



# **MANAGEMENT OF SEIZED ASSETS AND EVIDENCE BY THE BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES**

U.S. Department of Justice  
Office of the Inspector General  
Audit Division

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# **MANAGEMENT OF SEIZED ASSETS AND EVIDENCE BY THE BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES**

## **EXECUTIVE SUMMARY**

The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) law enforcement functions were transferred on January 24, 2003, from the Department of the Treasury (Treasury) to the Department of Justice (DOJ) under the Homeland Security Act of 2002. ATF's tax and trade functions remained with Treasury.

The ATF conducts criminal investigations, oversee the firearms and explosives industries, and enforces federal laws and regulations related to alcohol, tobacco, firearms, explosives, and arson. ATF headquarters is located in Washington, D.C., and there are 23 field divisions comprised of multiple field offices.

In the course of criminal investigations, ATF seizes items for forfeiture and evidentiary purposes, and stores the items in ATF vaults and explosive storage bunkers.<sup>1</sup> Items seized may include alcohol, tobacco, firearms, explosives, ammunition, vehicles, real property, currency, and computer equipment. Between October 2003 and June 2006 ATF seized 240,802 items with an estimated fair market value of \$57,510,372. ATF subsequently disposes of forfeited assets after judicial action is completed. Forfeited assets are disposed of using one of three actions: destruction, sale, or placement into official use. Only certain items are deemed suitable for official use: firearms, vehicles, or investigative equipment.<sup>2</sup>

Items seized by ATF for forfeiture are recorded, monitored, and managed by ATF's Asset Forfeiture and Seized Property Branch through its Forfeited and Seized Assets Tracking System (FASTRAK), which is unique to ATF. ATF currently does not participate in the DOJ asset forfeiture program, which is managed by the United States Marshals Service (USMS). The DOJ asset forfeiture program includes federal partners both within and outside

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<sup>1</sup> A bunker is a fortified chamber mostly below ground that is often built of reinforced concrete.

<sup>2</sup> Investigative equipment comprises items such as portable photographic and optical equipment, sound recording or amplification equipment, radios, and televisions.

DOJ.<sup>3</sup> The USMS has not yet assumed management of any of ATF's assets seized for forfeiture, because ATF uses FASTRAK to track its seized assets, while the USMS and the other asset forfeiture partners use the Consolidated Asset Tracking System (CATS).

At the time of ATF's transfer to DOJ, DOJ and Treasury signed a memorandum of understanding (MOU) regarding the management and disposition of assets seized for forfeiture by ATF. In accordance with the MOU, assets seized on or before January 23, 2003, remained the property and responsibility of Treasury, while assets seized on or after January 24, 2003, became the property and responsibility of DOJ.

The MOU also stipulated that all assets seized for forfeiture by ATF on or after January 24, 2003, would continue to be transferred to and disposed of by Treasury's national property contractor until an asset transition plan between Treasury and DOJ could be implemented. All net proceeds from the disposition of the assets were to be transferred to the DOJ Asset Forfeiture Fund.<sup>4</sup>

The Office of the Inspector General (OIG) conducted this audit to assess ATF's management of seized assets. Our objectives were to: (1) determine the status of ATF's transition to DOJ's system for managing seized assets; and (2) assess the adequacy of ATF's accounting for, storing, safeguarding, and disposing of seized assets and evidence in its possession.

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<sup>3</sup> Asset forfeiture participants in DOJ include the Drug Enforcement Administration, the Federal Bureau of Investigation, the United States Marshals Service, the United States Attorneys' Offices, the Asset Forfeiture and Money Laundering Section of the Criminal Division, and the Justice Management Division's Asset Forfeiture Management Staff. Non-DOJ participants include the U.S. Department of Agriculture; the U.S. Postal Inspection Service, which is the law enforcement unit of the U.S. Postal Service; the U.S. Food and Drug Administration, which is part of the U.S. Department of Health and Human Services; and the Bureau of Diplomatic Security, which is part of the U.S. Department of State.

<sup>4</sup> The DOJ Asset Forfeiture Fund serves as a repository for funds seized by participating agencies and the sale proceeds from forfeited property. According to Attorney General Directive 90-5, the DOJ Asset Forfeiture Program has three primary goals: (1) to punish and deter criminal activity by depriving criminals of property used or acquired through illegal activities; (2) to enhance cooperation among foreign, federal, state, and local law enforcement agencies through the equitable sharing of assets recovered through the program; and (3) to produce revenues to enhance forfeitures and strengthen law enforcement. The proceeds deposited in the Asset Forfeiture Fund are used to fund allowable costs of the DOJ Asset Forfeiture Program.

To accomplish our objectives, we reviewed and analyzed federal laws, regulations, and DOJ policies and procedures applicable to seized assets, as well as internal inspection reports for all 23 ATF field divisions. We reviewed the MOU between Treasury and DOJ for the management and disposition of property seized for forfeiture by ATF. We also reviewed three contractor reports on FASTRAK and CATS. We interviewed officials from the ATF Asset Forfeiture and Seized Property Branch, Asset Forfeiture Management Staff, Special Agents-in-Charge of field divisions, and Resident Agents-in-Charge of field offices.

## **Background**

Under the asset forfeiture statutes, property is formally forfeited only after the government has completed a legal proceeding intended to give any potential claimant due notice and an opportunity to contest the forfeiture. Such forfeiture proceedings fall under the following categories:

- Administrative forfeiture — an action that permits the federal seizing agency to forfeit the property without judicial involvement.
- Criminal judicial forfeiture — an action included as part of a criminal prosecution.
- Civil judicial forfeiture — an action in a U.S. District Court against a specific piece of property (no person is named as a defendant).

ATF categorizes items either as valued properties, which are items that can be legally sold in the United States, or non-valued properties, which either do not have a legal market in the United States or a saleable value to the federal government. In general, valued and non-valued seized property is initially recorded at its estimated fair market value in accordance with Federal Accounting Standards, the Government Accountability Office, and Office of Management and Budget guidelines. The values assigned are for accounting recognition purposes only and are not necessarily the amount realized upon final disposal. As detailed in the following table, the quantity and value of items seized varies between fiscal years (FY) and by type of property.

## ATF SEIZED ITEMS AND THEIR ESTIMATED VALUES

Seized Items	FY 2004		FY 2005		FY 2006 (1 <sup>st</sup> , 2 <sup>nd</sup> , and 3 <sup>rd</sup> Qtrs)	
	Quantity of Items	Value	Quantity of Items	Value	Quantity of Items	Value
Firearms	12,783	\$3,825,809	27,656	\$9,770,314	14,576	\$5,255,157
Ammunition	5,312	166,833	12,456	487,962	5,976	155,447
Explosives	530	118,029	1,964	1,214,217	629	74,363
Vehicles	43	624,134	89	122,657	103	213,779
Vessels	1	5,000	0	0	0	0
Alcohol	26	2,283	14	3,444	46	155
Tobacco	572	2,370,324	156,767	3,588,767	376	593,364
Other <sup>1</sup>	221	8,745,181	338	9,119,970	324	11,053,183
<b>Totals</b>	<b>19,488</b>	<b>\$15,857,593</b>	<b>199,284</b>	<b>\$24,307,331</b>	<b>22,030</b>	<b>\$17,345,448</b>

Source: Bureau of Alcohol, Tobacco, Firearms and Explosives

<sup>1</sup> Includes currency or other monetary instruments, real property, and general merchandise.

### Types of Items Seized by ATF

In FY 2005, ATF seized 199,284 valued and non-valued property items at an estimated fair market value of \$24,307,331. As of June 30, 2006, an additional 22,030 items were seized at an estimated fair market value of \$17,345,448. Valued property items include vehicles, alcohol, currency, jewelry, real property and computer equipment. Alcohol products are considered valued property because they can be sold, but only under certain conditions, such as if they are in the manufacturer's original sealed packaging. Non-valued property items, which include firearms, silencers, ammunition, explosives, arson materials, contraband alcohol, and tobacco products are destroyed by ATF.<sup>5</sup>

### Analysis of Seized Property Asset Management Systems

As noted earlier, DOJ asset forfeiture participants use CATS and ATF uses FASTRAK to track the life cycle of property seized for forfeiture. Data maintained within the two systems identify specific pieces of property and provide details about the items, such as the seizing office; seizing agent; case number; the type, description, value, and quantity of the property; and any other information necessary to ensure the proper monitoring and disposition of the property.

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<sup>5</sup> Title 26 U.S.C. Chapter 53 § 5872 states that any firearm involved in a violation of the chapter will be subject to seizure and forfeiture and shall not be sold at public sale.

When ATF transferred to the Department of Justice in January 2003, the Asset Forfeiture Management Staff (AFMS) and ATF's Asset Forfeiture and Seized Property Branch reached a verbal agreement that suspended the planned migration of ATF's seized asset data into the Department's CATS because AFMS was upgrading its system. The upgrade changed the CATS system from dedicated terminals in users' offices to a browser-based system allowing authorized users access to the system using non-dedicated computers and the Internet. AFMS officials were concerned that injecting ATF's system requirements into CATS would delay the upgrade, adversely affecting the rest of the DOJ asset forfeiture participants. The suspension was intended to allow AFMS time to complete the upgrade of CATS prior to migrating ATF data and its system requirements. The final conversion and migration of ATF data from FASTRAK to CATS is on schedule and expected to be completed by June 30, 2007.

