenced to terms ranging from six to forty-six months in Federal prison. In the following graphic we portray the comings-and-goings of the defendants during a single day, from the time they picked up their order at a distributor to a point almost fourteen hours later when they sold some of the guns to a corrupt businessman, who then put them "on the street"

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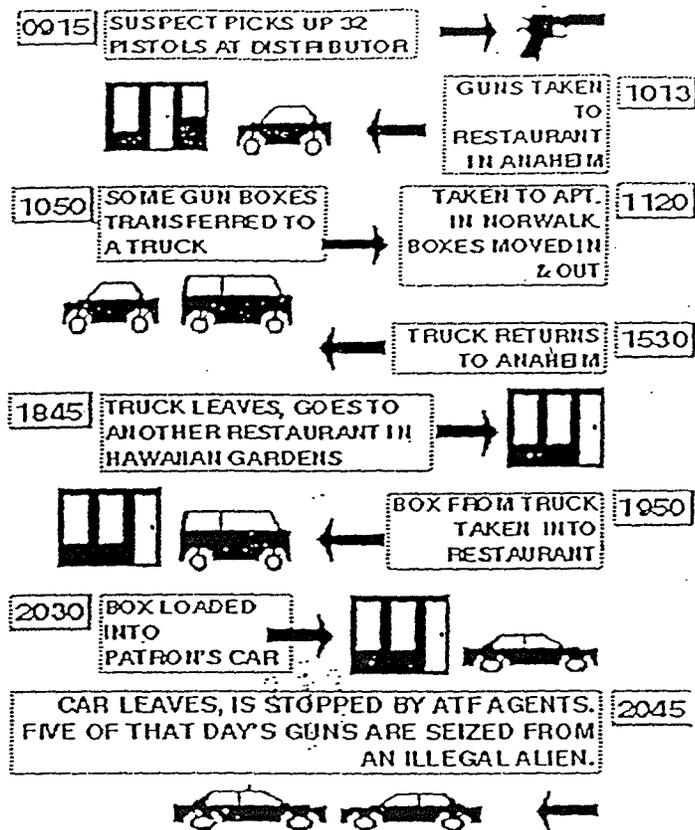


Fig. 11, A Day in the Life of 32 Guns

93111-93-1538B (Los Angeles Group I). An at-home FFL diverted more than 600 firearms in four months. The FFL acquired the guns from distributors and sold them without paperwork to a street dealer. These guns have been recovered in crimes including robbery and murder. A search warrant was served and the dealer was recently indicted.

93190-94-0015B (Riverside Field Office). An at-home FFL diverted more than 200 guns without paperwork. Many have been used in crimes, including a driveby shooting. A case report was submitted and prosecution is pending.

93120-94-0007Y (Long Beach Field Office). An at-home FFL diverted over 90 guns. The licensee's 20-year old son sold the guns, without paperwork, directly to gang members. A search warrant was served and Federal indictment is imminent. More than 20 of these guns have been used in local crimes, including two shootouts and a bank robbery. The tortured path of six of these guns is illustrated below.

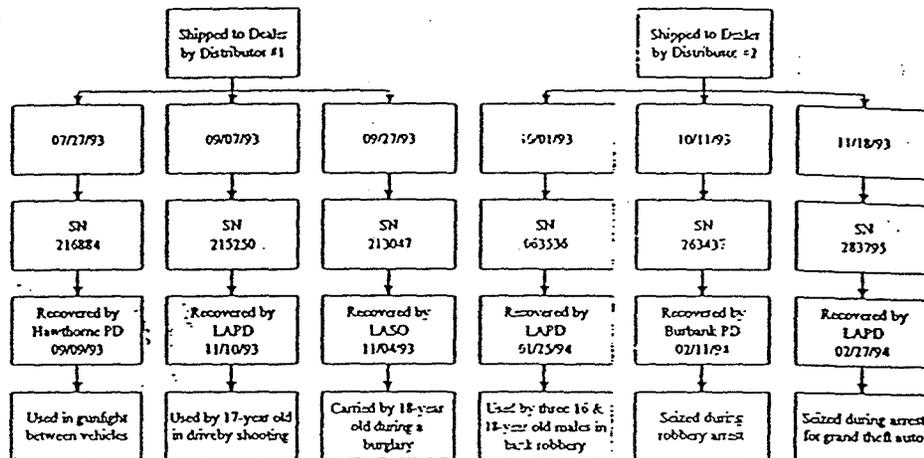


Fig. 12, Six of 90 Guns Diverted by an At-Home FFL

21222-94-0023G (Los Angeles Group IV). Search warrants were served on an Inglewood husband-and-wife team that used their at-home FFL to divert more than 1,200 guns in one year. The only records found were a stack of admittedly false 4473's that listed the names of fictitious buyers. More than 110 of their guns have been recovered by police, mostly in south central Los Angeles. During an ATF inspection, the couple had tried to deflect suspicion by grossly understating the number of firearms they purchased and by falsely claiming that most were transferred to another FFL. Indictment is pending

93120-94-0019Z (Long Beach Field Office). Search warrants were served on a 22-year-old at-home FFL and admitted gang associate who diverted more than 80 handguns in four months. After police recovered one of these firearms from a person wanted for murder, the FFL claimed that everything, including his records, had been stolen. (The gun's serial number had been obliterated but was successfully restored.) The licensee and his girlfriend were conducting business from a ramshackle garage apartment in a high-crime area. Two bulletproof vests and a blue bandanna were recovered from the FFL's vehicle, which was impounded — and later crushed — for a VIN-switch. A case report is being prepared.

93170-94-0034C (Santa Ana Field Office). Search warrants were served at a hillside estate and at two "gang pads" to gather evidence against an at-home FFL and several associates who diverted more than 1,700 guns during a three-year period. When initially contacted, the licensee claimed that he had only sold about 10 guns and that his records were mistakenly discarded by gardeners along with the grass clippings. More than 80 guns have been recovered in violent, gang-related crimes. One gun was recovered from a suspect who was shot and killed when he tried to carjack and off-duty police officer. Another was used to kill its owner, a tagger who unsuccessfully tried to murder a rival and was then shot dead with his own gun. A case report has been submitted and indictments are pending.

21222-94-0033K (Los Angeles Group IV). Undercover buys continue from two gang associates who hold an at-home FFL. These subjects have been diverting hundreds of firearms, including assault-type weapons, to gang members in south central Los Angeles without completing paperwork. Their services were so heavily marketed "on the street" that another ATF group independently arranged to make undercover purchases. One gun was also recovered during yet another ATF undercover operation (see case 93120-95-0005Z in unlicensed dealer section, below). Arrests and search warrants are pending.

93120-92-5526S (Van Nuys Field Office); 93120-95-0001D (Long Beach Field Office). On October 21, 1994, LAPD patrol officer Charles Heim was shot and killed and his partner, officer Felix Pena, was wounded by a 26-year old street gang member armed with a Davis P-380 pistol. The suspect fled but was killed by an LAPD marksman during a siege on the following day. The gun he used was one of 89 similar pistols that were purchased between December, 1991 and February, 1992, by an at-home FFL. These guns were bought on behalf of the FFL's 19-year old son, who had set himself up as an illicit gun wholesaler. Soon after the purchases, the son and an associate were arrested and convicted for murdering their best customer, a 17-year-old entrepreneur who was arming street gang members in south-central Los Angeles. To date, 31 of the guns have been recovered by police in the Los Angeles area. Investigation continues to determine if there is sufficient evidence to prosecute the at-home FFL.

Casework — Storefront Dealers

93111-93-1528Y (Los Angeles Group I). After an extensive joint inquiry by law enforcement and compliance, a search warrant was served at a retail premises whose owners claimed to have "lost" all their records for sales made between 1991 and 1993. Many of the guns they received during the missing period are believed to have been diverted to gang members.

93120-94-0021L (Long Beach Field Office). An undercover ATF agent was introduced to an employee of a gun store. The store is one of the few remaining gun retailers in south-central Los Angeles; many of its guns are regularly recovered from crimes. The employee told

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the agent how to make a straw purchase, using a female as the buyer. His instructions included explicit directions that are obviously intended to shield salespersons from criminal liability.

Intelligence (Long Beach Field Office). A large gun store in a high-crime area is suspected of abetting straw purchases. The store's FFL was previously revoked. It is now operated — at least on paper — by the former owner's girlfriend. Incidentally, a business card for these premises was found in the pocket of the criminal who murdered LAPD officer Charles Heim (see above).

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## Unlicensed Dealers

Firearms traffickers can easily operate even without an FFL. There is always plenty of demand for guns by those who are either unwilling to identify themselves or are unqualified to buy a gun due to age, criminal record or residency.

Unlicensed "street dealers" acquire guns from various sources, including retail stores, gun shows and street criminals. Several current targets are also affiliated with at-home dealers, from whom they purchase guns in bulk quantities, without paperwork.

To avoid attracting attention, street dealers prefer to use straw purchasers when buying guns from commercial sources. Los Angeles-area street dealers frequently use straw purchasers to acquire large quantities of firearms from retail outlets in Arizona. These guns are smuggled into California and distributed to gang members (see examples in the interstate section, below).

### Statistics

Our firearms database recorded 5743 separate instances of multiple sale, reflecting the retail purchase of 13,181 guns, during the study period (January 1, 1994 to November 10, 1994). As shown below, a substantial number of these sales exceeded the two-gun threshold. Several mul-

Multiple purchasers have also been identified as buyers of recovered guns.

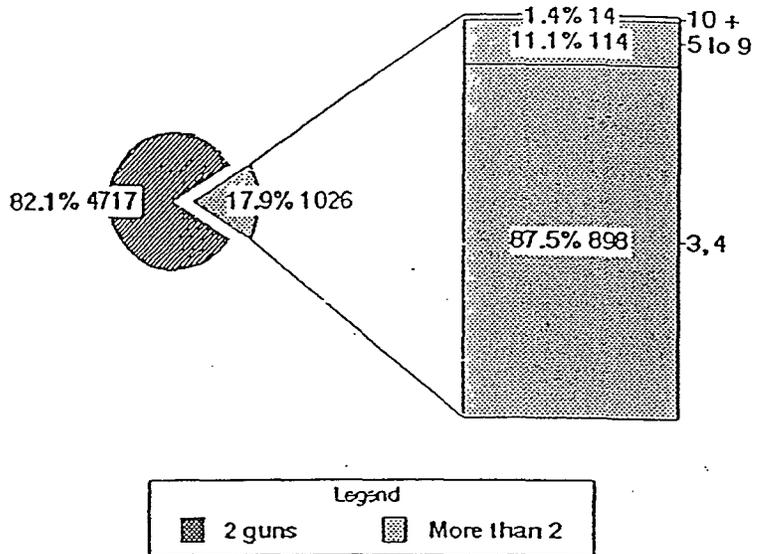


Fig. 13, Multiple Sales (N=5743 sales, 13,181 guns)

Casework

21222-94-0023G (Los Angeles Group IV). This case is mentioned in the at-home dealer section, above. The matter first came to ATF attention when agents began to make undercover street purchases of new handguns from an unlicensed nineteen-year old male. The suspect provided gun catalogs for his buyers' use and purchased all his guns from an at-home FFL.

93120-93-2029K (Long Beach Field Office). During this investigation, which is also mentioned in the at-home dealer section, agents observed as a load of five guns was delivered by the FFL's associates to an unlicensed dealer who managed a small restaurant in a high-crime area. Agents seized these guns immediately after the restaurant manager resold them to an illegal alien.

93120-95-0005Z (Long Beach Field Office) An employee of a service station is selling guns from his place of business. A gun recently sold to an undercover ATF

agent was traced to an at-home dealer being separately investigated by another ATF group.

93199-94-0039U (Los Angeles Group II). ATF undercover agents purchased nine large caliber pistols from two street dealers in a high-crime area near downtown Los Angeles. All the guns but one had obliterated serial numbers. Both suspects were arrested on Federal charges and await trial. An at-home FFL was implicated as being responsible for acquiring the guns and removing the serial numbers. Investigation is continuing.

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## Straw Purchase

Persons who are either unqualified by age or criminal record to legally acquire firearms or who wish to do so anonymously can easily get a spouse or friend to buy a gun on their behalf. Straw transactions are often difficult to distinguish from sales done in the normal course of business and their cumulative impact may be very substantial.

Many straw purchases are reportedly conducted in an openly suggestive manner. For example, a male/female pair may walk into a gun store. After the male selects the firearm he desires, the female will use her identification and pay for the gun as though she is buying it for herself. Or, several obviously underage persons may walk in and select one or more guns. An adult member of the group will then proceed with the purchase. It is feared that salespersons will often go along with these stratagems just for the sake of making a sale.

## Statistics

Including data found in State registration records, there was buyer and possessor information available for 517 of the 1764 recovered guns. We were not surprised to find that, in most cases, guns were recovered from someone other than their original purchaser

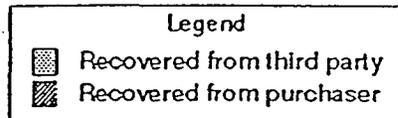
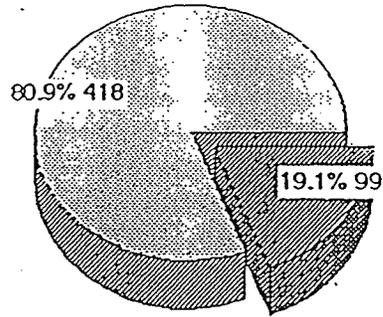


Fig. 14, Gun Recoveries (n=517)

Brief lag between purchase and recovery is a well-known indicator of a straw purchase. Below we analyze this characteristic in a subset of 378 firearms with known purchase and recovery dates (guns identified as stolen were excluded.)

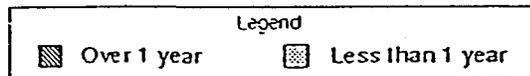
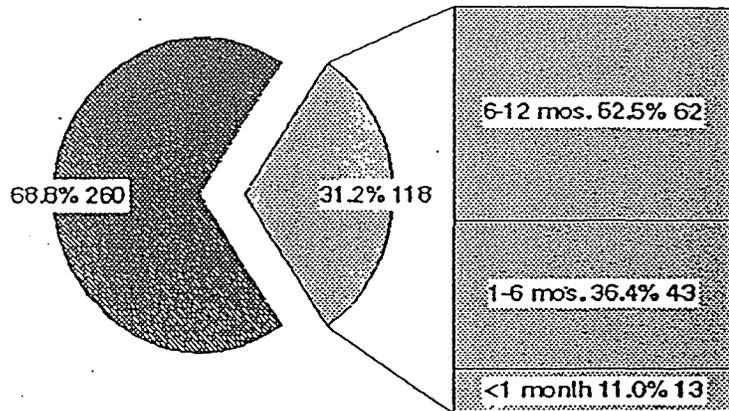


Fig. 15, Lag Between Purchase and Recovery (n=378)

Our data supports the proposition that straw purchases may be a significant problem. Most of the guns in our study were recovered from someone other than the retail buyer. Many seizures -- including those from underage persons -- took place within a relatively brief period after purchase. And as previously indicated, females were much more likely (by a 2 to 1 margin) to be a gun buyer than a gun possessor.

We suggest that the presence of one or more of the following indicators may denote a possible straw purchase:

- Gun recovered from a third party
- Gun recovered from a third party shortly after purchase
- Purchased by a female; recovered from a male

#### Casework

93120-94-0014E (Long Beach Field Office). A subject with a prior manslaughter conviction, which had been reduced from murder, was arrested in possession of numerous firearms. Among these guns were fifteen MAK-90 "AK-47" type rifles that a friend purchased at a local gun store on the defendant's behalf. The possessor pled guilty and awaits sentencing.

93120-94-0020M (Long Beach Field Office). An illegal alien was observed as he purchased ten Lorcin pistols at a gun store. He was arrested by ATF agents when he arrived with the guns at his residence, an apartment located in a high-crime area. Investigation disclosed that the alien was buying the firearms for a relative. The alien pled guilty and awaits sentencing.

Intelligence (Santa Ana Field Office). Two handguns used in a gang-related drive-by murder were purchased by a father on behalf of his underage sons.

Intelligence (Santa Ana Field Office). Two M-1 30 caliber carbines were recovered in connection with a driveby shooting. When interviewed by ATF agents, the

female purchaser said that she was being coerced to buy guns by her boyfriend, a known gang member and convicted felon.

Intelligence (Riverside Field Office). A female multiple purchaser bought six handguns at retail store. According to the salesperson, the buyer was accompanied by a male who selected the firearms and called to find out when they would be ready for pickup.

Intelligence (Riverside Field Office). A female multiple purchaser bought seven handguns at a retail store. The salesperson said that the buyer had been accompanied by a male who chose the guns he desired.

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## Interstate Trafficking

California is a "strong-law" State with strict point-of-sale registration laws. All gun transfers, *including* those involving private parties, must go through a dealer and be approved by the California Dept. of Justice. Prospective purchasers of handguns *and* long guns are screened during a 15-day waiting period and approved handgun transfers are perpetually recorded in a State database. State law forbids the possession of certain "assault weapons" such as the AR-15 rifle. Felons are perpetually forbidden from possessing any type of firearm and there are no provisions for granting relief. In addition, persons convicted of certain violent misdemeanors are barred from possessing handguns for a 10-year period. And, although California does not "license" gun dealers per se, its laws require that gun dealers maintain State records and comply with Federal and local licensing requirements.

By comparison, the laws of surrounding States, such as Nevada and Arizona, are highly permissive. Neither State imposes any restrictions other than the minimum Brady Bill requirements for handgun transfers. Long gun sales and private transactions are not regulated and there is no central registry of handgun sales.

Statistics

Dealers were identified for 587 of the 1764 guns included in our study. Many were located outside of California.

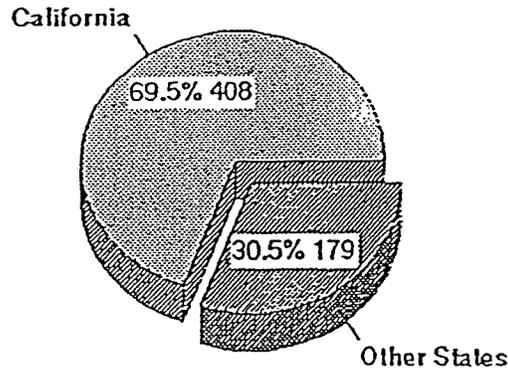


Fig. 16, State of Purchase

A total of 40 source States were identified. As expected, Arizona and Nevada topped the list.

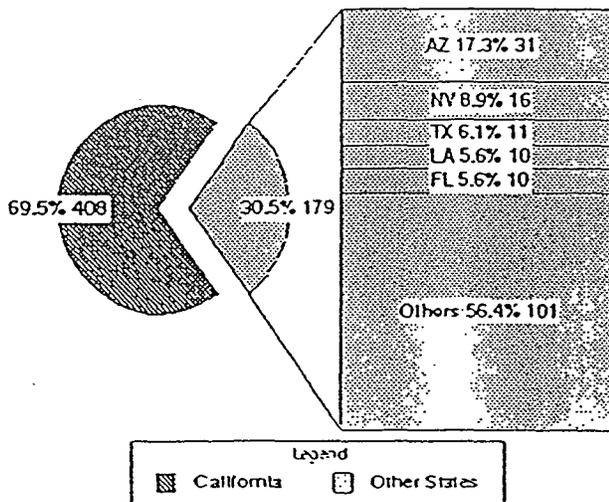


Fig 17. Top Source States

## Casework

Significant numbers of firearms are trafficked into California from out-of-State sources. Below are a few recent examples of Arizona-to-California trafficking investigations.

93175-93-4604V (Phoenix Group I); 93120-93-2010S (Long Beach Field Office). Gang members from Inglewood, California used straw purchasers in Phoenix to buy nearly 1,000 firearms from retailers. Many of these guns have been recovered in violent crimes in Los Angeles; one, an Intratec .22 caliber pistol, was used in the attempted murder of an LAPD South Bureau detective. Los Angeles-area ATF agents arrested the principal trafficker on a warrant from Arizona. This defendant is currently on trial. Incidentally, one of the principals of this ring was formerly associated with a Los Angeles-area at-home FFL who was ultimately convicted of diverting 900 firearms to gang members. That investigation apparently led these traffickers to seek what they perceived to be a less regulated environment outside California.

93420-94-0022G (Phoenix Group D); 93170-94-0028V (Santa Ana Field Office). Murder and armed robbery search warrants led local police to the recovery of a Bryco 9mm pistol. This firearm is one of at least 75 guns that were purchased from an Arizona dealer by a buyer who used false identification. The buyer was identified and Federal prosecution in Arizona is pending.

93420-94-0038D & 93175-93-4589S (Phoenix Group I); 93120-95-0006Y (Long Beach Field Office). A major gun trafficking organization used straw purchasers to buy guns in Phoenix for redistribution in Los Angeles. Several firearms were quickly recovered in crimes; four were purchased during an LAPD/FBI undercover operation. These traffickers are now known to have supplied street gun dealers in Compton, California, who were under a separate inquiry. One defendant is under Federal indictment in Arizona and investigation in both States continues.

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## Gun Thefts

Gun thefts are a significant source of trafficked firearms. During the 1992 Los Angeles Riots, gang members looted about 3,000 guns from local retailers. Many of these weapons continue to be recovered on the street. Organized bands of street gangsters have also staged numerous gun store burglaries. In addition, firearms thefts continue to plague UPS and Lorcin Engineering (see casework section, below).

### Statistics

Sixty-two (4%) of the 1764 guns included in the study were reportedly stolen. Unfortunately, given our sampling technique and report-review constraints, we have little confidence that this figure accurately portrays the proportion of recovered guns that are stolen. During a limited prior study, as many as 10% of the guns recovered by Los Angeles Police South Bureau officers were listed as stolen. Other sources and authorities have given even larger estimates based on the undeniable fact that many stolen guns are never entered into police computers for lack of a serial number. During casework we found several interesting examples of the *opposite* problem, as corrupt licensees who feared discovery hurriedly filed massive theft reports to cover every diverted gun.

### Casework

21222-93-0002C (Los Angeles Group IV). Eight members of the Main Street Crips criminal gang were indicted in Federal court on multiple GCA and conspiracy violations. These charges relate to the theft of 141 guns during burglaries and attempted burglaries at five Los Angeles-area gun stores in 1994. Additional charges pertaining to the theft of approx. 1,000 guns from gun stores in 1992 are pending. The case has drawn considerable publicity and is being handled by a three-prosecutor team led by the chief of the US Attorney's Major Crimes section.

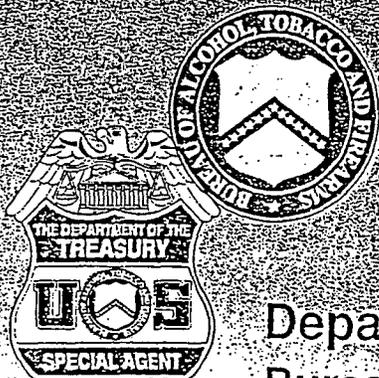
93190-94-0010G (Van Nuys Field Office) Investigation and gun recoveries continue from the 1993 theft of

**EXHIBIT 38**

1996

# Firearms Enforcement Report

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ATF  
96



Department of the Treasury

BOS104784

## Foreword

**I**n light of the nationwide prevalence of criminal activity that involves firearms and by the Federal Government's desire to run more efficiently, the Bureau of Alcohol, Tobacco and Firearms (ATF) has looked internally to ensure that it operates as effectively as possible. Consequently, ATF has examined its firearms enforcement programs to ensure their effectiveness at deterring firearms from entering illegal channels in furtherance of criminal wrongdoing. ATF's firearms enforcement programs and initiatives are being configured to work in concert to fulfill this goal.

**T**he bureau is committed to working with our law enforcement counterparts to curb illegal activity that threatens the well-being of American society. The purpose of this manual is to provide an overview of the firearms enforcement programs and to illustrate their effectiveness nationwide. We encourage our law enforcement counterparts to avail themselves of ATF's resources and services.

