



**U.S. Department of Justice
Office of the Inspector General
Evaluation and Inspections Division**

**The Bureau of Alcohol, Tobacco,
Firearms and Explosives'
Investigative Operations
at Gun Shows**

June 2007

I-2007-007

EXECUTIVE DIGEST

INTRODUCTION

The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) has the dual responsibilities of enforcing federal criminal laws regarding the possession and use of firearms and explosives, as well as regulating the firearms and explosives industries. ATF works to investigate and reduce crime involving firearms and explosives, acts of arson, and illegal trafficking of alcohol and tobacco products. As part of its enforcement of federal firearms laws, ATF has conducted operations at gun shows to investigate whether firearms are being sold or bought illegally.

A gun show is an exhibition or gathering where guns, gun parts, ammunition, gun accessories, and literature are displayed, bought, sold, traded, and discussed. The types of guns displayed and sold at gun shows include new and used handguns, semi-automatic assault weapons, shotguns, rifles, and curio or relic firearms. The estimated number of gun shows held each year in the United States can range from 2,000 to 5,200.¹ These shows provide a venue for the sale and exchange of firearms by federal firearms licensees (FFL) who are licensed by the federal government through ATF to manufacture, import, or deal in firearms. Such shows also are a venue for private sellers who buy and sell firearms for their personal collections or as a hobby. In these situations, the sellers are not required to have a federal firearms license. Although federal firearms laws apply to both FFLs and private sellers at gun shows, private sellers, unlike FFLs, are under no legal obligation to ask purchasers whether they are legally eligible to buy guns or to verify purchasers' legal status through background checks.² This mix of licensed and private firearms sellers makes gun shows a unique forum for gun sales.

ATF's investigative operations at gun shows received widespread attention in February 2006 when Congress held two hearings to examine

¹ We found no definitive source for the number of gun shows held annually.

² Background checks on individuals who purchase firearms from an FFL have been required since passage of the Brady Handgun Violence Prevention Act in November 1993.

the law enforcement techniques used by ATF agents at eight gun shows held in Richmond, Virginia, from May 2004 through August 2005.³

The first hearing presented testimony from four witnesses who alleged that ATF agents used aggressive and harassing techniques primarily at a gun show held on August 13 and 14, 2005, at the Richmond International Raceway in Virginia. Three of the witnesses were present at the gun show: the gun show promoter, a gun salesman who worked for a federally licensed dealer but represented himself as a private seller at the show, and a federally licensed dealer who had exhibited his firearms collection for sale at the Richmond gun show. The fourth witness was a private investigator who was hired by the National Rifle Association (NRA) to conduct an investigation of ATF enforcement activity at the August 2005 gun show. The witnesses alleged that ATF Special Agents and state and local police interrogated and intimidated gun buyers, targeted women and minorities as potential straw purchasers, visited the homes of buyers to verify their addresses, and detained some gun buyers after they left the gun show and seized their weapons without cause.⁴

At the second congressional hearing, representatives from ATF, the City of Richmond Police Department, and the Henrico County Division of Police responded to the allegations.⁵ The ATF representative acknowledged that some investigative techniques were not implemented in a manner consistent with ATF's best practices but that the "focus at the Richmond-area gun shows was on indicators of criminal activity, not on the color of skin or the gender of potential suspects."⁶ The representative from the City of Richmond Police Department stated that

³ The Subcommittee on Crime, Terrorism, and Homeland Security, Committee on the Judiciary, House of Representatives, conducted the hearings on February 15 and 28, 2006. (See Government Printing Office website for a full transcript of the hearings, 109th Congress, Serial No. 109-123; or the U.S. House of Representatives website, 109th Congress for Part I on February 15, 2006, and Part II on February 28, 2006, for the transcripts of the hearings.)

⁴ ATF defines a straw purchase as "the acquisition of a firearm(s) from an FFL by an individual (the "straw") done for the purpose of concealing the identity of the true intended receiver of the firearms." (ATF Order 3310.4B, Firearms Enforcement Program, Chapter K, Section 143(ee).)

⁵ The following individuals testified at the second hearing: the ATF Assistant Director for Field Operations, a Major in the City of Richmond Police Department, and the Deputy Chief of Police for the Henrico County Division of Police. Henrico County, Virginia, is adjacent to the City of Richmond.

⁶ Hearing transcript, p. 43.

the Police Department had no intent to deny any citizen the ability to purchase a firearm, but rather to prevent the acquisition of a firearm in an illegal manner, and thereby reduce crime in the City of Richmond. The representative from the Henrico County Division of Police stated that county police officers conducted only six residency checks related to the Richmond gun show, and that each check took less than 20 minutes. The Henrico police official testified that no gun purchases by Henrico County residents were denied or delayed due to the checks.

Subsequent to the congressional hearings, the House of Representatives passed a bill, H.R. 5092, known as the Bureau of Alcohol, Tobacco, Firearms and Explosives Modernization and Reform Act of 2006. The bill included language requesting that the Office of the Inspector General (OIG) assess how ATF conducts “the gun show enforcement program and blanket residency checks of prospective and actual firearms purchasers.”⁷ The bill was subsequently forwarded to the Senate for consideration, but no vote was taken by the Senate in the 109th Congress and the proposed legislation was not enacted.

In light of the congressional interest in this issue, the OIG conducted this review to examine the policies, procedures, and oversight mechanisms that guide ATF’s investigative operations at gun shows.

RESULTS IN BRIEF

We found that ATF does not have a formal gun show enforcement program, but conducts investigative operations at gun shows when it has law enforcement intelligence that illegal firearms activity has occurred or is likely to occur at specific gun shows. We also found that ATF’s operations at gun shows constitute a small percentage of its overall investigative activities. Past operations at gun shows have yielded multiple arrests and convictions of individuals engaging in firearms trafficking, as well as seizures of firearms that were purchased or offered for sale illegally. In addition, we found that ATF conducted most of its investigative operations at gun shows as part of ongoing investigations of specific suspects whose illegal activity happened to occur at gun shows. Other ATF investigative operations were aimed at widespread illegal firearms activity occurring specifically at gun shows in certain cities, states, or geographic regions.

⁷ As discussed in this review, a blanket residency check is an investigative technique that involves verifying the residences of all potential gun purchasers who provide addresses that fall within a targeted geographical area to determine whether they have provided false addresses on their federal firearms transaction documents.

Based on the 121 operational plans that we reviewed for investigative operations at gun shows, we found that ATF Special Agents had complied with ATF Headquarters' policies and procedures for planning such operations.

In addition, most gun show promoters and all state and local law enforcement personnel we interviewed were supportive of ATF operations at gun shows. All gun show promoters told us that they were concerned about illegal gun sales and purchases at gun shows and that they expected ATF to enforce federal gun laws. Only the two Richmond-area gun show promoters whose shows were a focus of the congressional hearings expressed concern about ATF's activities at their gun shows. State and local law enforcement personnel told us that ATF was an important partner in fighting local gun crimes and that they support ATF's law enforcement activities at gun shows.

The following sections provide additional details on these findings.

ATF conducted investigative operations at gun shows based on law enforcement intelligence.

ATF conducts operations at gun shows when law enforcement intelligence indicates illegal firearms activity has occurred or is likely to occur at specific gun shows. However, ATF has no specific enforcement program directed at gun shows. ATF personnel we interviewed in 11 of ATF's 23 field divisions stated that they routinely analyze intelligence regarding criminal activity and forward the results, including biweekly crime reports, to various field offices.⁸ The field offices use the information, along with intelligence from local law enforcement agencies and confidential informants, to develop investigative priorities, manage resources, and plan operations, which sometimes include operations at gun shows.

Although the number of operations at gun shows was low, the operations resulted in multiple arrests, convictions, and firearms seizures.

From fiscal year (FY) 2004 through FY 2006, ATF opened approximately 6,233 firearms trafficking investigations. During this 3-year period, ATF Special Agents conducted 202 operations at 195 gun

⁸ We interviewed personnel in 12 divisions, but one division did not conduct any investigative operations at gun shows during our review period, but had conducted outreach (educational) programs at gun shows.

shows, or 3.3 percent of the estimated 6,000 gun shows held during this period.⁹ ATF's operations at these gun shows led to 121 arrests, resulting in 83 convictions. (Some cases are still pending, so their final dispositions are unknown.) Additionally, ATF seized 5,345 firearms during investigative operations related to these shows.

Seventy-seven percent of ATF's investigative operations at gun shows were covert operations that targeted specific individuals suspected of firearms trafficking.

Seventy-seven percent (156 of 202) of ATF's investigative operations at gun shows, during the 3-year period covered by our review, targeted specific individuals suspected of a variety of firearms trafficking crimes.¹⁰ The offenses included convicted felons suspected of buying guns; suspected straw purchasers; individuals selling firearms as a business without a license; persons possessing prohibited firearms such as unregistered machine guns and sawed-off shotguns; and FFLs that were not documenting transactions or requesting background checks as required by federal law.¹¹ When conducting specific target operations, ATF Special Agents worked covertly, without the knowledge of the suspects, promoters, or other gun show attendees.

Twenty-three percent of ATF's investigative operations at gun shows targeted widespread local or regional firearms trafficking at the shows.

Of the 202 investigative operations conducted by ATF at gun shows, only 23 percent (46) targeted general firearms trafficking at the shows. Further, only 6 of the ATF's 23 field divisions – Columbus, Houston, New Orleans, Phoenix, San Francisco, and Washington, D.C. – conducted these types of operations. The operations were not part of investigations of specific individuals, but rather were initiated based on

⁹ Available estimates of the number of gun shows in the United States ranged from 2,000 to 5,200 annually. We have used the most conservative estimate, 2,000, to characterize the percentage of total gun shows at which ATF conducted investigative operations.

¹⁰ ATF also conducted six operations at gun shows in support of other law enforcement agencies' investigations.

¹¹ The National Firearms Act (NFA) of 1934, as amended, limits the availability of machine guns, short-barreled shotguns, short-barreled rifles, sound suppressors (silencers), and other similar weapons. The NFA requires a registry of "all NFA firearms in the United States that were not under the control of the United States [government]." (26 U.S.C. § 5845 (1986).)

intelligence from law enforcement and other sources such as FFLs, that various firearms trafficking crimes were occurring at gun shows in those six divisions' geographic areas of responsibility. The alleged offenses included interstate and international firearms trafficking and widespread straw purchasing of guns that were later diverted to convicted felons and local and international gangs. The six field divisions usually conducted operations at gun shows covertly; in association with national violent crime reduction programs such as Project Safe Neighborhoods and Violent Crime Impact Teams; and with support from other federal, state, and local law enforcement agencies.¹²

According to the operational plans approved by the Resident Agent in Charge (RAC), at two Richmond-area gun shows held during May 2005 and August 2005, the Washington Field Division used "a more overt presence at the gun shows than in the past," which included direct contact at the gun shows with persons suspected of making straw purchases. According to the plans, after action reports, and interviews with the RAC and case agent, the focus of these two operations was on preventing illegal purchases of firearms rather than on seizing firearms after the sale.

ATF clarified its use of residency checks.

One of the issues the House of Representatives was interested in was the extent of ATF's use of "blanket" residency checks. We found that of the ATF's 23 field divisions, the Washington Field Division was the only one that used "blanket" residency checks to help identify firearms purchasers who gave false addresses on their federal firearms transaction forms. While ATF Special Agents have verified the addresses of individuals suspected of criminal violations during the course of investigations, the residency checks conducted by the Washington Field Division as part of its 2004 and 2005 operations in Richmond were unique because they targeted all residents of designated geographic regions who applied to purchase firearms at local gun shows.