After ATF transferred to DOJ, the AFMS contracted with a non-profit corporation for an analysis of the differences between CATS and FASTRAK, an evaluation of alternative asset tracking approaches, and identification of the preferred solution for managing both DOJ and ATF seized and forfeited assets. AFMS utilized an existing ATF support contractor to develop a summary of ATF data requirements that CATS did not support. Under the identified preferred alternative, both CATS and FASTRAK capabilities would be fully integrated into one system, a browser-based CATS. As a result, in June 2005, the non-profit corporation issued a report that summarized 99 data requirements of FASTRAK that CATS did not support. ATF requires more detailed information for its forfeiture case management system than CATS provides. Some of the unsatisfied requirements are related to cases, seizures, assets, firearms, forfeitures, disposition of items, and legal counsel information. Examples of the unsatisfied requirements are the ability to enter and maintain an Agent ID and the ability to enter and maintain the item seizure number. As of June 14, 2006, 38 of the original 99 requirements remained unresolved. The remaining 38 requirements are expected to be resolved by October 2006.

Until all of ATF's system requirements are satisfied, ATF will continue to use FASTRAK to account for seized property. Operating ATF's seized asset management system cost DOJ \$147,000 in FY 2004 and \$210,000 in FY 2005. Additionally, \$300,000 was funded for FASTRAK in FY 2006. As of August 26, 2006 ATF had expended approximately \$76,000 and the balance will be obligated prior to the end of the fiscal year.

## Accounting for ATF Funds at Treasury

Since ATF uses its own asset management system, proceeds from the sale of forfeited seized assets continue to be deposited with Treasury as agreed in the MOU. As of June 30, 2006, ATF reported that Treasury was holding \$21,166,103 in combined seized and forfeited funds due DOJ.<sup>6</sup> Of that amount, \$16,164,234 represents seized currency pending forfeiture. The remaining balance of \$5,001,869 has been forfeited and when deposited into the Asset Forfeiture Fund will be available for use by DOJ.

The table below shows a breakdown of funds still on deposit at Treasury that are due DOJ.

### FUNDS AT TREASURY DUE DOJ

Types of Funds		6/30/06
Seized Currency Pending Forfeiture		\$16,164,234
Forfeited Currency Net of Sharing Payable	\$4,637,262	
Sales Proceeds Net of Sharing Payable	\$364,607	
Sub-total of Forfeited Currency and Sales Proceeds		\$5,001,869
<b>Net Monies Due to DOJ</b>		<b>\$21,166,103</b>

Source: Bureau of Alcohol, Tobacco, Firearms and Explosives

The Department's AFMS and ATF's Asset Forfeiture and Seized Property Branch established a comprehensive record to serve as the detailed accounting for all amounts due to DOJ and Treasury under the MOU. Until May 2006, there was a disagreement between the two offices regarding the documentation provided by ATF. According to the Assistant Director of the AFMS, as of May 8, 2006, ATF had not provided adequate supporting documentation regarding the number of cases, gross amounts, and sources of expense and revenue attributable to the dollar amounts of each item included in the forfeited currency and sales activity through September 30, 2005. ATF's Asset Forfeiture and Seized Property Branch disagreed and asserted that it had provided the AFMS with the necessary detailed accounting records.

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<sup>6</sup> The \$21,166,103 has accumulated at Treasury since ATF's transfer to DOJ in January 2003. The forfeited funds are not in litigation, the legal process is complete. However, funds pending forfeiture are in litigation.

In June 2006, the AFMS informed the OIG that ATF's Asset Forfeiture and Seized Property Branch had provided it with the necessary documentation and certification of completeness so that it could start the process of the initial transfer of funds from Treasury. The initial transfer request sent to Treasury was for \$2,361,907 based on data as of March 31, 2006. The two offices are still reconciling the remaining balance of \$2,639,962 (\$5,001,869 minus \$2,361,907), and will initiate transfer of those funds once the reconciliation process is complete. Both offices expect on-going reconciliation of any future funds that become available thereafter. This ongoing reconciliation will facilitate quarterly transfer requests to Treasury from the AFMS.

After 44 months, ATF and the AFMS have resolved the accounting documentation problem regarding the forfeited fund balance deposited at Treasury. However, the funds are still at Treasury and therefore, are not available for immediate use by DOJ to fund the Asset Forfeiture Fund or to pay for operating costs and related law enforcement programs associated with the Fund. The key problem – that ATF has not migrated its forfeited asset data to CATS – remains the underlying issue. Once ATF can migrate to CATS all of its assets seized for forfeiture will be captured by CATS. Once the data maintained in ATF's FASTRAK system is migrated to CATS, AFMS and ATF will be in a position to acquire and manage all of the funds (both forfeited and pending forfeiture).

### **Storing and Safeguarding Seized Assets**

ATF does not have a plan that specifically addresses safeguarding seized assets and evidence in the event of a natural disaster or other significant event. Of the three field offices affected by Hurricane Katrina (New Orleans, Louisiana; Mobile, Alabama; and Biloxi, Mississippi), none identified an alternate storage location for safeguarding its seized assets and evidence. The Biloxi, Mississippi, Field Office, located on the shoreline, encountered significant hurricane damage. Because ATF did not have a contingency plan in place to safeguard seized assets and evidence from potential theft, destruction, or damage, the vault contents remained in Biloxi during the hurricane and had to be recovered from the structurally unstable Biloxi Field Office after the hurricane and relocated multiple times to various



alternate sites.<sup>7</sup> By having a plan in place, ATF may have been able to reduce the number of times the vault contents were moved.

Further, ATF management has not enforced all of the requirements of ATF Order 3400.1B, *Property Taken Into Bureau Custody*. This Order prescribes basic procedures governing reporting and controlling of property from the time of initial acquisition to its final disposition. The Order sets forth facility and equipment requirements, access requirements and restrictions, inventory procedures, and property control. We found that one of the eight vaults we tested did not meet vault construction standards because a wire-mesh barrier above the chain-link fence intended to protect against unauthorized entry had not been installed. This condition was noted as an exception to the requirements of ATF Order 3400.1B in ATF's 1997, 2000, and 2003 Office of Field Operations inspection reports. The condition leaves the vault vulnerable to unauthorized entry and increases the risk of theft of seized property and evidence. (See Appendix IV for a complete list of our test results.)

Effective July 2005, every firearm coming into ATF custody or being investigated by ATF is required to be traced through the ATF National Tracing Center. We found 6 of 130 firearms we tested, or 5 percent were not traced through the National Tracing Center. We determined that the seizing agents either did not request a trace of the seized firearms through the National Tracing Center or traced them with an incorrect serial number. All firearms manufactured in 1968 or after have unique serial numbers. Not tracing a firearm or submitting a wrong serial number through the National Tracing Center equates to not accounting for the correct firearm. Further, this situation prevents the correct information from being received in an accurate and timely manner. It also potentially prevents ATF from linking a suspect to a firearm in a criminal investigation; identifying potential traffickers; detecting intrastate, interstate, and international patterns in the sources and kinds of firearms used in crimes.

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<sup>7</sup> The locations were the Biloxi police department; the Jackson, Mississippi, federal building parking garage basement; the Memphis, Tennessee, national contractor storage; and the Mobile, Alabama, national contractor storage.

## **Recommendations**

Our audit disclosed areas where improvements can be made to ATF's management of seized assets relating to the use of DOJ's asset management system; accounting for, storing, and safeguarding seized property; and proactively responding to natural disasters.

This report contains five recommendations that focus on the need to resolve ATF's asset management system requirements that are necessary to fully support migration of FASTRAK data into CATS, provide appropriate supporting documentation to the AFMS about seized and forfeited assets, and expedite the reconciliation so that current and future funds at Treasury can be promptly transferred to the DOJ Asset Forfeiture Fund. Equally important, we determined that seizing agents either did not request a trace of seized firearms through the National Tracing Center or traced them with an incorrect serial number. ATF also lacks a proactive contingency plan that addresses accounting for, storing, and safeguarding seized assets and evidence in the event of a natural disaster or significant event.

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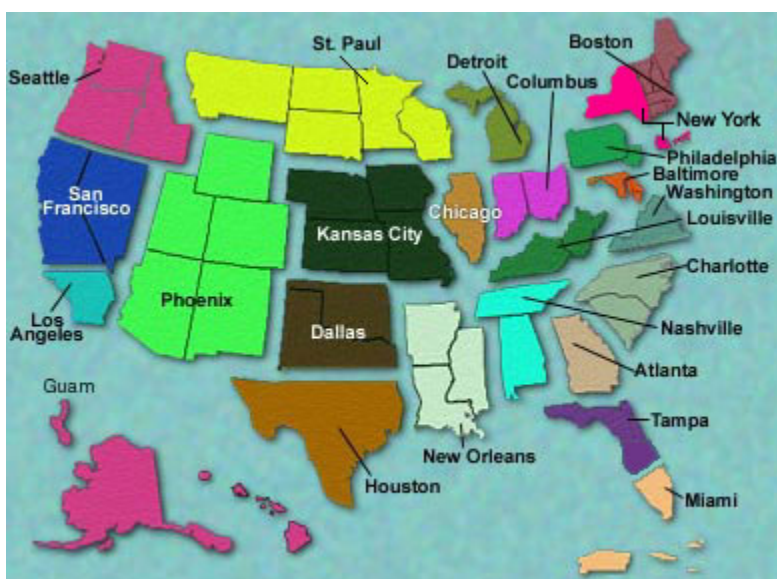
# MANAGEMENT OF SEIZED ASSETS AND EVIDENCE BY THE BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES

## INTRODUCTION

The mission of the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) is to conduct criminal investigations, oversee the firearms and explosives industries, and enforce federal laws and regulations related to alcohol, tobacco, firearms, explosives, and arson. ATF's mission also includes working in cooperation with federal, state, and local law enforcement agencies. ATF views its role in enforcing firearms and explosives laws as significant in the battle against terrorism and supports a strategic goal of the Department of Justice (DOJ) to "enforce federal laws and represent the rights and interests of the American people."