# Table of Contents

1	Foreword.
3	Table of Contents
5	ATF History
9	Firearms Enforcement Programs and Initiatives
21	Firearms Enforcement Cases
53	ATF Directory
59	List of Statutes Enforced
65	Glossary of Terms

# ATF History

**H**eadquartered in Washington, DC, ATF has offices throughout the United States, U.S. territories, and select foreign countries. ATF is a unique Federal agency. Its special agents, inspectors, auditors, and support personnel are involved in investigating the most violent criminals in our society; in regulating the firearms, explosives, alcohol, and tobacco industries in America; and ensuring the annual collection of billions of dollars in taxes. While ATF is one of the newest bureaus, it has a lineage that is full of experience and tradition. Although the Bureau has only been established since 1972, ATF's history extends back to the earliest days of the United States.

Faced with debts incurred during the Revolution, Congress imposed the first Federal tax on distilled spirits on March 3, 1791. This tax proved to be unpopular, and subsequently in 1794, violent resistance to the tax exploded into the Whiskey Rebellion. The uprising was led by Albert Gallatin, who, later as Secretary of Treasury, levied these same taxes. To restore order, President George Washington organized 15,000 militiamen. This action firmly established the new Federal Government's authority to enforce such taxes.

Between the Whiskey Rebellion and the Civil War, taxes on distilled spirits were alternately repealed and enacted to meet the Government's revenue needs. In order to finance the Civil War, Congress passed The Act of July 1, 1862. This law created the Office of Internal Revenue and imposed a tax on distilled spirits that has become a permanent part of the Federal revenue system. In 1863,

Congress authorized the hiring of three detectives to aid in the prevention, detection, and punishment of tax-evaders. These laws are the foundation for both ATF and the Internal Revenue Service (IRS).

In 1875, Federal investigators broke up the infamous "Whiskey Ring" of corrupt grain dealers, politicians, and revenue agents. This cartel defrauded the Government of millions of dollars in taxes on distilled spirits; disclosure of this ring caused a major scandal. Subsequently, Congress enacted the first civil service laws, recognizing that the quality of the people who administered the law was as important as the existence of the law itself.

In 1919, the 18th amendment to the Constitution was ratified, ushering in the Prohibition Era. Combined with the Volstead Prohibition Enforcement Act, the law gave the Commissioner of Internal Revenue, through the newly created Prohibition Unit, jurisdiction over the illicit manufacture, sale, or transportation of intoxicating liquors for beverage purposes. Distillers were required to dispose of the on-hand products, amounting to an estimated 58-60 million gallons of alcoholic beverage

**T**he decade of the "Roaring Twenties" spawned organized criminal mobs, who fed on the public's reaction to Prohibition. Syndicates led by racketeers, such as Al Capone and others, became front page figures. Corruption, gang slayings, boot-legging, and moonshining flourished. In response to the growing problem, the Prohibition Unit became the separate Bureau of

## ATF History

Prohibition. Special squads were formed to go after the emerging criminal empires. One of the best known squads was headed by Eliot Ness in Chicago. Today's ATF special agents are the successors to those legendary "Untouchables."

**O**n March 10, 1934, the Prohibition Era ended with the passage of the 21st amendment in 1933. With the repeal, the Bureau of Prohibition, which had been moved to the Department of Justice in 1930, turned over its responsibilities to a newly created Alcohol Tax Unit (ATU) within the Bureau of Internal Revenue. The legal liquor industry set about rebuilding itself. The legal liquor industry started back to business. With inadequate equipment and supplies, Congress recognized that the illegal liquor barons, who were still able to meet the public demand, posed a real threat to legitimate distillers and brewers. In 1935, the Federal Alcohol Administration (FAA) Act was passed, creating licensing and permit requirements and establishing regulations designed to ensure an open and fair marketplace to the legal businessperson and to the consumer. Until 1940, a separate FAA in Treasury enforced the FAA Act. In that year, it merged with ATU, successfully combining related law enforcement and regulatory authorities in a pattern that continues today within ATF.

**O**ne of the offshoots of Prohibition was an unprecedented wave of criminal violence. Mobs and gangs that were prevalent during the Prohibition Era made war on each other and on the public. Hence, in 1934 the National Firearms Act (NFA) was passed, controlling what Congress termed "gangster type

weapons," such as machinegun sawed-off shotguns. The NFA, America's first Federal gun control law, was followed in 1938 by the Federal Firearms Act, which established limited regulation of the firearms industry and made it a Federal crime for felons and fugitives to receive firearms in interstate commerce. In 1942, responsibility for administering these laws was given to the ATU, whose experience in both law enforcement and industry regulation especially suited it for these responsibilities.

In 1951, tobacco tax duties were delegated to ATU, and the unit's name changed in 1952 to Alcohol and Tobacco Tax Division (ATTD) of the IRS. The division now enforced the laws on alcohol, tobacco, and firearms.

**A**gainst the background of rising crime rates during the 1960s and the assassinations of President Kennedy, Senator Robert Kennedy, and Martin Luther King, Jr., the Government created stricter Federal firearms laws that were intended to address firearms-related violence. The Omnibus Crime Control and Streets Act of 1968 and the subsequent Gun Control Act (GCA), which absorbed the firearms provisions of the Omnibus Act, replaced the Federal Firearms Act and NFA of the 1930s. Bombs and other destructive devices were added to machineguns and sawed-off shotguns as items strictly controlled by the Government. The GCA also created stricter licensing and regulation of the firearms industry and established new categories of offenses involving firearms. The scope of the responsibilities was such that ATTD was renamed as the Alcohol, Tobacco and Firearms Division (ATFD) of the IRS.

By the end of the 1960s, the Federal Government's almost 200-year-long war against "moonshining" had been reduced by economics and effective enforcement to only sporadic skirmishes. While industry regulation and tax collection remained vitally important, ATFD's law enforcement resources were being redeployed in the battle against organized crime and criminal violence. In 1970, the Organized Crime Control Act was passed. This law included sections known as the Explosives Control Act (ECA), which were modeled after the GCA passed 2 years earlier. The ECA contained provisions for stricter industry regulations and established certain bombings and arsons as Federal crimes. As with the GCA, ATFD was clearly the agency with the primary expertise and resources to administer the new law.

**W**ith the passage of the ECA, it also became apparent that AFTD was responsible for an interrelated scope of activities that were clearly distinguishable from the primary mission of the IRS. Therefore, ATFD was separated from the IRS and given full Bureau status in the Treasury Department on July 1, 1972.

The new Bureau gained new responsibilities. In 1976, ATF briefly assumed the duty of enforcing the wagering laws from the IRS. In 1978, in response to the millions of dollars being lost to the States by cigarette smuggling from low-tax to high-tax States, ATF was charged with enforcing a new Contraband Cigarette Act. ATF was also tasked with helping State enforcement agencies improve their enforcement and revenue collection capabilities. At the same time, ATF was developing an entirely new Federal effort against an emerging crime problem—arson.

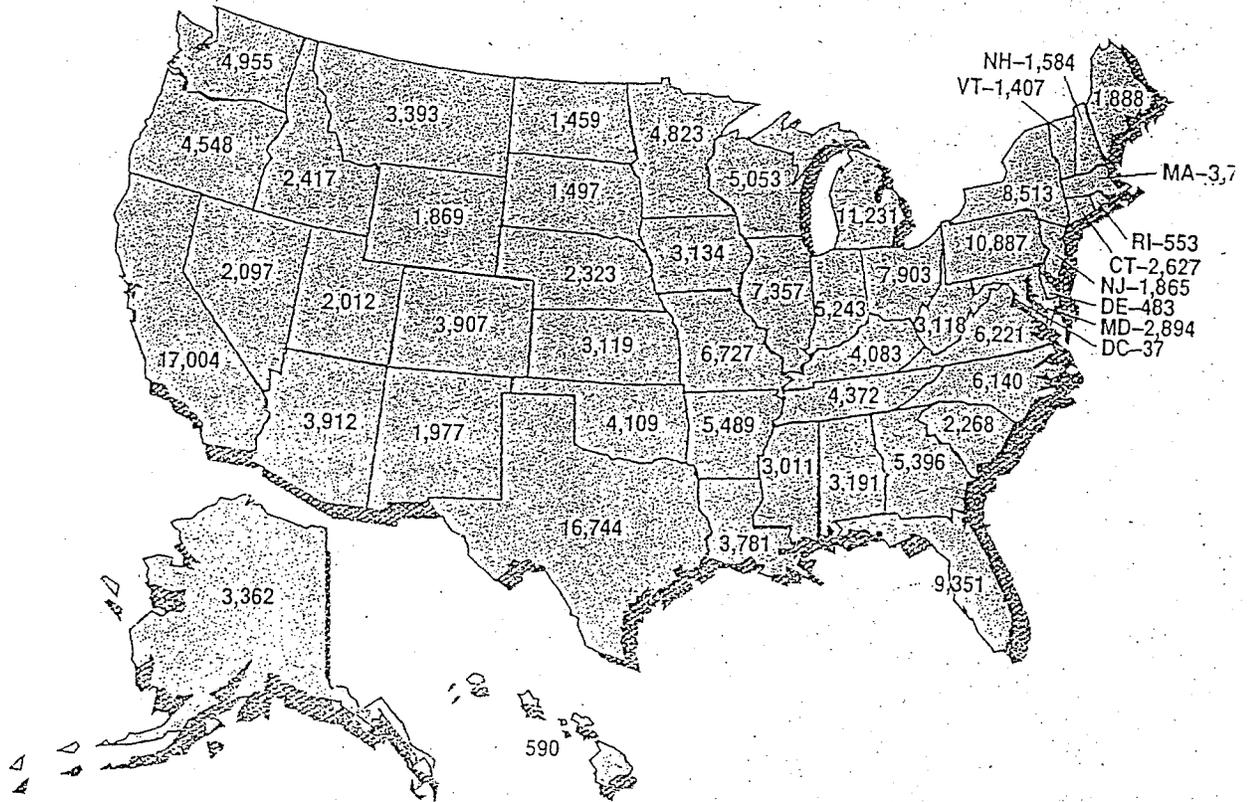
In recent years, ATF was able to determine that certain accelerants used in arsons met the definition of explosives in the ECA. By the mid-1970s, ATF was able to present major arson cases to the Department of Justice for prosecution. In 1982, that effort was recognized with the passage of the Anti-Arson Act, which amended the ECA to include destruction of property by fire along with destruction by explosives.

In 1986, Congress passed amendments to the GCA. These amendments established mandatory sentences for armed drug traffickers and violent career criminals.

The Brady Handgun Violence and Prevention Act, which became effective on February 28, 1994, created a mandatory 5-day waiting period for purchasing handguns. This provision allows law enforcement officers to check the background of each handgun purchaser before delivery of handguns are made by Federal firearms licensees (FFLs).

**O**n September 13, 1994, the President signed the Violent Crime Control and Law Enforcement Act of 1994, better known as the "Crime Bill." This legislation covers a wide range of law enforcement activities, some of which ATF is directly responsible for enforcing.

### Federal Firearms Licensees by State (All Types)



# Firearms Enforcement Programs and Initiatives

754

## Firearms Enforcement Program

ATF's mission is dedicated to reducing violent crime, collecting revenue, and protecting the general public. As such, ATF

enforces the Federal firearms laws by working directly and in cooperation with others to suppress and prevent crime and violence through enforcement, regulation, and community outreach; ensure fair and proper revenue collection; provide fair and effective industry regulation; support and assist Federal, State, local, and international law enforcement; and provide innovative training programs in support of enforcement and regulatory functions.

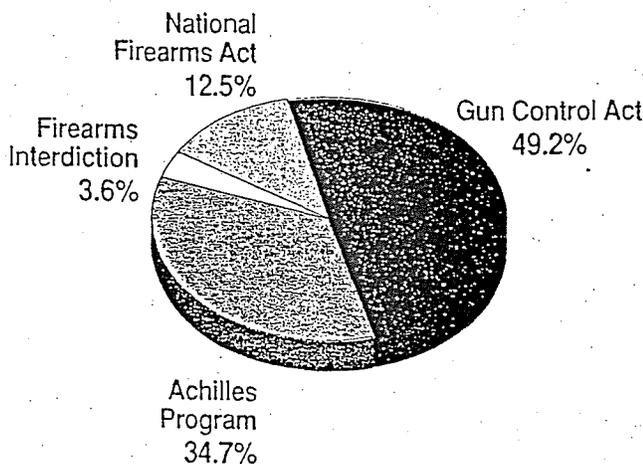
ATF's expertise in conducting investigations continues to expand since Congress first mandated that the Secretary of the Treasury enforce the Federal firearms laws. The Secretary of the Treasury designated ATF to enforce these laws. Through the enforcement of the Federal firearms

laws, ATF has the ability to significantly impact violent crime by targeting armed career criminals and violent offenders. ATF is recognized as a leader in the fight against violent crime through its investigative expertise and partnerships with other Federal, State, and local law enforcement agencies.

ATF's specialized expertise allows the Bureau to effectively address criminal activity on a national level. ATF's unique assets include:

- Statutory Jurisdiction**  
 The GCA (as amended) is the recognized, definitive legislation directed toward firearms-related violence and illegal firearms trafficking. Congress directed the Secretary of the Treasury to enforce the provisions of the GCA. The Secretary delegated the authority to enforce the GCA to ATF. By utilizing the Federal firearms laws, ATF fills the void created by ineffective, diverse, and conflicting State and local firearms statutes. Federal firearms laws are specifically designed to address the investigative requirements associated with the interstate movement of firearms.
- Investigative Expertise**  
 Because ATF has been successful conducting firearms investigations since the enactment of Federal firearms legislation, ATF has the jurisdiction and expertise to offer leadership role to the law enforcement community in the attempt to impact firearms violators. Through the programs initiated by the Bureau, ATF personnel have been able to develop expertise in a variety of areas that identify illegal sources of firearms and disrupt the flow of firearms to the criminal element.

Types of Firearms Cases Initiated  
Calendar Year 1995



- **ATF Exclusive Information**  
Because ATF has primary responsibility for regulating the firearms industry and enforcing the Federal firearms laws, the Bureau possesses several investigative tools that facilitate the investigation of illegal firearms trafficking. These investigative tools include the Firearms and Explosives Licensing Center, the National Firearms Registration and Transfer Record, and the National Tracing Center. Through the application of these and additional systems, information can be obtained that provides investigative leads to the law enforcement community to assist in the identification of individuals who illegally supply firearms to the criminal element.
- **Technical Services**  
ATF provides expert technical services, including forensic laboratory examinations, technical firearms information and expert testimony, special agents, inspectors, auditors, support personnel, ballistics and forensic capabilities, and legal expertise regarding the Federal firearms laws.
- **Specialized Training**  
ATF has provided specialized training to ATF personnel, as well as other Federal, State, local, and foreign law enforcement officers to assist in the enforcement of the Federal firearms laws.
- **Public/Industry Education**  
ATF attempts to educate the firearms industry and public by publishing informative literature and strives to develop positive collaborative working relationships that promote information sharing and cooperation. Additionally, ATF, working with our State and local counterparts, participates in the Gang Resistance Education and Training, which targets at-risk

youths. Furthermore, ATF educates and assists the American public through a national hotline utilized to gather information on gangs, guns, and drugs.

ATF's specialized experience in addressing criminal activity draws upon the Bureau's existing resources and firearms enforcement programs. The following will provide an overview of some of ATF's firearms enforcement programs and initiatives.

## Achilles Program

ATF's Achilles Program, an initiative which focuses the Bureau's resources in communities with the highest levels of firearms-related violence, serves to identify, and investigate, and prosecute in Federal court those individuals actively involved in violent criminal activities or drug trafficking while carrying or using firearms and those individuals who illegally traffic firearms to these criminals. In addition, this program seeks to maximize the intelligence gathering potential that the arrests of numerous armed career criminals and armed drug traffickers can yield for ATF's illegal firearms trafficking efforts.

In 1986, ATF responded to the Comprehensive Crime Control Act mandate by developing a National firearms enforcement strategy called "Achilles." ATF believes violent criminals are particularly vulnerable to the application of these laws because, unlike narcotics or other forms of contraband, firearms are not easily disposable. They often provide a history of the criminal by linking the subject to other crimes and providing valuable intelligence about the violent offender's criminal associates. For these reasons, possession of firearms by violent criminals becomes their "Achilles heel."

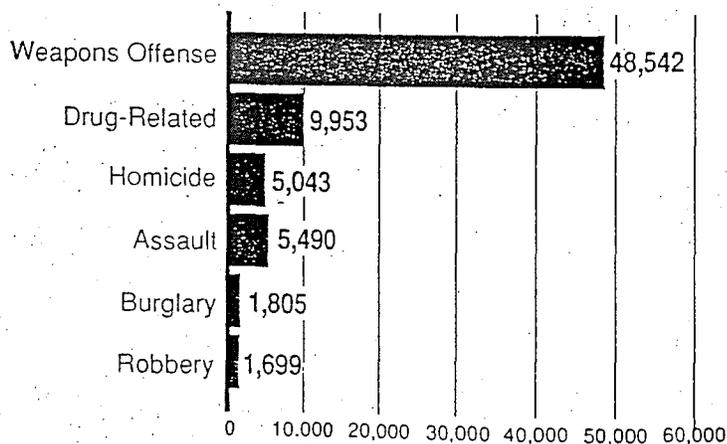
ATF is responsible for enforcing the provisions of the Armed Career Criminal Act and the Comprehensive Crime Control Act. ATF primarily utilizes the Federal firearms laws to address the issues of violent crimes being committed by armed career criminals, armed drug traffickers, and other violent offenders and organizations that use firearms in their illegal activities. ATF identifies, targets, investigates, and recommends Federal prosecution of individuals within these categories under 18 U.S.C. §§ 924(c) and (e), which call for mandatory minimum sentences.

As the result of ATF investigations, from October 1, 1987, which was the inception of the Achilles Program, through December 31, 1995, 1,757 defendants have been sentenced under 18 U.S.C. § 924(e) to a cumulative 31,069 years in prison. This is an average sentence of 18 years in prison. Additionally, 31 defendants have received life sentences. Under 924(c) prosecutions, 5,077 defendants have been sentenced to a cumulative 30,120 years in prison, including 2 life sentences. This is an average sentence of 6 years' incarceration.

Specifically, in calendar year 1995, 180 defendants have been sentenced under 18 U.S.C. § 924(e) to a cumulative 3,217 years in prison. Under 924(e) prosecutions, 414 defendants have been sentenced to a cumulative 2,394 years in prison.

ATF measures the benefits of the Achilles Program through the statistical analysis obtained from a National Institute of Justice report, which indicates a reduction in the number of violent crimes due to the incarceration of these violent criminals. Statistics revealed that violent offenders commit an average of 160 violent crimes per year. For the period October 1, 1987, through December 31, 1995, based on the number of years a violent offender is incarcerated and the number of violent crimes committed per year by these individuals, it was determined that approximately 4.9 million violent offenses did not occur because these defendants have received lengthy mandatory prison sentences. These statistics also estimate a savings of approximately \$11.5 billion to the potential victims and society, along with preventing inestimable pain and suffering.

**Crime Involvement Breakdown of Traced Firearms Calendar Year 1995**



## Achilles Task Forces

The Achilles Program is in place in all of ATF's field divisions.

Since this program began, the Bureau has established congressionally mandated Achilles task forces in 20 major cities with high violent crime rates. These task forces are comprised of ATF special agents and other Federal, State, and local law enforcement officers who work in targeted high crime neighborhoods where the highest incidents of gang-related violence, drug trafficking, homicides, aggravated assaults, rape, and other violent crimes occur. The mission of these task forces is the apprehension of

Federal firearms offenders, not State offenders. The statutes that ATF enforces benefit the entire Nation by incarcerating offenders to mandatory prison sentences, therefore, making communities safer by removing offenders for longer periods of time.

### Violent Offender Program (VOP)

The VOP encompasses the enforcement successes of the Achilles Program's statute, 18 U.S.C. § 924(e), to identify career criminals who meet certain criteria: a minimum of three prior felony convictions for crimes of violence or drug trafficking; a felony conviction for a violent crime involving a firearm or other weapon; a conviction for a crime where the subject injured or killed his/her victim, or three convictions for crimes in which a weapon was used; and the subject has either been on probation, parole, or released from prison within the last 5 years.

Subjects meeting this criteria are entered into National Crime Information Center's (NCIC) ATF violent felon file. When one of these violent felon offenders is encountered by a law enforcement officer and is in possession of a firearm, ATF will immediately be notified to respond and commence criminal prosecution. Upon conviction, the violent offender is eligible for significant mandatory sentencing of 15 years to life, without probation or parole.

Currently, ATF is authorized to enter 1,000 of the Nation's most violent offenders in NCIC's ATF violent felon file. The entry of these violent offenders allows law enforcement officers who are querying NCIC to immediately be aware that they may have possibly encountered an armed career criminal. The number entered at any given time fluctuates because of removal of subjects from the file due

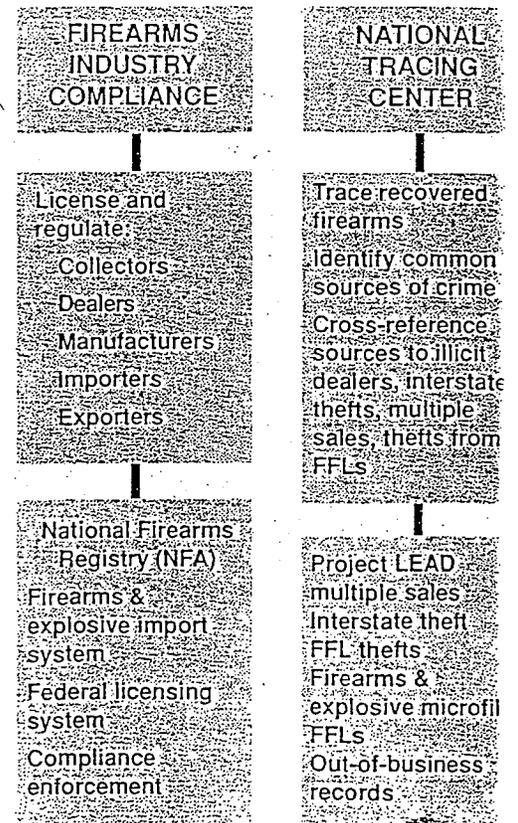
to incarceration, death, or change in the status of the offender.

The average offender entered in the VOP has six felony convictions and has been sentenced to more than 37.81 years of imprisonment. To date, 50 subjects, who are entered in the VOP, have been sentenced to 63 life sentences. These individuals are the "worst of the worst." They are precisely the type of individuals who are committing the violent crimes that victimize our society.

### CEASEFIRE Program

The purpose of the CEASEFIRE Program is to provide support to law enforcement agencies in areas of the country experiencing serious organized criminal gang and drug-related

### CEASEFIRE



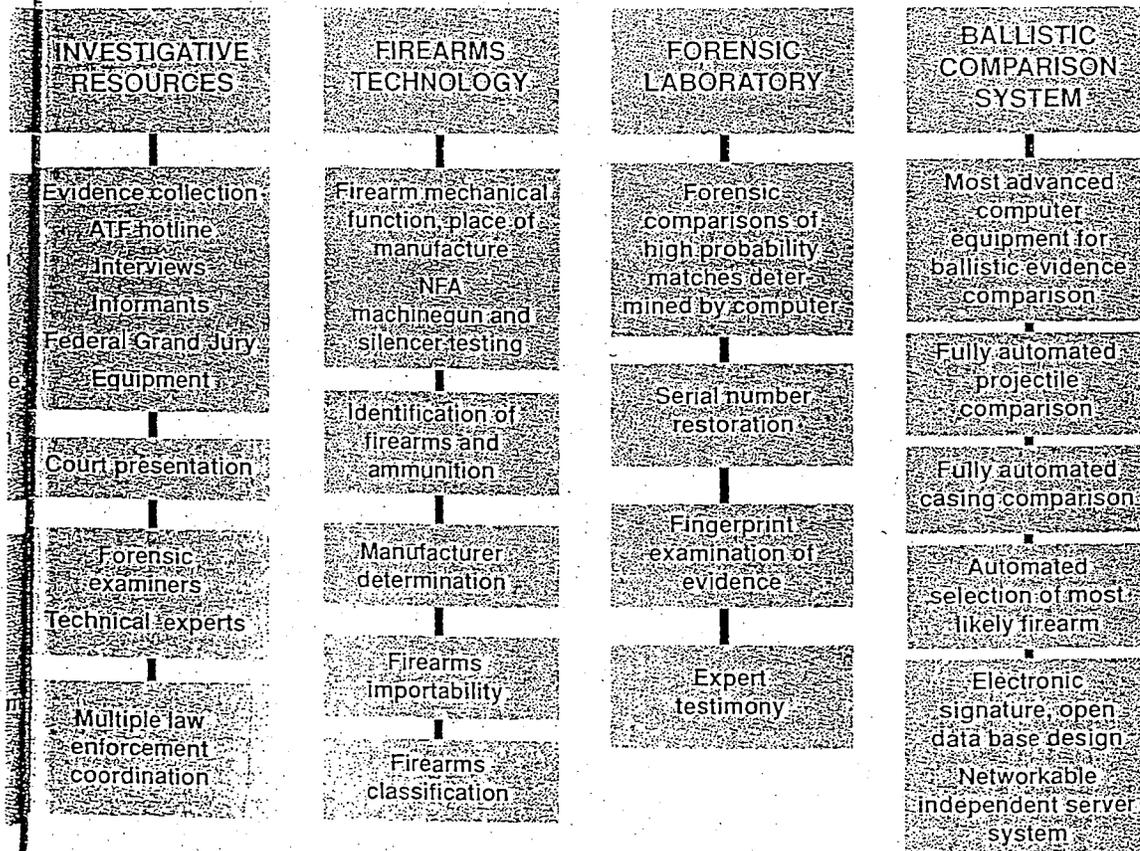
shooting incidents. The program is based on providing focused investigative assistance to cities through the integration of ATF's various firearms enforcement programs and new forensic science. Currently, under the CEASEFIRE Program, ATF is utilizing a state-of-the-art system that allows firearms technicians to digitize and automatically correlate and compare bullet and shell casing signatures at a greatly accelerated rate. The equipment expeditiously provides investigators with leads to solve greater numbers of crimes in a shorter period of time. The technological advances of this initiative draw upon the Integrated Ballistics Identification System (IBIS).