During congressional testimony, the ATF Assistant Director for Field Operations stated that "confirmation of addresses through residency checks can be an important tool to ensure the lawfulness of

¹² Project Safe Neighborhoods is a nation-wide program for reducing gun crime violence. The 93 U.S. Attorneys lead the task forces of local, state, and federal agency participants. The Violent Crime Impact Team initiative was established by ATF to reduce homicides and other firearms-related violent crime in 29 cities.

firearms transactions and to prevent straw purchases.”¹³ However, after the August 2005 Richmond gun show, ATF Headquarters officials decided that area-wide or “blanket” residency checks of gun buyers, while lawful, were not an effective practice. According to the Managing Assistant U.S. Attorney for the Eastern District of Virginia, these residency checks were resource-intensive and rarely resulted in prosecutions for only providing a false address on federal firearms transaction documents. In his January 30, 2006, memorandum to the field, the ATF Assistant Director for Field Operations clarified the use of residency checks by stating, “It is not ATF policy to conduct residence checks without reasonable suspicion that criminal violations may exist.”

ATF Special Agents complied with ATF Headquarters’ policies and procedures for planning operations at gun shows.

We reviewed 121 operational plans for investigative operations at gun shows conducted in FY 2004 through FY 2006 and found that 120 (99 percent) of the plans used the designated template and contained information required by ATF for conducting the operations. For example, the operational plans contained a description of targeted suspects and vehicles, information describing the operational staging area, lists of personnel and their roles and responsibilities, a tactical narrative describing how the operation was to be conducted, and safety information such as the location of the nearest hospital and command post. One operational plan did not fully meet policy and procedures for operational planning because it did not include key information such as the location of the gun show and the command post.

Most gun show promoters and all state and local law enforcement personnel we interviewed supported ATF operations at gun shows.

All seven of the promoters that we interviewed told us that they were concerned about illegal gun sales and purchases at gun shows and expected ATF to enforce federal firearms laws at gun shows. Five of the seven gun show promoters complimented ATF’s crime-fighting efforts at gun shows in their areas and stated they had a positive relationship with ATF. Two gun show promoters in the Richmond area complained to ATF, Congress, and to us that they believed ATF operations at their shows in 2004 and 2005, especially the August 2005 show, had reduced attendance and resulted in the harassment of gun buyers. One promoter, who had testified at the congressional hearing on February 15, 2006, restated her concerns to us: that law enforcement agents

¹³ Hearing transcript, p. 46.

interrogated and intimidated potential customers, targeted women and minorities as potential straw purchasers, visited the homes of buyers to verify their addresses, and detained some gun buyers after they left the gun show.

Officials of two national organizations, one representing gun show promoters and the other representing FFLs and gun enthusiasts, told us that they had not heard any complaints from their members about ATF operations at gun shows, other than those associated with the Richmond-area shows. An official from a third national organization representing gun owners told us that ATF Special Agents normally do a good job but that, in his opinion, they had used unnecessarily aggressive and harassing enforcement tactics at the Richmond-area gun shows.

During our site visits to Richmond and to Reno, Nevada, we interviewed state and local law enforcement officials who stated that ATF was an important partner in fighting local violent crime and that they supported ATF's law enforcement activities at gun shows.

CONCLUSION

ATF conducts investigative operations at gun shows as part of its overall strategy to prevent illegal firearms trafficking. ATF has no specific enforcement program directed at gun shows. The 202 investigative operations at gun shows conducted during the 3-year period that we reviewed predominantly focused on specific suspects, although 23 percent of the operations targeted general illegal firearms activity at certain gun shows. We found that ATF's decisions to conduct investigative operations, including those in the Richmond area, were based on significant law enforcement intelligence from a variety of sources indicating that illegal activity was occurring or was about to occur at a specific gun show.

Based on our review of 121 operational plans for investigative operations conducted at gun shows; interviews with ATF personnel from 11 field divisions, state and local law enforcement personnel, and representatives from national firearms-related organizations; and an analysis of complaints received by ATF from FY 2004 through FY 2006, we found that, with the exception of some Richmond-area gun shows, ATF conducted its investigative operations at gun shows covertly without incident and without complaints from promoters, vendors, or the public. After the controversy surrounding ATF's activities at the August 2005 Richmond gun show, ATF issued guidance to its field divisions advising that the use of blanket residency checks was not an effective practice

and that residency checks should not be conducted without reasonable suspicion that criminal violations may exist.

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ACRONYMS

ASAC	Assistant Special Agent in Charge
ATF	Bureau of Alcohol, Tobacco, Firearms and Explosives
DTA	Division Tactical Advisor
FFL	Federal Firearms Licensee
FY	Fiscal Year
GCA	Gun Control Act of 1968
GS	Group Supervisor
NAAS	National Association of Arms Shows
NFA	National Firearms Act 1934
NICS	National Instant Criminal Background Check System
NRA	National Rifle Association
NSSF	National Shooting Sports Foundation
OIG	Office of the Inspector General
RAC	Resident Agent in Charge
SAC	Special Agent in Charge

BACKGROUND

Purpose

The Bureau of Alcohol, Tobacco, Firearms and Explosives' (ATF) activities at gun shows received widespread attention in February 2006 when Congress convened two hearings, on February 15 and 28, 2006, to examine law enforcement techniques used by ATF agents at a series of eight gun shows held in Richmond, Virginia, from May 2004 through August 2005.¹⁴

Four witnesses testified at the first hearing and stated that ATF agents used aggressive and harassing techniques at a gun show held on August 13 and 14, 2005, at the Richmond International Raceway in Virginia. Three of the witnesses were present at the gun show: the gun show promoter, a gun salesman who worked for a federally licensed dealer but represented himself as a private seller at the show, and a federally licensed dealer who had exhibited his firearms collection for sale. The fourth witness was a private investigator who was hired by the National Rifle Association (NRA) to conduct an investigation of ATF enforcement activity at the August 2005 gun show.¹⁵ The witnesses made the following allegations about ATF's activities at the Richmond gun show:

- The large on-site presence of ATF agents and local law enforcement officers intimidated prospective gun buyers and hurt attendance at the gun show.

¹⁴ The Subcommittee on Crime, Terrorism, and Homeland Security, Committee on the Judiciary, House of Representatives, conducted the hearings on February 15 and 28, 2006. (See Government Printing Office website for a full transcript of the hearings, 109th Congress, Serial No. 109-123; or the U.S. House of Representatives website, 109th Congress for Part I on February 15, 2006, and Part II on February 28, 2006, for the transcripts of the hearings.)

¹⁵ According to NRA literature, the NRA is a non-profit group that was originally formed in 1871 for the improvement of its members' marksmanship. Today, the NRA also defines its purposes as protecting and defending the right of individual citizens to acquire, possess, transport, carry, transfer ownership, and enjoy the right to use arms. The NRA also promotes public safety, conducts training in marksmanship, fosters shooting sports, and promotes hunter safety.

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- Under ATF’s direction, local police officers visited the residences of certain prospective gun buyers and interrogated family members and neighbors about the buyers. The witnesses questioned the legality of these residency checks and also alleged that the checks made buyers wait much longer to purchase a gun.
 - ATF agents targeted women and minorities as possible straw purchasers and singled them out for extra scrutiny.¹⁶ The witnesses alleged that the targeting of women and minorities represented racial profiling, especially of African American women.
 - ATF agents used coercive interrogation techniques, stopped gun buyers and seized their weapons without cause, and failed to apprise individuals of their rights against self-incrimination and to have legal counsel.

At the second congressional hearing, ATF officials and local law enforcement agencies involved in operations at the Richmond-area gun shows responded to the allegations. Representatives from ATF, the City of Richmond Police Department, and Henrico County Division of Police made the following points during their testimony about their agencies’ participation in ATF’s operations at the gun shows.¹⁷

- ATF maintained a presence at the Richmond gun shows because many of the guns recovered by the Richmond Police Department in connection with violent crimes had been purchased illegally (including through straw purchasers) at local gun shows. Also, individuals who purchased the firearms illegally at Richmond-area gun shows did not always provide accurate residence information at the time of purchase, as required by law.

¹⁶ ATF defines a straw purchase as “the acquisition of a firearm(s) from an FFL by an individual (the “straw”) done for the purpose of concealing the identity of the true intended receiver of the firearms.” (ATF Order 3310.4B, Firearms Enforcement Program, Chapter K, Section 143(ee).)

¹⁷ The following individuals testified at the second hearing: the ATF Assistant Director for Field Operations, a Major in the City of Richmond Police Department, and the Deputy Chief of Police for the Henrico County Division of Police. Henrico County, Virginia, is adjacent to the City of Richmond.

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- For the gun shows in question, especially the August 2005 gun show at the Richmond International Raceway, ATF acknowledged that some investigative techniques were not implemented in a manner consistent with ATF best practices. ATF determined that it “could have done better by having the law enforcement command post and briefings offsite of the gun show, by not utilizing a letter to convey possible violations of law when guns were taken into custody, and by more thoroughly explaining the parameters for conducting residence checks.”¹⁸ An ATF official testified that subsequent to the August 2005 Richmond gun show, ATF issued a memorandum to its field divisions and offices “reminding employees of both policy and best practices related to gun show investigations.”¹⁹ He also stated that the “focus at the Richmond-area gun shows was on indicators of criminal activity, not on the color of skin or the gender of potential suspects. . . . [T]he allegations of racial profiling have no basis in fact. ATF does not condone or engage in racial profiling of any sort and we strictly adhere to the Attorney General’s guidelines in this regard.”²⁰
 - An official of the City of Richmond Police Department stated that “Richmond has been plagued with issues surrounding violent crime and use of firearms associated with those crimes.”²¹ The Department supported the operations at the gun shows “because information led us to believe that there were illegal transactions occurring at local gun shows. . . . [W]e felt we could make an impact on those firearms that are being used for illegal purposes prior to them being used [in a criminal] act.”²² According to the police official, the Department had no intent to deny any citizen the ability to lawfully purchase a firearm, but rather to prevent the acquisition of a firearm in an

¹⁸ Hearing transcript, p. 34, Testimony of Assistant Director for Field Operations, ATF.

¹⁹ Hearing transcript, p. 47, Prepared Statement of ATF’s Assistant Director for Field Operations and the memorandum issued by the Assistant Director on January 30, 2006, Reminder of Gun Show Policies and Practices.

²⁰ Hearing transcript, p. 43, *ibid.*

²¹ Hearing transcript, p. 55, Testimony of City of Richmond Police Department official.

²² Hearing transcript, p. 55, *ibid.*

illegal manner, and thereby reduce crime in the City of Richmond.

- Henrico County police officers conducted only six residency checks of addresses in the county. The officers had 20 minutes from the time they were instructed by personnel in the command post to verify an address until they had to relay the results back to the command post and, as a result, Henrico officials said no purchases by Henrico County residents were denied or delayed due to the checks. The Henrico County Division of Police also assigned additional plainclothes officers to assist ATF, the City of Richmond Police Department, and the Virginia State Police inside the gun show by monitoring firearms transactions.

Subsequent to the hearings, the House of Representatives passed H.R. 5092, “Bureau of Alcohol, Tobacco, Firearms and Explosives Modernization and Reform Act of 2006.” The bill included language requesting that the Office of the Inspector General (OIG) assess how ATF conducts “the gun show enforcement program and blanket residency checks of prospective and actual firearms purchasers.”²³ The bill was subsequently forwarded to the Senate for consideration, but no vote was taken by the Senate in the 109th Congress, and the proposed legislation was not enacted.

In light of the congressional interest in this issue, the OIG conducted this review to examine the policies, procedures, and oversight mechanisms that guide ATF’s investigative operations at gun shows.