ATF's law enforcement functions were transferred on January 24, 2003, from the Department of the Treasury (Treasury) to DOJ under the Homeland Security Act of 2002. ATF's tax and trade functions remained with Treasury. ATF headquarters is located in Washington, D.C., and there are 23 ATF field divisions comprised of multiple field offices.

### ATF FIELD DIVISION OFFICE LOCATIONS



Source: Bureau of Alcohol, Tobacco, Firearms and Explosives

In the course of its criminal investigations, ATF seizes items for forfeiture and evidentiary purposes. Seized items are stored in ATF vaults and explosive storage bunkers.<sup>8</sup> Items seized may include alcohol, tobacco, firearms, explosives, ammunition, vehicles, real property, currency, and computer equipment. Those items seized for forfeiture are recorded, monitored, and managed by ATF's Asset Forfeiture and Seized Property Branch through its Forfeited and Seized Assets Tracking System (FASTRAK), a system unique to ATF. ATF disposes of forfeited assets after judicial action is completed. Forfeited assets are disposed of using one of three actions: destruction, sale, or placement into official use. Only certain items are deemed suitable for official use: firearms, vehicles, or investigative equipment.<sup>9</sup>

As part of ATF's transfer, DOJ and Treasury signed a memorandum of understanding (MOU) regarding ATF's management and disposition of assets seized for forfeiture. In accordance with the MOU, assets seized on or before January 23, 2003, remained the property and responsibility of Treasury. Assets seized on or after January 24, 2003, became the property and responsibility of DOJ.

The MOU stipulated that all assets seized for forfeiture by ATF on or after January 24, 2003, would continue to be transferred to and disposed of by Treasury's national property contractor until an asset transition plan between Treasury and DOJ could be implemented. All net proceeds from those dispositions were to be transferred to the DOJ Asset Forfeiture Fund.<sup>10</sup> Both agencies agreed to provide a timely response to any request for information pertaining to assets covered by the MOU.

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<sup>8</sup> A bunker is a fortified chamber mostly below ground that is often built of reinforced concrete.

<sup>9</sup> Investigative equipment includes items such as portable photographic and optical equipment, sound recording or amplification equipment, radios, and televisions.

<sup>10</sup> The DOJ Asset Forfeiture Fund serves as a repository for funds seized by participating agencies and the sale proceeds from forfeited property. According to Attorney General Directive 90-5, the DOJ Asset Forfeiture Program has three primary goals: (1) to punish and deter criminal activity by depriving criminals of property used or acquired through illegal activities; (2) to enhance cooperation among foreign, federal, state, and local law enforcement agencies through the equitable sharing of assets recovered through the program; and (3) to produce revenues to enhance forfeitures and strengthen law enforcement. The proceeds deposited in the Asset Forfeiture Fund are used to fund allowable costs of the DOJ Asset Forfeiture Program.

The United States Marshals Service (USMS) administers the DOJ asset forfeiture program, which includes federal partners both within and outside DOJ.<sup>11</sup> The United States Marshals Service has not assumed management of any of ATF's assets seized for forfeiture, however, because ATF uses FASTRAK to track its seized assets and the USMS and the other asset forfeiture partners use the Consolidated Asset Tracking System (CATS).

The Office of the Inspector General (OIG) conducted this audit to examine ATF's management of assets seized during investigations of suspected criminal activity. Our objectives were to: (1) determine the status of ATF's transition to DOJ's system for managing seized assets; and (2) assess the adequacy of ATF's accounting for, storing, safeguarding, and disposing of seized assets and evidence in its possession.

## **Background**

Under the forfeiture statutes, property is formally forfeited only after the government has completed a legal proceeding intended to give any potential claimant due notice and an opportunity to contest the forfeiture. Such forfeiture proceedings fall into the following categories:

- Administrative forfeiture is an action that permits the federal seizing agency to forfeit property without judicial involvement. The authority for a seizing agency to start an administrative forfeiture action is found in the Tariff Act of 1930, 19 U.S.C. § 1607. Property that can be administratively forfeited is merchandise, the importation of which is prohibited; a conveyance used to import, transport, or store a controlled substance such as vehicles, vessels, airplanes, or conex boxes; monetary instruments such as coins, currency, travelers' checks,

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<sup>11</sup> Asset forfeiture participants in DOJ include the Drug Enforcement Administration, Federal Bureau of Investigation, United States Marshals Service, United States Attorneys' Offices, the Asset Forfeiture and Money Laundering Section of the Criminal Division, and the Justice Management Division's Asset Forfeiture Management Staff. Non-DOJ participants include the U.S. Department of Agriculture; the U.S. Postal Inspection Service which is the law enforcement unit of the U.S. Postal Service; the U.S. Food and Drug Administration, which is part of the U.S. Department of Health and Human Services; and the Bureau of Diplomatic Security, which is part of the U.S. Department of State.

bearer instruments, or bearer securities regardless of value; or other property that does not exceed \$500,000 in value.<sup>12</sup>

- Criminal judicial forfeiture is an action included as part of a criminal prosecution. In a criminal judicial forfeiture, the defendant is charged with an offense for which forfeiture is authorized, and an additional count or forfeiture allegation describing the property and its relationship to the criminal offense is included in the indictment. Upon conviction for the underlying offense, the court may order the involved property forfeited to the government.
- Civil judicial forfeiture is an action in a U.S. District Court against a specific piece of property (no person is named as a defendant). Civil judicial forfeitures are pursued independent of any criminal prosecution of the offense that justified the seizure. A judicial forfeiture (either criminal or civil) is always utilized when the value of the personal property involved is in excess of \$500,000 (with the exception of cash), when the property is real estate, when ATF lacks administrative forfeiture authority, or a claim has been filed as a result of an administrative forfeiture.

## **Items Seized by ATF**

In fiscal year (FY) 2005, ATF seized 199,284 property items at an estimated value of \$24,307,331. As of June 30, 2006, an additional 22,030 items were seized at an estimated value of \$17,345,448. Valued properties are items that can be legally sold in the United States such as vehicles, vessels, real property, jewelry, and alcohol. Non-valued properties are items that either do not have a legal market in the United States or a saleable value to the federal government such as firearms, silencers, ammunition, explosives, and tobacco.<sup>13</sup> These non-valued items are disposed of using ATF-approved methods. In general, both valued and non-valued items are assigned an estimated fair market value in accordance with Federal Accounting Standards, the Government Accountability Office, and Office of Management and Budget guidelines. The values assigned are for

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<sup>12</sup> Bearer instrument – a document that indicates the bearer has title to property, such as shares or bonds. Bearer security – possession of the security confers ownership as there is no register of ownership.

<sup>13</sup> Title 26 U.S.C. Chapter 53 § 5872 states that any firearm involved in a violation of the chapter shall not be sold at public sale.

accounting recognition purposes only and are not necessarily the amount realized upon final disposal. Although all items seized are assigned a fair market value, the majority of the items are deemed non-valued property.

Examples of items seized by ATF are:

- Firearms — handguns, rifles, shotguns, machine-guns, sawed-off rifles or shotguns, machine-gun conversion kits, or assault weapons
- Silencers — devices placed on firearms that are used to suppress the noise from discharges
- Ammunition — cartridges, or cartridge cases, and cartridge components that can be used in any firearm
- Explosives — blasting caps, detonation cords, bomb debris, and destruction devices
- Vehicles — automobiles, motorcycles, aircraft, and vessels
- Arson materials — arson debris, incendiary devices, and any other material related to the arson under investigation
- Alcohol — legally and illegally acquired liquor, mash, stills, and other related equipment
- Tobacco — cigarettes (contraband, stolen, or no tax paid)
- Other — currency or other monetary instruments, jewelry, drugs, financial records, documents, computer equipment, general merchandise, real property, and electronic intercepts.

As detailed in the following table, the quantity and value of items seized varies widely from year to year.