IBIS will, for the first time, provide a single system capable of comparing both types of ballistic evidence found at crime scenes. This integrated and automated imaging system permits

firearms examiners to enter and review large numbers of fired bullets and expended cartridge cases and cross reference hits made from each system. The ballistic comparison of crime scene bullet or cartridge casing evidence can be automatically compared with other bullet or cartridge casing images previously entered into the system.

The ballistic comparison system does not positively identify (match) bullets or casings fired from the same weapon—that must be done by a firearms examiner. However, the system does produce a short list of high confidence candidates for the match. The numerical probability of a match is given for each candidate on the list. By doing automated searches, IBIS speeds up and increases the time efficiently spent conducting comparisons. The best evidence in linking a firearm to a

## Program



specific crime is matching the recovered projectile and cartridge casings to the suspect firearm.

As stated earlier, the system does not make matches; the firearms examiner must make the confirmation if two bullets or cartridge cases come from the same firearm. Since the system produces a list of high confidence candidates indicating the relative and quantitative probability of a match (high to low), the firearms examiner can retrieve selected images for evaluation on the video screen. If the image on the screen looks as though a match could exist, the firearms examiner inspects the specimens on a comparison microscope to confirm the match.

A battery of ATF's unique assets, such as the NTC, Firearms technology Branch, and the ATF Forensic Laboratory, support the CEASEFIRE Program. ATF expects this program to significantly contribute to the solution rates of firearms-related homicides and other shooting-related incidents.

The CEASEFIRE Program was developed to address firearms-related violence and homicides and to solve investigations. The program accomplishes the examination of ballistics evidence through IBIS, the most advanced ballistics technology available.

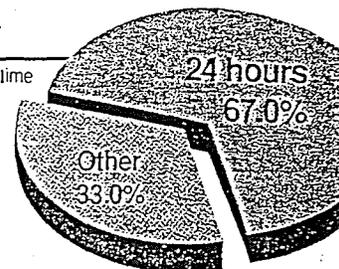
## Firearms Tracing

ATF's National Tracing Center (NTC) provides 24-hour assistance to Federal, State, local, and foreign law enforcement agencies in their fight against violent crimes involving firearms. The NTC maintains the capability to trace the origin and ownership of recovered firearms that were used in crimes. The NTC is the only facility of its kind in the world.

## Trace Completion Time Calendar Year 1995

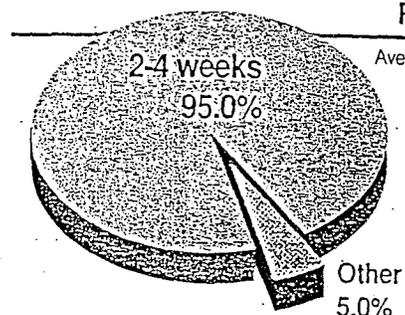
### URGENT

Average trace time  
was 4 days



### ROUT

Average trace  
was 11



Firearms tracing has become an integral part of any investigation involving the criminal use of firearm not only in the worldwide fight against violent crime and firearms trafficking but also against narcotics trafficking and terrorism. The systematic tracing of firearms from the manufacturer to the purchaser (or possessor) aid law enforcement in identifying suspects involved in criminal violations; determines if the firearm was stolen and proves ownership. The NTC conducted 77,000 firearms traces in 1995. As such, a valuable link between crimes and suspects was provided. The NTC is also the prescribed Federal repository for firearms records of Federal firearms dealers who have gone out of business.

Firearms tracing is the systematic tracking of firearms from manufacturers such as Colt, Smith & Wesson, Beretta, to the final purchaser, either an individual or a firearms dealer, for the purpose of aiding law enforcement.

officials in identifying suspects involved in criminal violations, establishing stolen status, or proving ownership.

The NTC is located in Falling Waters, West Virginia. To submit a firearms trace to the NTC, mail, fax, or telephone traces to the following address:

Bureau of Alcohol, Tobacco and Firearms  
 National Tracing Center  
 2029 Stonewall Jackson Drive  
 Falling Waters, West Virginia 25419

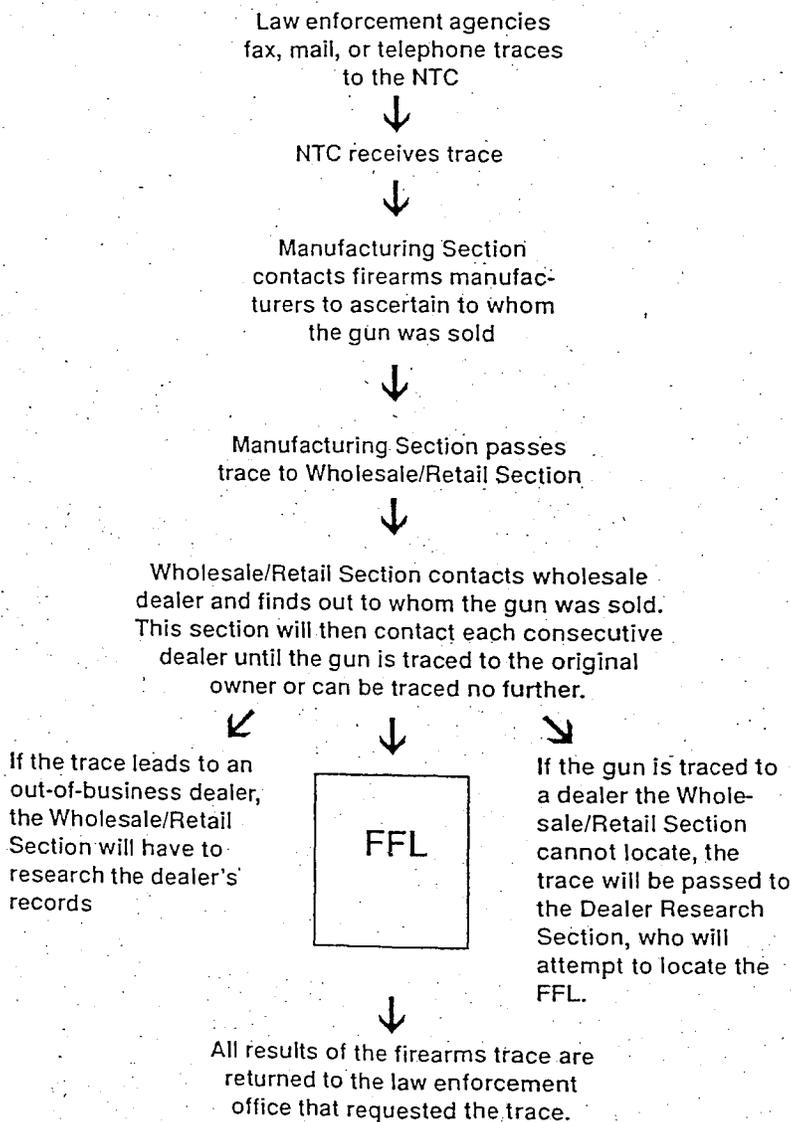
Fax: 800-578-7223  
 Telephone: 800-788-7133

Trace requests that are received by the NTC are prioritized as urgent or routine. Urgent traces are attempted to be completed within 24 hours. An urgent trace involves a firearm utilized during a crime of violence where the receipt of the results is essential to criminal investigators. An example of an urgent trace would be a firearm utilized to commit a homicide. Routine traces are completed within 2 to 4 weeks. A routine trace involves a firearm that may have been involved in criminal activity that is ordinarily nonviolent in nature or where immediate receipt of the trace results is not essential.

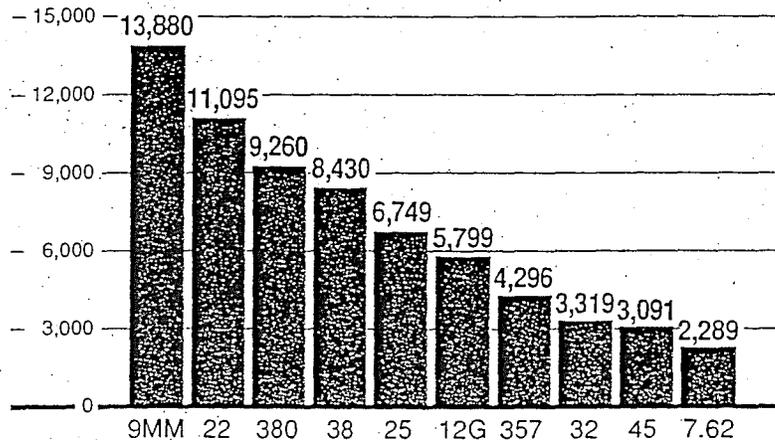
To further enable the NTC to be responsive to law enforcement, the NTC dedicates personnel to either active or inactive traces. ATF personnel located in the Firearms Manufacturing and Wholesale/Retail Sections are given the designation of active tracers. Active tracers are responsible for obtaining the firearms trace information involving FFLs who are still in business. Inactive tracers are responsible for completing the portion of a firearms trace that involves an FFL, either a manufacturer, wholesaler, or retailer, who is no longer engaged in the business.

The NTC established a customer service line to handle customer concerns, complaints, or problems. In 1995, all concerns were addressed within 24 hours. It should also be noted that during 1995, no calls were received regarding complaints. This line is available to NTC customers by dialing 1-800-788-7133, ext. 267.

## Firearms Tracing Process



**Top Ten Calibers of Firearms Traced  
Calendar Year 1995**



The NTC firearms tracing system provides crucial intelligence and investigative information allowing firearms traffickers and firearms trafficking organizations to be identified. This information, which is from recovered and traced firearms only, can be requested by any Federal, State, local, or foreign law enforcement agency.

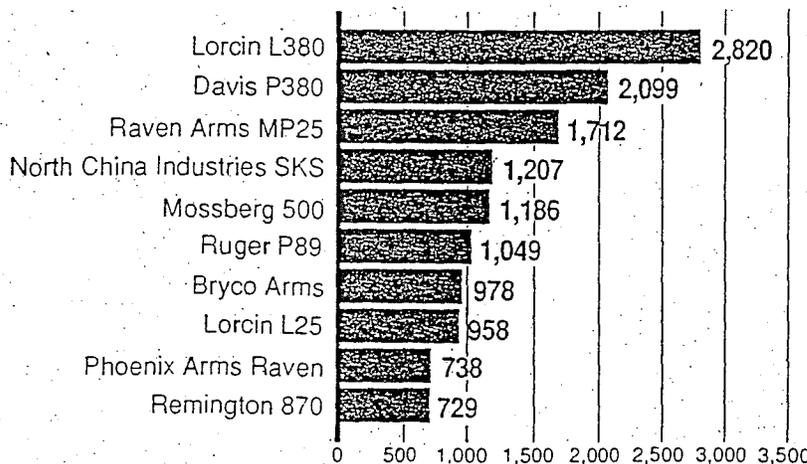
The NTC records fall under the purview of the Freedom of Information Act. Civilians are allowed to access the NTC to obtain information about firearms they have purchased and

cannot locate or that may have been stolen. The NTC does not release personal information unless it pertains directly to the requester. Individuals wanting access to the NTC for this reason should contact ATF's Disclosure Branch at 202-927-8480.

**Project LEAD/Firearm Trafficking**

Firearms-related violence is one of this Nation's primary concerns. Firearms-related violence, spurred by an indifference to human life, is depleting the cultural and economic resources of our society and is eroding the basic quality of life for many Americans. ATF, in response to this problem and the fact that illegal firearms trafficking investigations often exceed the jurisdictional boundaries' expertise, and resources of other State, local, and Federal agencies have developed and deployed a comprehensive national firearms trafficking strategy. This strategy complements ATF's long standing efforts to reduce armed violent crime through direct investigation and prosecution of armed violent criminals. ATF's illegal firearms trafficking strategy will reduce armed violent crime by investigating and prosecuting those individuals who are illegally supplying firearms to the violent criminals responsible or perpetuating the increasing numbers of firearms-related crimes.

**Top Ten Firearms Traced  
Calendar Year 1995**



Illegal firearms trafficking is defined as the illegal acquisition of firearms for the principal purpose of making firearms available to the criminal element and/or to persons in areas where State and local laws limit their availability. Illegal firearms trafficking negates the intended effect of restrictive State and local firearms laws and significantly adds to the frequency of

violent crime. Illegal firearms trafficking has become a very profitable venture for individuals willing to assume the risk of criminal prosecution. In some instances, a firearm can bring 5-6 times its original purchase price when sold in major cities with restrictive firearms laws.

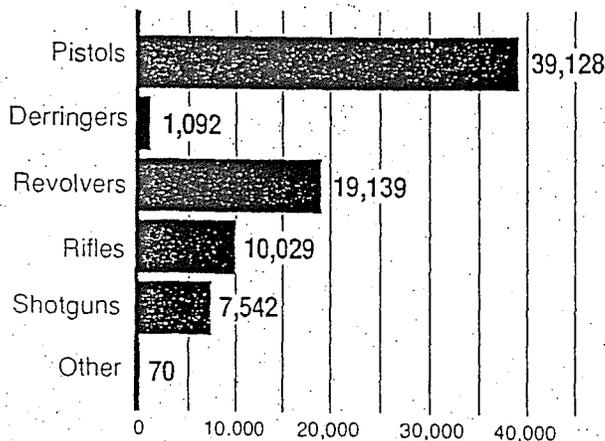
Historically, firearms trace studies have proven to be an excellent tool in identifying firearms trafficking patterns, illegal purchasers, problem firearms dealers, and source areas supplying firearms. Building upon the success of tracing projects and to assist in targeting illegal firearms trafficking organizations, ATF has developed Project LEAD. Project LEAD is state-of-the-art computer software that utilizes available trace data maintained at the NTC. When crime-related firearms are traced, information concerning when the firearm entered the hands of a criminal and who provided that firearm to the criminal can be gathered. Project LEAD analyzes NTC data that will enable law enforcement to focus resources and initiate criminal investigations against illegal firearms traffickers and their source of supply. Project LEAD is currently field level

operational in all of ATF's Criminal Enforcement Field Divisions.

In the past, ATF has addressed violent crime and armed violent offenders; however, under the Bureau's strategic planning process, it was determined that our investigative emphasis must be amended. ATF wanted to place its investigative emphasis on the identification and prosecution of sources who illegally supply firearms to the criminal element. In order to effectively meet this objective, ATF decided to expand existing programs in order to develop a national illegal firearms trafficking strategy. The ATF illegal firearms trafficking strategy utilizes the Bureau's unique assets and existing resources to identify, apprehend, and refer for prosecution those individuals or organizations dedicated to acquiring firearms for the principal purpose of making firearms available to the criminal element. During 1995, ATF completed its planning stages for the major components of the illegal firearms trafficking strategy. During the coming years, ATF will implement the illegal firearms trafficking strategy nationwide. Furthermore, amendments to the Crime Control Act of 1990, the Brady Law, and the Violent Crime Control and Law Enforcement Act of 1994, better known as the Crime Bill, have provided ATF with additional jurisdiction regarding potential illegal firearms traffickers.

ATF's firearms trafficking strategy works on an international level as well. When foreign countries trace crime-related firearms through our NTC, Project LEAD can identify those individuals located in the United States who are illegally trafficking/smuggling firearms to other countries. This information can assist special agents pursuing investigations under our International Traffic in Arms (ITAR) Program.

Types of Firearms Traced  
Calendar Year 1995



In short, ATF's illegal firearms trafficking strategy will reduce violent crime, both in the United States and abroad, by prosecuting the illegal firearms traffickers themselves, thus, eliminating the violent criminals' source of firearms.

During FY-95, ATF recommended over 2,500 defendants for Federal prosecution relative to illegal firearms trafficking violations. During the first half of FY-96, ATF recommended over 977 defendants for prosecution relative to illegal firearms trafficking investigations. These defendants are responsible for having previously trafficked over 21,655 firearms of which more than 1,812 have already been recovered after their use in a crime.

## Stolen Firearms Initiative

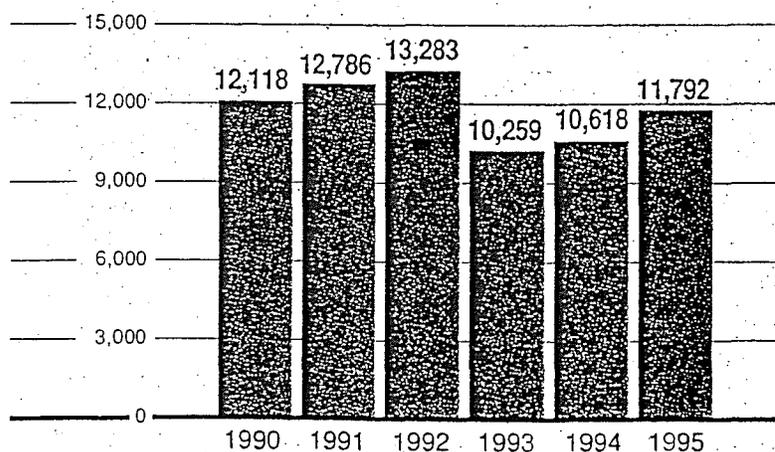
ATF's Stolen Firearms Program is an aggressive law enforcement effort determined to reduce the number of firearms stolen from interstate carriers and FFLs. This program focuses on denying the criminal element potential

sources of stolen firearms. ATF conducts investigations regarding firearms thefts resulting in the perfection of criminal cases against those individuals or groups responsible for such theft. Law enforcement statistics demonstrate that many stolen firearms, by their very nature, are destined to be crime guns. The criminal element, realizing that their ability to acquire firearms has eroded enacted legislation and intense enforcement efforts, sees stolen firearms as an instant source of untraceable power.

The number of stolen firearms that find their way to the streets of America's cities has increased substantially by the theft of firearms from interstate carriers and FFLs. The Stolen Firearms Program initially started as the Interstate Theft Program, a volunteer program for reporting firearms thefts from interstate shipments. It has grown, under new legislation, to the mandatory reporting of firearm thefts from the inventory of FFLs. The program now encompasses two separate sections, interstate and FFL theft, which are stored in an information retrieval system. Reports of firearms missing/stolen from interstate shipments are reported to ATF, via ATF F 3310.6, Interstate Firearms Shipment of Theft/Loss. Thefts from the inventory of an FFL are reported to ATF, via a firearms theft hotline (1-800-800-3855), which is then followed up by a written report (ATF F 3310.11 Federal Firearms Licensee Theft/Loss Report).

This system provides ATF with the ability to track theft trends and statistics, and it also provides important referrals to field special agents in the investigation of firearms thefts. Additionally, the program analyzes modus operandi information in an effort to link firearm theft incidents.

Firearms Cases Initiated by Calendar Year



## Expert Technical Support

The Firearms Technology Branch (FTB) provides expert technical support to ATF, other Federal agencies, State and local law enforcement, the firearms industry, the Congress, and the general public. FTB is responsible for the technical determination concerning types of firearms approved for importation into the United States. In accordance with the Undetectable Firearms Act, FTB provides the standard for the detectability of firearms. This branch is also responsible for rendering opinions regarding the classification of illegal firearms and newly designed firearms. FTB maintains an extensive firearms reference collection, as well as technical firearms reference files, a library, and firearms data bases.

In addition, ATF provides the U.S. Department of Justice, State prosecutor's offices, district attorney's offices, and military courts with expert firearms testimony. This testimony includes the identification and origin of firearms and other matters relating to firearms and the firearms industry.

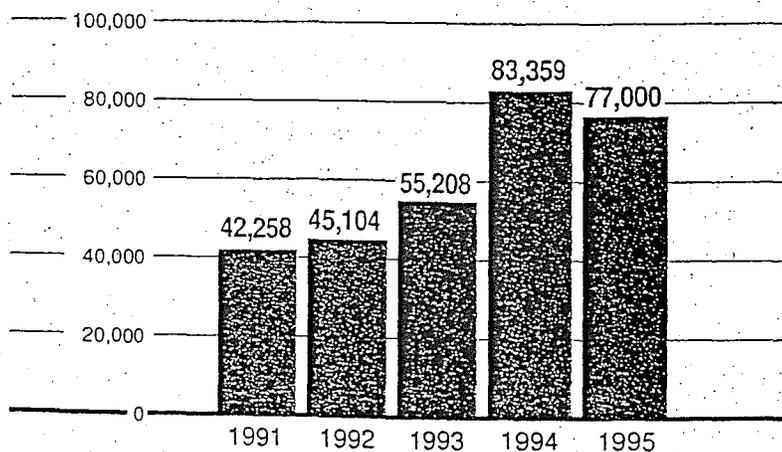
## Restoration of Firearms Privileges

The Restoration Section within the Firearms Enforcement Division is responsible for the processing of applications for restoration of Federal firearms privileges in accordance with 18 U.S.C. § 925(c), and applications for restoration of explosives privileges in accordance with 18 U.S.C. § 845(b). These applications are submitted by individuals and/or corporations who have incurred disabilities imposed under 18 U.S.C. §§ 922(g) and 842(d).

Prior to October 6, 1992, any person under Federal firearms disabilities could apply for relief from his/her Federal firearms disabilities pursuant to 18 U.S.C. § 925(c). On October 6, 1992, Public Law No. 102-393, 106 Stat. 1729, containing ATF's appropriations, became effective. This law prohibited the expenditure of funds for investigating and acting upon applications for relief from Federal firearms disabilities filed by individuals. This restriction was retained in Public Law No. 103-123, 107 Stat. 1226, containing ATF's appropriations for 1994, in Public Law No. 103-329, 108 Stat. 2382, containing ATF's appropriation for 1995, and in Public Law No. 104-52, 109 Stat. 468 containing ATF's appropriations for 1996. As long as this provision is included in ATF's appropriations legislation, the Bureau cannot act upon applications for restoration of Federal firearms privileges submitted by individuals.

The Public Law restriction did not pertain to corporations that were making application for firearms and/or explosives restoration. Nor did it pertain to FFLs who submitted their

Firearms Traces Submitted by Calendar Year



application in accordance with 18 U.S.C. § 925(c). Consequently, these FFLs were advised, by letter, of the public law restriction, and that in accordance with 18 U.S.C. § 925(b), they shall not be barred from operating their business as a result of their felony convictions until final action has been made on their application for firearms restoration.

## Juvenile Firearms Tracing Initiative

In late 1993, ATF began a tracing program specifically designed to determine the source of firearms recovered on school property and from juveniles who use them to commit violent crimes. This initiative grew from an increase in juvenile-related violent crime, including juvenile gang activity and shootings on or near school property, and from the number of instances in which juveniles brought firearms to school or committed acts of violence at school.