General Characteristics of Gun Shows

ATF defines a gun show as any exhibition of firearms, ammunition, and accessory items at a fairground, convention hall, or similar setting such as a local armory. The shows are usually publicized as gun shows or in connection with another lawful activity, such as a knife and gun show. The shows may be sponsored by commercial promoters or organizations of firearms collectors and enthusiasts. Most shows are open to the public for an admission fee. Gun shows provide a forum to display firearms, ammunition, and accessories for trade, purchase, or sale, or they demonstrate the competitive shooting or other sporting uses

²³ The House of Representatives passed H.R. 5092 (House Report 109-672) on September 26, 2006, on a roll call vote of 277-131.

of firearms.²⁴ The types of firearms offered for sale at gun shows include new and used handguns, semiautomatic assault weapons, shotguns, rifles, and curio or relic firearms.

Gun shows provide a venue for the legal sale and exchange of firearms by federal firearms licensees (FFL) who are licensed by the federal government through ATF to manufacture, import, or deal in firearms. Such shows also are a venue for private sellers who buy and sell firearms to “enhance a personal collection,” or for a “hobby,” or who “sell all or part of a personal collection,” and therefore do not require a federal firearms license.²⁵ Federal laws do not specifically regulate gun shows, although federal firearms laws apply to both FFLs and private sellers at gun shows. For example, FFLs operating at gun shows are required to obtain and keep basic information on firearms transactions and to request federal, and sometimes state, background checks on persons seeking to obtain firearms from them by purchase or exchange.²⁶ Private sellers, unlike FFLs, are under no legal obligation to ask purchasers whether they are legally eligible to buy guns. Furthermore, private sellers, unlike FFLs, are not required to create and keep transaction records or to request background checks on purchasers. This mix of licensed and private firearms sellers – selling guns side by side – makes gun shows a unique forum for gun sales.

²⁴ ATF Order 3310.4B, Firearms Enforcement Program, Chapter K, Firearms Trafficking, Sections 156, 157, and 158, provides ATF policy for gun show investigations.

²⁵ Both FFLs and private (unlicensed) sellers of firearms obtain the right to sell firearms at gun shows from the Firearm Owners’ Protection Act of 1986, P.L. No. 99-308, 100 Stat. 449 (1986), as amended.

²⁶ Background checks on individuals who purchase firearms from an FFL have been required since passage of the Brady Handgun Violence Prevention Act (Brady Act) in November 1993. The permanent provisions of the Brady Act required the Attorney General to establish the National Instant Criminal Background Check System (NICS). The NICS provides any FFL an immediate contact for information as to whether a prospective purchaser is a “prohibited person” under 18 U.S.C. § 922 (g) or (n) or state law.

The Federal Bureau of Investigation’s Criminal Justice Information Services Division manages the NICS Section, which provides background checks requested by FFLs in 30 states, 5 U.S. territories, and the District of Columbia. Thirteen states have agencies acting on behalf of the NICS in a full point-of-contact capacity, and eight states are currently sharing responsibility with the NICS Section by acting as partial point-of-contact states for conducting background checks required under the Brady Act.

Gun shows generate revenue for the promoters through the rental of display tables to vendors and by charging admission to the public. Gun show promoters generally charge vendors from \$20 to \$145 per table and from \$200 to \$400 per booth to display their inventories. Public admittance fees for the shows range from \$5 to \$50. For the largest gun shows, promoters publicize the shows through a variety of media, including publications covering the interests of gun owners and hobbyists, newspapers, radio, television, and the Internet. Gun shows are usually held on weekends and can draw from 2,500 to 15,000 people per 2-day show. Larger gun shows may result in sales of over 1,000 guns in one weekend.

We found no definitive source for the number of gun shows held in the United States annually. Estimates ranged from 2,000 to 5,200 gun shows annually.

ATF's Firearms Mission

ATF's mission is to conduct criminal investigations, regulate the firearms and explosives industries, and assist other federal, state, and local law enforcement agencies in preventing terrorism, reducing violent crime, and protecting the public.²⁷ ATF enforces the provisions of federal firearms laws, including the National Firearms Act of 1934 (NFA) and the Gun Control Act of 1968 (GCA).

In carrying out its mission, ATF leads or supports a broad range of firearms investigations, which are divided generally into three categories:

- Investigations of persons who are prohibited by law from possessing firearms;
- Investigations of persons possessing unregistered NFA weapons; and
- Investigations of persons illegally trafficking in firearms.²⁸

The National Firearms Act

The NFA limits the availability of machine guns, short-barreled shotguns, short-barreled rifles, sound suppressors (silencers), and other similar weapons, which were often used by gangsters during the Prohibition years when the NFA was enacted. The NFA imposes a tax on the manufacture, import, and distribution of NFA weapons and requires a registry of "all NFA firearms in the United States that were not under the control of the United States [government]." (26 U.S.C. § 5845 (1986).)

The Gun Control Act

Congress enacted the GCA to "keep firearms out of the hands of those not legally entitled to possess them . . . and to assist law enforcement authorities in the States and their subdivisions in combating crime." The GCA cites nine categories of persons prohibited from possessing firearms: (1) persons convicted in any court of a crime punishable by imprisonment for a term exceeding 1 year; (2) fugitives from justice; (3) drug users or addicts; (4) persons adjudicated mental defectives or committed to mental institutions; (5) illegal aliens; (6) persons dishonorably discharged from the Armed Forces; (7) persons who renounce their U.S. citizenship; (8) persons under court-ordered restraints related to harassing, stalking, or threatening an intimate partner or child of such intimate partner; and (9) persons convicted of misdemeanor domestic violence. (18 U.S.C. § 922(g).)

²⁷ Mission statement in ATF's Strategic Plan, Fiscal Years 2004-2009.

²⁸ While ATF Special Agents generally take the lead in major firearms trafficking investigations, they also have played a support role. For example, when state or local police officers initiate an investigation of drug or gambling activities and find that firearms play a significant role in supporting those activities, they will frequently seek ATF's expertise. In those cases in which an investigation leads to a source of illegal

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When an investigation produces information that illegal firearms-related activity may occur at a gun show, ATF may decide to conduct an operation at the gun show to facilitate the investigation.

ATF also engages in activities at gun shows to educate FFLs and the public about firearms laws. According to ATF statistics, during fiscal year (FY) 2004 through FY 2006, 13 of ATF's 23 field divisions conducted 62 outreach (educational) programs at gun shows. For example, ATF participates in a joint program with the National Shooting Sports Foundation called, "Don't Lie for the Other Guy," which is a national campaign designed to train FFLs to better identify and deter potential straw purchases and to educate the public on the consequences of purchasing a firearm for someone who cannot purchase it legally. Persons prohibited by law from acquiring a gun will sometimes attempt to use a straw purchaser to circumvent the law. The straw purchaser makes a false statement on the ATF Form 4473, Firearms Transaction Record, which asks about the identity of the actual purchaser. Such false statements are punishable by a fine of up to \$250,000 and up to 10 years in prison.

In an educational capacity, ATF officials said its personnel attend gun shows to:

- Promote a better understanding of the federal firearms laws as they apply to gun shows and the duty of ATF to enforce those laws,
- Provide gun show owners and promoters with advisories outlining the federal firearms laws as they apply to gun shows and request that they post these advisories in conspicuous locations in the gun show, and
- Staff an information booth to provide gun show patrons with information on federal firearms laws and regulations to promote compliance.

firearms in another state, ATF may be asked for support because it can cross state lines in conducting interstate investigations.

ATF's Firearms Enforcement Policies

ATF policies, procedures, and oversight mechanisms for conducting firearms-related investigations – including those that may require ATF's presence at gun shows – are set forth primarily in ATF Order 3310.4B, Firearms Enforcement Program (last amended in 2001 when ATF was part of the Department of Treasury).²⁹ In that Order, ATF defines its overall policy as the enforcement of the GCA and NFA and assigns priority to investigations that have the greatest potential to prevent crime and violence and to disrupt illegal firearms activity, such as:

- Armed drug traffickers and their organizations and violent criminals actively involved in violent criminal activities,
- Criminal firearms traffickers who are significant firearms sources for other criminals,
- The illicit movement of firearms into and out of the United States, and
- Illegal acquisition of firearms by prohibited persons through the knowing falsification of firearms records or straw purchases.³⁰

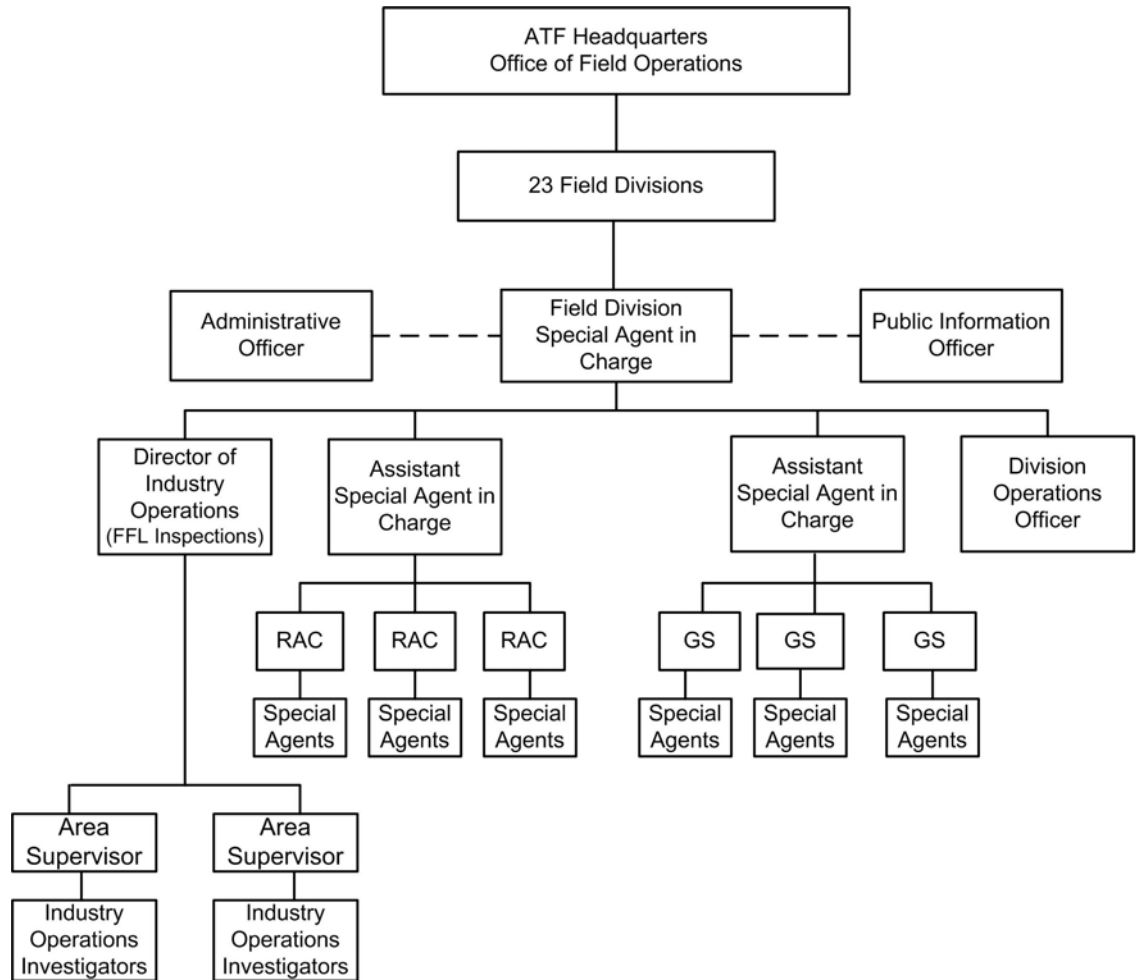
Generally, ATF's approach to dealing with firearms trafficking is determined at the field division level by the Special Agent in Charge (SAC) of the division. (See Figure 1 on the next page for the organizational structure of a typical ATF field division.) SACs and their management teams determine where to focus ATF's efforts and resources based on the annual planning process the field divisions conduct in conjunction with ATF Headquarters. ATF policy requires that each SAC designate one Assistant SAC (ASAC) in the division to be the Firearms Trafficking Coordinator. According to Order 3310.4B, the Firearms Trafficking Coordinator should continually assess illegal firearms trafficking trends

²⁹ Under the Homeland Security Act of 2002, ATF transferred from the Department of the Treasury to the Department of Justice on January 24, 2003.