**ATF SEIZED ITEMS AND THEIR ESTIMATED VALUES**

Seized Items	FY 2004		FY 2005		FY 2006 (1 <sup>st</sup> , 2 <sup>nd</sup> , and 3 <sup>rd</sup> Qtrs)	
	Quantity of Items	Value	Quantity of Items	Value	Quantity of Items	Value
Firearms	12,783	\$3,825,809	27,656	\$9,770,314	14,576	\$5,255,157
Ammunition	5,312	166,833	12,456	487,962	5,976	155,447
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Vehicles	43	624,134	89	122,657	103	213,779
Vessels	1	5,000	0	0	0	0
Alcohol	26	2,283	14	3,444	46	155
Tobacco	572	2,370,324	156,767	3,588,767	376	593,364
Other <sup>1</sup>	221	8,745,181	338	9,119,970	324	11,053,183
<b>Totals</b>	<b>19,488</b>	<b>\$15,857,593</b>	<b>199,284</b>	<b>\$24,307,331</b>	<b>22,030</b>	<b>\$17,345,448</b>

Source: Bureau of Alcohol, Tobacco, Firearms and Explosives

<sup>1</sup> Includes currency or other monetary instruments, real property, and general merchandise.

Since forfeited assets are not necessarily disposed of in the same fiscal year or at the value they were originally assigned when they were seized, the amounts shown in the previous table and the one below will not reconcile. The table below lists both assets seized and forfeited by ATF and their associated disposal values.

**NET PROCEEDS FROM ASSETS SOLD**

Forfeited Assets	FY 2004		FY 2005		FY 2006 (1 <sup>st</sup> , 2 <sup>nd</sup> , and 3 <sup>rd</sup> Qtrs)	
	Quantity of Items	Value	Quantity of Items	Value	Quantity of Items	Value
Firearms	761	\$0	7,591	\$0	6,642	\$0
Ammunition	4,059	0	4,229	0	3,425	0
Explosives	9,492	0	502	0	325	0
Vehicles	19	135,895	27	270,280	33	306,145
Vessels	0	0	0	0	0	0
Alcohol	2	6,400	33	0	8	0
Tobacco	20	197,146	33	0	232	134,909
Other <sup>1</sup>	67	4,296,545	161	2,515,647	108	1,940,064
Actual and Estimated Expenses <sup>2</sup>		(2,656,199)		(1,745,080)		(914,529)
<b>Totals</b>	<b>14,420</b>	<b>\$1,979,787</b>	<b>12,576</b>	<b>1,040,847</b>	<b>10,773</b>	<b>\$1,466,589</b>

Source: Bureau of Alcohol, Tobacco, Firearms and Explosives

<sup>1</sup> Includes monetary instruments, real property, and general merchandise.

<sup>2</sup> Primarily for storage and disposal costs.

## History

In 1990, the DOJ Deputy Attorney General approved the implementation of three specific recommendations related to DOJ's need for the most cost-effective and accurate means to manage and improve the DOJ asset forfeiture program. The three recommendations were:

- The Executive Office for Asset Forfeiture was directed to use the Asset Forfeiture Fund for the design and development of a single, integrated asset forfeiture information system for DOJ.<sup>14</sup>
- All DOJ organizations participating in the asset forfeiture program were directed to revise their automation planning, development, and installation efforts to incorporate the integrated DOJ-wide system as the primary source of operational support and management information for the asset forfeiture program.
- All DOJ organizations were directed to develop plans for orderly transition to the new integrated asset forfeiture system from any automated system that competed with the new system in scope, function, or purpose. The transition plan was to be submitted for approval to the Office of the Deputy Attorney General. Any investment to enhance the existing systems, regardless of the source of funding, was to be consistent with the transition plan and submitted for approval to the Office of the Deputy Attorney General.

## Analysis of Seized Property Asset Management Systems

As noted earlier, DOJ asset forfeiture participants use CATS and ATF uses FASTRAK to track the life cycle of property seized for forfeiture. Data maintained within both systems identify specific pieces of property and provide details about the items, such as the seizing office; seizing agent; case number; the type, description, and value of the property; and any other facts necessary to ensure proper monitoring and disposition of the property.

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<sup>14</sup> The Department reassigned the policy functions of the Executive Office for Asset Forfeiture to the Criminal Division in 1994. At the same time, the financial and administrative functions were transferred to the Justice Management Division.

When ATF transferred to DOJ in January 2003, the Asset Forfeiture Management Staff (AFMS) and ATF's Asset Forfeiture and Seized Property Branch reached a verbal agreement to suspend the planned migration of ATF's seized asset data into the Department's CATS because the AFMS was upgrading its system. The upgrade changed the CATS system from dedicated terminals in user offices to a browser-based system allowing authorized users to access the system using non-dedicated computers on the Intranet. AFMS officials were concerned that injecting ATF's system requirements into CATS would delay the upgrade schedule, adversely affecting asset forfeiture participants. The suspension was intended to allow the AFMS time to complete the upgrade of CATS prior to migrating ATF data and its system requirements.

After ATF transferred to DOJ, the AFMS contracted with a non-profit corporation for an analysis of the functional differences between CATS and FASTRAK. In June 2003, the results of the analysis were reported in the *CATS-FASTRAK Gap Analysis*, and included the following:

- CATS and FASTRAK function on different operating systems, use different software applications, and have different network environments.
- There are significant differences in the two systems for data elements, data definitions, and the structure of data tables.
- FASTRAK can create detailed reports for firearms and ammunition that CATS cannot produce.

The AFMS contractor also provided an evaluation of alternative asset tracking approaches that would support the management of ATF's seized and forfeited assets within DOJ. A second report issued in July 2003, entitled *CATS-FASTRAK Alternatives Analysis and Recommendations*, presented five alternatives for ATF's use of CATS.

- Alternative 1 — ATF would continue to use FASTRAK and would continue to realize the benefits of the full complement of FASTRAK capabilities. DOJ would not have a common database of seized and forfeited assets and the tracking process would likely be cumbersome and inefficient.

- Alternative 2 — ATF would be required to use CATS and a common database would exist for all DOJ-seized and forfeited assets.
- Alternative 3 — FASTRAK would be integrated with CATS and all of the current FASTRAK functions and capabilities would be supported by CATS. Incorporating this functionality would require a significant software development effort.
- Alternative 4 — FASTRAK would have an electronic interface with CATS, and ATF would continue to realize the benefits of the full complement of FASTRAK capabilities. CATS and FASTRAK also would share a common database accessible to all DOJ asset forfeiture participants. The development of an electronic interface between CATS and FASTRAK would likely be a costly endeavor, given the significant differences in the database design of the two systems.
- Alternative 5 — FASTRAK and CATS would migrate to the browser-based CATS, fully integrating FASTRAK functions and capabilities. FASTRAK and CATS would exist as parallel systems for a period of time, requiring maintenance of both systems.

The report recommended Alternative 5 for managing DOJ seized and forfeited asset tracking processes.

AFMS utilized an existing ATF support contractor to assess 658 individual ATF system requirements. A third report issued in June 2005, *ATF-FASTRAK – Version 7.0.9/DOJ BBC Gap Analysis Summary 3.0*, identified 99 ATF data requirements that CATS could not satisfy. ATF requires more detailed information for its forfeiture case management system than CATS provides. Some of the unsatisfied requirements are related to cases, seizures, assets, firearms, forfeitures, disposition of items, and legal counsel information. Examples are the ability to enter and maintain an Agent ID and the ability to enter and maintain the item seizure number. As of June 14, 2006, 38 of the original 99 requirements remained unresolved. The remaining 38 requirements are expected to be resolved by October 2006.

## **Prior Audits**

In June 2002, the Department of the Treasury, Office of the Inspector General, conducted an audit of ATF's controls over selected property items that if lost or stolen, might compromise national security, the public's safety, or ongoing investigations. The report, entitled *Protecting the Public: Bureau of Alcohol, Tobacco and Firearms' Control Over Sensitive Property is Adequate*, made three recommendations related to the area of seized and forfeited property. The report recommended: (1) adequate physical security measures be in place at all facilities – both ATF and contractor controlled – that store seized and forfeited property; (2) all seized and forfeited property storage vaults maintain entry logs; and (3) all seized and forfeited property be entered into the tracking system in a timely manner.

## **FINDINGS AND RECOMMENDATIONS**

### **1. FASTER INTEGRATION WITH CATS REMAINS DELAYED**

ATF and DOJ have delayed incorporation of ATF's asset management functions and data into DOJ's new browser-based CATS because AFMS was currently in the process of upgrading the system. The two offices are still working on resolving ATF's data requirements of CATS. As a result, DOJ has continued to fund the maintenance of two asset management systems. In FY 2004 and 2005, it cost DOJ \$357,000 to maintain ATF's FASTER. Additionally, \$300,000 was funded to run FASTER for FY 2006. As of August 26, 2006 ATF had expended approximately \$76,000 and the balance will be obligated prior to the end of the fiscal year.

To determine the status of the transition and the planned schedule for completion of the process, we interviewed officials from DOJ's AFMS and ATF's Asset Forfeiture and Seized Property Branch. We reviewed ATF's data management requirements for CATS, the FASTER requirements that CATS did not support, and actions necessary to resolve the unsatisfied requirements. Additionally, we reviewed DOJ policies and procedures that apply to seized and forfeited assets.

The Director of the AFMS informed the OIG that AFMS had been working with ATF management since its transfer to DOJ in 2003 to facilitate the migration of ATF's seized and forfeited property data into the CATS system to meet the Deputy Attorney General's mandate. In November 2005, the AFMS submitted a technical proposal to ATF requesting review and comments. The proposal offered to move ATF's FASTER users to CATS in a phased migration, eliminating the need for ATF to enter the same data into the two separate asset management systems. The first phase proposed an electronic migration of all valued assets currently maintained in ATF's FASTER system to CATS and to redirect all future valued asset data to it as well. FASTER users would then use CATS to manage and administer all valued assets, while continuing to use FASTER to manage and administer all non-valued assets. The second phase focused on the automated migration of non-valued asset data and the incorporation of the FASTER functions into CATS that were required by ATF but currently not satisfied by

CATS. The proposal stated that work on the project would begin in December 2005.