State and local law enforcement agencies were informed of this

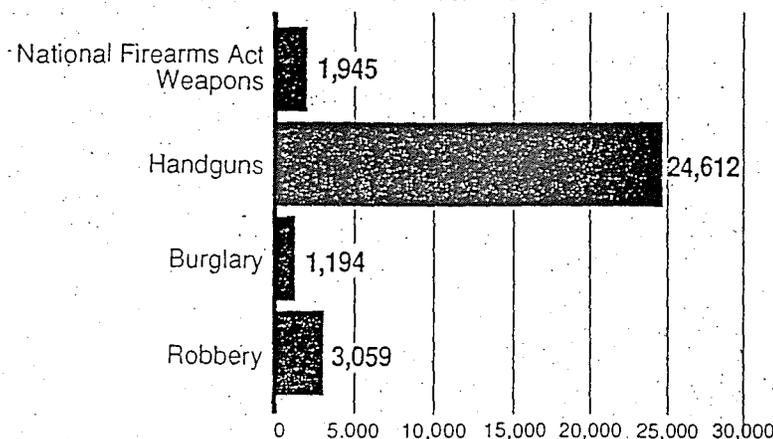
initiative and encouraged to participate in ATF's efforts to reduce the frequency of firearms violence involving juveniles, identify and stem the illegal flow of firearms to juveniles, and apprehend and prosecute adults who violate firearms laws by purchasing firearms for, or providing firearms to juveniles.

Historically, the only Federal laws that dealt with the acquisition of firearms by juveniles concerned their acquisition from Federal firearms licensees, and in those cases, the law is designed to prevent licensed gun dealers from knowingly selling handguns to persons under 21 years of age and long guns to persons under 18 years of age. With the enactment of the Crime Bill, there exists for the first time specific Federal firearms laws that deal with the possession of firearms by juveniles and the transfer of firearms to juveniles.

ATF is committed to reducing juvenile access to firearms, and we have encouraged our field personnel to continue to trace firearms associated with violent juvenile crime and those possessed or recovered from school property. Additionally, we are committed to developing other initiatives in cooperation with State and local law enforcement and school authorities that are directed at reducing the frequency of juvenile firearms possession and firearms violence.

We, at ATF, are proud of the role that we have played in reducing violent crime by effectively enforcing Federal firearms laws. Historically, ATF has been and remains the key Federal agency in America's strategy to combat firearms violence. Following our strategic plan, our future enforcement efforts will become more effective.

Property Taken into Custody  
Calendar Year 1995



# Firearms Enforcement Cases

## ATLANTA Field Division

In April 1993, ATF initiated an investigation into the illegal activities of the Miami Boys street gang, which was responsible for operating an armed narcotics trafficking ring in several public housing developments in Atlanta. The violent tendencies of this gang were evident in August 1993 when they conducted a drive-by shooting in which one person was killed and five others were injured. During this shooting rampage, three carloads of Miami Boys gang members opened fire with various caliber firearms, including an AK-47, in a public housing development.

After nearly 2 years, criminal complaints and arrest warrants were obtained for 14 gang members and associates. Arrest efforts were coordinated by ATF, Drug Enforcement Administration (DEA), Housing Urban Development (HUD), and local police. On February 23, 1995, law enforcement officers arrested 10 of the 14 gang members. One of the gang members was in possession of crack cocaine and a loaded revolver at the time of his arrest.

In March 1995, a 19-count indictment was returned, charging 14 members of the gang with violations of the Federal firearms and narcotics laws. The indictment provides a powerful picture of the Miami Boys' propensity for violence.

Currently, eight members of the Miami Boys have been sentenced for violations of the Federal firearms and

narcotics laws. They were sentenced from 60 to 130 months of incarceration.

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During the fall of 1995, three separate armed carjackings occurred in Macon, Georgia. ATF, FBI, and the Macon Police Department jointly investigated the incidents. The first carjacking victim was accosted at gunpoint, beaten, stripped, and made to run naked through the street. The victims of the second and third carjackings were all removed from their automobiles and physically assaulted at gunpoint. During the second carjacking, however, one of the victims was able to break free and flee the scene, dodging gunshots as he ran. On December 6, 1994, a nine-count Federal indictment was returned against three individuals for violations of Federal laws to include: conspiracy to violate 924(c), carjacking, and use of a firearm during a Federal crime of violence. The three defendants either pled guilty or were found guilty in a jury trial. Consequently, the defendants received prison sentences ranging from 36 months to 52 years.

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From November 1992 through February 1994, a suspect committed 17 armed robberies of commercial businesses in Georgia, Florida, Louisiana, North Carolina, and South Carolina. At first, the suspect would usually enter the stores armed with a firearm and rob the employees; however, during later robberies, he would hide in the store at closing time. When the employees arrived the following morning, the suspect would emerge from his hiding place and hold the employees at gunpoint. He would then force the employees to open the safe containing the money, steal the cash, and flee the scene. On three

separate occasions, the suspect fired gun shots into the floor when he felt the managers were too slow opening the safes.

On August 4, 1994, the suspect was indicted for violations of Federal laws to include the Hobbs Act, using and carrying a firearm during the commission of a crime of violence, and being a convicted felon in possession of a firearm. On September 11, 1995, he was found guilty by jury and sentenced to a prison term of 45 to 65 years.

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In January 1994, three subjects were stopped in Monroe County, Georgia, for traffic violations. A search of the vehicle resulted in the recovery of \$96,000. One of the subjects stated that the money was intended for a marijuana deal, and he provided the names and addresses of other subjects in Savannah, Georgia, and Tucson, Arizona, who were also involved in the case. He also stated that the subjects were shipping fire-



arms from Georgia to Arizona and that these weapons were to be used in contract-type murders. Additionally, the subjects confessed that 2 days prior to the stop, they had transported

over 500 pounds of marijuana from Arizona to Savannah. A Savannah ATF special agent contacted a Tucson ATF special agent, who provided several Georgia telephone numbers, which were obtained from toll records, pen registers, and clone pagers.

In August 1994, a Savannah ATF agent, assisted by DEA special agents and members of the Chatham County Narcotics Task Force, began making purchases of marijuana from local distributors. A search of one seller's residence resulted in the recovery of marijuana and cocaine. This individual cooperated with authorities, detailing the entire marijuana operation and identifying the Arizona sources. It was also learned that this organization was frequently shipping currency and firearms by UPS and Federal Express between Texas, Ohio, Georgia, and Arizona.

In December 1994, ATF and DEA agents provided information to the Pima County, Arizona, Sheriff's Department regarding the trafficking activities there. The sheriff's department then established surveillance of several residences in their area, resulting in the stop of a motor home and the recovery of an additional 600 pounds of marijuana.

In January 1995, ATF received information about one of the suspects delivering two packages to Federal Express in Savannah for delivery to Tucson. An ATF agent took custody of the packages and conducted a scan, which revealed that the packages contained firearms. The packages were sent to an ATF agent in Tucson, who made a controlled delivery. This delivery resulted in the recovery of five additional firearms, which had also been shipped from Savannah to Tucson.

As a result of this investigation 14

quently convicted. Sentences ranged from 25 to 288 months' imprisonment.

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Between July and November 1994, a UPS employee in Atlanta, Georgia, stole an unknown quantity of Glock semiautomatic pistols that were being shipped, via UPS to Glock, Inc., in Smyrna, Georgia. The subject illegally sold or otherwise provided these handguns to associates.

On November 8, 1994, the subject and an associate used stolen Glock pistols to carjack a woman's vehicle near Santee, South Carolina. The woman was abducted along with her infant son and tied to a tree in a remote location. The UPS employee fired two shots during this incident.

On November 20, 1994, the two aforementioned subjects used stolen Glock pistols to carjack another vehicle in Atlanta. The occupant of the vehicle was shot twice by the UPS employee while attempting to escape. The victim subsequently died from injuries.

On November 21, 1994, while driving the stolen vehicle, the UPS employee carjacked another vehicle that was driven by a woman. The woman was driven to a remote location and tied to a tree.

The UPS employee was identified through fingerprint analysis and DNA blood testing. The assailants admitted to their participation in these incidents and pled guilty.

The first subject was sentenced to 60 months' imprisonment for violation of 18 U.S.C. § 371 and 65 years' imprisonment for violation of 18 U.S.C. § 924(c). The second subject was

sentenced to 60 months' imprisonment for each violation of 18 U.S.C. §§ 371 and 924(c).

## BALTIMORE Field Division

During March 1993, information was received from a concerned citizen, through the ATF hotline, that a suspect was illegally dealing in firearms. According to the caller, who had taken his car into a car service store in Annapolis, Maryland, he was approached by the owner. The owner of the business advised the caller that he could obtain any type of firearm the tipster might want and that the firearms would be sold off the record. The owner provided the caller with his telephone number for future contact.

The subject was subsequently identified as an Iranian national with ties to the deposed Shah of Iran and the



Shah's secret police, the Sevak. The subject also had previously submitted an application for political asylum.

Based upon the above information, an investigation was initiated. As a

result, an undercover ATF special agent drove an ATF-owned Jaguar to the subject's business to obtain a car repair estimate. During this estimate, the undercover agent engaged the subject in a discussion about firearms. Following this meeting, the agent purchased a handgun from the subject, who behaved cautiously during the sale of the firearm.

As the investigation progressed, an ATF confidential informant (CI), who had conducted several firearms transactions with the subject in the past, was developed, and the CI advised that the subject was also selling unregistered silencers. The CI subsequently introduced a second undercover ATF special agent to the subject.

Through contact with the subject, the second undercover special agent purchased several handguns, one of which had been stolen during the burglary of a police officer's residence. As these meetings progressed, the subject would sell certain types of firearms that the undercover special agent had requested.

As the firearms transactions increased, the subject offered the undercover agent two pistols equipped with silencers. During the transaction, the subject produced a handgun and advised the undercover agent that if he were a Federal agent or if the subject saw a Federal agent, he would shoot the first one he saw. The special agent purchased two unregistered silencers from the subject.

As the case continued, the subject applied for and received a Federal firearms license, allowing him to engage in the sale of firearms. Subsequently, Federal search warrants were executed at his business and residence. As a result of the search warrants, 49 firearms, 1 registered silencer, \$9,400 in U.S. currency,

several thousand rounds of ammunition, and two automobiles were seized. A check with National Criminal Information Center (NCIC) determined that one vehicle, a Mercedes Benz, had been stolen during a burglary from an Annapolis residence. The second vehicle, which was determined to have an altered vehicle identification number, had been stolen from Pennsylvania.

The subject of this investigation was subsequently convicted of two counts of 26 U.S.C. § 5861(d), one count of 18 U.S.C. § 922(a)(1), and one count of 18 U.S.C. § 922(a)(5), and he was sentenced to 33 months' incarceration. Upon completion of the subject's sentence, he will be deported to Iran.

## BIRMINGHAM

### Field Division

During October and November 1993, two FFLs' businesses and a residence were burglarized in Escambia and Conecuh Counties, Alabama, resulting in the theft of 35 firearms. Two of the subjects of this investigation were distributing stolen firearms to juveniles.

In September 1994, one of the subjects pled guilty to two counts of burglary. As a result, he was sentenced to 3 years' imprisonment. Additionally, the three other subjects also entered guilty pleas to violations of 18 U.S.C. §§ 922(j), and (k). In May 1995, these subjects were sentenced from 15 to 30 months' imprisonment for conspiracy to distribute stolen firearms.

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In November 1994, a subject entered the Metropolitan Police Department (MPD) building in Washington, DC, and shot and killed two FBI special agents and one MPD officer. As a



recovered firearm, and the NTC determined that the firearm was purchased from an FFL in Mobile, Alabama. Further investigation determined that in March 1992, a second subject, who is a Washington, DC, resident, had an individual, who is a resident of Mobile, straw purchase a Cobray M-11 9mm semiautomatic pistol. In May 1993, the individual again straw purchased three Norinco rifles from the same FFL for the second subject. On April 29, 1993, the second subject conspired with a second individual to obtain three Norinco rifles from the same FFL. The second individual furnished false information to the FFL and obtained the firearms.

On May 11, 1995, the second subject was found guilty of violations of conspiracy to furnish false information to an FFL with intent to deceive and possession of firearms by a convicted felon. On August 18, 1995, as the result of an upward departure, the second subject was sentenced to 180 months' imprisonment, 3 years' supervised release, and fined \$50.

During June and July 1995, a subject, who is a two-time convicted felon,

committed 12 armed robberies in Birmingham. During two of the robberies, the subject discharged a firearm. The Armed Criminal Enforcement Team (ACT), which is comprised of ATF agents and officers from the Birmingham Police Department, began investigating this crime. (ACT was formed to combine the resources of both organizations to combat violent criminals and the crimes they commit.)

Subsequent to a confession and reviewing store videotapes, eyewitness identifications, and fingerprint comparisons, agents and officers arrested the aforementioned subject. The subject was charged with violations of the 18 U.S.C. §§ 922(g)(1), 924(c), and 1951. On November 29, 1995, the subject was sentenced to 25 years' and 1 day's imprisonment.

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In January 1993, ATF initiated an Organized Crime Drug Enforcement Task Force (OCDETF) investigation targeting a group of individuals who had been trafficking methamphetamine from California to Mississippi, Alabama, and other southern States for several years. In July 1993, ATF agents, including the Birmingham Special Response Team, and other law enforcement officers executed four search warrants in furtherance of the investigation. During the searches, 25 firearms, including assault rifles and pistols and semiautomatic handguns, \$16,400 in U. S. currency, 700 grams of methamphetamine, 10,000 rounds of ammunition, scanners, fax machines, drug trafficking paraphernalia, and 1 pound of marijuana were seized.

In April 1995, as the result of an earlier guilty plea, one of the subjects was sentenced to 120 months' imprisonment for violation of 18 U.S.C. § 922(g), 327 months of incarceration for narcotics conspiracy, and 240

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months of imprisonment for narcotics possession. The sentences are to run concurrently. The following month, the second subject was sentenced to a total of 90 months' incarceration for violations of 18 U.S.C. §§ 924(c) and 922(g).

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From August 1992 through January 1993, a subject, who is a multiconvicted felon and a close associate of a ranking member of the Vice Lords street gang, used Mississippi residents to straw purchase firearms. During this time period, a total of 64 firearms were purchased. Of them, 39 of the firearms have been recovered by police departments.

In June 1993, subsequent to taking possession of eight firearms from an undercover ATF agent, the subject was arrested, and the firearms were seized. The subject and a second subject were charged in a 70-count indictment with violations of the Federal firearms laws. On December 15, 1995, both pled guilty, and the subject was sentenced to 65 months' imprisonment, and the second subject was sentenced to 18 months of incarceration.

## BOSTON

### Field Division

From December 1993 through February 1994, a Georgia resident, an accomplice, and a subject purchased 32 semiautomatic pistols from a pawnshop in Jonesboro, Georgia. All of the firearms were transported to Boston where the Georgia resident sold them to the subject, who, in turn, sold them to other individuals. Currently, 12 of the firearms have been recovered from crimes, including unlawful possession of a firearm, murder, assault with intent to murder, and home invasions, around the

As a result of the aforementioned, in February 1995, a Federal grand jury returned a two-count indictment charging the subject with dealing in firearms without a license and conspiracy. In October 1995, after being found guilty of the above charges, the subject was sentenced to 4 years' imprisonment and 3 years' supervised release.

## CHARLOTTE

### Field Division

On February 1, 1995, ATF and the North Carolina State Bureau of Investigations (NCSBI) initiated an investigation that targeted a subject, who was an alleged firearms trafficker and an FFL. The following day, a NCSBI CI purchased a Lorcin 9mm pistol with an obliterated serial number from the subject. During the transaction, the CI stated that the firearm would be utilized during a drug trafficking crime.

On February 13, an undercover ATF special agent purchased a pistol with partially obliterated serial number from the FFL in a parking lot without completing any of the required paperwork. In addition, the agent told the FFL that the firearm would be used in conjunction with criminal activity. The agent also informed the FFL that he was a drug dealer and that any further firearms purchased would be for individuals who worked in the drug trafficking enterprise.

On February 14, the undercover ATF special agent again met the FFL in the same parking lot and purchased, without completing any of the required paperwork, three pistols—all with partially obliterated serial numbers. The FFL discussed the sale of a fully automatic weapon with the undercover ATF agent. The agent made tentative plans to purchase two fully automatic pistols at a later date.

On February 28, 1995, an undercover ATF special agent purchased four firearms from the FFL in a parking lot. Subsequent to the sale, the FFL was arrested, and a search warrant was executed at his residence/business in Grandy, North Carolina. As a result of the search, a drill bit used to obliterate serial numbers and a sawed-off shotgun with an obliterated serial number were taken into custody. No acquisition or disposition books were recovered. The FFL admitted selling firearms to convicted felons and selling firearms with obliterated serial numbers.

The FFL pled guilty to four counts of violating 18 U.S.C. § 922(k) and one count of 18 U.S.C. § 922(d). The FFL was subsequently sentenced to 24 months' imprisonment.

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During the night of January 4, 1995, a burglary occurred at a pawnshop, an FFL, located in Edenton, North Carolina. Items stolen from the pawnshop included a large gun safe containing 93 assorted firearms (revolvers, pistols, rifles, and shotguns), televisions, and jewelry. On January 5, 1995, the Chowan County Sheriff's Department contacted ATF and requested assistance in this investigation.

ATF assisted in the gathering and processing of latent evidence from the crime scene and in the interviews of numerous suspects. Five suspects were identified as taking part in the pawnshop burglary. The stolen firearms were destined for New York City in exchange for crack cocaine.

Four suspects were arrested by ATF for participating in the burglary. The fifth suspect was a juvenile who was arrested on State charges for the burglary and felony larceny of firearms. The defendants received sentences ranging from 12 to 120 months' imprisonment for violation of 18 U.S.C. §§ 922(j), 922(u), and 371.

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In June 1994, ATF initiated an investigation in Winston-Salem, North Carolina, after numerous firearms with obliterated serial numbers were recovered in high crime areas. ATF's investigation revealed that during a 1-year period, an FFL purchased nearly 400 firearms, many with obliterated serial numbers, from several firearms distributors and then resold them. Approximately, 25 firearms without serial numbers have since been recovered and traced to the FFL. In addition to being sold in the Winston-Salem area, the investigation revealed that numerous firearms were being transported to New York City.



ATF special agents executed a Federal search warrant at the FFL's residence. During the search, ATF special agents recovered three firearms, an incomplete firearms acquisition and disposition ledger, several incomplete ATF F 4473s, and numerous miscellaneous documents. An ATF inspector assisted ATF special agents in reviewing

the items taken into custody for the detection of recordkeeping violations. The FFL was interviewed by special agents and claimed to have only sold 2 or 3 of the approximately 400 firearms he had purchased. The FFL further stated that in an attempt to save his marriage, he had disposed of the remaining firearms in a local landfill. Additionally, the FFL advised that he had never maintained any records or sold any firearms because he was in the process of stockpiling enough firearms to one day open his own store. When questioned as to how he acquired the funds to purchase the firearms, he stated that he was an excellent gambler and won the money by playing cards.

As a result of information obtained during the search warrant, ATF special agents interviewed a subject regarding the FFL. The subject stated that for the past couple of months, he had acted as a middle man for the FFL. The subject relayed to special agents that the FFL would deliver the firearms to him and pay him \$200 for holding the firearms, unidentified males would pick up the firearms from his residence. The subject stated that this had occurred with approximately 75 firearms.

The subject was subsequently indicted and convicted for violations of the Federal firearms laws. He was sentenced to serve 96 months' incarceration for violation of 18 U.S.C. §§ 923, 922(k), 922(b)(1), 922(b)(2), 922(b)(5), 922(m), and 922(s).

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In November 1993, ATF initiated an OCDETF investigation as a result of continued incidents of violence in Charlotte. The investigation targeted an individual and his Jamaican organization. These individuals were responsible for trafficking crack cocaine into Charlotte. The gang members sold cocaine to midlevel traffick-

ers who then dealt with street dealers. Additionally, members of the organization routinely purchased, transferred, carried, and possessed firearms in relation to and in furtherance of their drug trafficking activities. The organization profited \$9,000 per week, for a 1-year time period. It is estimated that these individuals distributed 200 kilograms of cocaine base throughout Charlotte.

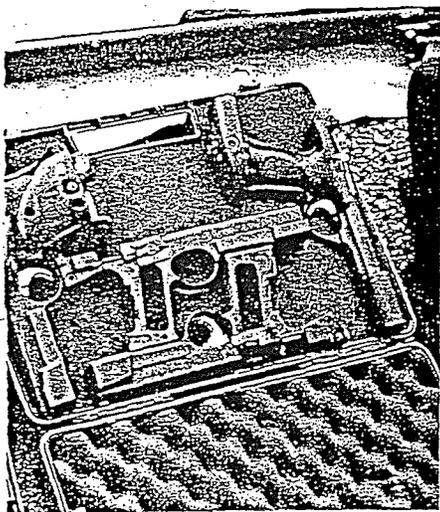
Currently, 35 defendants have been targeted, indicted, arrested, and convicted for violations of the Federal firearms, narcotics, and conspiracy laws. Also, some of the defendants have been sentenced from 10 years' to life imprisonment.

During the investigation, 15 firearms and 2 kilograms of crack cocaine were seized by law enforcement officials. As a result of information derived through this case, two unsolved homicides were also solved.

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In December 1993, the ATF-sponsored Violent Crime Task Force, which consisted of law enforcement representatives from the Fayetteville Police Department, State Bureau of Investigation, and the Cumberland County Sheriff's Department, initiated an investigation of the Hollywood Heights Hustlers, an armed narcotics organization, which used intimidation and violence to control the drug trade in Fayetteville, North Carolina. During the course of this investigation, it was determined that the organization turned to violence in order to recoup drug money that had been lost in a rip-off. The members of this organization are responsible for three homicides, two kidnappings, one home invasion, and murder in furtherance of a continuing criminal enterprise.

In July 1994, a 40-count indictment was returned charging 10 members of the Hollywood Heights Hustlers with



violations of the Federal firearms and narcotics laws, conspiracy, to include operating a continuing criminal enterprise, and murder in furtherance of a continuing criminal enterprise.

In January and February 1995, the members of the organization either pled guilty or were found guilty of the aforementioned charges. In May, nine of the organization's

members were sentenced from 84 months' incarceration to multiple life sentences. On June 15, 1995, the leader of the organization received a life sentence for conspiracy, a life sentence for operating a continuing criminal enterprise, a 5-year sentence for using a firearm in relation to a drug trafficking crime, and 40 years' incarceration for possession with intent to distribute cocaine.

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On January 5, 1995, an 18-month investigation in which ATF was assisted by the North Carolina State Bureau of Investigation, the Rockingham County Sheriff's Department, and the Reidsville City Police Department culminated with the arrests of 10 members of the Neal organization for violations of the Federal firearms and narcotics laws. The Neal organization is a violent street gang that distributed crack cocaine in the Reidsville-Rockingham County area. During the course of the investigation, nine narcotics-related shootings were attributed to the organization. In addition, the organization used juveniles to protect their business. As a result, 9 of the 10 subjects were found guilty and sentenced from 3 years' incarceration to life imprisonment without parole.

## CHICAGO Field Division

On October 20, 1994, a subject, who is a straw purchaser, and a codefendant were arrested by ATF agents and Chicago Police Department (CPD) officers assigned to the ATF/CPD Firearms Trafficking Task Force for violations of 18 U.S.C. §§ 922(d)(1) and 922(g)(1). Both subjects were arrested pursuant to a vehicle stop wherein a consent search of the vehicle yielded three firearms.

The subject was identified by ATF as a suspected straw purchaser for approximately 8 months during which time, through records of cooperating FFLs, it was learned that the subject had purchased approximately 60 firearms during the last year.

As way of background, the subject was the target of a 1964 landmark U.S. Supreme Court decision that guaranteed the right of a criminal defendant to have counsel during questioning. The subject was taken into police custody for a murder investigation in 1960. While in custody and during questioning, the subject's request for an attorney was denied, and he was convicted. The U.S. Supreme Court reversed the conviction in 1964, ruling that it is the constitutional right of a defendant while in custody and during questioning to have the assistance of counsel in accordance with the 6th and 14th amendments. The subject's case set a precedent relating to a defendant's right to counsel while in custody.