³⁰ Firearms trafficking investigations can include individuals engaged in straw purchasing; illegal dealing by an unlicensed firearms seller; FFLs suspected of selling guns without the required paperwork or background checks or selling guns to prohibited persons; and persons who are prohibited by law from possessing firearms such as felons, illegal aliens, and drug traffickers.

within the division and determine the proper course of action to address the problem.

Figure 1: Structure of a Typical ATF Field Division



FFL = Federal Firearms Licensee
 RAC = Resident Agents in Charge oversee special agents within the regional field offices.
 GS = Group Supervisors lead teams of special agents co-located with the field division.
 Area Supervisors oversee groups of industry operations investigations.

Source: ATF

According to ATF officials, the field divisions assess firearms trafficking trends using intelligence provided by ATF Headquarters, ATF regional and field intelligence organizations, and intelligence gathered locally at the group or field office level. Such local intelligence may come from ATF Industry Operations Investigators who enforce ATF regulations through inspections of FFLs, state and local law enforcement agencies, FFLs, defendants facing trial, confidential informants, or ongoing ATF investigations.

After considering intelligence from a variety of sources, staffing requirements, and available resources, the SAC sets the investigative priorities for the field division. According to ATF policy, the SAC's decisions should reflect a focus on those areas where the division can achieve the maximum effect on crime in line with overall ATF priorities. This may include ATF investigations at gun shows when intelligence indicates that criminal activity may be occurring.

ATF Order 3310.4B, Chapter K, contains three sections that provide ATF policy and guidelines for conducting investigations at gun shows. ATF policy allows for criminal investigations at gun shows of those persons who are engaged in criminal activity that would result in prohibited persons obtaining firearms. ATF guidelines require that its Special Agents obtain the approval of their Resident Agent in Charge (RAC) or Group Supervisor before conducting surveillance and opening an investigation at a gun show and SAC approval for conducting sensitive enforcement activities at gun shows. According to Chapter K, the SAC is the approving official for closing an investigation after all investigative activity has been concluded at the gun show and for recommending cases for prosecution.

Supplemental Headquarters Guidance for Gun Shows

ATF's Assistant Director for Field Operations issued a memorandum on January 30, 2006, Reminder of Gun Show Policies and Practices, that supplements and reinforces the provisions for gun show operations found in Chapter K of Order 3310.4B. The memorandum provides direction regarding contact with gun show promoters about gun show operations, the use of recorded surveillance, pre-operations briefings for all assigned personnel, the appropriate location of command posts for gun show operations, retention of information relating to firearms purchasers, the difference between FFLs and private firearms sellers, the appropriate way to use residency checks, and clarification that SACs have discretion to enforce federal firearms laws at gun shows in a manner that addresses specific issues in their area.

Requirements for Planning Investigative Operations at Gun Shows

In addition to Order 3310.4B, Firearms Enforcement Program, ATF has policy governing special agent planning for “significant enforcement activities” at gun shows, such as serving search and arrest warrants, making undercover buys and buy-busts, and conducting special undercover operations. The policy is contained in ATF Order 3210.1A, Operational Planning, which provides detailed requirements and procedures for planning, executing, overseeing, and reporting these types of operations. The guidance requires Special Agents to prepare an operational plan for the enforcement activities listed above, wherever they occur, including gun shows.³¹

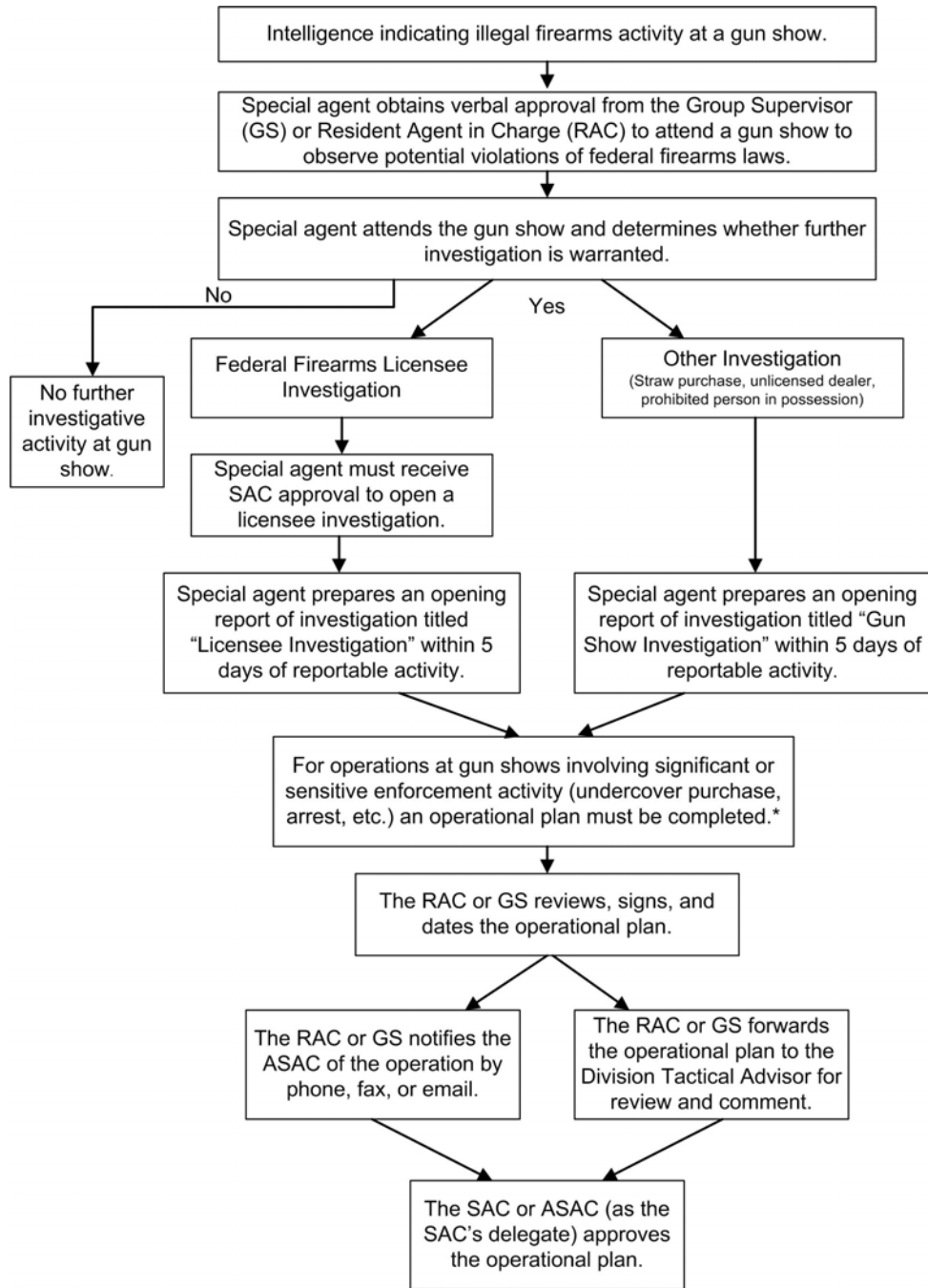
The purpose of an operational plan is to avoid risk to both Special Agents and the public by planning the investigative operation prior to its implementation. ATF agents use a specific operational planning form (ATF Form 3210.7) to record information such as the date and time of the operation; personnel involved; description of the specific target, if applicable; objective; and tactical narrative.

The Group Supervisor or RAC who will lead the operation reviews, signs, and dates the operational plan. Plans involving high-risk or sensitive tactics are forwarded to the Division Tactical Advisor for review and comment.³² The SACs and ASACs we interviewed stated that operational plans for investigative operations at gun shows are reviewed by Division Tactical Advisors. While the Division Tactical Advisor does not approve operational plans, the advisor can help identify tactical or other issues that must be resolved before the plans can be executed. The SAC, or the ASAC acting as the SAC’s delegate, has final approval authority for any operation involving significant enforcement activity. Copies of the completed ATF Forms 3210.7 are kept at both the field or group office and the field division office. Figure 2 shows ATF’s process for approving investigative operations at gun shows.

³¹ SACs, RACs, and Group Supervisors also may require the preparation of an operational plan for any other enforcement activity.

³² According to ATF Order 3210.1A, Operational Planning, p. 7, the Division Tactical Advisor “is a Special Agent assigned to a field division who serves as the principal tactical advisor to the SAC on issues and activities relating to law enforcement operational tactics, readiness, techniques, strategies, equipment, training etc.”

Figure 2: ATF Approval Process for Investigative Operations at Gun Shows



SAC = Special Agent in Charge
 ASAC = Assistant Special Agent in Charge
 * Operational plans address mission objectives and safety priorities.

Source: ATF Orders 3210.1A and 3310.4B

Scope and Methodology of the OIG Review

This review focused on ATF's policies, procedures, and oversight mechanisms for ATF investigative operations at gun shows. We reviewed ATF's operations at gun shows conducted from FY 2004 through FY 2006. We conducted fieldwork from September 2006 through March 2007 that included in-person and telephone interviews and site visits to selected ATF field divisions and offices that conducted investigative operations and outreach programs at gun shows, data analyses, document reviews, and viewing undercover footage taken during operations at gun shows. In addition, the OIG team attended gun shows in two different cities.

Interviews

We conducted interviews with 73 officials and other personnel from ATF Headquarters, 12 field divisions, and 7 field offices; U.S. Attorneys' Offices; state and local law enforcement agencies; and national organizations representing the firearms industry, gun enthusiasts, and gun show promoters.³³ Table 1 lists the sites visited or contacted and the individuals we interviewed. We tried to interview several FFLs, but they were reluctant to speak with us. As a result, we spoke with the senior vice president of the National Sports Shooting Foundation whose subsidiary organization, the National Association of Firearms Retailers, represents approximately 50,000 FFLs.

³³ One of the 12 divisions did not conduct any investigative operations at gun shows during our review period, but had conducted outreach (educational) programs at gun shows.