ATF's Asset Forfeiture and Seized Property Branch reviewed the draft technical proposal and the Assistant Director of the ATF's Office of Management requested a meeting with AFMS to discuss the 99 unsupported requirements that needed to be resolved from the June 2005 *ATF-FASTRAK – Version 7.0.9/DOJ BBC Gap Analysis Summary 3.0*. The unsupported requirements were ATF elements that are currently in the FASTRAK system but not in CATS. The AFMS and ATF are collectively analyzing the unsatisfied requirements. There were approximately 111 elements that were determined to be alternatively satisfied by other CATS applications or ultimately deemed unnecessary by ATF. The remaining 99 unsatisfied requirements were related to items such as cases, seizures, assets, firearms, forfeitures, disposition of items, and legal counsel information. Examples are the ability to enter and maintain an Agent ID and the ability to enter and maintain the item seizure number.

The AFMS and ATF Asset Forfeiture and Seized Property Branch worked together to ensure the new modules developed in CATS reflected ATF's requirement specifications. As of June 14, 2006, 38 of the original 99 unsatisfied requirements remained unresolved. The AFMS and ATF Asset Forfeiture and Seized Property Branch expect the remaining 38 requirements to be resolved by October 2006.

A preliminary schedule to move FASTRAK data to CATS was agreed to by the AFMS and ATF on February 14, 2006, and the first phase of the FASTRAK migration to CATS began March 9, 2006. ATF and DOJ expect to complete this phase by September 21, 2006. The final conversion and migration of ATF data from FASTRAK to CATS is on schedule and expected to be completed by June 30, 2007.

### **Maintenance Costs and Funds Remaining at Treasury**

Operating and maintaining FASTRAK cost DOJ \$147,000 in FY 2004 and \$210,000 in FY 2005. Additionally, \$300,000 was funded for FASTRAK in FY 2006. As of August 26, 2006 ATF had expended approximately \$76,000 and the balance will be obligated prior to the end of the fiscal year. As of June 2006, the requirements for FASTRAK still were not being met by CATS, and ATF continued to use its FASTRAK system.

As a result of the delay in migrating FASTRAK data into CATS, proceeds from the sale of forfeited seized assets remained on deposit with Treasury, rather than being deposited directly into the DOJ Asset Forfeiture Fund. ATF reported that Treasury was holding \$21,166,103 in combined seized and forfeited funds due DOJ as of June 30, 2006.<sup>15</sup> Of that amount, \$16,164,234 represents seized currency pending forfeiture. The remaining balance of \$5,001,869 has already been forfeited, and once it is deposited into the Asset Forfeiture Fund will be available for use by DOJ.

The table below shows a breakdown of the funds deposited at Treasury as of June 30, 2006, that are due DOJ.

**FUNDS AT TREASURY DUE DOJ**

<b>Types of Funds</b>		<b>6/30/06</b>
Seized Currency Pending Forfeiture		\$16,164,234
Forfeited Currency Net of Sharing Payable	\$4,637,262	
Sales Proceeds Net of Sharing Payable	\$364,607	
Sub-total of Forfeited Currency and Sales Proceeds		\$5,001,869
<b>Net Monies Due to DOJ</b>		<b>\$21,166,103</b>

Source: Bureau of Alcohol, Tobacco, Firearms and Explosives

The Department's AFMS and ATF's Asset Forfeiture and Seized Property Branch established a comprehensive record to serve as the detailed accounting for all amounts due to DOJ and Treasury under the MOU. Until May 2006, there was disagreement between the two offices regarding the documentation provided by ATF. The Assistant Director of the AFMS informed the OIG that as of May 8, 2006, ATF had not provided adequate supporting documentation regarding the number of cases, gross amounts, and sources of expense and revenue attributable to the dollar amounts of each item included in the forfeited currency and sales activity through September 30, 2005. ATF's Asset Forfeiture and Seized Property Branch staff disagreed and asserted that it had provided the AFMS with the necessary detailed accounting records.

In June 2006, the AFMS informed the OIG that ATF's Asset Forfeiture and Seized Property Branch had provided it with the necessary documentation and certification of completeness so that it could start the

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<sup>15</sup> The \$21,166,103 has accumulated at Treasury since ATF's transfer to DOJ in January 2003. Litigation has been completed on the forfeited funds portion.



process of the initial transfer of funds from Treasury. The initial transfer request sent to Treasury was for \$2,361,907, based on data as of March 31, 2006. The two offices are still reconciling the remaining balance of \$2,639,962 (\$5,001,869 minus \$2,361,907), and will initiate transfer of those funds once the reconciliation process is complete. Both offices expect ongoing reconciliations of any future funds that become available. The ongoing reconciliation will facilitate quarterly transfer requests to Treasury.

## **Conclusion**

More than three years after being transferred into DOJ, ATF continues using its own asset management tracking system, FASTRAK, instead of the Department's CATS. While ATF's Asset Forfeiture and Seized Property Branch and the Department's AFMS have been working to resolve ATF's management tracking requirements, DOJ continues to spend additional funds for the maintenance of the two separate systems.

As a result of ATF's delayed migration to CATS, \$5,001,869 in forfeited funds has remained on deposit with Treasury rather than in the DOJ Asset Forfeiture Fund. The key problem – that ATF has not migrated its forfeited asset data to CATS – remains the underlying issue. In addition, the disagreement between the AFMS and ATF's Asset Forfeiture and Seized Property Branch concerning the reconciliation and accounting for the funds at Treasury has resulted in those same funds remaining at Treasury. As a result, the net proceeds of forfeited asset funds are not available for immediate use by DOJ to fund the Asset Forfeiture Fund program operating costs and related law enforcement programs.

## **Recommendations**

We recommend that ATF:

1. Continue to work with the AFMS to resolve the outstanding ATF system's compatibility requirements and complete the migration of ATF's data from FASTRAK to CATS by the scheduled completion date of April 13, 2007.
2. Provide appropriate supporting documentation to the AFMS for forfeited funds deposited with Treasury so that current and future funds can be expeditiously reconciled with Treasury and transferred to the DOJ Asset Forfeiture Fund.

## **2. INADEQUATE CONTINGENCY PLAN AND CONTROLS FOR STORING AND SAFEGUARDING SEIZED ASSETS**

ATF's contingency plan does not address safeguarding seized assets and evidence in the event of a natural disaster or other significant event. In addition, ATF management did not fully enforce ATF Order 3400.1B, *Property Taken Into Bureau Custody*, which prescribes the basic procedures governing the reporting and controlling of property taken into custody, from the time of initial acquisition to its final disposition. As a result, ATF faces a risk of seized assets and evidence being lost, stolen, or destroyed.

To assess the adequacy of ATF's accounting for, storing, safeguarding, and disposing of seized assets and evidence in its possession, we reviewed its *Critical Incident Management System (CIMS)* handbooks and ATF Order 3400.1B. The *CIMS* establishes ATF guidelines, objectives, and procedures for managing major complex investigations or other designated operations and for responding to and resolving various kinds of critical incidents. It also describes ATF's involvement in post-critical incident activities, such as continuing investigations, subsequent trials, and general recovery activities. The ATF Order 3400.1B prescribes basic procedures governing reporting and controlling of property taken into ATF custody and sets forth facility and equipment requirements, access requirements and restrictions, inventory procedures, and property control. We also met with ATF's Asset Forfeiture and Seized Property Branch and respective Agents-in-Charge in the Gulf Coast region to determine whether a plan was in place that addressed safeguarding seized assets and evidence in the event of a natural disaster or other significant event. In addition, we conducted compliance testing for seized assets and evidence.

### **Controls for Storing and Safeguarding Seized Assets**

While ATF has a Critical Incident Management System, it does not specifically address how seized assets and evidence should be safeguarded in the event of a natural disaster or other significant event. We believe having a plan in place specifying how seized assets and evidence should be safeguarded in the event of a natural disaster or other significant event is a prudent management practice. If evidence were lost, in our opinion, ATF would not be able to fully support its mission and may result in ATF being unable to pursue a criminal case in federal court. During our May 10, 2006

follow-up work at ATF Headquarters, we asked the SAC of the Asset Forfeiture and Seized Property Branch why evidence security is not considered an essential function of the ATF. The SAC informed the OIG that she was not sure and that it would make sense to have evidence security as an essential function. Doing so would be directly related to supporting ATF's mission. We also asked what would happen to a case if a seized item was lost, stolen, or damaged. ATF told the OIG that the worst case scenario would result in having a case excluded from being tried in Federal court. Lastly, the SAC agreed when the OIG asked whether ATF should have a plan in place that addresses safeguarding evidence in the event of a natural disaster or other significant event. Furthermore, ATF Order 3400.1B does not address safeguarding seized assets or evidence in preparation for or in response to a natural disaster. According to the Chief of the Security and Emergency Programs Division, "Seized evidence security is a component of ATF's ability to successfully investigate firearms, arson, and explosives cases." In meeting its mission during criminal investigations, ATF obtains seized evidence that requires close control and a high level of security.