In the current case, the subject pled guilty to two counts of violations of 18 U.S.C. § 922(g)(1) in June 1995. In November 1995, he was sentenced to 5 years' incarceration.

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This investigation was initiated as the result of the CPD recovering firearms with obliterated serial numbers that were restored by CPD firearms examiners and subsequently traced to a subject who is a former FFL. The information was relayed to ATF.

During the course of this investigation, undercover purchases of 20 Norinco semiautomatic pistols were made from the former FFL by undercover agents from ATF and USCS. The firearms were sold without any of the required paperwork being completed, and they were packaged in original UPS shipping cartons. During undercover negotiations, the former FFL offered to sell the agents as many as 100 pistols in a single transaction at a later date. Arrangements were made for an additional undercover purchase wherein the former FFL was arrested by ATF agents and CPD officers for the illegal delivery/sale of 48 Raven semiautomatic pistols.

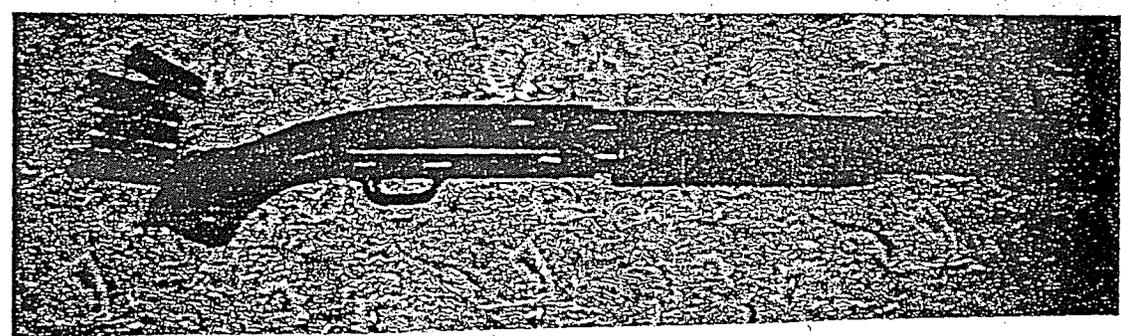
The subject was suspected of distributing firearms directly to Chicago area gang members and narcotics traffickers. In a statement provided by the former FFL, he admitted to unlawfully selling over 300 firearms during a 3-month period, as well as being an illegal narcotics user. Additionally, pursuant to a consent search of his residence, his FFL records were recovered and revealed only two entries in his acquisition and disposition book.

In April 1995, the subject pled guilty to violations of 18 U.S.C. §§ 2, 371, 922(b)(2), and 922(g)(3). In July 1995, the subject was sentenced to 5 months' incarceration along with 3 years' supervised release. The judge imposed the upper range of the sentencing guidelines stating that the significant danger posed to the community by the subject's illegal firearm trafficking violations warranted the higher sentence.

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In December 1993, ATF became an active participant in a DEA-sponsored OCDETF investigation focusing on a large narcotics network operating in the Gary, Indiana, area. As this investigation culminated, 75 individuals were indicted on Federal charges of narcotics distribution, conspiracy, firearms violations, extortion, and money laundering. Two Chicago, Illinois, police officers, an attorney, and a real estate broker were among those indicted.

It was established that this organization and members of the conspiracy were responsible for distributing in excess of 1,000 kilograms of cocaine during the last several years. Also, several homicides in Gary, Indiana, are purported to have been committed by members of this organization. Five individuals were indicted for Federal firearms violations, and over 25 firearms were recovered. Those indicted include the following career criminals:



On May 19, 1994, an armed subject was arrested pursuant to this OCDETF investigation. The subject, who is a multikilogram cocaine trafficker, has previous felony convictions for Federal firearms and narcotics trafficking violations. Since 1982, the subject has been in and out of correctional institutions both at the Federal and State level. The subject admitted to supplying over 500 kilograms of cocaine in northwest Indiana. On October 24, 1994, the subject was sentenced to 10 years of Federal incarceration after pleading guilty to one count of 18 U.S.C. § 922(g), felon in possession of a firearm, and one count of 21 U.S.C. § 841, narcotics trafficking.

On May 25, 1995, a second individual was arrested pursuant to this OCDETF investigation. Subsequently, a Federal search warrant was executed at his apartment at which time a pistol was recovered. An ATF investigation was then conducted due to the subject's ongoing illicit activities. The individual, a former enforcer for the now defunct "Family" street gang, has previous Federal felony convictions for narcotics trafficking and assault of a Federal agent. In conjunction with both convictions, the individual was sentenced to 23 years' incarceration in 1975. In addition, the individual has an arrest record dating back to the early 1960s. On December 20, 1995, the individual was sentenced to 50 months of incarceration after pleading guilty to one count of 18 U.S.C. § 922(g), felon in possession of a firearm.

### CLEVELAND FIELD DIVISION

Between May and October 1994, a defendant, who is a convicted felon, utilized a codefendant, a self-proclaimed exotic dancer, to straw purchase 43 handguns from an FFL. The

defendant took orders for the firearms from drug dealers and gang members and obtained prepayment for the weapons, usually 50-100 percent more than the retail value.

On November 1, 1994, the defendant and codefendant purchased 14 handguns from the aforementioned FFL. During the transaction, the defendant selected the firearms and paid for them, and the codefendant completed the required paperwork. This transaction was witnessed by an undercover ATF agent. After exiting the FFL's premises, the two individuals were stopped by an ATF surveillance team, and 15 firearms and a quantity of ammunition were seized.

On July 9, 1995, the codefendant was sentenced to 24 months' imprisonment and 3 years of supervised release for violation of 18 U.S.C. § 922(a)(1)(A). On December 8, 1995, the defendant was sentenced to 97 months' imprisonment for the same violation.

### DALLAS FIELD DIVISION

In August 1995, a pawnshop in Lewisville, Texas, was entered by force. During the burglary, a total of 47 firearms and 100 blank checks were stolen. By investigating the cashed stolen checks, a subject was identified and arrested on a State arrest warrant for the burglary. During questioning, the subject admitted to burglarizing a pawnshop in Dallas in the spring of 1995 in which 75 firearms and jewelry were stolen. The defendant, who was out on bond, continued his criminal activities.

On October 6, 1995, the defendant was arrested by ATF on a criminal complaint. At that time, the defendant admitted to burglarizing two stores and stealing 119 firearms. The defen-



dant stated that he sold all of his stolen merchandise to two unidentified Mexican males who transported the firearms to Laredo, Texas, and Mexico. Subsequently, as the result of an earlier guilty plea to violation of 18 U.S.C. § 922(g)(1), the defendant was sentenced to 210

of MAC's parts, plans, and design. In addition, the suspect had the capability to manufacture his own parts.

During the search, 5 MAC 10 fired 244 Title I firearms, large quantities of Title I and II firearms components, full auto sears, and 111 disconnected were recovered.

The suspect was arrested, and in March 1995, he pled guilty to violations of 18 U.S.C. and 26 U.S.C. On September 22, 1995, the suspect was sentenced to 24 months' imprisonment and 30 months of supervised release.

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months' incarceration as the result of sentencing enhancement under 18 U.S.C. § 924(e).

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In October 1995, after a 1-year investigation, five members of an interstate firearms trafficking organization pled guilty to Federal charges of conspiracy to traffic firearms from Dallas, Texas to St. Louis, Missouri. These individuals were straw purchasing firearms from an FFL in Grand Prairie, Texas.

On January 11, 1995, information was received from the Washington Field Division that a suspect, who was the owner of a firearms manufacturing facility, was unlawfully manufacturing and distributing Title I and II firearms. These firearms were being sent, via UPS, from Dallas, Texas; to Virginia. On January 18, a Federal search

warrant was executed at the facility. Upon entry, agents discovered that this was a very large-scale manufacturing facility for "MAC" type firearms, both Title I and II. This manufacturing facility contained a full machine shop, a complete assembly area for firearms, offices, and a shipping area.



During the investigation, it was learned that the suspect had at one time been a subcontractor for the Military

Armament Corporation (MAC). When MAC discontinued business, MAC owed the suspect a substantial sum of money. In lieu of this money, the suspect acquired a huge quantity

of MAC's parts, plans, and design. In addition, the suspect had the capability to manufacture his own parts. During the search, 5 MAC 10 fired 244 Title I firearms, large quantities of Title I and II firearms components, full auto sears, and 111 disconnected were recovered. The suspect was arrested, and in March 1995, he pled guilty to violations of 18 U.S.C. and 26 U.S.C. On September 22, 1995, the suspect was sentenced to 24 months' imprisonment and 30 months of supervised release. In October 1995, after a 1-year investigation, five members of an interstate firearms trafficking organization pled guilty to Federal charges of conspiracy to traffic firearms from Dallas, Texas to St. Louis, Missouri. These individuals were straw purchasing firearms from an FFL in Grand Prairie, Texas. By using information from multiple sales forms, personnel from the NTC and Regulatory Enforcement determined that from September through November 1993, three subjects illegally purchased 71 weapons from a Dallas FFL and transported them to St. Louis to be resold to criminals. Of these firearms, 24 were recovered after being used in various violent crimes. Also, the firearms were used in street gang activity, armed narcotics transactions, and assaults on police officers.

On three separate occasions in 1994, an undercover ATF agent and a CI straw purchased firearms from two clerks who worked for the aforementioned FFL. Charges were filed for the illegal transfer of an additional 19 firearms. All of these transactions were videotaped. One of the subjects involved was under indictment for attempted murder, and one was under

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The five subjects were sentenced from 3 years' probation to 2 years' imprisonment for violations to include conspiracy of illegally purchased firearms and possession of firearms while under indictment.

This investigation was conducted in conjunction with ATF's Criminal Enforcement and Regulatory Enforcement efforts. In addition, one of ATF's newest investigative tools—Project LEAD—was utilized.

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On December 12, 1995, as the result of an OCDEF investigation, a subject who was the kingpin of a gang was sentenced to life imprisonment without parole. Additionally, 17 other members of this gang were sentenced to a total of 1,608 months of imprisonment.

In 1987, the kingpin and his associates began their armed drug trafficking enterprise. By 1994, the gang had emerged as a major drug trafficking organization, controlling a large portion of the crack cocaine market in Fort Worth, Texas. The gang became so successful that it began to use small businesses to launder the money being received from its extensive drug trafficking trade.

The gang was involved in numerous crimes—burglary, aggravated assault, and attempted murder. Also, the gang was involved in a violent gang war in which one of its own gang members was shot 17 times by a rival Crips gang member in retaliation for a previous shooting allegedly committed by members of their gang. The injured member survived the attack and continued to distribute narcotics until ATF and the Fort Worth Police Department arrested him while he was armed and in possession of 1 kilogram of crack cocaine.

During this investigation, 20 Federal and 5 State search warrants were executed; agents and officers recovered 47 firearms, 1.5 kilograms of crack cocaine, and 18 vehicles.

## DETROIT

### Field Division

In September 1993, ATF and the Wayne County Sheriff's Department executed a search warrant at the location of a major narcotics distribution organization. As a result of the search, six firearms, 767 grams of crack cocaine, 200 grams of cocaine hydrochloride, 20 grams of heroin, 150 grams of marijuana, and \$11,000 in U.S. currency were recovered. All of the narcotics in the residence were packaged for distribution. On January 3, 1995, one of the three defendants was sentenced to 300 months' incarceration and 10 years' supervised release for violations of 18 U.S.C. § 924(c) and 21 U.S.C. § 841(a)(1).

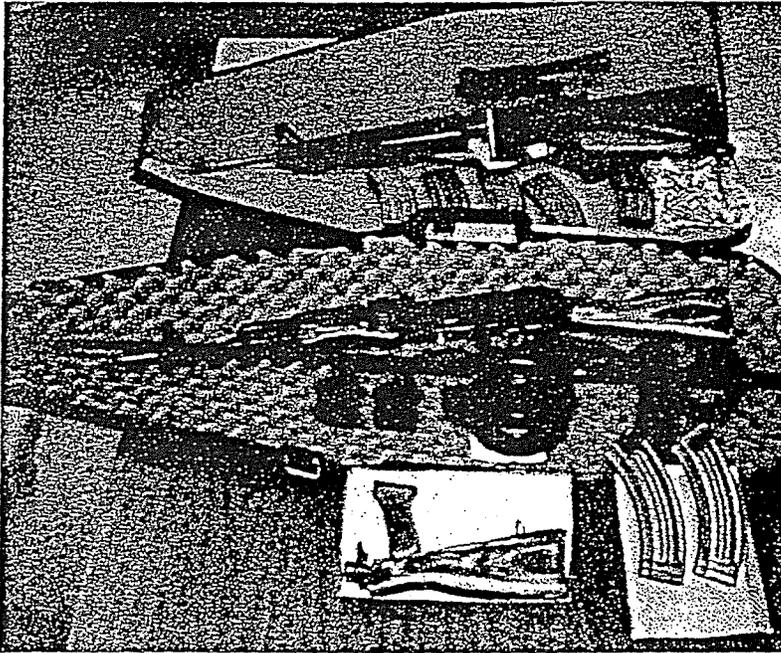
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On September 22, 1995, a defendant, who was a member of the Best Friends gang, pled guilty to violations of 21 U.S.C. § 848(e) and 18 U.S.C. § 924(c). The Best Friends gang was Detroit's most violent large-scale narcotics distribution organization. Many of the members of this organization are convicted felons and used firearms to protect and facilitate their drug trafficking enterprise. The defendant was sentenced to life imprisonment for violation of 21 U.S.C. § 848(e).

## HOUSTON

### Field Division

Between late 1992 and August 1993, four subjects unlawfully conspired to and did possess and transfer more than 20 machineguns with obliterated



serial numbers. In addition, this investigation implicated an FFL who sold more than 3,000 firearms without maintaining any of the required paperwork.

Undercover ATF special agents purchased four firearms with obliterated serial numbers, which had been converted to fire fully automatic, from the subjects. Prior to these purchases, an ATF CI received a total of three machineguns and a stolen vehicle from the subjects, one of whom admitted that the aforementioned FFL converted the firearms.

ATF forwarded the firearms to the Bureau's laboratory in an effort to raise the serial numbers. Hence, two of the firearms were able to be traced to a local FFL. ATF's Office of Regulatory Enforcement conducted an inspection at the FFL's business. During the inspection, the FFL advised that his firearms disposition books had been stolen. The FFL produced records that revealed from March 1993 to August 1994, he had only received and sold 42 firearms. Subsequent to the inspection, the FFL surrendered his license.

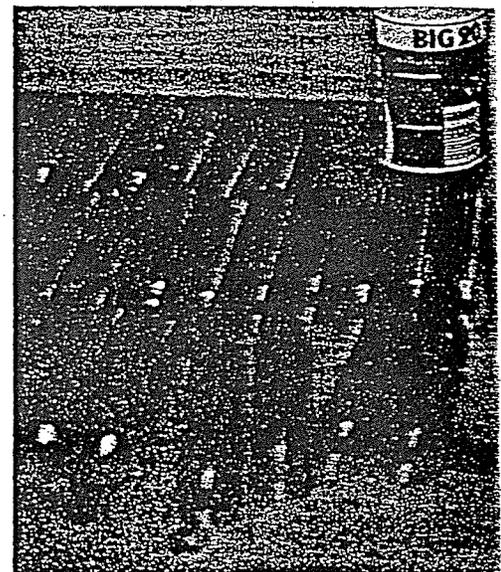
In complying with a grand jury subpoena, a wholesaler provided copies of all its invoices that reflected firearms sales to the FFL. From March 1993 to August 1994, the FFL purchased over 1,900 firearms.

The subjects were indicted and convicted for violations of 18 U.S.C. §§ 371 and 1001. The defendants received sentences ranging from 18 months to 2 years.

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The Groves, Texas, Police Department and ATF initiated an investigation in the potential illegal activities of a married couple who both were FFLs. A CI, who is a convicted felon, made contact with the couple regarding the purchase of a shotgun. The CI purchased the firearm from the couple at their residence which was utilized as their business address. The CI subsequently informed the couple that she was a felon and prohibited from obtaining a firearm. Both FFLs told the CI that she did not have to complete any paperwork regarding the firearm transaction, and they also informed her how to utilize an individual to strap purchase firearms for her in the future.

The CI later negotiated with the couple for pistols, informing them they were



to be utilized by her cocaine supplier in Houston. The CI met the FFLs at a parking lot to purchase the firearms. Following the transaction, the CI positively identified the FFLs, and the CI relayed that the female FFL knew that it was illegal for her to do business in a parking lot because she was a firearms dealer. Additionally, the FFL said she had illegal firearms available for sale and that she needed to get rid of them and that presently some of them were buried on her property. Subsequently, the CI contacted the FFLs and stated that she would be interested in obtaining the firearms.

ATF and other law enforcement agencies executed a Federal search warrant and two arrest warrants at the FFLs' residence. Prior to the execution of the warrant, the CI arrived at the FFLs' residence to purchase three pistols, two TEC-9 magazines, one Mossberg shotgun, one Street Sweeper, and 1,000 rounds of 9mm ammunition. The warrant was executed without incident. Both FFLs were armed with derringers at the time of their arrest. Additionally, both FFLs were indicted for violation of 26 U.S.C. § 5861 and 18 U.S.C. § 922(d)(1). Both were convicted and sentenced to serve 51 months in prison.

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In October 1994, ATF received information from a confidential source that a police officer in Laredo, Texas, was trafficking machineguns and handgrenades. As a result, ATF, DEA, U.S. Customs Service, and Immigration Naturalization Service initiated an investigation. An undercover ATF special agent disclosed that the suspect was a captain in the Webb County Sheriff's Department (Laredo, Texas) and commander of the department's SWAT Team. Additionally, the officer had been under investigation by DEA for 2 years. During the

investigation, undercover ATF agents purchased converted machineguns and a grenade from the suspect. The suspect also offered to transport cocaine through U.S. Border Patrol checkpoints for \$1,250 per kilogram. Subsequent to the delivery of additional machineguns, the suspect was arrested as he departed from an undercover meeting with 6 kilograms of cocaine. Through surveillance, an FFL and a resident alien were also identified as coconspirators. ATF executed search warrants subsequent to the officer's arrest, resulting in the seizure of 20 additional grenades. The subjects pled guilty, and in June 1995, they were sentenced from 18 to 111 months' imprisonment for violations of the 18 U.S.C. §§ 2 and 371 and 21 U.S.C. §§ 5861 and 5871.

## KANSAS CITY

### Field Division

In July 1994, the Jasper County Sheriff and members of the Joplin Police Department executed a State search warrant for machineguns and a silencer at the residence of a white supremacist. The subject, who was on parole for murder, had threatened to kill Jews and blow up a synagogue. The subject of the investigation had recently been released from prison after serving 15 years' imprisonment of a life sentence imposed in 1979 for a second-degree murder conviction that stemmed from a shooting outside of a local tavern. The defendant fatally shot an individual during a dispute triggered by a racist slur shouted at the deceased by the defendant's girlfriend.

After entry was made into the residence, items that appeared to be used to make bombs were discovered, and the search was halted. Additionally, investigators located white supremacist group membership cards, literature, and correspondence at the

subject's residence. ATF was notified that a CI who requested anonymity had told an investigator from the Jasper County, Missouri, Sheriff's Department that the subject, a felon, was in possession of various rifles, both semiautomatic and automatic, and a pistol containing a silencer.

The search was suspended, and the suspect was taken into custody so that ATF and DEA could respond to the scene. DEA determined that the subject was in possession of a suspected methamphetamine laboratory. ATF assisted in identifying and field testing the firearms found at the scene. The recovered firearms included an unregistered silencer and a pen gun.

The subject was sentenced to serve 70 months' imprisonment for violations of the Federal narcotics laws and 130 months' imprisonment for violation of 18 U.S.C. §§ 924(c)(1) and 922(o)(1).

## LOS ANGELES

### Field Division

In May 1993, ATF, in conjunction with the Los Angeles Police Department (LAPD), initiated the investigation of an FFL. During this time, the LAPD informed ATF that over the past 5 years information had been received from several concerned citizens that the aforementioned FFL in Harbor City, California, had been illegally selling firearms, including obliterating the serial numbers, for several years. These firearms were sold to gang members and convicted felons.

During the past 5 years, the FFL was responsible for selling approximately 300 to 500 firearms. Approximately half of these guns were not documented, as required by law. Various police departments have recovered several of these firearms during violent

crimes. In addition, over the past 5 years, police departments have continually arrested gang members in possession of firearms with obliterated serial numbers. Therefore, the total number of firearms illegally sold by the licensee may total in the thousands.

As a result of this investigation, three defendants have been charged with violations of the Federal firearms law. In addition, a Federal search warrant was obtained and executed at the premises of the FFL.

As a result, on July 7, 1995, two subjects were indicted and charged with violations of 18 U.S.C., §§ 922(b)(5), 922(m) and 1001. As the result of their earlier guilty pleas, the subjects were sentenced to 5 months' incarceration and 3 years of supervised release for the aforementioned charges.

Additionally, during June 1992, a convicted felon sold 10 semiautomatic assault rifles to an undercover agent. ATF conducted a firearms trace of the weapons, and all 10 firearms were traced back to the aforementioned FFL. As a result, the convicted felon pled guilty and was sentenced to 3 years' imprisonment.

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From October through December 1994, ATF special agents conducted an investigation into the theft and sale of stolen firearms from Lorcin Engineering, which is one of the largest manufacturers of handguns in the United States. During the investigation, CIs and undercover ATF agents purchased 84 Lorcin handguns from several individuals, including two employees of Lorcin Engineering. The firearms had been stolen directly from Lorcin Engineering in Mira Loma, California.

On December 15, 1994, the investigation culminated with the execution of three Federal search warrants and four Federal arrest warrants. Two employees of Lorcin were arrested, and both subjects confessed to stealing more than 2,000 handguns from Lorcin Engineering, which were later sold on the streets.

On the same date, a consent search was conducted at Lorcin Engineering in an effort to establish the total number of guns stolen and the method used to steal the guns. During the 3-day search, ATF special agents and inspectors determined that over 13,500 handguns were missing from Lorcin Engineering's inventory. During the search, a review of the acquisition and disposition (A&D) books revealed less than 10 firearms listed as missing or stolen.

To date, over 250 firearms that have been confirmed as stolen from the manufacturer have been recovered by local, State, and Federal law enforcement agencies. These recoveries have been made in over 30 cities in 15 States throughout the United States. The stolen firearms have been recovered in crimes, including attempted murder, murder, kidnaping, and armed robberies.

In 1995, four subjects, including the two employees of Lorcin Engineering, pled guilty to violations of the Federal firearms laws, including stealing firearms from a Federal firearms manufacturer. So far, three of the subjects have been sentenced from 24 to 60 months' imprisonment; a fourth subject awaits sentencing.

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In March 1994, an investigation was initiated as the result of information obtained from Project LEAD; the NTC completed firearms traces on two Hungarian-made FEG 9mm pistols,

which were recovered during separate incidents. The first was recovered in Laguna Beach from 10 teenagers who have ties with a Cambodian gang. The second firearm recovery occurred subsequent to a gang member in Santa Ana leading local police on a foot pursuit. The subject turned and attempted to fire on pursuing police with the firearm. The gang member was subsequently shot and killed.

Both firearms were traced to an FFL in Whittier, California. The guns were part of the same shipment from a firearms wholesaler in Florida. The firearms had been shipped to the FFL approximately 1 year prior to their recovery.

ATF contacted the FFL and questioned him regarding the sale of the two firearms. The FFL stated that he had only sold 10 guns in the past year. A week later, the FFL called ATF and reported that he had lost all his records 6 months earlier when day laborers threw them out with grass clippings.

As a result of the investigation, ATF determined that the FFL had illegally sold over 1,700 firearms over a 4-year period. The FFL and a codefendant operated booths at a local swap meet. During the swap meet, where they sold knives, gun accessories, stun guns, and pepper spray, the FFL took firearms orders from various subjects. ATF identified two subjects from Santa Ana and Long Beach. Both subjects obtained firearms from the FFL without completing paperwork or complying with required purchase waiting periods. These two subjects consequently returned to their respective cities and sold the firearms to individuals involved in criminal activity, local gang members, and juveniles. The subjects received and sold in excess of 200 firearms over an 18-month period.

