



OFFICE OF THE INSPECTOR GENERAL

U.S. Department of Justice

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FOR IMMEDIATE RELEASE

September 8, 2016

DOJ OIG Releases Report on ATF's Undercover Storefront Operations

The Department of Justice (DOJ) Office of the Inspector General (OIG) announced today the release of a report on the Bureau of Alcohol, Tobacco, Firearms and Explosives' (ATF) use of undercover storefront operations, in which law enforcement operates a fake business or establishment from a location where illicit merchandise is exchanged or services are rendered. ATF's use of these operations came under public scrutiny in 2013 after news reports described numerous problems with a storefront operation in Milwaukee, Wisconsin, including the theft of firearms, improper handling of sensitive information, and the alleged targeting of persons with disabilities.

Today's report from the DOJ OIG examines: (1) whether there are any systemic deficiencies in ATF's storefront policies; and (2) the effectiveness of ATF's Monitored Case Program (MCP), which is a program that ATF established following the problems identified in its Operation Fast and Furious to provide for heightened management scrutiny of the agency's most sensitive cases. Our report focuses on five ATF undercover storefront operations that continued or began after the inception of the MCP; these operated in Milwaukee, Pensacola, St. Louis, Wichita, and Boston, the latter of which was operated from a cargo van. In addition, due to allegations that ATF was targeting persons with disabilities for enforcement action, we examined this issue at ATF's storefront in Portland, Oregon, as well as at the other five storefronts identified above.

Our review determined that while undercover operations can be an important component of ATF's efforts to fight violent crime, ATF failed to devote sufficient attention to how it was managing its undercover storefront operations. We also found that events giving rise to the controversy surrounding ATF's undercover storefront operations were avoidable and were caused primarily by poor management, insufficient training and guidance to agents in the field, and a lax organizational culture that failed to place sufficient emphasis on risk management in these inherently sensitive operations.

Specifically, we found that ATF lacked adequate policies and guidance for its agents and, in some cases, the supervision necessary to appropriately address the risks associated with the use of this complex investigative technique. Although we did not find overarching problems with ATF's storefront policies as revised following disclosure of problems with the Milwaukee storefront, we determined that ATF should make additional changes to further improve

them. We also found that ATF needed to make adjustments to its MCP to better focus on the most significant risks in ATF's investigative operations, including storefronts.

We further concluded that ATF must do a better job in future storefront operations defining the crime problem that the storefront is designed to address and explaining how the strategy underlying it will lead to the apprehension of persons warranting federal prosecution. While the goals of a storefront may vary depending on local crime circumstances, we found that ATF should ensure that its use of this technique is appropriately targeted and consistent with a substantial federal law enforcement interest. And then, during and after such operations, ATF should evaluate the impact of the storefront on the crime problem that it was designed to address.

Additionally, we found that ATF's assignment of inexperienced and shifting staff to run and supervise these operations without adequate Headquarters support and oversight had predictably negative consequences, and that ATF needs to consolidate its storefront expertise and ensure that it is fully engaged in each operation. Relatedly, ATF undercover storefront operations should not proceed unless ATF Headquarters concurs that they are properly designed and are being implemented appropriately, and Headquarters' staff should be accountable for the success of these operations.

We found no evidence that ATF intentionally targeted or used individuals with intellectual or developmental disabilities in its storefront investigations because of their disability. However, we determined in the course of the review that the DOJ had failed to apply Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, which prohibits discrimination against persons with disabilities, to its federal law enforcement activities. This Act imposes important compliance responsibilities on DOJ's law enforcement components, which include ATF, the Federal Bureau of Investigation, the Drug Enforcement Administration, and the U.S. Marshals Service. We raised this issue with the Office of the Deputy Attorney General and, on September 3, 2015, we wrote to the Attorney General and Deputy Attorney General to request quarterly updates on DOJ's efforts to ensure compliance with the Rehabilitation Act. We intend to carefully monitor DOJ's progress in meeting its significant duties under the Act.

Today's report makes 13 recommendations to help the ATF ensure that its storefront operations are managed expertly and appropriately. ATF agreed with all of them.

Report: Today's report is available on the OIG's website at the following link: <https://oig.justice.gov/reports/2016/o1606.pdf>.

Video: To accompany today's report, the OIG has released a 4-minute video featuring the Inspector General summarizing the report's findings. The video and a downloadable transcript are available at the following link: <https://oig.justice.gov/multimedia/>.