During our field work and shortly after Hurricane Katrina hit the Gulf Coast, we contacted the Acting Special Agent-in-Charge of the Seized Assets and Forfeited Property Branch at ATF headquarters to determine the extent to which field office vaults containing seized evidence were impacted by the hurricane. He informed the OIG that the New Orleans, Louisiana; Biloxi, Mississippi; and Mobile, Alabama, field offices were affected to varying degrees, but he was not aware of any seized assets and evidence impacted by the hurricane.

Two of the three office buildings (in New Orleans and Mobile) sustained rain or flood water damage causing environmental issues with black mold or raw sewage. The third office in Biloxi lost the entire first floor of the building, and became structurally unstable. The following is a photograph of the Biloxi Field Office and the damage sustained.

**Biloxi, Mississippi, Field Office**



Source: Bureau of Alcohol, Tobacco, Firearms and Explosives

Since ATF did not have a contingency plan in place establishing alternate locations in which to house vault contents, seized assets and evidence had to be recovered from the structurally unstable Biloxi Field Office and relocated to various alternate sites that were not always approved storage facilities. Items recovered from the Biloxi vault included firearms, ammunition, electronic intercepts, drugs, silencers, documents, and arson evidence. ATF officials in the field told the OIG they originally moved firearms to the Biloxi Police Department's evidence closet. ATF officials also told the OIG the firearms were subsequently moved, along with the remaining items left in the Biloxi field office vault, to Jackson, Mississippi where they were placed in a U-Haul trailer and parked in the federal building garage basement. The garage basement does not comply with federal storage security requirements. Therefore, we believe the facility presented a risk of loss. The remaining two moves for Biloxi items involved using a national contractor storage facility. By the time we conducted our testing for the Biloxi contents, the items had been moved from one national contractor location in Memphis, Tennessee to another in Mobile, Alabama. These four moves mentioned above required transporting the items approximately 795 miles. We conducted our verification of Biloxi's items in Mobile, Alabama. No risks were noted while on site at the national contractor storage facility being utilized in Mobile, Alabama. The New Orleans office did not originally move items from the vaults since the structure was in-tact. The only risk noted for New Orleans was related to black mold contamination, but the items were not affected. However, after securing a temporary office location and constructing a new temporary vault that met federal specifications, they moved all items to Covington, Louisiana without incident. All items tested were accounted for. The Mobile office did not move any items from the Mobile vault before or after Hurricane Katrina. All items tested were accounted for.

### ***Critical Incident Management System and ATF Order 3400.1B***

We asked the Special Agent-in-Charge (SAC) of the Asset Forfeiture and Seized Property Branch whether ATF had a written contingency plan in place prior to Hurricane Katrina. During our follow-up work, the SAC confirmed that the plan used by ATF did not address securing seized assets and evidence in the event of a natural disaster or other significant event. However, we were informed that ATF had been utilizing the *Critical Incident Management System (CIMS)* since 1998 to handle critical incidents ranging from criminal enforcement to natural disasters.

ATF's Chief of the Security and Emergency Programs Division and the SAC of the Asset Forfeiture and Seized Property Branch both stated that ATF followed the *CIMS* guidance in responding to Hurricane Katrina. The *CIMS* establishes ATF guidelines, objectives, and procedures for managing major complex investigations or other designated operations and for responding to and resolving various kinds of critical incidents. It also describes ATF's involvement in post-critical incident activities, such as continuing investigations, subsequent trials, and general recovery activities. Other jurisdictional, legal, and media relations issues are addressed as well. The *CIMS* did not discuss specifically the topic of securing seized assets or evidence.

According to the *CIMS*, three levels of standardized responses exist within ATF. The first level is activated for critical incidents that have only local impact and limited sensitivity, such as conducting joint search and arrest warrants with other law enforcement agencies, exercising multiple arrest and search warrants over a diverse geographical area involving multiple ATF teams, conducting a long-term, relatively low profile investigation with other participating jurisdictions from within the field division area in an environment of increased risk and intensity. The second level of response is activated for critical incidents having a broader or more regional impact and possessing a higher degree of sensitivity or significance, such as requirements for a unified command group as opposed to a single incident commander, requirements for dedicated manpower and committed resources beyond that available to the division director, an increased potential for collateral problems requiring additional consideration (a second crisis site, crowd control, or increased media attention). The third level of response is activated for critical incidents that have national impact, a high degree of visibility and sensitivity, and for events that require a significant commitment of ATF resources and those of federal, state, and local agencies. The Deputy Assistant Director of Field Operations stated that the response to Katrina required a Level III response.<sup>16</sup>

We reviewed ATF Order 3400.1B because it prescribes the basic procedures governing the reporting and controlling of property taken into custody, from the time of initial acquisition to its final disposition.<sup>17</sup>

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<sup>16</sup> In a Level III critical incident, a response team will always have a support team. In a lower level incident, a support team may not be used.

<sup>17</sup> This is an ATF Order that is a standalone document independent of the *CIMS*, or any other ATF document.

Although the Order outlines the seizing agent's responsibilities when seizing or otherwise taking personal property into ATF custody, it does not provide guidance for safeguarding seized assets or evidence in the event of a natural disaster or other significant event.

None of the three field offices proactively identified alternate storage locations to safeguard seized assets and evidence in the event primary locations became unavailable. Although not included in ATF Order 3400.1B, or any other ATF Directive or Order, the SAC of the Asset Forfeiture and Seized Property Branch stated using another evidence vault within this division would be left up to the field division SAC.<sup>18</sup> In order to better safeguard seized evidence from theft, loss, or destruction, we believe ATF should have a contingency plan in place to proactively identify alternate storage locations where seized assets and evidence can be stored in the event of a natural disaster or other significant event.

## **Compliance Testing**

To provide insight into ATF's management of seized property, we reviewed eight field offices, eight vaults, and six explosive storage bunkers within three field divisions. Our testing was designed to determine if ATF had effective controls over storing and safeguarding seized assets and evidence, including vault construction security requirements and tracing firearms through the National Tracing Center.<sup>19</sup> We randomly selected items from ATF's inventory system and compared those with the items in the vaults. We also judgmentally selected items in the vaults and compared them to the vault inventory system listings. We then selected items approved for disposal and traced them through the process to final disposition.

The results of testing did not disclose any material weaknesses in ATF's storing of seized assets and evidence, but did reveal two significant issues listed below. Appendix IV contains the comprehensive results of our testing.

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<sup>18</sup> The Asset Forfeiture and Seized Property Branch indicated a field division has the option to request ATF's national contractor to provide storage before seeking division space.

<sup>19</sup> ATF's National Tracing Center Division is the only organization authorized to trace U.S. and foreign manufactured firearms for international, federal, state, and local law enforcement agencies. Its purpose is to provide investigative leads in the fight against violent crime and terrorism and to enhance public safety.

### *Minimum Security Structure Requirements*

One of the eight evidence vaults tested (Beaumont, Texas) did not meet minimum security structure requirements.<sup>20</sup> A wire-mesh barrier above the chain-link fence to prevent unauthorized entry from the ceiling was not installed. Although local management raised concerns regarding the vault meeting the minimum security vault requirements, ATF has not taken corrective action. This condition was also noted as an exception to the requirements of ATF Order 3400.1B in 1997, 2000, and 2003 ATF Office of Field Operations inspection reports. The condition leaves the vault vulnerable to unauthorized entry and increases the risk of theft of seized property and evidence.

### *National Tracing Center*

Effective July 2005, every firearm coming into ATF custody or being investigated by ATF is required to be traced through the ATF National Tracing Center. We found 6 of 130 firearms we tested, or 5 percent were not traced through the National Tracing Center.

During our field work, we determined that the seizing agents either did not request a trace of the seized firearms through the National Tracing Center or traced them with an incorrect serial number. All firearms manufactured in 1968 or after have unique serial numbers. Not tracing a firearm or submitting a wrong serial number through the National Tracing Center equates to not accounting for the correct firearm. Further, this situation prevents the correct information from being received in an accurate and timely manner. It also potentially prevents ATF from linking a suspect to a firearm in a criminal investigation; identifying potential traffickers; detecting intrastate, interstate, and international patterns in the sources and kinds of firearms used in crimes; thus increasing the risk to the public until the individual allegedly responsible for the crime is identified and taken into custody. This issue was corrected by ATF during our field work by requesting a new trace on the 6 firearms through the National Tracing Center.

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<sup>20</sup> The Beaumont, Texas, office was struck by Hurricane Rita in 2005. Damage to the building forced ATF staff at the office to temporarily relocate. The contents of the vault were moved into temporary storage and remain there as of June 5, 2006.



## **Conclusion**

ATF lacks a proactive contingency plan that specifically addresses accounting for, storing, and safeguarding seized assets and evidence in the event of a natural disaster or other significant event. After Hurricane Katrina impacted the Gulf Coast region, items contained in the Biloxi Field Office vault had to be moved multiple times before reaching their current location in Mobile, Alabama. In our judgment, ATF was fortunate that no significant damage to seized assets and evidence was sustained. Therefore, we believe additional direction for preparedness should be developed to ensure that all ATF field components have the necessary written guidance for safeguarding seized assets and evidence.