In April 1995, the subjects were arrested. The FFL confessed to his involvement in the scheme and implicated one of the firearms purchasers. The FFL did not implicate his coconspirator in any wrongdoing. The second firearms purchaser was utilized as a Government witness. The FFL relayed information that firearms purchaser number one had provided him identification to make the firearms purchases. Additionally, the FFL kept records of most of his transactions with the subject. The FFL turned over several ATF F 4473s and related paperwork that had been completed by firearms purchaser number one. These forms were in the name of another subject. Further investigation ascertained that the subject had utilized someone else's California driver's license when buying the guns from the FFL. Additionally, ATF was able to prove that the subject had signed the forms in the other subject's name.

The FFL admitted that he did not apply any firearms purchasing waiting period and that he did not maintain proper paperwork. Additionally, the FFL insisted that the firearms purchaser had told him that the firearms were going to be smuggled to Cambodia, so the FFL had no reservations about selling the firearms illegally.

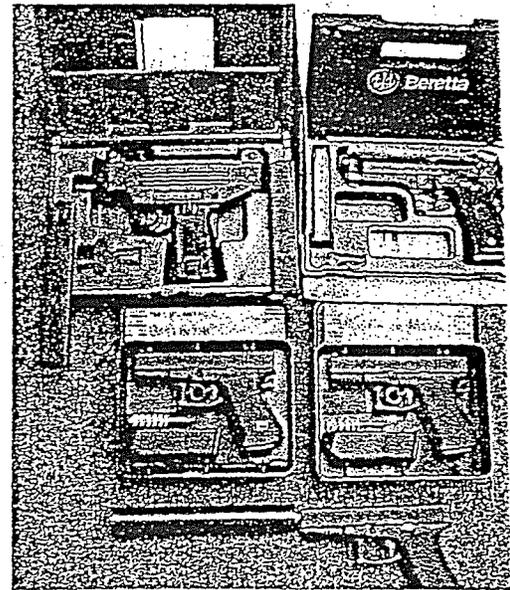
On May 24, 1995, one subject pled guilty to violations of 18 U.S.C. §§ 922(b)(2) and 2. He was sentenced to serve 18 months' incarceration and 3 years' probation.

On September 5, 1995, the subject was found guilty of 18 U.S.C. §§ 922(a)(1) and 924(a)(1)(A). He was sentenced to 27 months' incarceration and 3 years of probation.

Charges against the third defendant were dismissed after the FFL pled guilty, and her involvement and culpability were found to be minimal.

## LOUISVILLE Field Division

An investigation resulted in the indictment and arrests of members of a gang that was responsible for a large portion of the crack cocaine base distributed in Beckley, West Virginia. Also, the gang members are alleged responsible for several unsolved shootings and at least one homicide. During this joint ATF/West Virginia State Police investigation, undercover purchases of cocaine were made by ATF agents and CIs. The investigation culminated during a sting operation in which undercover ATF agents sold five assault pistols and a silencer in exchange for \$1,200 cash and 19.72 grams of crack cocaine base. Numerous arrest warrants and State search warrants were executed, resulting in the Federal indictment of 36 individuals.



In October and November 1995, the members of the gang pled guilty to violations of the Federal narcotics laws. Subsequently, the subjects were sentenced from 10 to 35 years' imprisonment.

During the summer of 1994, ATF and other law enforcement agencies initiated an investigation into the unlawful armed narcotics trafficking activities of a subject. On August 3, 1994, during the course of this investigation, the subject was arrested by the Beaver Dam, Kentucky, Police Department for driving under the influence. A search of his vehicle resulted in the seizure of 36 one-quarter gram packets of methamphetamine, assorted packets of marijuana, two rifles, two handguns, and over 200 rounds of ammunition. As a result, the subject was indicted and pled guilty to 11 counts of a 14-count Federal indictment, including violations of 18 U.S.C. § 924(c) and 21 U.S.C. § 841(a)(1). The subject was sentenced to 132 months' incarceration.

## MIAMI Field Division

As a result of an investigation, it was determined that an FFL was not maintaining his firearms records, as required by law. During a 4-year period, the FFL sold over 460 firearms while conducting only 46 background checks, as required by Florida State law. In addition, the FFL knowingly falsified paperwork and condoned straw purchases on the background checks he ran. The FFL sold firearms

to prohibited individuals, e.g., a felon from Puerto Rico who had been convicted of the murder of a police officer, attempted murder of a police officer, and numerous other offenses. On September 8, 1995, the FFL was sentenced to 15 months' imprisonment for violation of 18 U.S.C. § 924(a)(1)(A).

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In 1990, while in State prison, a subject began to formulate a plan to obtain \$1 million by kidnaping a person of prominence. In August 1992, he decided on a particular family as his target; specifically, he decided to kidnap the daughter of the former owner of the Tampa Bay Buccaneers football team.

In early 1994, the subject assumed another person's identity. During the next several months, the subject obtained a Glock 9mm semiautomatic pistol from an FFL in Louisiana, and he conducted at least 50 penetrations/surveillances of the family's property. The subject obtained police clothing, badges, blue lights, handcuffs, pepper spray, camouflaged clothing, and other related items.

On July 21, 1994, the subject planned to kidnap the daughter when she pulled into the driveway of the house, but there was a change in her habits, so he was not able to execute his plan.

During the next few months, the subject traveled overseas several times looking for a place to hide out and spend the rest of his life in the "lap of luxury." The subject financed his trips overseas by stealing trucks, changing the VIN, and reselling them. The subject would strip the trucks and pawn



the parts to several shops in Tampa, Florida.

On January 3, 1995, the subject was arrested while attempting to redeem his 9mm Glock from a pawnshop. The subject consented to a search of his residence, and officers uncovered the evidence that documented his plan to kidnap the aforementioned daughter.

On September 11, 1995, Johnson pled guilty to violation of 18 U.S.C. §§ 922(g)(1), 922(a)(6), and 1951(a). On December 14, 1995, the subject was sentenced to a total of 57 years' imprisonment, as a result of sentencing enhancement under 18 U.S.C. § 924(e) for violations of the Federal firearms laws and the Hobbs Act:

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An investigation targeted an organization responsible for committing multiple armed robberies of narcotics in south Florida and surrounding areas. During the investigation, numerous undercover contacts were made with members of the organization, culminating in the successful identification of a narcotics and firearms conspiracy. At the time of their arrests, the subjects were in the process of preparing for an armed robbery for narcotics. ATF arrested these individuals in possession of four loaded firearms, police T-shirts, clubs, and stolen vehicles.

On December 1 and 8, 1995, numerous members of the organization were sentenced from 60 months to life imprisonment for violations of the Federal firearms and narcotics laws.

## NASHVILLE

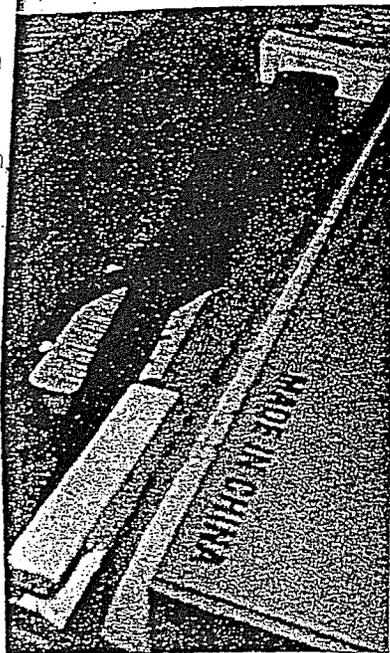
### Field Division

In late 1994, during a joint ATF/Johnson City Police Bureau investiga-

tion concerning the illegal trafficking of firearms, it was determined that a FFL was illegally supplying large numbers of handguns to Jamaican drug dealers. During the investigation evidence was obtained that the FFL was selling handguns without completing the required paperwork to a group of unlicensed firearms dealers and falsifying or omitting the required records to cover up the illegal sales. Each of these individuals was buying an average of 30-70 handguns per week and then illegally selling them in east Tennessee, North Carolina, and Virginia. Local and State police agencies in Tennessee, Virginia, Maryland, Florida, Michigan, New York, and North Carolina have recovered handguns that have been used in murders, suicides, armed robberies, aggravated assaults, and narcotics trafficking that originated from the nephew and the below-mentioned aunt.

On September 29, 1994, the FFL (nephew) died suddenly of natural causes, and on October 17, 1994, the FFL's aunt, who resided at the same address, obtained her Federal firearm license and continued to conspire with and illegally sell handguns to the group of unlicensed firearms dealers.

As with the first-mentioned FFL, an undercover investigation obtained evidence that substantial illegal firearms trafficking was being conducted by the aunt and her associates. On February 15, 1995, ATF executed a Federal search warrant at the aunt's residence/business. Through ATF's investigation, it was determined that the illegal firearms conspiracy lasted from January 1, 1994, until February 15, 1995. During this timeframe, the nephew and aunt purchased approximately 5,240 new firearms that were illegally diverted. The vast majority of these firearms were inexpensive small caliber handguns with a wholesale price range of \$40-\$80.



Three subjects were charged with conspiring with the nephew and aunt to engage in the business of dealing in firearms without a license. Also, the three subjects and two additional subjects were charged with dealing in firearms without a license.

The indictments allege that while the aforementioned subjects did not hold licenses to deal in firearms, the nephew and aunt did hold such licenses and used their licenses to obtain handguns from wholesalers. They then sold the firearms to the subjects and other individuals without keeping the required firearms records.

The aunt was sentenced to 9 months' home detention for failing to keep proper firearms records, and an employee, who worked for the aunt, received 12 months' home detention.

## NEW ORLEANS

### Field Division

In the summer of 1994, the U.S. Virgin Islands (USVI) Territorial Police recovered a 9mm pistol from a motel room. (Firearms may not be possessed in USVI without a permit issued by the Territorial Police.) ATF traced the gun to Louisiana and interviewed the purchaser, a retired State game warden. ATF identified the purchaser as being involved in the multiple sale of four handguns in 1993. The purchaser said he bought the gun for his daughter who needed it for protection as she traveled frequently from her home in St. Croix, USVI, to Louisiana. Upon being questioned about the other three handguns, the purchaser abruptly halted the questioning. A few days later, the retired game warden's

daughter contacted ATF regarding the recovered gun.

The ensuing investigation concluded that beginning in 1992, 17 firearms were purchased in Louisiana, Texas, and New Mexico and transported to USVI for resale. An individual, who was involved in the scheme with another friend in 1987, provided the game warden's daughter with money and instructions on which guns to purchase, how to avoid detection, and how to conceal the guns in her luggage when she returned to St. Croix. The individual directed the game warden's daughter to use friends or relatives to complete the firearms transaction forms to elude detection should the guns be discovered by police. The game warden's daughter used her father, her daughter, and her nephew to make multiple purchases, never revealing to them that the guns would be resold for triple their value in St. Croix. Each family member contended they were just helping a loved one and were unaware that other relatives were performing the same task. In a final attempt to avoid arrest, the two subjects mailed three separate packages of guns from St. Croix to Louisiana, New Mexico, and Oklahoma. All three were intercepted by authorities in Puerto Rico.

The two subjects were indicted in USVI. Both pled guilty to a Federal firearms conspiracy charge and a territorial machinegun violation. The male individual was given a 1-year sentence and fined \$5,000; the game warden's daughter received 6 months' imprisonment and fined \$5,000.

## NEW YORK

### Field Division

In August 1995, a Newark, New Jersey, man, who was a former United Parcel Service (UPS) employee, was

arrested by ATF for illegally trafficking 300 firearms that were stolen from UPS. The firearms, shipped from Smith & Wesson in Springfield, Massachusetts, to various dealers throughout the United States, via UPS, were relabeled at the UPS facility in Parsippany by the subject and re-routed to several drop points in New Jersey. Approximately, 60 of these firearms were recovered by local law enforcement agencies after being used in violent crimes. The data regarding these specific firearms was provided to Project LISA to determine any potential trafficking patterns, which in turn led to the UPS connection.

In October 1995, the subject was found guilty and was subsequently sentenced to 51 months' imprisonment for violation of 18 U.S.C. §§ 922(j) and 371.

## PHILADELPHIA

### Field Division

On June 30, 1994, two employees of an FFL located in Baldwin Borough, a suburb of Pittsburgh, Pennsylvania, were shot during an armed robbery of the store. One employee was killed and another wounded in the incident.



ATF's assistance in the investigation was requested by the Baldwin Borough Police Department and the Allegheny County Police Homicide Bureau. An inventory of the FFL's business was conducted by ATF agents and an ATF inspector, and a list of the missing/stolen firearms was

developed. It was determined that mostly Colt .380 caliber pistols without magazines were stolen in the robbery.

ATF agents contacted numerous local FFLs in the area and asked that they monitor anyone purchasing magazines to fit a Colt .380 caliber pistol. A cooperating FFL identified an individual who purchased two Colt .380 caliber magazines. In addition, the cooperating FFL disclosed that the individual had recently purchased two Lorcin .380 caliber pistols. Investigators determined that the two victims had been shot with a .380 caliber handgun.

Over the following months, numerous handguns with obliterated serial numbers were recovered from individuals residing in a public housing development. ATF agents were able to identify the serial numbers and determine that the firearms had been stolen in the armed robbery. Through interviews of witnesses and cooperation from defendants, ATF agents were able to link the stolen firearms to the individual.

On November 21, 1994, an ATF CI, who was an associate of the individual, made a recorded telephone call to him. During the telephone call, the individual was told that police officials had recovered fingerprints from the robbery/homicide at the FFL's business. The individual responded he had been wearing gloves at the time. Subsequently, the individual was arrested and charged for the murder of the FFL employee.

On December 8, 1994, an ATF CI turned over to an ATF agent a Lorcin .380 caliber pistol with an obliterated serial number. The CI had obtained the firearm from a close associate of the individual who frequented the housing development. A ballistics test

conducted by the Allegheny County Crime Laboratory revealed the firearm had been used to kill the FFL's employee and wound the second employee. The serial number was subsequently restored and revealed that the firearm had been purchased by the individual approximately 2 weeks prior to the robbery and shooting incident.

Subsequently, the individual was found guilty of first-degree murder by a jury in the Allegheny County Court of Common Pleas, Pittsburgh, Pennsylvania. He was sentenced to death by lethal injection.

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In July 1994, a subject entered the residence of a former girlfriend in Hancock County, West Virginia, and stole a revolver. The subject then hid and waited near the residence until his former girlfriend returned in the early morning hours. At that time, the subject abducted and kidnaped the former girlfriend and her companion at gun point. The subject then carjacked the vehicle that the former girlfriend and companion were in, and he forced the companion to drive the vehicle away from the residence. A short time later, the companion was released, unharmed. The armed subject was apprehended 2 days later in Preston County, West Virginia.

This was a joint ATF/West Virginia State Police Violations/Trafficking Task Force and FBI investigation. The subject, who has a prior felony conviction for sexual assault in West Virginia, was sentenced on August 21, 1995, to 168 months for carjacking, 108 months for violation of 18 U.S.C. § 922(g) (concurrent), and 60 months' imprisonment for 18 U.S.C. § 924(c) (consecutive).

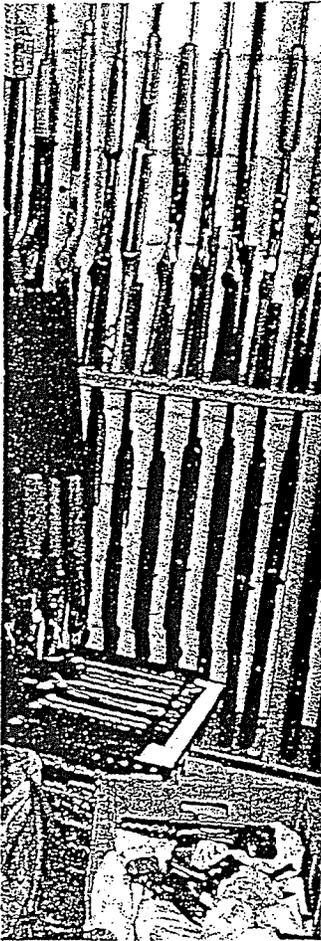
## PHOENIX Field Division

From May 1993 through January 1994, at least 15 individuals engaged in a conspiracy to traffic firearms from Phoenix, Arizona, to Los Angeles, California. The leaders of this organization were from the country of Belize and resided in the Los Angeles area. The individuals would drive to Phoenix from Los Angeles and locate straw purchasers who would be paid either in cash or narcotics. The individuals usually purchased between 30 and 50 firearms on each occasion. In the end, approximately 500 handguns were purchased. The individuals sold the firearms in California for approximately three times the amount paid for the weapons in Arizona.



On December 26, 1993, a cooperating defendant advised that a large quantity of firearms was going to be purchased. On that date, the individuals were surveilled as they went to two FFLs and purchased 76 firearms. As a result, these firearms were seized by ATF, and the three defendants were arrested.

The majority of those arrested had prior arrests and/or convictions. From 1994 through December 1995, 10 defendants pled guilty to violations of conspiracy, dealing in firearms without a license, and making false statements



in the acquisition of firearms. An additional defendant was convicted by a jury trial on the above-mentioned violations. Sentences ranged from 51 months of incarceration to probation. Four of the defendants cooperated with the Government and testified in the Federal trial.

ATF seized 102 of the firearms and several hundred rounds of ammunition in Arizona; additionally, 100 of these firearms have been recovered in the Los Angeles area by law enforcement agencies in gang-related homicides, drive-by shootings, narcotics activity, and armed robberies in the Los Angeles area.

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On October 30, 1994, two subjects took a Taos, New Mexico, family hostage. The two ransacked the home and terrorized the family, beating the father and sexually assaulting the mother. The men then kidnaped the father and stole a vehicle belonging to the company owned by the father. The men drove to the father's business, a popular restaurant, where they committed an armed robbery. An employee called 911, and police were on the scene when the robbers exited. One of the subjects, who fired a shot at a Taos police officer, was subsequently struck in the shoulder by a police officer. The subject was captured a short time later. This individual was then arrested by ATF and subsequently indicted for being a felon in possession of a firearm, possession of a stolen firearm, carjacking, use of a firearm during a carjacking, extortion/robbery from commerce, and use of a firearm during an extortion/robbery (a subsequent 18 U.S.C. § 924(c) violation). On August 16, 1995, in Federal court, the subject was subsequently sentenced to 25 years' imprisonment for violation of two counts of 18 U.S.C. § 924(c); 27 years' imprisonment as an armed

career criminal; 10 years for possessing a stolen firearm; and 4 concurrent life sentences for conspiracy, carjacking, interstate robbery, and the "three strikes and you're out" enhancement.

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Between March 1993 and September 1994, a Dutch citizen made a total of eight trips to the United States for the purpose of buying firearms to ship to The Netherlands for resale. All of the shipments were sent via UPS. Actual addresses on the shipments indicated fictitious names. While in the United States, the Dutch citizen instructed his cousin and his cousin's wife how to obliterate the serial numbers and how to properly package the shipments. Each shipment contained no more than two firearms. Approximately 90 firearms were shipped from the United States to The Netherlands by the above individuals. The Dutch citizen later resold the firearms in The Netherlands for approximately three to four times their original cost. None of the shipments were intercepted by law enforcement.

In June 1994, an Interpol request for the trace of a firearm recovered in Rotterdam, The Netherlands, was received by the Phoenix Field Division. In July 1994, as a result of the Interpol request, a Federal search warrant was executed at the cousin's residence in Phoenix, Arizona. The cousin subsequently assisted ATF by obtaining recorded conversations with the Dutch citizen.

In October 1994, the Dutch citizen was arrested by ATF in Salt Lake City, Utah. As a result of his cooperation, The Netherlands authorities have executed eight search warrants and made several arrests for illegal firearms violations. The Dutch citizen also stated that he converted approximately six firearms into fully automatic machineguns.

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All three defendants pled guilty to various violations of the Federal firearms laws, and they were sentenced from 48 months' probation to 18 months' imprisonment.

### SAN FRANCISCO Field Division

On May 25, 1995, ATF special agents executed a Federal search warrant at the residence of a convicted felon. Agents recovered six machineguns, a pistol with a silencer and an obliterated serial number, 10,000 rounds of ammunition, and components to manufacture handgrenades.

The subject's prior conviction was the result of an ATF investigation during which the subject manufactured and sold NFA weapons to undercover ATF agents. After this felony conviction, the subject amassed a quantity of weapons and was heavily involved in financial and real estate transactions, involving millions of dollars.

In September 1995, the subject pled guilty to a nine-count indictment charging violations of the Federal firearms laws,

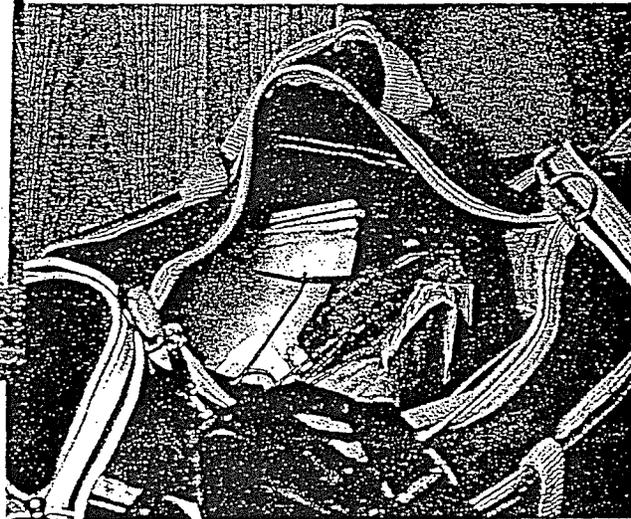
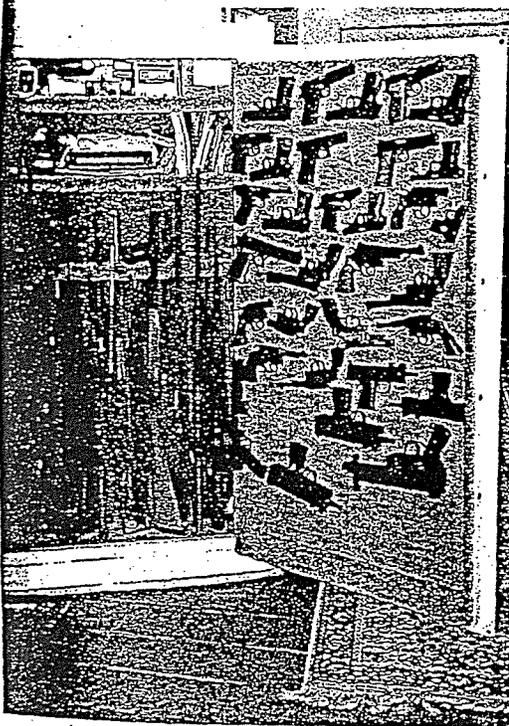
including being a felon in possession of firearms. Hence, the subject was sentenced to 4 years' imprisonment.

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In March 1994, the Las Vegas, Nevada, Metro Police Department (LVMPD) responded to a shots-being-fired call. LVMPD officers responding to the scene observed two men at the rear of the suspect residence. Officers approached the subjects and observed that both men were armed. While officers attempted to arrest the individuals, one subject moved toward a MAC 90 assault rifle that was on the roof of a vehicle. A struggle ensued, and both men were subsequently taken into custody. Officers observed two open duffle bags, and numerous handgrenades appeared to be in the bags. The subjects stated they were members of the American Patriots, a militia group. Additionally, they stated that war had been declared against the police.

The LVMPD requested ATF's assistance, and the subjects were arrested and charged with possession of an unregistered firearm. A Federal search warrant was obtained for the residence where the subjects were arrested. As a result, ATF special agents and LVMPD officers recovered 50 handgrenades, 4 pipebombs, 1 box

of explosives device components, 1 box of hollow grenades and fuse assemblies, silencer components, 5 handguns, 1 rifle with silencer, 1 SKS assault rifle, 2 MAC-90s, several thousand rounds of ammunition, books, publications regarding con-



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verting firearms and manufacturing silencers and bombmaking, and marijuana.

Subject one was convicted and sentenced to serve 57 months' incarceration for violation of 26 U.S.C. § 5861(d) and 18 U.S.C. § 2. Subject two was convicted and sentenced to serve 57 months' incarceration for violation of 26 U.S.C. § 5861(d).