Table 1: Interviews Conducted by the OIG

Organization	Site	Individuals Interviewed
ATF	Headquarters, Washington, D.C.	<ul style="list-style-type: none"> • Assistant Director, Office of Field Operations • Deputy Assistant Directors, Office of Field Operations (one Regional and one for Industry Operations) • Deputy Chief, Field Management Staff, Office of Field Operations • Senior Counsel, Office of Field Operations • Associate Chief Counsel, Disclosure and Forfeiture Division, Office of Chief Counsel • Associate Chief Counsel, Firearms, Explosives and Arson Division, Office of Chief Counsel • Senior Attorney, Firearms, Explosives and Arson Division, Office of Chief Counsel • Deputy Assistant Director, Office of Enforcement Programs and Services • Acting Deputy Chief, Firearms Programs Division, Office of Enforcement Programs and Services • Firearms Industry Technical Advisor, Firearms Programs Division, Office of Enforcement Programs and Services • Chief, Office of Public Affairs
	Field Divisions: Baltimore Charlotte Columbus Houston Kansas New Orleans Philadelphia Phoenix San Francisco Seattle Tampa Washington, D.C.	<ul style="list-style-type: none"> • Current and former Special Agents in Charge (SAC) (11) • Assistant Special Agents in Charge (ASAC) (8) • Directors of Industry Operations (5) • Field Division Counsel (2)
	Field and Group Offices: Falls Church, Virginia McAllen, Texas New Orleans, Louisiana Norfolk, Virginia Reno, Nevada Richmond, Virginia Salt Lake City, Utah	<ul style="list-style-type: none"> • Current and former Resident Agents in Charge (RAC) (7) • Group Supervisors (2) • Area Supervisor • Special Agents (2) • Intelligence Research Specialist

Organization	Site	Individuals Interviewed
U.S. Attorneys' Offices	Arizona Nevada Eastern District of Louisiana Eastern District of Virginia	<ul style="list-style-type: none"> • Deputy Chief, Criminal Division, Phoenix Office • Assistant U.S. Attorney, Organized Crime Drug Enforcement Task Force, Tucson Office • Chief, Reno Office • 1st Assistant U.S. Attorney and Chief, Criminal Division • Violent Crime Unit Supervisor • Managing Assistant U.S. Attorney, Richmond Division
State and Local Law Enforcement Agencies	Richmond, Virginia Reno, Nevada	<ul style="list-style-type: none"> • Major, Virginia State Police • Manager, Firearms Transaction Center, Virginia State Police • Sergeant, Virginia State Police • Major, City of Richmond Police Department • Deputy Chief of Police, Henrico County Division of Police • Captain, Henrico County Division of Police • Assistant Sheriff, Washoe County
National Rifle Association (NRA)	Fairfax, Virginia	<ul style="list-style-type: none"> • Legal Counsel, NRA-Institute for Legislative Action
National Association of Arms Shows, Inc. (NAAS)	Utah	<ul style="list-style-type: none"> • President (who also is the promoter of Crossroads of the West gun shows)
National Shooting Sports Foundation	Newtown, Connecticut	<ul style="list-style-type: none"> • Senior Vice President and General Counsel

Organization	Site	Individuals Interviewed
Promoters by Location and Trade Name	Alabama Arizona California Colorado Louisiana Mississippi Missouri Nevada North Carolina Texas Utah Virginia West Virginia	<ul style="list-style-type: none"> • Big Reno Show • C&E Gun Shows • Crossroads of the West (who also is the President of the NAAS) • Missouri Valley Arms Collectors Association • Saxet Trade Shows • Showmasters • Southern Gun and Knife Shows

Gun Shows Attended

We observed gun shows in Reno, Nevada, on November 18, 2006, and Richmond, Virginia, on December 2, 2006. Both gun shows have an established presence in their regions and occur several times a year. ATF had conducted investigative operations at these gun shows on previous occasions.

Data Analyses and Document Reviews

We reviewed firearms legislation and regulations; ATF's firearms enforcement policies and procedures; investigative reports; arrest, prosecution, conviction, and gun seizure data; congressional testimony; news articles; and reports related to ATF investigative operations at gun shows, outreach programs, and firearms trafficking. We also reviewed 121 ATF operational plans for operations conducted at gun shows. Table 2 lists the number of operational plans we reviewed in each ATF field division. The plans targeted either specific suspects or general illegal firearms activity at gun shows.

**Table 2: Operational Plans Reviewed for
ATF Investigative Operations at Gun Shows**

Field Divisions	“Specific Suspect” Plans Reviewed*	“General Illegal Activity” Plans Reviewed	Total Investigative Operational Plans
1. Charlotte	17	0	17
2. Columbus	5	4	9
3. Houston	12	2	14
4. Kansas City	7	0	7
5. New Orleans	1	5	6
6. Phoenix	21	15	36
7. San Francisco	0	6	6
8. Seattle	7	0	7
9. Tampa	9	0	9
10. Washington, D.C.	0	10	10
Total Reviewed	79	42	121

*The number of operational plans we reviewed does not necessarily correspond to the number of investigative operations conducted by ATF. Some operations do not require a plan, such as simple surveillance. Other operations may have multiple plans – one for each specific suspect at the same gun show. Two field divisions are not listed. The Baltimore Field Division had no investigative operations at gun shows during our review period, but had conducted outreach programs at gun shows. The Philadelphia Field Division conducted seven operations that were limited to surveillance at gun shows.

Methodology for Estimating the Number of Annual Gun Shows

ATF does not keep records on the number of gun shows held in the United States, and we were unable to determine an exact number from other sources. We reviewed several estimates of the number of gun shows held annually, which ranged from 2,000 to 5,200. The President of the National Association of Arms Shows was the source of the highest estimate of 5,200 shows and told us that the estimate was based on the assumption that approximately 100 gun shows were held every weekend throughout the year, but, other than professional judgment, no other support was provided for his assumption. Sources for the lower estimate of 2,000 gun shows per year, which included ATF, said they based their estimate on a count of the number of shows advertised in the *Gun and Knife Show Calendar*, a popular industry trade publication that is published quarterly.

The President of the National Association of Arms Shows told us that the *Calendar* is the most comprehensive listing of gun shows held throughout the country. We checked the magazine's issues for FY 2006 and found 1,551 advertisements for shows that included the word "gun" in the advertisement. However, not all shows are advertised in the *Calendar*, many more shows are now being advertised on the Internet such as on promoter and interest group websites, and some shows are advertised more than once. Because we were unable to determine the exact number of gun shows held per year, in this review we used the most conservative estimate available – 2,000 shows per year or approximately 6,000 shows for the 3-year period that we reviewed, FY 2004 through FY 2006.

ATF's Comments on the Draft Report

We provided copies of the draft report to ATF for review on May 29, 2007. On June 21, 2007, ATF provided technical clarifications and updated information on certain field office operations described in the report, and we revised the report where appropriate.

RESULTS OF THE REVIEW

In FY 2004 through FY 2006, ATF conducted investigative operations at 195 of the estimated 6,000 gun shows held during that period. Those operations resulted in 121 arrests, 83 convictions, and 5,345 firearms seizures. Seventy-seven percent of ATF's investigative operations at gun shows were conducted covertly and targeted specific individuals suspected of a variety of firearms trafficking crimes. Twenty-three percent of ATF's investigative operations at gun shows targeted regional illegal firearms activity. Only one field division conducted blanket residency checks during several gun shows, and ATF Headquarters has since clarified that residency checks should only be used when there is reasonable suspicion that a criminal violation exists.

Our review of 121 ATF operational plans for investigative operations at gun shows conducted by 10 field divisions found that ATF conducted these operations when law enforcement intelligence indicated that significant illegal firearms activity was occurring or was likely to occur at those shows. Consequently, ATF Special Agents seldom conducted operations at gun shows as part of their investigations into firearms trafficking activity. Based on the 121 operational plans, ATF Special Agents complied with ATF Headquarters' procedures for operational planning.

Five of the seven gun show promoters interviewed for this review said they supported ATF operations at their gun shows. Two promoters of gun shows in the Richmond, Virginia, area alleged that certain investigative techniques used by ATF Special Agents and a larger than normal on-site presence of ATF Special Agents and other state and local law enforcement officers at their shows during FY 2004 and FY 2005 intimidated gun buyers and hurt show attendance. ATF and other law enforcement officials involved in the Richmond operations denied charges that they harassed potential gun buyers or other gun show attendees.

ATF conducted investigative operations at gun shows only when law enforcement intelligence indicated that significant illegal firearms activity was occurring or was likely to occur at those shows.

We found that ATF does not have a formal gun show enforcement program, but conducts investigative operations at gun shows when it has law enforcement intelligence that illegal firearms activity has occurred or is likely to occur at specific gun shows. We reviewed plans for 121 investigative operations at gun shows conducted during FY 2004 through FY 2006 by 10 of ATF's 23 field divisions, and all the plans showed that ATF agents had law enforcement intelligence that supported the conduct of the operations.³⁴ ATF personnel we interviewed at 11 ATF field divisions stated that they routinely analyzed intelligence regarding illegal firearms activity and forwarded the results of their analyses to their field offices. The analyses included assessments of the initial sources (i.e., FFLs) of guns recovered in crimes based on national crime gun trace data.

At the field offices, ATF Special Agents and Intelligence Research Specialists we interviewed said they used the divisions' weekly reports about crime gun traces and intelligence from other law enforcement agencies and confidential informants to identify local trends concerning crime guns and indicators of firearms trafficking. From their analyses, field offices develop investigative priorities, manage resources, and plan investigative operations, which sometimes include operations at gun shows. We provide examples of actual intelligence that was the basis for conducting investigative operations at gun shows in the summaries of operations presented on pages 26 through 36.

ATF's investigations seldom included operations at gun shows.

From FY 2004 through FY 2006, ATF opened approximately 6,233 firearms trafficking investigations. During that 3-year period, ATF Special Agents conducted 202 operations at 195 of an estimated 6,000 gun shows held nationwide – or about 3.3 percent of the shows. Table 3 shows the number of investigative operations at gun shows conducted by each field division.

³⁴ Two of the 12 ATF field divisions we reviewed did not have operational plans related to gun shows. The Baltimore Field Division had no investigative operations at gun shows during our review period, but had conducted outreach (educational) programs at gun shows. The Philadelphia Field Division conducted seven operations that were limited to surveillance at gun shows; operations to conduct only surveillance do not require operational plans.

**Table 3: Investigative Operations Conducted at
195 Gun Shows by Field Division,
FY 2004 through FY 2006**

Field Division	Investigative Operations		Total
	Specific Suspects	General Illegal Activity	
1. Atlanta	2	0	2
2. Baltimore	0	0	0
3. Boston	0	0	0
4. Charlotte	17	0	17
5. Chicago	0	0	0
6. Columbus	11	4	15
7. Dallas	5	0	5
8. Detroit	8	0	8
9. Houston	8	3	11
10. Kansas City	21	0	21
11. Los Angeles	0	0	0
12. Louisville	2	0	2
13. Miami	20	0	20
14. Nashville	5	0	5
15. New Orleans	1	6	7
16. New York	0	0	0
17. Philadelphia	7	0	7
18. Phoenix	21	15	36
19. St. Paul	5	0	5
20. San Francisco	0	6	6
21. Seattle	9	0	9
22. Tampa	9	0	9
23. Washington	5	12	17
Totals	156 (77%)	46 (23%)	202

Note: At seven gun shows, ATF conducted more than one operation.
Source: ATF

Although the number of investigative operations at gun shows was low, the operations resulted in multiple arrests, convictions, and firearms seizures.

As a result of the 202 investigative operations undertaken at 195 gun shows, ATF made 121 arrests that resulted in 83 convictions. (Some cases are still pending, so their final disposition is unknown.) Additionally, ATF seized 5,345 firearms during these investigative operations.³⁵ Table 4 shows the breakdown of the results by field division.

Table 4: Results of ATF's Investigative Operations at 195 Gun Shows in FY 2004 through FY 2006

Field Division	Arrests	Convictions	Seizures
1. Atlanta	2	1	3
2. Baltimore	0	0	0
3. Boston	0	0	0
4. Charlotte	3	2	344
5. Chicago	0	0	0
6. Columbus	7	1	8
7. Dallas	1	1	20
8. Detroit	0	0	8
9. Houston	27	17	196
10. Kansas City	1	0	2,534
11. Los Angeles	0	0	0
12. Louisville	0	0	2
13. Miami	5	4	790
14. Nashville	4	4	359
15. New Orleans	9	6	14
16. New York	0	0	0
17. Philadelphia	0	0	4
18. Phoenix	13	3	221
19. San Francisco	13	11	401
20. Seattle	2	2	210
21. St. Paul	5	5	144
22. Tampa	2	0	29
23. Washington	27	26	58
Total	121	83	5,345

Source: ATF

³⁵ ATF does not track the results of gun show operations, but rather the results of firearms trafficking investigations.

Most investigative operations at gun shows were covert operations that targeted specific individuals suspected of firearms trafficking.