ATF management did not fully enforce ATF Order 3400.1B which prescribes the basic procedures governing the reporting, controlling, and safeguarding property taken into custody, from the time of initial acquisition to its final disposition. One vault did not meet the minimum security requirements and all firearms taken into ATF custody were not traced through the National Tracing Center.

## **Recommendations**

We recommend that ATF:

3. Establish a plan that addresses safeguarding seized assets and evidence in the event of a significant act, such as a natural disaster.
4. Ensure that the vault at the Beaumont, Texas, Field Office meets the minimum structure security requirements.
5. Ensure that all firearms taken into custody since July 2005 are traced through the National Tracing Center.

## STATEMENT ON MANAGEMENT CONTROLS

In planning and performing our audit of ATF's management of seized assets and evidence, we considered the Asset Forfeiture and Seized Property Branch's and ATF field divisions' management controls for the purposes of determining our auditing procedures. However, the evaluation of management controls was not made for the purpose of providing assurance on ATF's internal control structure as a whole.

Reportable conditions, as defined by the *Government Auditing Standards*, involve matters coming to our attention relating to significant deficiencies in the design or operation of the internal control structure that, in our judgment, could adversely affect ATF's ability to administer and control seized assets and evidence. We noted some issues relating to ATF's procedures for handling seized assets and evidence and partial non-compliance with its Order 3400.1B. However, we did not consider these deficiencies to be reportable conditions as defined above or the result of systemic internal control deficiencies.

Because we are not expressing an opinion on ATF's internal control structure as a whole, this statement is intended solely for the information and use of ATF.

## STATEMENT ON COMPLIANCE WITH LAWS AND REGULATIONS

We audited ATF's management of seized assets and evidence. We conducted fieldwork at headquarters offices of ATF, ATF's Asset Forfeiture and Seized Property Branch, the Department of Justice's AFMS, and at several ATF field division offices. We performed fieldwork between July 2005 and June 2006.

We conducted our audit in accordance with the generally accepted *Government Auditing Standards*. In connection with the audit, as required by the *Standards*, we reviewed procedures, activities, records, and seized assets and evidence to obtain reasonable assurance that the ATF Asset Forfeiture and Seized Property Branch and ATF's field divisions complied with federal laws, regulations, and DOJ policies and procedures that apply to seized assets and evidence that, if not complied with, in our judgment, could have a material effect on management of seized assets and evidence. Compliance with laws and regulations relating to seized assets and evidence is the responsibility of the ATF's Asset Forfeiture and Seized Property Branch and ATF's field divisions.

Our audit included examining, on a test basis, evidence about compliance with applicable federal laws, regulations, and DOJ policies and procedures contained in the relevant portions of:

- H.R. 5005 (An Act to establish the Department of Homeland Security, and for other purposes)
- 18 U.S.C. § 842
- 18 U.S.C. § 922
- 18 U.S.C. § 981
- 18 U.S.C. § 982
- 18 U.S.C. § 983
- 18 U.S.C. § 2342
- 21 U.S.C. § 881
- 26 U.S.C. § 5842
- 26 U.S.C. § 5861
- 26 U.S.C. § 5872
- 28 U.S.C. § 524
- 28 C.F.R. § 0.111(i)
- Executive Order 12656
- DOJ Asset Forfeiture Policy Manual, January 2005

## APPENDIX II

- Alcohol, Tobacco, Firearms and Explosives' Order 3400.1B, July 2005
- Alcohol, Tobacco, Firearms and Explosives' Brief 3400.13
- Memorandum from the Associate Deputy Attorney General directing participation by all DOJ organizations to transition to the new integrated asset forfeiture system, September 1990
- Memorandum of Understanding between DOJ and the Department of the Treasury for the management and disposition of property seized for forfeiture by ATF, January 2003

Except for instances of non-compliance identified in the Findings and Recommendations section of this report, ATF's Asset Forfeiture and Seized Property Branch and ATF's field divisions were in compliance with the relevant portions of the specific laws, regulations, and DOJ policies and procedures previously named.

## OBJECTIVES, SCOPE, AND METHODOLOGY

### Objectives

Our objectives were to: (1) determine the status of ATF's transition to DOJ's system for managing seized assets; and (2) assess the adequacy of ATF's accounting for, storing, safeguarding, and disposing of seized assets and evidence in its possession.

### Scope and Methodology

The audit covered the period from January 24, 2003, to June 30, 2006. As part of the audit, we reviewed federal laws, regulations, and DOJ policies and procedures applicable to seized assets and evidence, as well as inspection reports from ATF's Office of Field Operations for all 23 ATF field divisions. We reviewed the MOU between the Treasury and DOJ for the management and disposition of property seized for forfeiture by ATF. In addition, we reviewed the September 1990 memorandum from the Associate Deputy Attorney General, directing all DOJ organizations participating in the asset forfeiture program to develop plans for orderly transition to the new integrated asset forfeiture system. We also reviewed the non-profit corporation's reports, *CATS-FASTRAK Gap Analysis*, June 2003; *CATS-FASTRAK Alternatives and Recommendations*, July 2003; and *ATF FASTRAK – Version 7.09/DOJ BBC Gap Analysis Summary*, June 2005.

We interviewed officials from ATF's Asset Forfeiture and Seized Property Branch, Special Agents-in-Charge of field divisions, and Resident Agents-in-Charge of field offices where testing was conducted. We also interviewed contractor personnel responsible for securing items from ATF's assets seized for forfeiture in the areas of the Gulf Coast region affected by Hurricane Katrina.

## APPENDIX III

We performed on-site audit work at the following locations:

<b>Office</b>	<b>Location</b>
ATF Headquarters	Washington, D.C.
Houston field offices Group I, II, III, IV, and V	Houston, Texas
Beaumont Field Office	Beaumont, Texas
San Antonio Field Office	San Antonio, Texas
New Orleans Field Offices Group I, II, IV, and V	Covington, Louisiana
Biloxi Field Office	Gulfport, Mississippi
Mobile Field Office	Mobile, Alabama
United States Marshals Service Asset Forfeiture Office	Arlington, Virginia
United States Marshals Service	Dallas, Texas
United States Attorneys' Offices	Dallas, Texas; New Orleans, Louisiana
Justice Management Division Asset Forfeiture Management Office	Washington, D.C.

On September 16, 2005, the ATF Assistant Director, Office of Professional Responsibility and Security Operations requested a 60-day suspension of our audit due to ATF's involvement in responding to the Hurricane Katrina catastrophe. This request was granted.

### **Analysis and Testing**

To determine the status of ATF's transition to DOJ's asset management system for managing seized assets, we:

- reviewed ATF Order 3400.1B, which addresses property taken into ATF's custody;
- tested ATF's compliance with applicable federal laws and regulations and DOJ policies and procedures that apply to seized assets and evidence;
- interviewed ATF Asset Forfeiture and Seized Property officials, Special Agents-in-Charge of selected ATF field divisions, and Resident Agents-in-Charge of selected ATF field offices regarding

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their knowledge of federal laws and regulations and DOJ policies and procedures that apply to seized assets and evidence; and

- interviewed Justice Management Division AFMS regarding the CATS system and ATF's migration of forfeited asset data to the system.

To assess the adequacy of ATF's controls over accounting for, storing, safeguarding, and disposing of seized assets and evidence in its possession, we:

- obtained automated data from ATF;
- performed tests to ensure property items reported were appropriately accounted for and that property items in storage agreed with automated records;
- tested to determine if property items were stored in authorized and appropriate storage containers;
- analyzed whether property items were stored in facilities that met federal requirements and were appropriately safeguarded;
- performed tests to verify that items shown as disposed of in the automated system agreed with physical records; and
- tested physical disposal records to determine that required documentation was present to substantiate the final disposition of the property items.

## RESULTS OF AUDIT TESTING

During our audit testing of the eight vaults and six explosive storage bunkers, we noted several areas of non-compliance with ATF Order 3400.1B. However, we did not deem these exceptions to be the result of a systemic breakdown of internal controls. The results below are being provided to ATF Asset Forfeiture and Seized Property Branch management for action it deems appropriate.

- Ten of 201 firearms tested from a universe of 1,144 did not have the required “zip tie” placed on the firearm to make it inoperable.<sup>21</sup> This issue was corrected by ATF during our field work at the office.
- Fifty-six of 124 firearm tracing results from a universe of 524 were not filed in Section 5 of the investigative file. According to ATF Order 3400.1B, Chapter G, Section 91.b, “Trace results will be placed in Section 5 of the field office case file.”
- Ten of 604 items tested from a universe of 3,659 had a property tag attached that did not accurately identify the property. This issue was corrected by ATF during our field work.
- Two of 24 vault custodians did not meet the minimum grade level or minimum number of years as an ATF special agent.<sup>22</sup> The two custodians that were not in compliance were subsequently replaced with custodians who met the requirements.
- In one of three instances where a change in vault custodian occurred, the required inventory was not conducted before the new custodian took responsibility for the contents of the vault.

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<sup>21</sup> ATF defines a zip tie as a plastic wire wrap installed in a manner that causes the firearm to be inoperable.

<sup>22</sup> The minimum grade level for a custodian is a GS-12 with 3 years of service as a Special Agent.