## ST. LOUIS

### Field Division

In August 1994, a subject, listed in the Bureau's Violent Offender Program, while armed with an Uzi 9mm assault weapon, ambushed and shot a St. Louis City police officer. On June 26, 1995, the subject pled guilty to violations of 18 U.S.C. § 922(g). Subsequently, on September 22, 1995, the subject was sentenced to 180 months' imprisonment and fined \$1,900. The defendant was to be tried in State court for convictions of assault of a law enforcement officer and armed criminal action.

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On July 10, 1995, ATF, DEA, and the St. Louis, Missouri, City and County Police Departments culminated a 14-



month joint narcotics and firearms investigation with the arrests of 21 subjects, including a drug kingpin, and the execution of 19 Federal search warrants. During the execution of the warrants, \$100,000 in U.S. currency, 50 firearms, 15 vehicles, and four residences were seized. The warrants are the result of ATF's Operation S.N.A.G. (Save Neighborhoods Against Gangs). During this investigation, ATF targeted four gangs that were aligned with the Los Angeles-based Crips and Bloods. These gangs were being supplied crack cocaine and heroin by the kingpin, who is a former FBI informant. ATF and DEA focused on the kingpin's narcotics organization, and in two instances, as a result of surveillance, agents seized \$300,000 in U.S. currency, two vehicles, 124 kilos of cocaine, and 3 kilos of heroin. Also, ATF has linked several illegal firearms traffickers to the gangs. During this investigation, undercover ATF agents made substantial purchases of crack cocaine and heroin from gang members, and agents have been able to link the illegal drug traffic in St. Louis to Cali, Colombia. Agents and officers executed 53 Federal warrants and 4 State search warrants; 31 subjects were arrested, including an FFL.

On December 8, 1995, two defendants were sentenced to 27 and 25 years' imprisonment. The defendants supplied cocaine to the Wells Street Mobster Bloods and the Bounty Hunter Bloods.

Subsequently, a defendant, who is the leader of the organization, and several of his associates pled guilty to conspiring to distribute cocaine and heroin in the St. Louis metropolitan area. Additionally, 55 firearms, 179 kilograms of cocaine, 252 grams of cocaine base, 103 ounces of heroin, 15 vehicles, 5 televisions, \$4,207,094 in U.S. currency, IRA certificates, computers, and boats were seized

during this investigation. During Operation S.N.A.G., 743.86 grams of cocaine, 16 grams of heroin, and 361 grams of marijuana were purchased by undercover agents.

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Between February 1993 and March 9, 1995, a subject purchased firearms for the purpose of reselling them for profit. When purchasing the firearms, the subject falsified ATF F 4473. During February 1995, the subject sold six firearms, four with obliterated serial numbers, to undercover deputy U.S. marshals. Additionally, the subject sold a firearm to a convicted felon in March 1995.

In March 1995, ATF's Regulatory Enforcement office completed an examination of the records of 11 FFLs in the St. Louis, Missouri, area, and it was determined that at least 69 firearms transactions were completed by the subject.

On August 18, 1995, the subject pled guilty to violations of 18 U.S.C. § 922(a)(1)(A) and was subsequently sentenced to 57 months' imprisonment and 2 years' supervised release.

## SEATTLE Field Division

In February 1993, a subject was arrested in Klamath Falls, Oregon, in which firearms were stolen. During ATF's investigation, the subject carjacked a vehicle which was occupied by two teenagers. The subject used a stolen firearm to kidnap the teenagers and steal their vehicle. The male teenager was murdered, and the female was raped, beaten, and left for dead. On August 2, 1995, the subject was found guilty of carjacking and being a felon in possession of a firearm.

ATF forensic analysis was the key in matching ammunition casings recovered at the scene of the carjacking to the stolen firearm. The subject was sentenced to life incarceration plus 5 years.

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In May 1992, ATF inspectors conducted an inspection of an FFL's business. The inspection indicated that the FFL did not have any firearms in his inventory at the time. In addition, he did not have any submissions in his A&D books, and the FFL stated that he had only sold three firearms during the previous year and that he possessed a Federal firearms license primarily to obtain firearms for himself and his family. IRS CID relayed to ATF that the FFL had transferred large amounts of money (\$70,000 to \$80,000) to firearms wholesalers. Subsequently, in August 1993, a Federal search warrant was executed at the FFL's residence. During the execution of the warrant, the FFL confessed to selling approximately 1,400 firearms at gun shows in Oregon without completing the required paperwork. The FFL had also failed to comply with the required 5-day waiting period and records check prior to the delivery of a handgun. On November 14, 1995, the FFL pled guilty to selling firearms without recording the identity of the purchasers and sale of firearms in violation of State law. As a result, he was sentenced to 18 months' incarceration, 3 years of supervised release, and fined \$100.

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Between the months of April and September 1994, a series of home invasion robberies occurred in the Portland, Oregon, area. These home robberies were violent in nature and received a great deal of local media attention. The robbers would first steal a car to use in the robbery and

then three or four robbers would randomly select a house and wait for the occupants to return home. Once the occupants of the residence were home, the robbers would go to the front door and knock. When someone opened the door, the robbers would force their way inside and bind the occupants using duct tape. Everyone was bound with the tape, including small children. While this was going on, the robbers would threaten the victims with firearms, including a sawed-off shotgun.

In one instance, a robber stood on the back of a female victim, who had just arrived home from the hospital with her newborn baby, as she lay face down. The robber put a sawed-off shotgun to the back of her head and told her that she would never see her newborn baby again because she was going to die. In all robberies, there were threats of violence and death made by the robbers. Through investigation by ATF and numerous State and local law enforcement agencies, 13 individuals were identified as suspects, including the leader, in these robberies.

Several armed members of this group committed a jewelry store robbery in June 1994, resulting in a shootout with one of the owners of the jewelry store; hence, one of the robbers was shot in the shoulder. They also used an explosive device to blow up the getaway vehicle in an attempt to distract local law enforcement officials.

On September 19, 1994, ATF agents arrested the leader of this group subsequent to his attempt to flee from local law enforcement, via a high-speed car chase. In September 1994, seven subjects, including the leader, were indicted for violations of the Hobbs Act, using a firearm during the commission of a crime of violence, felon in possession of a firearm, and

conspiracy. Three of the subjects, including the leader, qualified for enhanced sentencing as armed career criminals.

On October 10, 1995, the leader was sentenced to a total of 300 months' imprisonment to be followed by 5 years of supervised release stemming from the first trial conviction. The leader was later sentenced to a total of 387 months' imprisonment, followed by 5 years of supervised release as a result of the second trial convictions.

Charges against two of the subjects were dismissed, and the remaining subjects were found guilty of the aforementioned charges, and they were sentenced from 120 to 420 months' incarceration.

## ST. PAUL Field Division

In October 1994, the Minneapolis Police Department contacted ATF and requested the Bureau's assistance after arresting a subject, who was entered in ATF's Violent Offender Program, while in possession of a TEC-9 pistol. The subject was apprehended by officers from the Minneapolis, Minnesota, Police Department after he held 11 people at gun point and assaulted several of them physically. The violent offender, who was the leader of the Vice Lords street gang, was disgruntled because someone had stolen parts from his vehicle. The violent offender was implicated in 1992 in planning the murder of a Minneapolis police officer who was later shot in the back and killed while sitting in a restaurant.

The subject was indicted for violations of 18 U.S.C. §§ 922(g)(1) and 924(c), and on June 15, 1995, he was sentenced to serve 322 months' incarceration.

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On February 14, 1995, a Federal Grand Jury in Milwaukee, Wisconsin, returned a 17-count indictment charging an FFL and two convicted felons with violations of the Federal firearms laws. Specifically, the felons were charged with being convicted felons in possession of firearms, and the FFL was charged with failing, as an FFL, to record the names, ages, and addresses of persons to whom he delivered firearms.

Between October 1994 and January 19, 1995, the convicted felons conspired with the FFL to sell them 27 firearms and falsify the firearms transaction records. Subsequently, on January 19, 1995, the felons were arrested upon exiting the FFL's business/residence after ordering and paying for six semiautomatic pistols and two revolvers. A consent search of the FFL's business/residence resulted in the recovery of false firearms records. Later, the FFL admitted falsifying required firearms forms. In addition, evidence was recovered that indicates the convicted felons are affiliated with the Black Gangster Disciple street gang.

One of the convicted felons was sentenced to 30 months' imprisonment, and the second felon was sentenced to 161 months' incarceration, as a result of enhanced sentencing under 18 U.S.C. § 924(e).

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In December 1994, ATF initiated an investigation that targeted a subject who was a former ATF defendant convicted of Federal firearms violations in Milwaukee and a three-time convicted felon. The subject of the investigation was a 49-year-old janitor employed in the public school system.

An ATF CI relayed that the subject

was involved in selling cocaine and attempting to acquire firearms. As a result, the ATF CI purchased 1 ounce of cocaine from the subject. After several recorded meetings between the subject and the CI, a meeting was planned to trade cocaine for firearms.

The ATF CI and an undercover ATF agent met at a local motel, and the 11 prop firearms, including several machineguns with attached silencers, were displayed. The subject and the CI left the motel to retrieve the cocaine from the school where the subject was employed. Subsequent to the subject exchanging 3 ounces of cocaine for four pistols and a machinegun with a silencer, the subject was arrested for violations of the Federal firearms and narcotics laws. A search of the subject's locker at the school yielded two firearms. Additionally, cocaine and narcotics trafficking paraphernalia were also recovered from a hidden location.

On September 5, 1995, the subject was sentenced to 111 months' imprisonment for violation of 18 U.S.C. § 924(c):

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On September 5 and 6, 1995, three defendants were sentenced in U.S. District Court, Bismarck, North Dakota, from 9 months at a halfway house to 210 and 372 months' imprisonment for violations of the Federal narcotics and firearms laws. The sentences are the result of the defendants burglarizing an FFL and stealing 60 firearms. These firearms were then transported to Colorado and Minnesota where they were exchanged for cocaine.

## WASHINGTON Field Division

The 640 Crew is a violent cocaine and heroin trafficking organization operating in the Park/Morton area of Washington, DC. For years, this crew seized an entire neighborhood through firearms-related violence and intimidation in furtherance of narcotics trafficking activities. Crew members committed dozens of murders, rapes, robberies, and acts of violence against witnesses and others who would threaten their network.

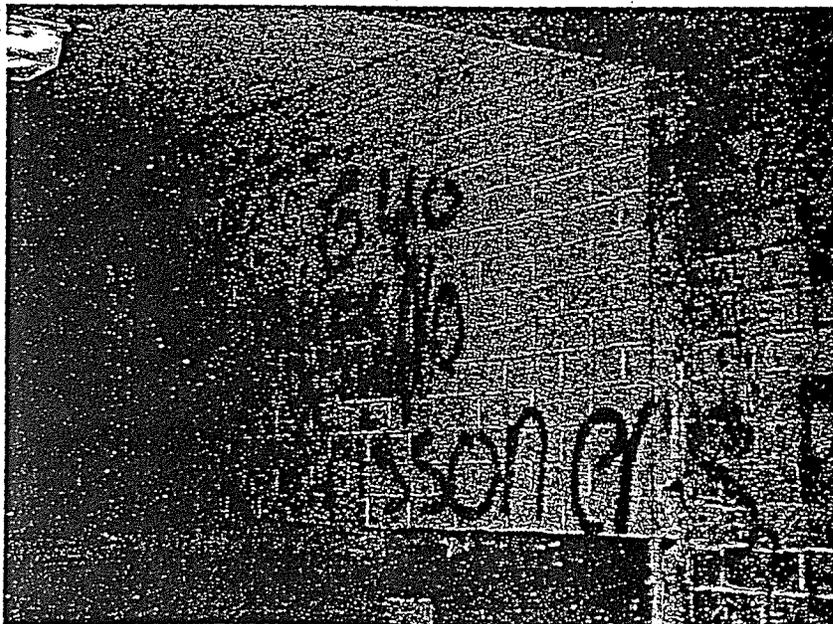
At the request of the U.S. attorney's office, a 14-month investigation was initiated that targeted 640 Crew members in an effort to stem the firearms-related violence and disrupt the narcotics trafficking. Agents obtained the assistance of an individual in a public housing unit in the 640 "territory." In addition, an ATF CI made contact with investigative targets and eventually introduced an undercover ATF agent to the neighborhood. As a result, the agent was able to penetrate the organization to levels that were never reached by other law enforcement efforts.

On July 8, 1994, after the successful completion of over 20 undercover transactions, the undercover agent encountered a "rogue" crew member who attempted to rob and murder the agent during a narcotics transaction inside the undercover apartment. The agent, confronted with a stolen Sig Sauer 9mm semiautomatic pistol pointed at his head, valiantly defended himself. Although wounded from the suspect's gunfire and bleeding, the agent was able to take cover, return fire, and direct the responding cover team to the armed suspect's location within the apartment.

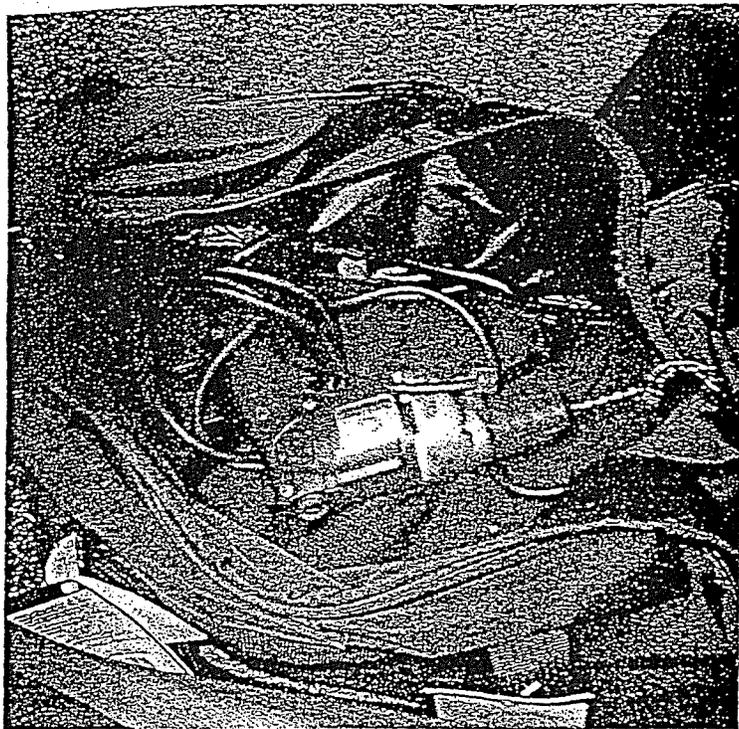
On January 20, 1995, after a 7-day trial, the subject was found guilty of 10 counts of a 12-count indictment, including violations of the Federal firearms laws and assault on a Federal officer. On September 19, 1995, the subject was sentenced to 270 months' imprisonment for the shooting.

Additionally, numerous other defendants have either pled guilty or are awaiting trial for numerous Federal firearms and narcotics crimes, as well as other murders, rapes, assaults, and witness intimidation.

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As the result of a joint ATF/Virginia State Police investigation, evidence was found against a subject who used his Federal firearms license to acquire over 620 firearms from four wholesalers in the States of North Carolina, New York, Pennsylvania, and Ohio from January 1994 through April 1995. The subject subsequently used other individuals, including convicted felons, to unlawfully distribute these firearms to the criminal element in Richmond, Virginia, and New York, New York. The subject did not keep Federal or State records of these firearms transactions. In addition, he or his associates would obliterate the



serial numbers on the firearms with a drill prior to the unlawful distribution.

On April 12, 1995, the subject and a coconspirator were arrested by ATF in Richmond, following the purchase of two Glock 9mm pistols by the coconspirator from the subject for \$1,000. The subject was found to be in the possession of five additional Glock 9mm pistols, an electric drill, and \$1,200. A subsequent Federal search warrant served at the subject's residence resulted in the seizure of three additional Glock 9mm pistols and approximately \$3,000.

On August 28, 1995, the subject and the coconspirator were sentenced for violations of unlawfully conspiring to distribute over 600 firearms with obliterated serial numbers. The subject was sentenced to 10 years' incarceration for distributing firearms to prohibited individuals and 5 years on the conspiracy count. The coconspirator was sentenced to 3 years for possessing firearms as a convicted

felon. This sentence is to run consecutively with the 11-year sentence he is currently serving for narcotics-related convictions.

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On February 28, 1992, a subject who was accompanied by four other males straw purchased five firearms from an FFL in Woodbridge, Virginia. Unbeknownst to the subject, two ATF agents were in the store and witnessed the transaction. The subject and three other males were later stopped and questioned when they returned to pick up the guns. The subject then gave a full confession to straw purchasing the firearms for five individuals he knew to be narcotics dealers. On September 22, 1995, he pled guilty to one count of violating 18 U.S.C. § 924(a)(1)(A), making false statements to an FFL, and was sentenced to 8 months' incarceration.

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On June 8, 1994, a subject straw purchased a firearm for another individual from an FFL in Danville, Virginia. Approximately 2 hours later, the individual and others (not to include the straw purchaser) robbed a grocery store. The manager of the grocery store was subsequently murdered with the above-mentioned firearm.

On June 12, 1994, the firearm was recovered from a juvenile in Washington, DC, by the U.S. Park Police pursuant to an investigation of an assault with a deadly weapon. ATF's NTC then conducted a trace that disclosed the acquisition of the firearm by the straw purchaser on June 8. A Project LEAD referral was sent to ATF's Roanoke Field Office for a followup investigation into possible illegal firearms trafficking violations.

On October 13, 1994, an ATF agent interviewed the straw purchaser regarding the acquisition of the firearm. He stated that he sold the firearm to an individual whose last name was unknown to him. The straw purchaser stated that he was aware of the recovery of the firearm by law enforcement because the FFL told him about the gun trace.

On January 3, 1995, the same ATF agent was involved in an unrelated investigation regarding the seizure of several firearms during a narcotics search warrant. This agent, working in conjunction with a Pittsylvania County, Virginia, Sheriff's Department investigator, learned that the straw purchaser had called the sheriff's office and claimed to be the owner of two of the handguns recovered during the search warrant.

On January 12, 1995, the agent and the investigator interviewed the straw purchaser regarding the firearms recovered from the search warrant. During the course of the interview, the straw purchaser was again questioned about the firearm he purchased on June 8, 1994. He then admitted straw purchasing the firearm for the individual who was involved in the grocery store robbery/murder. He further stated his belief that this individual was currently incarcerated in Danville.

On January 13, 1995, the agent contacted the Danville Police Department and inquired as to the status of the individual. A Danville Police Department investigator related that the individual was incarcerated on a robbery charge and that he was a suspect in the grocery store robbery and murder. The investigator further stated that they received information that the individual and others had traveled to Washington, DC, the weekend after June 8, 1994, and sold the murder weapon on the streets. The

agent advised the investigator of the straw purchase made for the individual on June 8, 1994. The agent also learned that at the time of the straw purchase, the individual was a juvenile.

On this same date, the agent contacted the U.S. Park Police and requested the status of the firearm that had been acquired by the straw purchaser. Arrangements were made to retrieve the firearm for ballistic comparison. On January 19, 1995, the Integrated Ballistics Identification System (IBIS), as part of the Bureau's CEASEFIRE Program, was utilized to conduct a comparison of a test fire of the firearm and the shell casings and projectile recovered at the robbery/murder scene. That comparison indicated a very high probability of a relationship between the suspect firearm and the recovered ballistics evidence. An ATF firearms examiner, using an electron microscope, then determined that a match existed between the firearm acquired by the straw purchaser and the shell casings and projectile from the murder/robbery crime scene.

The individual subsequently pled guilty to first-degree murder in State court and was sentenced to life imprisonment. Two additional codefendants were also prosecuted in State court on these charges.

The straw purchaser was arrested by ATF with the assistance of the Danville Police Department and the Pittsylvania County Sheriff's Department in Danville for alleged violations of 18 U.S.C. § 922(a)(6), false statements in relation to acquisition of a firearm from an FFL. He is currently on pre-trial release.

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# ATF Directory

## Headquarters



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Associate Director, Enforcement  
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Bureau of Alcohol, Tobacco and Firearms  
Deputy Associate Director  
Criminal Enforcement (Programs)  
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Washington, DC 20226  
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Bureau of Alcohol, Tobacco and Firearms  
Chief, Firearms Enforcement Division  
650 Massachusetts Avenue, NW.  
Room 7400  
Washington, DC 20226  
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# ATF Directory

## Field Divisions

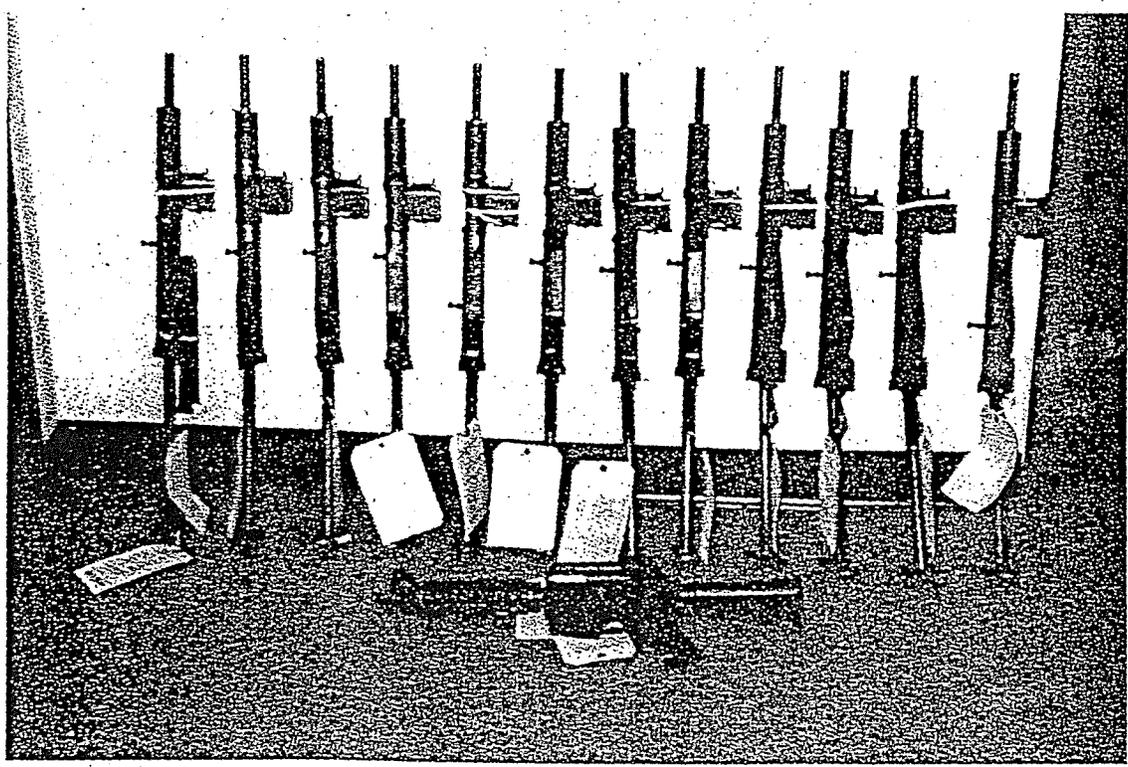
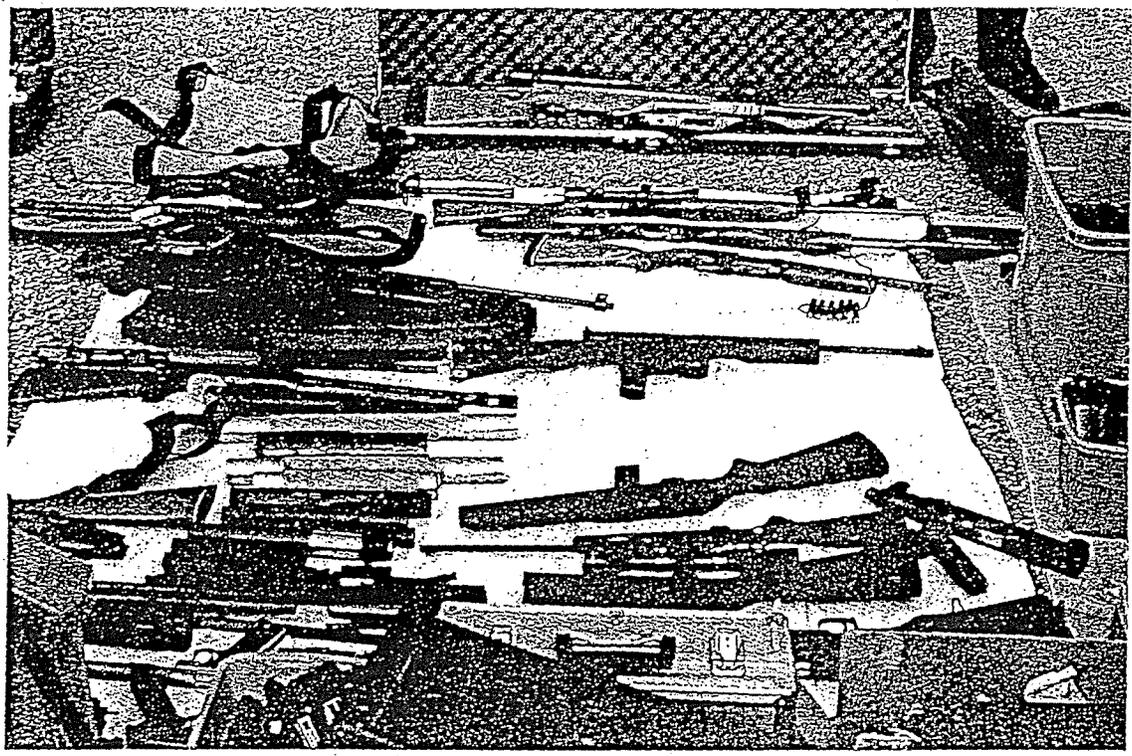
All addresses given below should be preceded by:  
Special Agent in Charge  
Bureau of Alcohol, Tobacco and Firearms