Seventy-seven percent of all ATF investigative operations at gun shows (156 of 202) from FY 2004 through FY 2006 had a specific target. In 79 of the 121 operational plans that we reviewed, we found that ATF Special Agents had presented evidence to open an investigation into firearms trafficking crimes by a known suspect or suspects before conducting an investigative operation at a gun show. Most specific target operations at gun shows were part of an ongoing investigation of an individual or individuals suspected of firearms trafficking. An investigation may require ATF Special Agents to conduct several investigative operations to collect evidence. According to ATF case agents and other ATF personnel we interviewed, sometimes the investigation only involves the suspect's illegal firearms activity at a gun show. At other times, the investigation may include the suspect's illegal firearms activity at a gun show as well as at other locations such as a private residence or gun shop. When conducting the specific target operations at gun shows, ATF Special Agents worked covertly to collect evidence, without the knowledge of the suspects, promoters, or other gun show attendees in order to protect the integrity of the operation and public safety. As a rule, ATF officials said that no enforcement action, such as arrests or firearms seizures, was taken during the gun shows.

Operations involving specific targets at gun shows generally focused on convicted felons who were suspected of buying guns, suspected straw purchasers, individuals selling firearms as a business without a license, persons possessing prohibited firearms such as unregistered machine guns and sawed-off shotguns, and FFLs who were not documenting transactions or requesting background checks as required by federal law. For example, ATF initiated one operation after an agent learned that a private seller was actually engaged in the business of selling guns for a living. Although individuals are allowed to sell guns from their personal collections without a federal license, they are not allowed to sell guns for a living without a license. In another case, ATF had intelligence information that an individual was making straw purchases at gun shows and then reselling the guns in the Washington, D.C., area. Many of the guns the individual sold were later traced to crimes. Other cases targeted specific individuals known to be engaging in interstate or international firearms trafficking at gun shows. These individuals were buying guns in one state and transporting them to another state to sell to persons prohibited from legally owning guns or across international borders to sell to members of drug cartels or gangs.

Twenty-three percent of ATF's operations at gun shows targeted local or regional illegal firearms trafficking and only one field division conducted blanket residency checks.

While ATF operations at gun shows most commonly involved investigations of known suspects, six field divisions – Columbus, Houston, New Orleans, Phoenix, San Francisco, and Washington, D.C. – conducted 46 investigative operations from FY 2004 through FY 2006 that targeted general illegal activity related to firearms trafficking occurring at gun shows in their areas. From the 42 operational plans we reviewed and our interviews regarding these general investigative operations, we found that the field divisions initiated the operations based on law enforcement intelligence and information from other sources indicating that various firearms trafficking crimes were occurring at gun shows in the divisions' regions of responsibility. For example, the Houston and Phoenix field divisions deal with widespread international firearms trafficking by individuals and gangs that cross the U.S. border carrying drugs and then return to Mexico carrying guns that they obtained through straw purchases at gun shows in the southwestern states. In some cases, ATF divisions also had identified widespread interstate firearms trafficking in their regions. The operational plans for these broader investigative operations also showed that the operations were usually conducted by ATF-led task forces associated with national violent crime reduction programs – such as Project Safe Neighborhoods, Violent Crime Impact Teams, or Project Exile – and included support from other federal, state, and local law enforcement agencies.³⁶

Because the February 2006 congressional hearings raised concerns about investigative techniques used at ATF's operations in Richmond, Virginia, targeting general illegal firearms activity at certain gun shows, we examined some of the general operations conducted by the six field divisions. We looked at the intelligence behind the decisions to conduct such operations, the investigative techniques used to execute the operations (which we found were generally illustrative of those used by ATF for any operation at a gun show), and the law enforcement

³⁶ Project Safe Neighborhoods is a nation-wide program for reducing gun crime violence. The 93 U.S. Attorneys lead the task forces of local, state, and federal agency participants. The Violent Crime Impact Team initiative was established by ATF to reduce homicides and other firearms-related violent crime in 29 cities. Project Exile is a federal program that shifts the prosecution of illegal gun possession offenses from state courts to federal court, where under the Gun Control Act, convictions carry a mandatory minimum sentence of 5 years in federal prison.

results achieved. Five of the six divisions conducted all general operations covertly. That is, the ATF agents did not inform gun show promoters about the operations, several agents worked inconspicuously inside the gun show unknown to vendors and the public, and agents did not take enforcement actions at or near the gun shows. The Washington Field Division, which has jurisdiction over Virginia, the District of Columbia, and eight counties in West Virginia, was the only field division we reviewed that conducted overt investigative operations targeting general illegal firearms activities at gun shows. The more visible investigative approach used by the Washington Field Division during its operations at some gun shows in the Richmond area was intended to serve as a deterrent to individuals engaged in illegal firearms activity. One concern raised during the congressional hearings was ATF's use of blanket residency checks.³⁷ We found that only the Washington Field Division had used blanket residency checks as an investigative technique (discussed later in the report).

The following sections summarize a few of the investigative operations of illegal firearms trafficking conducted by the six field divisions at gun shows.

Columbus Field Division

The Columbus Field Division identified problems with international firearms trafficking between the United States and Canada; interstate trafficking, especially between Ohio and New York and between Indiana and Illinois; and intrastate trafficking by local gangs in Ohio and Indiana.

Columbus's Jurisdiction

The Columbus Field Division has jurisdiction over Ohio and Indiana. It has field offices in Cleveland, Youngstown, Toledo, Columbus, and Cincinnati, Ohio; and Indianapolis, Ft. Wayne, Merrillville, and South Bend, Indiana.

According to the division's SAC, in 2006, 5,000 guns used in crimes were traced to gun sales in Ohio. About 75 percent of those guns were recovered in Ohio and the other 25 percent were recovered in other states, primarily in New York. The SAC said that crime gun trace data shows that Ohio ranks among the top 10 states that are sources for crime guns recovered in the United States.

³⁷ A blanket residency check is an investigative technique that involves verifying the residences of all potential gun purchasers who provide addresses that fall within a targeted geographical area to determine whether they have provided false addresses on their federal firearms transaction documents.

According to the division's SAC and ASAC as well as our reviews of operational plans and reports of investigation, the Cleveland Group II Field Office conducted general investigative operations at three gun shows held near the Cleveland, Ohio, in 2006. The operations were based on information provided by the Cleveland Police Department and other law enforcement intelligence that many of the guns recovered in high-crime areas of the city had been purchased at local gun shows. The field office conducted the operations in cooperation with the Cleveland Police Department and focused on identifying unlicensed dealers, straw purchasers, FFLs violating federal firearms laws, and prohibited persons in possession of firearms at the gun shows. Officers from the Canada Border Services Agency attended the second ATF gun show operation conducted in the Cleveland area in 2006 to help ATF identify firearms traffickers and gang members suspected of buying guns at area gun shows and smuggling them into Canada.

According to the operational plans we reviewed, ATF conducted the operations covertly – the gun show promoters were not informed of the operations, agents worked discreetly inside the gun shows, and no enforcement actions were taken inside or on the grounds of the gun show facilities. The three operations conducted by the Cleveland Group II Field Office resulted in the seizure of five guns, one indictment, and two pending indictments for felony possession of a firearm.

Houston Field Division

The Houston Field Division conducted general investigative operations at gun shows aimed at regional and cross-border firearms trafficking between Mexico and the United States.

According to an ASAC assigned to the division, between Brownsville and Laredo, Texas, 3,000 murders occurred on the Mexican side of the border from FY 2004 through FY 2006. Two drug cartels are at war in Mexico, and numerous gangs in Houston, Laredo, and McAllen serve as “enforcers” for the cartels. According to federal and local law enforcement intelligence, members of the cartels and gangs get guns from the same sources that law-abiding citizens do – FFLs, flea markets, and gun shows – either by buying the guns themselves or through the use of straw purchasers.

Houston's Jurisdiction

The Houston Field Division has jurisdiction in Central, Southern, and Eastern Texas along with some areas in Western Texas. It has field offices in Austin, Beaumont, Corpus Christi, Laredo, McAllen, Waco, and San Antonio.

The Houston Field Division's McAllen Field Office conducted general investigative operations at two gun shows in Pharr, Texas, during 2005 and 2006 to identify straw purchasers, co-conspirators, and others who had been facilitating interstate and international firearms trafficking and to determine where traffickers were taking the firearms and ammunition that they purchased at the gun shows. According to the RAC of the McAllen Field Office, ATF and other federal and local law enforcement agencies tried to apprehend the traffickers before they could transfer their purchases to prohibited persons or smuggle them into Mexico.

According to the RAC of the McAllen Field Office and the operational plans we reviewed, potential straw purchasers and other suspects were monitored by surveillance teams working inside the gun shows. The teams were instructed to conduct the operation as discreetly as possible. Any enforcement activity took place away from the gun show premises. If there were indications that suspects were headed for Mexico, Department of Homeland Security personnel coordinated outbound inspections of the suspects with border patrol personnel.

While some cases are still pending, the McAllen Field Office's operations at the gun shows have so far resulted in the arrests of 3 undocumented Mexican nationals after they purchased 3,000 rounds of ammunition and 14 firearms that ATF agents believed they planned to smuggle into Mexico. A Mexican national with U.S. resident-alien status also was arrested after coordinating straw purchases of 10 high-priced firearms.

New Orleans Field Division

The New Orleans Field Division and local law enforcement agencies in the New Orleans area identified a long-standing problem with straw purchasers who bought guns that were later diverted to prohibited persons, especially to convicted felons and local gangs. After reviewing hundreds of trace reports associated with crime guns recovered in the area and interviewing known gang members and other criminals, ATF Special Agents identified area gun shows as a source used by local gang members and other criminals to obtain guns. The subjects obtained the weapons either through a third party engaged in straw purchasing or by dealing directly with private sellers who were hobbyists or private gun collectors and therefore not subject to federal regulations.

New Orleans' Jurisdiction

The New Orleans Field Division has jurisdiction over Louisiana, Mississippi, and Arkansas. It has field offices in Little Rock and Fort Smith, Arkansas; Baton Rouge, New Orleans, and Shreveport, Louisiana; and Biloxi, Jackson, and Oxford, Mississippi.

From FY 2004 through FY 2006, the New Orleans Group II Field Office conducted operations at gun shows in Kenner, Louisiana, as part of larger investigations into illegal firearms trafficking. According to the operational plans, the field office wanted to identify straw purchasers and other individuals selling guns to convicted felons and gather intelligence about the way criminals were obtaining firearms at the gun shows.

According to the operational plans and the SAC, the operations were covert. Surveillance teams working inside the gun show collected information on suspicious activity. Suspects identified as convicted felons by the inside surveillance team had their weapons seized at the shows to protect public safety. Any other enforcement activity, when warranted, occurred away from the gun show. The operations resulted in 12 arrests, 6 convictions (some cases are still ongoing), and 4 seized firearms.

Phoenix Field Division

The Phoenix Field Division identified regional problems with international firearms trafficking across Arizona's and New Mexico's borders with Mexico. The division also identified regional problems with interstate firearms trafficking between California, which has stringent gun control laws, and the five western states in the division's jurisdiction, which have less restrictive gun laws.

The division's SAC told us that many gun shows attracted large numbers of gang members from Mexico and California. They often bought large quantities of assault weapons and smuggled them into Mexico or transported them to California. The Mexican government had expressed concerns about the gun smuggling into Mexico, and the SAC said, "We have to act on those concerns."

For example, during FY 2004 through FY 2006, the Tucson Field Office, Phoenix Group I, and Phoenix Group II conducted operations that targeted general illegal activity associated with international and interstate firearms trafficking at eight gun shows in Phoenix, Yuma, and Tucson, Arizona, and Albuquerque, New Mexico.³⁸

According to the operational plans and the SAC, no enforcement activity took place at the gun shows. Covert surveillance teams inside the gun shows observed vendor and customer behaviors to identify potential straw purchasers and other illegal activity. If it appeared that gun purchasers were returning to Mexico with guns, they were stopped at the port of entry and their vehicles searched. Those operations alone resulted in 13 arrests, 3 convictions, and 193 seizures of illegally purchased firearms.