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- Four of 300 items tested from a universe of 509 were not destroyed within the 90-day authorization period.<sup>23</sup> However, appropriate documentation was presented showing the items had ultimately been destroyed.

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<sup>23</sup> ATF Order 3400.1B requires that seized assets approved for destruction be disposed of within 90 days from the approval date.

**ACRONYMS**

AFMS	Asset Forfeiture Management Staff
ATF	Bureau of Alcohol, Tobacco, Firearms and Explosives
CATS	Consolidated Asset Tracking System
CIMS	Critical Incident Management System
DOJ	Department of Justice
FASTRAK	Forfeited and Seized Assets Tracking System
FY	Fiscal Year
MOU	Memorandum of Understanding
OIG	Office of the Inspector General
SAC	Special Agent-in-Charge
Treasury	Department of the Treasury
USMS	United States Marshals Service



U.S. Department of Justice

Bureau of Alcohol, Tobacco,  
Firearms and Explosives

*Office of the Director*

SEP 21 2006

Washington, DC 20226

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MEMORANDUM TO: Glenn A. Fine  
Inspector General

FROM: Acting Director

SUBJECT: Response to the Office of the Inspector General (OIG) Draft  
Audit Report: Management of Seized Assets and Evidence by the  
Bureau of Alcohol, Tobacco, Firearms and Explosives

The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) appreciates the opportunity to respond to the recommendations from the OIG's above-cited draft report. We welcome constructive criticism of our programs, as this independent review process typically helps us to improve our ability to plan and manage our resources more efficiently.

In general, ATF concurs with the findings and recommendations of your report and will address each recommendation in a corrective action plan. Our responses to your recommendations are as follows:

**Recommendation Number 1:** Continue to work with the Department of Justice (DOJ) Asset Forfeiture Management Staff (AFMS) to resolve the outstanding ATF system's compatibility requirements and complete the migration of ATF's data from FASTRAK to CATS by the scheduled completion date of April 13, 2007.

**Response:** We concur with this recommendation. ATF is working and will continue to work diligently with AFMS to resolve the outstanding ATF system's compatibility requirements toward the complete migration of ATF's data from FASTRAK to CATS. The scheduled completion date has been revised to June 30, 2007. This date is subject to change based on testing and development cycles, which are beyond the control of ATF and AFMS. ATF's Chief Financial Officer, Chief Information Officer (CIO) and Asset Forfeiture and Seized Property Branch (AFSPB) managers have regularly scheduled meetings with the DOJ CIO and the AFMS Director to assure that we remain on track with completing the migration in a timely manner.

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Glenn A. Fine  
Inspector General for Audit

**Recommendation Number 2:** Provide appropriate supporting documentation to the AFMS for the forfeited funds deposited with Treasury so that current and future funds can be expeditiously reconciled with Treasury and transferred to the DOJ Asset Forfeiture Fund.

**Response:** We concur with this recommendation. ATF has provided and will continue to provide AFMS and the Treasury Executive Office for Asset Forfeiture (TEOAF) the appropriate supporting documentation so that current and future funds can be expeditiously reconciled and transferred. The Special Agent in Charge, AFSPB attended a meeting on September 5, 2006 with TEOAF representatives, who stated that funds from Fiscal Years 2003, 2004, and 2005 are ready to be transferred from TEOAF to AFMS. On September 15, 2006, TEOAF stated that they had been working on the figures and are planning to have the numbers finalized during the week of September 18, 2006. Once the numbers are finalized, TEOAF will initiate the electronic transfer to AFMS.

**Recommendation Number 3:** Establish a plan that addresses safeguarding seized assets and evidence in the event of a significant act, such as a natural disaster.

**Response:** We concur with this recommendation. A short term solution will include the relocation of the seized assets and evidence immediately or as soon as practical after a significant act. This relocation will be accomplished through the use of a large shipping container, which will be moved by a large commercial truck and trailer. The seized assets and evidence will be secured in the container and transported to the nearest safe warehouse, which is alarmed for intrusion and fire. The container will be unloaded and alarmed for intrusion and fire. A 100 percent inventory will then be conducted to ensure all seized assets and evidence is accountable. If anything is unaccounted for, the current policy, as outlined in ATF O 3400.1B for reporting such incidents, will be followed. This practice is currently in place for large scale seizures of assets and evidence that will not fit into ATF storage vaults.

As a long term solution, ATF will revise ATF O 3400.1B, Property Taken into Bureau Custody, ATF's Critical Incident Management System (CIMS) process, and the Continuity of Operations Plan (COOP) to provide for the prompt relocation of seized assets and evidence in the event of a significant act as outlined above.

**Recommendation Number 4:** Ensure that the vault at the Beaumont, Texas, Field Office meets the minimum structure security requirements.

**Response:** We concur with this recommendation. The entire Beaumont, Texas, Field Office, to include the evidence vault, was recently refurbished due to damage which occurred as a result of Hurricane Rita. The vault currently meets ATF minimum structure security requirements as defined by ATF O 3400.1B. The walls have reinforced mesh wire from floor to ceiling to be resistant to forced entry. The field office personnel moved back into the space on July 30, 2006. All evidence was returned to the vault and accounted for by a 100 percent inventory during the week of August 28, 2006.

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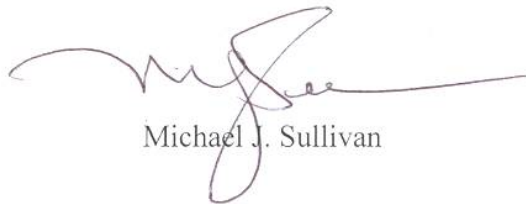
Glenn A. Fine  
Inspector General for Audit

**Recommendation Number 5:** Ensure that all firearms taken into custody since July 2005 are traced through the National Tracing Center.

**Response:** We concur with this recommendation. A memorandum dated September 18, 2006, signed by the Deputy Director, was sent to ATF field divisions reminding them to ensure accuracy when entering firearm descriptions, to include serial numbers, into N-Force. It also reminded them at the conclusion of the active phase of the investigation to go back and submit descriptions on all firearms not previously traced due to operational security.

In conclusion, ATF has an outstanding record of attaining excellence in law enforcement standards that I look forward to continuing and expanding. I believe that professional integrity and character are core expectations for those of us in public service, and I believe that employees' actions, both personal and professional, must withstand public scrutiny and be beyond reproach. I will continue to express my expectations to the ATF workforce and lead ATF's effort to achieve the trust and respect of the American public.

Should you have any questions regarding this response, please contact Ms. Carol Campbell, Chief, Audit and Evaluation Branch, Inspection Division, Office of Professional Responsibility and Security Operations, at (202) 648-9205.



Michael J. Sullivan

**OFFICE OF THE INSPECTOR GENERAL, AUDIT DIVISION,  
ANALYSIS AND SUMMARY OF ACTIONS  
NECESSARY TO CLOSE REPORT**

**Recommendation Number:**

1. **Resolved.** The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) agreed with our recommendation. ATF has assured the OIG that it will continue to work with the Asset Forfeiture Management Staff (AFMS) to resolve ATF's system requirements and that it will continue to work toward the established estimated completion date of June 30, 2007. In order to close this recommendation, ATF should provide the OIG with documentation that substantiates the successful migration of ATF data to the Consolidated Asset Tracking System (CATS).
2. **Resolved.** ATF agreed with our recommendation. ATF stated that it has provided the AFMS and the Treasury Executive Office for Asset Forfeiture (TEOAF) with appropriate supporting documentation necessary for the expeditious reconciliation and transfer of currently forfeited funds. In order to close this recommendation, ATF should provide the OIG with documentation that substantiates all funds at TEOAF have been transferred to the AFMS. In addition, ATF should provide us with written procedures requiring periodic reconciliation and the transfer of future forfeited funds held by TEOAF. The procedures will be utilized until ATF begins using CATS.
3. **Resolved.** ATF agreed with our recommendation. ATF stated that it will implement a short-term solution that includes relocating seized assets and evidence in the event of a natural disaster or other significant event by commercial truck or trailer and storage in a commercial warehouse. ATF also stated that its long-term solution includes revising ATF Order 3400.1B, "Critical Incident Management System, and Continuity of Operations Plan," to provide for the prompt relocation of seized assets and evidence in the event of a natural disaster or other significant event. In order to close this recommendation, ATF should provide us with documentation substantiating that the short-term solution was officially implemented nation-wide. In addition, ATF should provide us with the revised ATF

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Order 3400.1B, "Critical Incident Management System, and Continuity of Operations Plan."

4. **Resolved.** ATF agreed with our recommendation. ATF stated that the Beaumont, Texas, Field Office has been refurbished and the vault now meets ATF minimum security requirements. In order to close this recommendation, ATF should provide us with documentation substantiating that the vault meets minimum security requirements and that it has been inspected and approved by the appropriate authority.
  
5. **Resolved.** ATF agreed with our recommendation. ATF's Deputy Director issued a memorandum to all ATF field divisions reminding the field offices to accurately enter firearm data into N-Force. In addition, this memorandum reminded the field divisions to submit data for all firearms not previously traced due to operational security. In order to close this recommendation, ATF should provide us with a certification that all firearms taken into ATF custody since July 2005 and that have not been disposed of have been traced through the National Tracing Center, with the exception of those firearms for which a trace would jeopardize ongoing investigations.