State	Address	State	Address
Alabama	1910 Third Avenue Suite 400 Birmingham, AL 35203 (205) 731-1205	Colorado	2600 Grand Avenue Suite 200 Kansas City, MO 64108-4600 (816) 421-3440
Alaska	915 Second Avenue, Room 806 Jackson Federal Building Seattle, WA 98174-1001 (206) 220-6440	Connecticut	Boston Federal Office Building 10 Causeway Street, Room 701 Boston, MA 02222-1047 (617) 565-7042
Arizona	3003 North Central Avenue Suite 1010 Phoenix, AZ 85012-2902 (602) 640-2840	Delaware	22 South Howard Street 6th Floor Baltimore, MD 21201-2505 (410) 962-0897
Arkansas Counties of Mississippi and Crittenden	Nashville Koger Center 215 Centerview Drive Suite 215-A Brentwood, TN 37027-5546 (615) 781-5364	District of Columbia	607 14th Street, NW. Suite 620 Washington, DC 20005-2000 (202) 219-7751
All other counties	Hermitage Plaza 111 Veterans Boulevard Suite 1050 Metairie, LA 70005-0001 (504) 589-2350	Florida	8420 NW 52nd Street Suite 120 Miami, FL 33166-5310 (305) 597-4800
California Southern	World Trade Center 350 South Figueroa Street Room 800 Los Angeles, CA 90071-1102 (213) 894-4812	Georgia	101 Marietta Street, NW., # 406 Atlanta, GA 30303-2711 (404) 331-6526
Northern and Central	221 Main Street, Suite 1250 San Francisco, CA 94105-1906 (415) 744-7001	Guam	Jackson Federal Building 915 Second Avenue, Room 806 Seattle, WA 98174 (206) 220-6440
		Hawaii	Jackson Federal Building 915 Second Avenue, Room 806 Seattle, WA 98174-1001 (206) 220-6440

State	Address	State	Address
Idaho	Jackson Federal Building 915 Second Avenue, Room 806 Seattle, WA 98174-1001 (206) 220-6440	Maine	Boston Federal Office Building 10 Causeway Street, Room 701 Boston, MA 02222-1047 (617) 565-7042
Illinois Northern and Central	300 South Riverside Plaza Suite 350 South Chicago, IL 60606-6616 (312) 353-6935	Maryland	22 South Howard Street 6th Floor Baltimore, MD 21201-2505 (410) 962-0897
Southern	100 South 4th Street Suite 550 St. Louis, MO 63102-1800 (314) 425-5560	Massachusetts	Boston Federal Office Building 10 Causeway Street, Room 701 Boston, MA 02222-1047 (617) 565-7042
Indiana Northwest counties	300 South Riverside Plaza Suite 350 South Chicago, IL 60606-6616 (312) 353-6935	Michigan	1155 Brewery Park Boulevard Suite 300 Detroit, MI 48207-2602 (313) 393-6019
All other counties	600 Martin Luther King, Jr., Place Room 322 Louisville, KY 40202-2285 (502) 582-5211	Minnesota	2600 Grand Avenue Room 200 Kansas City, MO 64108-4600 (816) 421-3440
Iowa	2600 Grand Avenue Suite 200 Kansas City, MO 64108-4600 (816) 421-3440	Mississippi	1910 Third Avenue Suite 400 Birmingham, AL 35203 (205) 731-1205
Kansas	2600 Grand Avenue Suite 200 Kansas City, MO 64108-4600 (816) 421-3440	Missouri Eastern	100 South 4th Street Suite 550 St. Louis, MO 63102-1800 (314) 425-5560
Kentucky	600 Martin Luther King, Jr., Place Room 322 Louisville, KY 40202-2285 (502) 582-5211	Western	2600 Grand Avenue Suite 200 Kansas City, MO 64108-4600 (816) 421-3440
Louisiana	Hermitage Plaza 111 Veterans Boulevard Suite 1050 Metairie, LA 70005-0001 (504) 589-2350	Montana	915 Second Avenue, Room 806 Seattle, WA 98174-1001 (206) 220-6440
		Nebraska	2600 Grand Avenue Suite 200 Kansas City, MO 64108-4600 (816) 421-3440

State	Address	State	Address
Nevada	221 Main Street, Suite 1250 San Francisco, CA 94105-1906 (415) 744-7001	Oklahoma	1200 Main Tower Building Suite 2550 Dallas, TX 75202-0906 (214) 767-2250
New Hampshire	Boston Federal Office Building 10 Causeway Street, Room 701 Boston, MA 02222-1047 (617) 565-7042	Oregon	Jackson Federal Building 915 Second Avenue, Room 806 Seattle, WA 98174-1001 (206) 220-6440
New Jersey Northern	90 Church Street Room 1016 New York, NY 10007-2919 (212) 264-4658	Pennsylvania	U.S. Custom House, Room 607 2nd and Chestnut Streets Philadelphia, PA 19106-2989 (215) 597-7266
Southern	U.S. Custom House Room 607 2nd and Chestnut Streets Philadelphia, PA 19106-2989 (215) 597-7266	Puerto Rico	8420 NW. 52nd Street Suite 120 Miami, FL 33166 (305) 597-4800
New Mexico Northern and Southern	3003 North Central Avenue Suite 1010 Phoenix, AZ 85012-2902 (602) 640-2840	Rhode Island	Boston Federal Office Building 10 Causeway Street, Room 701 Boston, MA 02222-1047 (617) 565-7042
Southern	15355 Vantage Parkway West Suite 210 Houston, TX 77032-1965 (713) 449-2073	South Carolina	4530 Park Road Suite 400 Charlotte, NC 28209-3716 (704) 344-6125
New York	90 Church Street Room 1016 New York, NY 10007-2919 (212) 264-4658	South Dakota	2600 Grand Avenue Room 200 Kansas City, 64108-4600 (816) 421-3440
North Carolina	4530 Park Road Suite 400 Charlotte, NC 28209-3716 (704) 344-6125	Tennessee	Nashville Koger Center 215 Centerview Drive Suite 215-A Brentwood, TN 37027-5246 (615) 781-5364
North Dakota	2600 Grand Avenue Room 200 Kansas City, MO 64108-4600 (816) 421-3440	Texas Northern	1200 Main Tower Building Suite 2550 Dallas, TX 75202-0906 (214) 767-2250
Ohio	600 Martin Luther King, Jr., Place Room 322 Louisville, KY 40202-2285 (502) 582-5211		

State	Address	State	Address
Texas Southern	15355 Vantage Parkway West Suite 210 Houston, TX 77032-1965 (713) 449-2073	Washington	Jackson Federal Building 915 Second Avenue, Room 806 Seattle, WA 98174-1001 (206) 220-6440
Utah	221 Main Street, Suite 1250 San Francisco, CA 94015-1906 (415) 744-7001	West Virginia Northwest Panhandle area	U.S. Custom House, Room 607 2nd and Chestnut Streets Philadelphia, PA 19106-2989 (215) 597-7266
Vermont	Boston Federal Office Building 10 Causeway Street, Room 701 Boston, MA 02222-1047 (617) 565-7042	All other counties	600 Martin Luther King, Jr. Place Room 322 Louisville, KY 40202-2285 (502) 582-5211
Virginia	607 14th Street, NW. Suite 620 Washington, DC 20005-2000 (202) 219-7751	Wisconsin	300 South Riverside Plaza Suite 350 South Chicago, IL 60606 (312) 353-6935
Virgin Islands	8420 NW. 52nd Street Suite 120 Miami, FL 33166 (305) 597-4800	Wyoming	Jackson Federal Building Second Avenue, Room 806 Seattle, WA 98174-1001 (206) 220-6440



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# List of Statutes Enforced

## 18 U.S.C. Chapter 44

<i>Section 922(a)(1)</i>	Dealing in Firearms without a License
<i>Section 922(a)(2)</i>	Interstate Shipment of Firearms/FFL to Non-FFL
<i>Section 922(a)(3)</i>	Interstate Receipt of Firearms
<i>Section 922(a)(4)</i>	Interstate Transport of an NFA Firearm
<i>Section 922(a)(5)</i>	Interstate Transfer of a Firearm
<i>Section 922(a)(6)</i>	Providing False or Fictitious Information when Buying Firearms
<i>Section 922(a)(7)</i>	Armor Piercing Ammunition - Manufacture or Import by Non-FFL
<i>Section 922(a)(8)</i>	Armor Piercing Ammunition - Manufacture or Import by FFL
<i>Section 922(a)(9)</i>	Alien (Nonresident) Receiving Firearm
<i>Section 922(b)(1)</i>	FFL Selling a Gun to an Underage Person
<i>Section 922(b)(2)</i>	FFL Selling a Gun in Violation of Local Laws
<i>Section 922(b)(3)</i>	FFL Selling a Gun to a Nonresident
<i>Section 922(b)(4)</i>	FFL Selling an NFA Firearm Unlawfully
<i>Section 922(b)(5)</i>	FFL Failing to Keep Required Records
<i>Section 922(d)(1)</i>	Selling/Giving a Firearm to an Indicted Person
<i>Section 922(d)(2)</i>	Selling/Giving a Firearm to a Fugitive
<i>Section 922(d)(3)</i>	Selling/Giving a Firearm to a Drug User
<i>Section 922(d)(4)</i>	Selling/Giving a Firearm to an Adjudged Mental Defective or to a Person Who Has Been Committed to a Mental Institution
<i>Section 922(d)(5)</i>	Selling/Giving a Firearm to an Illegal Alien
<i>Section 922(d)(6)</i>	Selling/Giving a Firearm to One Who is Dishonorably Discharged From Military
<i>Section 922(d)(7)</i>	Selling/Giving a Firearm to One Who Has Renounced Citizenship

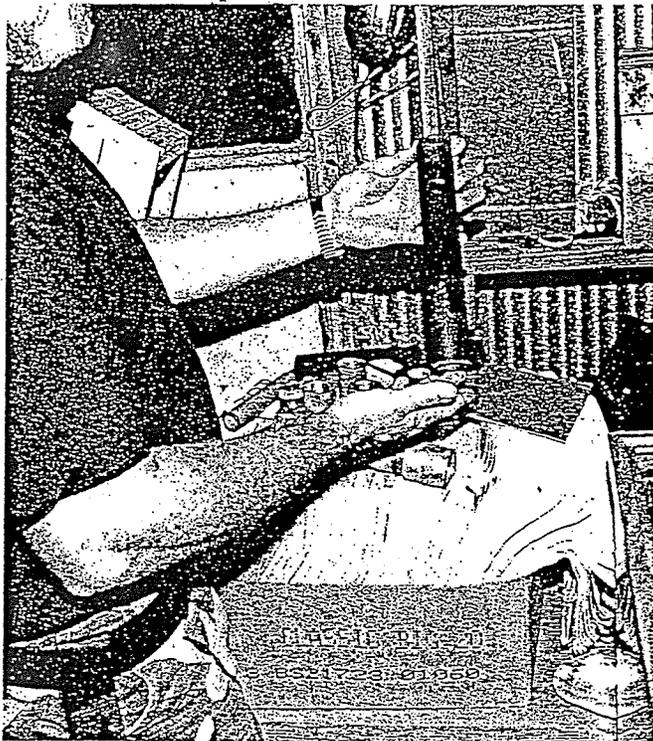
<i>Section 922(d)(8)</i>	Selling/Giving a Firearm to One Who is Under a Restraining Order
<i>Section 922(e)</i>	Failing to Notify a Common Carrier of a Firearm Shipped or Carried
<i>Section 922(f)(1)</i>	Common Carrier Transporting/Delivering a Firearm in Violation of the Law
<i>Section 922(f)(2)</i>	Common Carrier Delivering a Firearm Without a Written Receipt
<i>Section 922(g)(1)</i>	Possession of a Firearm/Ammunition by a Convicted Felon
<i>Section 922(g)(2)</i>	Possession of a Firearm/Ammunition by a Fugitive
<i>Section 922(g)(3)</i>	Possession of a Firearm/Ammunition by a Drug User
<i>Section 922(g)(4)</i>	Possession of a Firearm/Ammunition by an Adjudged Mental Defective or by a Person Who Has Been Committed to a Mental Institution
<i>Section 922(g)(5)</i>	Possession of a Firearm/Ammunition by an Illegal Alien
<i>Section 922(g)(6)</i>	Possession of a Firearm/Ammunition by One Who Has Been Dishonorably Discharged
<i>Section 922(g)(7)</i>	Possession of a Firearm/Ammunition by One Who Has Renounced Citizenship
<i>Section 922(g)(8)</i>	Possession of a Firearm by a Person Subject To a Restraining Order
<i>Section 922(h)</i>	Possession of a Firearm by a Bodyguard/Employee of a Prohibited Person
<i>Section 922(i)</i>	Interstate Transportation or Shipment of Stolen Firearms
<i>Section 922(j)</i>	Possession of a Stolen Firearm
<i>Section 922(k)</i>	Receiving/Shipping/Transporting a Firearm with Obliterated Serial Numbers
<i>Section 922(l)</i>	Unlawful Importation or Possession of Unlawfully Imported Firearm
<i>Section 922(m)</i>	FFL Omitting or Falsifying Required Information
<i>Section 922(n)</i>	Prohibits Indicted Person From Receiving/Shipping/Transporting Firearm
<i>Section 922(o)(1)</i>	Possessing or Transferring a Machinegun Unlawfully
<i>Section 922(p)</i>	Possessing, Transferring, or Manufacturing an Undetectable Firearm
<i>Section 922(q)</i>	Unlawful Possessing/Shooting of a Firearm in a School Zone

<i>Section 922(r)</i>	Assembly of a Nonimportable Firearm from Parts
<i>Section 922(s)</i>	FFL Selling a Handgun Without "Brady" Background Check and Documents
<i>Section 922(u)</i>	Theft of a Firearm From FFL's Inventory
<i>Section 922(v)</i>	Making, Transferring or Possessing "Ungrandfathered" Assault Weapons
<i>Section 922(w)</i>	Possessing/Transferring "Ungrandfathered" Large Capacity Magazines
<i>Section 922(x)(1)</i>	Unlawfully Selling a Handgun or Handgun Ammunition to a Juvenile
<i>Section 922(x)(2)</i>	Unlawful Possession of a Handgun or Handgun Ammunition by a Juvenile
<i>Section 2</i>	Principals in a Federal Offense
<i>Section 34</i>	Death Penalty Provisions
<i>Section 36</i>	Drive-by Shooting/Shooting into Group of Two or More
<i>Section 111</i>	Assault on a Federal Agent
<i>Section 115(a)(1)</i>	Threatening/Injuring the Family of a Federal Agent
<i>Section 241</i>	Conspiracy to Violate Civil Rights
<i>Section 371</i>	Conspiracy to Commit a Federal Crime
<i>Section 372</i>	Conspiracy to Impede/Injure an Agent
<i>Section 373</i>	Solicitation to Commit a Crime of Violence
<i>Section 545</i>	Smuggling (Guns) into the United States
<i>Section 924(c)(1)</i>	Additional Five Years for Using a Gun in a Federal Drug/Violent Crime
<i>Section 924(c)(1)</i>	Additional Ten Years for Using a Short-Barreled/Assault Gun in a Federal Drug/Violent Crime
<i>Section 924(c)(1)</i>	Additional Thirty Years for Using a Machinegun/Bomb/Silencer in a Federal Drug/Violent Crime
<i>Section 924(c)(1)</i>	Additional Twenty Years for Second and Subsequent Convictions Under This Section
<i>Section 924(c)(1)</i>	Additional Sentence of Life Without Parole for Second Use of Machinegun/Bomb/Silencer

<i>Section 924(e)</i>	Armed Career Criminals (3 or More Violent/Drug Felonies). Additional 15 Years. (Penalty Provision)
<i>Section 924(g)</i>	Traveling Interstate to Acquire/Transfer Firearm(s) to Commit Specific Crimes.
<i>Section 924(h)</i>	Transferring a Firearm to be Used in a Violent/Drug Crime
<i>Section 924(j)</i>	Smuggling a Firearm(s) into the United States to Commit a Violent/ Drug Crime
<i>Section 924(k)</i>	Stealing a Firearm Affecting Interstate Commerce
<i>Section 924(l)</i>	Stealing a Firearm From an FFL
<i>Section 924(m)</i>	Traveling Interstate to Promote Illegal Firearms Trafficking
<i>Section 924(n)</i>	Conspiracy to Commit an Offense Under Section 924© - Twenty Years
<i>Section 929(a)</i>	Using/Possessing Armor-Piercing Ammunition in a Federal Drug/ Violent Crime
<i>Section 930(a)</i>	Possessing a Firearm in a Federal Building
<i>Section 930(b)</i>	Possessing a Firearm in Federal Building to Be Used for a Crime
<i>Section 930©</i>	Killing/Attempting to Kill in a Federal Building With a Firearm
<i>Section 930(e)(1)</i>	Possessing a Firearm in Federal Court
<i>Section 1001</i>	Making a False Statement to a Federal Agent
<i>Section 1959</i>	Violent Crime in Aid of Racketeering Activity
<i>Section 1961</i>	R.I.C.O.
<i>Section 2119</i>	Carjacking
<i>Section 3559</i>	The Three Strike Rule (Penalty Provision)
 <i>21 U.S.C.</i>	
<i>Section 841(a)(1)</i>	Narcotics - Manufacturing or Possessing With Intent to Distribute
 <i>22 U.S.C.</i>	
<i>Section 2778(c)</i>	Violation of the Arms Export Control Act

## 26 U.S.C. Chapter 53

- Section 5861(a)* Engaging in the Making/Importing/Dealing in NFA Weapons Without Paying Tax
- Section 5861(b)* Receiving/Possessing an NFA Firearm in Violation of the Law
- Section 5861(c)* Receiving/Possessing an NFA Firearm Which was Made in Violation of the Law
- Section 5861(d)* Receiving/Possessing an NFA Firearm not Registered to Person in the National Firearms Registration and Transfer Record
- Section 5861(e)* Transferring an NFA Firearm in Violation of the Law
- Section 5861(f)* Making an NFA Firearm in Violation of the Law
- Section 5861(g)* Changing/Removing/Obliterating a Serial Number on an NFA Firearm
- Section 5861(h)* Receiving an NFA Firearm with a Changed/ Removed/Obliterated Serial Number
- Section 5861(i)* Receiving/Possessing an NFA Firearm Not Identified with a Serial Number
- Section 5861(j)* Receiving, Transporting, or Delivering an Unregistered NFA Firearm
- Section 5861(k)* Receiving or Possessing an Illegally Imported NFA Firearm
- Section 5861(l)* Making or Causing a False Entry on Required NFA Paperwork



# Glossary of Terms

- Automatic** An autoloading action that will fire a succession of cartridges, so long as the trigger is depressed, or until the ammunition supply is exhausted. Automatic weapons are machineguns subject to the provisions of the National Firearms Act. The term automatic is often incorrectly applied to semiautomatic rifles, pistols, and shotguns.
- Caliber** A term used to describe ammunition. Caliber is the approximate diameter of a projectile. In the United States, caliber is usually written in inches, e.g., .30 caliber. In most other countries of the world, caliber is usually written in millimeters, e.g., 9mm.
- Destructive Device** Any explosive, incendiary, or poison gas, e.g., bomb, grenade, rocket having a propellant charge of more than 4 ounces, missile having an explosive or incendiary charge of more than one-quarter of an ounce, mine, or a device similar to the aforementioned. Additionally, any type of weapon (other than a shotgun or a shotgun shell which the Secretary finds is generally recognized as particularly suitable for sporting purposes) by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant; and which has any barrel with a bore of more than one-half of inch in diameter, and any combination of parts either designed or intended for use in converting any device into any destructive device described above and from which a destructive device may be readily assembled.
- Federal Firearms Licensee (FFL)** An FFL is any person, partnership, or business entity holding a valid license issued under the authority of 18 U.S.C. chapter 44. This includes any agents or employees of a person, partnership, or business entity acting on behalf of the licensee.
- Handgun** A weapon originally designed, made, and intended to fire a small projectile (bullet) from one or more barrels when held in one hand and having a short stock (grip) designed to be gripped by one hand and at an angle to, and extending below, the line of the bore(s).
- Machinegun** A weapon that shoots, is designed to shoot, or can be readily restored to shoot automatically more than one shot without manual reloading, by a single function of the trigger. Additionally, a machinegun is also the frame or receiver and a part or combination of parts designed for use in converting a weapon into a machinegun.
- Multiple Sales** The Gun Control Act requires that each FFL prepare an ATF F

3310.4, Report of Multiple Sales or Other Disposition of Pistols and Revolvers, whenever a licensee sells or otherwise disposes of, at one time or during any 5 consecutive business days, two or more pistols or revolvers to an unlicensed person. The report is then forwarded to an ATF office no later than the close of business on the day that the multiple sales or other disposition occurs (18 U.S.C. § 923(g)(3)). A report is not required to be made when pistols and/or revolvers are returned to the same person from whom they were received.

Pistol	Any handgun that does not contain its ammunition in a revolving cylinder. Pistols may be single shot, manually operated repeaters, multiple-barreled, semiautomatic, or fully automatic.
Revolver	A handgun that contains its ammunition in a revolving cylinder.
Rifle	A weapon designed to be fired from the shoulder and having spiral grooves rifling in the bore.
Semiautomatic	An autoloading weapon that will fire only a single shot for each single function of the trigger.
Serial numbers	Current regulations (18 U.S.C. § 923(l) and 27 CFR § 178.92) require that the serial number of a firearm be conspicuously located on the frame or receiver. Common serial number locations would include: side of the frame, on the butt, under the crane (yoke), or on the front strap.
Shotgun	A weapon designed to be fired from the shoulder and having a smooth bore barrel.
Submachinegun	A fully automatic weapon that fires a pistol cartridge. Submachineguns are also referred to as machine pistols.

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**DECLARATION OF SERVICE VIA JUSTICELINK**

*In re Firearm Case*  
No. JCCP 4095

*(People, et al. v. Arcadia Machine & Tool, Inc., et al.)*  
San Francisco Superior Court No. 303753  
Los Angeles Superior Court No. BC210894  
Los Angeles Superior Court No. BC214794

I, Kathy Scoville, declare:

1. That I am and was, at all times herein mentioned, a citizen of the United States and a resident of the County of San Diego, over the age of 18 years, and not a party to or interested in the within action; that my business address is 401 B Street, Suite 1700, San Diego, California 92101.

2. That on February 3, 2003, I served NOTICE OF LODGMENT TO PLAINTIFFS' OPPOSITION TO MANUFACTURERS' MOTION FOR SUMMARY JUDGMENT by JusticeLink Electronic filing on all persons appearing on the Service List.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 3rd day of February, 2003, at San Diego, California.

/s/ Kathy Scoville  
Kathy Scoville