Phoenix's Jurisdiction

The Phoenix Field Division has jurisdiction over Arizona, Colorado, Utah, Wyoming, and two thirds of New Mexico. It has field offices in Phoenix, Flagstaff, and Tucson, Arizona; Denver and Colorado Springs, Colorado; Albuquerque, New Mexico; Salt Lake City, Utah; and Cheyenne, Wyoming.

³⁸ The plans for these operations cited the goals of targeting gun trafficking to Mexico; illegal aliens in possession of guns; armed traffickers purchasing, selling, or exchanging guns for narcotics; convicted felons in possession of firearms; individuals trying to purchase explosives to traffic in Mexico; vendors dealing in firearms as a business without a license; and vendors selling firearms to out-of-state buyers.

San Francisco Field Division

The San Francisco Field Division conducted six general operations at gun shows to investigate interstate firearms trafficking based on intelligence reports that California residents were illegally obtaining firearms at Nevada gun shows. According to field division personnel, Reno, Nevada, is a gateway for illegal firearms trafficking into California because of its proximity (12 miles from the state line) and Nevada's less stringent gun laws. Unlike California, Nevada does not require gun registration or a waiting period before buying a gun, and there is no legal limit to the number of firearms that can be purchased within a specified time.

San Francisco's Jurisdiction

The San Francisco Field Division has jurisdiction over Northern California and the State of Nevada. In California, it has field offices in San Francisco, Bakersfield, Dublin, Stockton, Oakland, Sacramento, Santa Rosa, San Jose, Fresno, and Redding. In Nevada, it has field offices in Reno and Las Vegas.

ATF agents attended one gun show in FY 2003 and confirmed that illegal firearms sales and other illegal transactions were occurring. Intelligence gathered from this first show was used to plan a longer-term investigation into interstate firearms trafficking. During subsequent operations at Reno gun shows during FY 2004, Special Agents engaged in undercover activities that included Special Agents who were residents of California attempting to purchase firearms in violation of the GCA from licensed and unlicensed dealers. Subsequent operations focused on a number of licensed and unlicensed dealers who were illegally dealing in firearms at the shows. In these operations, agents purchased firearms and identified violations related to "off paper" sales, sales to out-of-state residents, and dealing in firearms without a license.³⁹

According to the operational plans, the ASAC, RAC, and ATF Special Agents conducted surveillance within the gun shows and any enforcement activity occurred away from the gun show premises. The ASAC and RAC stated that all the operations were conducted covertly to avoid interfering with the lawful sales of firearms at the shows. For example, they said that agents worked inconspicuously to observe unlicensed dealers selling to out-of-state residents and served search warrants to targeted FFLs after the shows closed in the evening.

³⁹ "Off paper" sales are those that are made by FFLs who have not documented the sale or requested the required background checks before making the sales.

As a result of the operations at the Reno gun shows, ATF seized or purchased 400 firearms before making arrests and executing search warrants, which resulted in the seizure of an additional 600 firearms and the recovery of explosives. Fourteen suspects were charged with 52 counts of federal and state firearms violations. Eleven of the 14 were subsequently convicted.

Washington Field Division

The Washington Field Division was the only one of the 12 field divisions that we reviewed that reported conducting overt operations at gun shows. According to ATF officials, the Washington Field Division also was the only one of ATF's 23 field divisions to conduct residency checks based on a designated geographic area. From May 2004 through August 2005, the Washington Field Division's Richmond III Field Office conducted eight investigative operations targeting general illegal activity occurring at gun shows in the Richmond, Virginia, area. According to the former and current RACs of the Richmond III Field Office, the operations were initiated because law enforcement intelligence indicated that known gang members and other criminals were obtaining firearms at local gun shows and many gun purchases were made using false addresses. ATF officials said that from 2002 through 2005, more than 400 firearms sold by FFLs at Richmond-area gun shows were later recovered in connection with criminal activity, with more than 300 of those guns recovered in the Richmond area alone.

Washington's Jurisdiction

The Washington Field Division has jurisdiction over Virginia, the District of Columbia, and eight counties in West Virginia (Morgan, Berkeley, Jefferson, Mineral, Hampshire, Grant, Hardy, and Pendleton). It has field offices in Washington, D.C.; Bristol, Charlottesville, Falls Church, Harrisonburg, Norfolk, Richmond, Roanoke, Winchester, Virginia; and Martinsburg, West Virginia.

Further, the former and current RACs told us that when their agents tried to interview individuals who had originally purchased the firearms at the gun shows, they found that many of the purchasers did not live at the addresses listed on their firearms transaction documents. They said that some purchasers had used old addresses, fictitious addresses, or addresses of vacant lots on their federal firearms transaction records.⁴⁰

⁴⁰ Federal law prohibits knowingly giving false information to an FFL in connection with the purchase of a firearm and prohibits the sale of a firearm by an FFL to a person prohibited from possessing a firearm. The accuracy of the information

(Cont'd)

The former RAC led the first six investigative operations at Richmond-area gun shows conducted during May 2004 through March 2005. The Commander-on-the-Scene of the first six operations was the Acting RAC at the time of the seventh operation in May 2005 and the RAC at the time of the eighth operation in August 2005. ATF Special Agents prepared operational plans for each of the eight Richmond-area operations. The serving RAC obtained approval of the plans from the U.S. Attorney's Office, ATF's Office of General Counsel, and the SAC of the Washington Field Division.

At each of the investigative operations, the RAC said he planned to identify potential straw purchasers and individuals who gave inaccurate information on their federal firearms transaction records, especially those giving false addresses. According to the operational plans and the RACs, the objectives of the operations were to enforce federal firearms trafficking laws and to prevent prohibited persons from obtaining firearms through illegal sales, especially through straw purchases.

ATF conducted the first seven operations at gun shows held at a building called The Showplace, which is located just outside Richmond's city limits but adjacent to the city's three highest violent crime areas. The same gun show promoter organized the seven shows, and the promoter and his attorney met with ATF officials on several occasions during the shows. The promoter asked ATF to provide educational materials and training for FFLs at the gun shows so they could better identify straw purchases and other firearms violations.

For the first seven operations, ATF agents established a mobile command post about 2 miles from the site of the gun show and used surveillance units to monitor activity in the gun show. When possible, the RAC said that enforcement activity occurred off-site of the show. Before each show, the RAC notified the promoters and property managers that ATF would be conducting operations at the gun show.

During the first seven operations, ATF agents used blanket residency checks to verify the addresses of potential gun buyers. According to ATF officials, ATF Special Agents are permitted to verify addresses as part of an investigation. While there are several ways to verify an address, for these seven operations ATF asked local law enforcement officers to visit the addresses to determine whether the

purchasers provide is particularly important because it is used to initiate the background check process the GCA requires.

buyers actually lived there. These visits were made to City of Richmond addresses supplied by potential gun buyers if FFLs delivered their transaction documents directly for background checks to on-site Virginia State Police personnel. If the visits could not be conducted within 20 minutes by law enforcement officers in the field, the purchases were allowed to proceed. No visits were made if FFLs telephoned requests for background checks from their tables or booths at the shows rather than taking paper forms to the police personnel on site. According to the RACs, the purpose of the residency checks was to identify those buyers giving false addresses on their firearms transaction documents, a problem that had been identified in past investigations. Potential buyers who did not reside at the addresses they had provided were interviewed off-site of the gun shows by ATF agents, and some were subsequently charged with providing false information on federal and state documents.

ATF also positioned surveillance teams inside the gun shows to observe persons making straw purchases. The RACs and agents stated that evidence of straw purchases is based on behavioral characteristics such as purchasers who are disinterested in or lacking knowledge about the guns they buy, taking buying instructions from a companion or over a cell phone, and presenting identification dated the day of the gun show. ATF personnel said that the characteristics are not based on gender or race but on the actions of the individuals. According to the RAC, suspected straw purchasers were sometimes approached by ATF agents or other law enforcement personnel before a sale was completed and, at other times, they were followed and interviewed away from the gun shows. In some cases, ATF agents seized suspects' guns and handed them a pre-printed letter telling them they may have violated federal firearms laws and citing a date and time for a follow-up interview. When suspects admitted making straw purchases or the guns were found in possession of prohibited persons, the suspects were arrested. These enforcement actions were taken off-site of the gun shows.

For the seventh and eighth operations, the new RAC expanded the objectives of the operations to focus overtly on education, enforcement, and prevention for a deterrent effect. Therefore, operations carried out at the May 2005 and August 2005 gun shows included enforcement techniques that were more visible to the public.

The RAC instructed agents and police officers to use their judgment as to when and where to make contact with suspects and that possible contact points included FFL tables, snack bars, the on-site Virginia State Police office foyer, or the officer's or agent's vehicle.

However, ATF agents did not hand out letters to suspected straw purchasers. According to the RAC, ATF agents, and other attendees at the gun shows, this overt approach provided increased contact with potential straw purchasers as agents and officers informed individuals attending the gun shows about the penalties for unlawfully purchasing a firearm for another person. ATF agents reported that the operations resulted in “hundreds of citizen contacts.”

The eighth operation, conducted in August 2005, was different in several ways. First, the site of the gun show changed from The Showplace to the Richmond International Raceway and Fairgrounds complex. The gun show also was organized by a different gun show promoter who had no prior experience with this type of overt ATF operation. The RAC established a law enforcement command post inside the gun show facility and, for the first time, pre-operation briefings were held on the grounds of the gun show facility in full view of many FFLs and the attending public. The RAC also expanded the geographic area for the residency checks to include not only the City of Richmond but also all of Henrico County. County police had expressed concern about illegal gun purchases and crime guns in the county. This was the first operation in which the Henrico County Division of Police helped conduct residency checks. As in the previous seven operations, when FFLs telephoned their requests for background checks to the Virginia State Police, the buyers’ residences were not visited by the police for verification. Also, potential buyers who did not reside at the addresses they had provided were interviewed off-site of the gun show by ATF agents, and some were subsequently charged with providing false information on federal and state documents. If residency could not be verified within 20 minutes, the firearms purchase was not delayed.

As a result of the 302 residency checks conducted as part of the eight operations at Richmond-area gun shows, ATF found that 47 purchasers, or 16 percent, provided invalid addresses. However, the U.S. Attorney’s Office rarely chose to prosecute a case that involved only an invalid address. The Washington Field Division also used residency checks to a much lesser extent during a gun show in Chantilly, Virginia, in August 2004, where one residency check was conducted, and during a gun show in Hampton, Virginia, in September 2004, where eight residency checks were conducted.

In January 2006, ATF’s Assistant Director for Field Operations issued guidance to ATF personnel reinforcing policy and best practices related to operations at gun shows, including conducting residency

checks. In his guidance, the Assistant Director stated, “It is not ATF policy to conduct residence checks without reasonable suspicion that criminal violations may exist.” ATF officials said that they are incorporating the guidance into ATF’s Order 3310.4B, Firearms Enforcement Program.

Overall, the eight investigative operations conducted by the Washington Field Division at Richmond-area gun shows resulted in 24 arrests and 23 convictions for firearms violations. Most of the convictions were for straw purchases. ATF Special Agents also seized 47 illegally purchased firearms.

ATF Special Agents complied with ATF Headquarters’ policies and procedures for planning operations at gun shows.

We reviewed 121 operational plans and found that 120 (99 percent) of these plans complied with ATF policies and procedures regarding operational planning. All of the operational plans except one used the designated template, ATF Form 3210.7, ATF Operational Plan, and contained information identified by ATF policy as appropriate for conducting the operations. For example, the operational plans contained a description of specific targets and vehicles, information describing the operational staging area, lists of personnel and their roles and responsibilities, a tactical narrative describing how the operation was to be conducted, and safety information such as the location of the command post and the nearest hospital.

One operational plan we reviewed did not fully meet ATF’s policy and procedures for operational planning. When we requested the operational plan for this particular gun show operation, we only received a tactical narrative and a roster of assigned personnel and their roles and responsibilities. We did not receive a completed ATF Form 3210.7, the standard planning template for significant investigative operations. Further, the tactical narrative did not provide the location of the gun show and the location of the command post. The RAC for the operation stated that the ATF Form 3210.7 that was prepared for previous gun show operations also covered this operation, but the location of the gun show, command post, and law enforcement roles had changed and a new form should have been prepared.

Most gun show promoters and all state and local law enforcement personnel we interviewed supported ATF's operations at gun shows.

Five of the seven gun show promoters we interviewed from different areas of the country where large numbers of gun shows are held each year complimented ATF's firearms enforcement efforts. These five promoters had a total of 96 years of experience organizing gun shows. Collectively, they conduct 94 shows per year with a total attendance in excess of 150,000. The promoters stated that they had a "good" or "very good" relationship with ATF and that they had never received complaints about ATF's tactics or behavior at their shows. One promoter, however, told us there is always a small group that questions any ATF involvement at a gun show for any reason. He did not consider such comments to be complaints, but rather a "philosophical statement."

**Few Complaints about ATF
During FY 2004 Through FY 2006**

In response to our request for all complaints received from FY 2004 through FY 2006 regarding Special Agent conduct and activities at gun shows, ATF provided us with 22 letters from 20 complainants. Of the 20 complainants, 18 expressed concern about the August 2005 gun show in Richmond. However, 17 of the 18 complainants had not attended the August 2005 show. Of those 17 complaints, 15 were based on an article posted on an Internet website.

Of the remaining two letters, the first complainant complained about his arrest for possession of a firearm by a prohibited person due to a misdemeanor domestic assault conviction in New Jersey. He was stopped and arrested after being followed from a gun show on suspicion of a straw purchase. The second complainant had been indicted recently for selling firearms without a license at a gun show and was angry that his inventory had been seized by ATF.

Two Richmond-area promoters expressed concerns that ATF Special Agents used aggressive and harassing techniques at the August 2005 gun show that was held at the Richmond International Raceway and Fairgrounds complex. One promoter, who had testified at the first congressional hearing on February 15, 2006, restated her concerns to us: that law enforcement agents interrogated and intimidated potential customers, targeted women and minorities as potential straw purchasers, visited the homes of buyers to verify their addresses, and detained some gun buyers after they left the gun show and seized their weapons without cause.⁴¹

⁴¹ The Subcommittee on Crime, Terrorism, and Homeland Security, Committee on the Judiciary, House of Representatives, conducted the hearings on February 15 (Cont'd)

All seven of the promoters told us that illegal gun sales and purchases at gun shows are an appropriate concern and that they expect ATF to enforce federal firearms laws at gun shows. They also stated that illegal gun sales by unlicensed vendors hurt the legitimate businesses at the shows and that they had all received at least some complaints from FFLs about the activities of unlicensed dealers. In addition to individual gun show promoters, we interviewed several public interest groups representing gun show promoters, FFLs, gun owners, and collectors. Their comments are summarized below.

- The National Association of Arms Shows (NAAS) is a national organization representing gun show promoters. The President, a promoter of 45 major gun shows a year, said NAAS's objectives were to develop a dialogue for solving the common problems faced by promoters and for promoting safety and compliance standards for gun shows. He stated that he had not heard of any problem with ATF attendance at gun shows from promoters other than the two Richmond promoters. He believed that what he had heard about the Richmond gun show was "out of character" for ATF.
- The National Shooting Sports Foundation (NSSF) is a trade association with a membership of more than 3,600 firearms manufacturers, distributors, retailers, sportsmen's organizations, and publishers. The NSSF also has a subsidiary division called the National Association of Firearms Retailers that represents 50,879 FFLs across the country. The Senior Vice President of the NSSF characterized his organization's relationship with ATF as good. NSSF representatives meet quarterly with ATF officials to discuss their joint "Don't Lie for the Other Guy" campaign and to explore other collaborative efforts, such as redesigning the ATF Form 4473 (Firearms Transaction Record) and developing a standardized electronic version of the form. NSSF's Senior Vice President told us that the majority of FFLs represented by the NSSF primarily sell firearms from their place of business (e.g., store) rather than at gun shows. While he was troubled by what he had heard and read about the Richmond gun shows, he had no firsthand

and 28, 2006. (See Government Printing Office website for a full transcript of the hearings, 109th Congress, Serial No. 109-123; or the U.S. House of Representatives website, 109th Congress for Part I on February 15, 2006, and Part II on February 28, 2006, for the transcripts of the hearings.)

knowledge of ATF gun show operations. Rather, he said the NSSF's concerns center on ATF's regulatory inspections of FFLs.

- The National Rifle Association (NRA) is a non-profit group that promotes marksmanship, firearms safety, and the protection of hunting and personal protection firearms rights in the United States. We talked with an NRA attorney who worked in the NRA's Office of Legislative Counsel, Institute for Legislative Action, and who handled the NRA's investigation of the Richmond-area gun shows. He told us that ATF Special Agents normally do a good job and that ATF's first seven gun show operations in the Richmond-area had not generated NRA concerns. However, he believed that ATF agents and other law enforcement agencies had used unnecessarily aggressive and harassing tactics at the eighth gun show in Richmond.

During our site visits to Richmond and Reno, we interviewed state and local law enforcement officials with the Richmond City Police, Henrico County Division of Police, Virginia State Police, and Washoe (Nevada) County Sheriff's Office. Generally, these officials stated that ATF was an important partner in fighting local violent crime and that they supported ATF's activities. The state and local law enforcement officials' comments specific to gun show enforcement are summarized below.

- Richmond City Police officers were directly involved in the eight ATF operations at gun shows in the Richmond area from May 2004 through August 2005. The police official we interviewed stated that his department was in favor of these operations and appreciated ATF's assistance in combating the area's high level of gun crime. He also stated that gun shows are a source of firearms for criminals in the Richmond area.
- Henrico County Division of Police officers had less involvement than the Richmond City Police in the ATF's Richmond-area gun show operations and participated most significantly at the August 2005 gun show. While Henrico County Police received complaints about its involvement in this gun show operation, in general Henrico officials said they were supportive of ATF's work. One police official stated that operational plans prepared by ATF are usually thorough and well thought out and that ATF usually works very discreetly at gun shows.

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- Virginia State Police officers provided law enforcement support to ATF during the eight operations at Richmond-area gun shows. In addition, other Virginia State Police employees conducted National Instant Criminal Background Checks on the site of the gun show for most of the shows. Virginia State Police officials who observed ATF's performance at the shows told us that ATF Special Agents conducted their work in a professional manner.
 - The Washoe County Sheriff's Office has law enforcement jurisdiction for the unincorporated areas surrounding Reno, Nevada. The Assistant Sheriff said that his office works more closely with ATF than with any other federal law enforcement agency, and he has assigned a Deputy Sheriff to work permanently at ATF's Reno Field Office. The Deputy has worked with ATF Special Agents on firearms investigations, which included operations at gun shows. The Assistant Sheriff stated that his office had a positive relationship with ATF and that ATF's work, including its work at local gun shows, has served to reduce local firearms trafficking activities, especially interstate trafficking to California.

Matters for Management Consideration

During our review of operational plans and interviews with field division personnel, we identified two matters related to ATF policy that could strengthen investigative operations at gun shows. In the following sections, we provide information about the two matters for ATF management's consideration.

ATF's national policies contain contradictory guidance on approving operations.

ATF Order 3310.4B, Firearms Enforcement Program, contradicts instructions in ATF Order 3210.1A, Operational Planning, regarding approval requirements for operational plans. Order 3310.4B states that "the SAC is the approving official for all significant/sensitive enforcement activities such as issuing notices, summonses or subpoenas, making arrests, or executing warrants on the gun show or flea market premises, or their adjacent parking lots." However, Order 3210.1A states that an ATF Form 3210.7, ATF Operational Plan, is required for "search warrants, arrest warrants, undercover purchases, buy-busts, and/or special undercover operations" and "shall be . . . submitted to the

affected RAC/GS [Group Supervisor] for review and approval.” The order goes on to state, “the RAC/GS must notify the ASAC of the operation. Notification may also take place by telephone, facsimile, or e-mail.” No reference is made to SAC approval or to ATF Order 3310.4B. Although we found that SACs or ASACs generally were knowledgeable about gun show operations in their divisions, field office and division personnel expressed some uncertainty about the approval chain for the operational plans when we asked about the process during interviews. Therefore, the ATF should consider clarifying the operational plan approval process by revising the guidance in ATF Order 3310.4B and ATF Order 3210.1A so that they agree.

One field division has developed local policy for conducting investigative operations at gun shows in its region.

Because national policy for investigative operations at gun shows is general and primarily focused on specific suspects, the Houston Field Division has developed policy to guide operations involving general illegal firearms activity at gun shows to meet local priorities and conditions. The field divisions we reviewed that conducted the general operations told us that the operations require more guidance because they are aimed at a wider range of criminal firearms activity, involve unknown suspects, and may involve interstate and international jurisdictions and laws. The Houston Field Division, which conducted several operations at gun shows targeting interstate and international firearms trafficking, issued written regional guidance describing the SAC’s requirements and best practices for operations at gun shows. Personnel from the other field divisions we reviewed told us that they relied on verbal guidance, which was articulated on a case-by-case basis by the SAC during the approval process for specific operations. However, several field divisions’ succession of SACs during our study period made it difficult for agents to know what verbal guidance was in effect from SAC to SAC.

After reviewing the Houston Division’s policy, we found that it addressed several planning, communication, coordination, and legal requirements that supplement national policy and facilitate conducting investigative operations at gun shows. Key provisions include:

1. Increased involvement by ATF support personnel, such as Intelligence Research Specialists and Tactical Operations Officers, early in the planning process.

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2. Strong consideration of local law enforcement participation, particularly securing marked police vehicles for any necessary traffic stops.
 3. Timely submission of operational plans to allow for thorough review, analysis, and authorization to occur.
 4. Participation by other federal law enforcement agencies that can contribute valuable knowledge and services that increase the effectiveness and safety of gun show operations. For example, the Houston guidance stresses that Special Agents should attempt to have a Department of Homeland Security presence during operations at gun shows to handle any situations involving illegal aliens in possession of firearms.
 5. Consideration of certain legal concerns relevant to gun shows, such as approaching individuals in the show's parking lot.
 6. Coordination of potential international firearms trafficking with federal, state, and foreign law enforcement agencies.

Divisions that identify a need to conduct investigative operations directed at general illegal firearms activity may find a policy like Houston's to be a "best practice" that could be adapted to their own circumstances. Therefore, we are providing this information so that ATF management may consider Houston's approach to developing local policies and procedures that describe unique regional problems and provide specific considerations and methods for handling issues encountered during operations at gun shows.

CONCLUSION

ATF conducts investigative operations at gun shows as part of its overall strategy to prevent illegal firearms trafficking. ATF has no specific enforcement program directed at gun shows. The 202 investigative operations at gun shows conducted during the 3-year period that we reviewed predominantly focused on specific suspects, although 23 percent of the operations targeted general illegal firearms activity at certain gun shows. We found that ATF's decisions to conduct investigative operations, including those in the Richmond area, were based on significant law enforcement intelligence from a variety of sources indicating that illegal activity was occurring or was about to occur at a specific gun show.

Based on our review of 121 operational plans for investigative operations conducted at gun shows; interviews with ATF personnel from 11 field divisions, state and local law enforcement personnel, and representatives from national firearms-related organizations; and an analysis of complaints received by ATF from FY 2004 through FY 2006, we found that, with the exception of some Richmond-area gun shows, ATF conducted its investigative operations at gun shows covertly without incident and without complaints from promoters, vendors, or the public. After the controversy surrounding ATF's activities at the August 2005 Richmond gun show, ATF issued guidance to its field divisions advising that the use of blanket residency checks was not an effective practice and that residency checks should not be conducted without reasonable suspicion that criminal violations may exist.