



Audit of the Bureau of Alcohol, Tobacco, Firearms  
and Explosives' Risk-Based Inspection Selection  
Processes and Administrative Actions Issued to  
Federal Firearms Licensees

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23-062

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**APRIL 2023**

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# EXECUTIVE SUMMARY

## Audit of the Bureau of Alcohol, Tobacco, Firearms and Explosives' Risk-Based Inspection Selection Processes and Administrative Actions Issued to Federal Firearms Licensees

### Objectives

The Department of Justice Office of the Inspector General (OIG) initiated this audit to assess the Bureau of Alcohol, Tobacco, Firearms and Explosives' (ATF): (1) risk-based approach for managing federal firearms licensee (FFL) inspections, (2) certain activity related to the referral of FFL-related information for criminal investigation, and (3) processing of FFL revocations and other administrative actions.

### Results in Brief

Although ATF has worked to address previous OIG findings related to its FFL oversight, its compliance inspection activity remains a concern. Due to resource challenges, ATF has not achieved its stated goal of inspecting FFLs every 3 years, and we found that some FFLs had not received an onsite inspection for over 10 years. Instead, ATF has relied on the risk-based identification of FFLs for on-site inspection in an annual inspection plan, but we found ATF did not inspect all of these FFLs as intended and has not evaluated the efficacy or validity of its risk-based approaches and indicators.

We also found that ATF has been inconsistent in its use of administrative actions in response to FFL inspections, including license revocation, and it has not always followed ATF policy. Of note, ATF did not often recommend revocation for FFLs with repeat revocable violations. We also identified concerns relating to ATF's reliance upon FFL self-reporting of disqualifying events, its monitoring of FFLs that enter into settlement agreements in lieu of revocation, and its criminal enforcement referral processes. We believe that enhanced, data-driven oversight and other improvements can strengthen ATF's inspection program and create an environment more conducive to holding FFLs accountable.

### Recommendations

We identified 13 recommendations for ATF to strengthen its compliance inspection activities and its oversight of FFLs.

### Audit Results

As the federal agency responsible for regulating federal firearms licenses, ATF conducts inspections to ensure FFLs operate in compliance with laws and regulations and in a manner that protects public safety. These inspections are in-depth reviews of an FFL's inventory and transaction records to, among other things, detect and prevent the illegal diversion of firearms and reduce the possibility of firearms being obtained by prohibited persons. Inspections can result in actions ranging from a report of violations that does not require follow-up to the revocation of the FFL's license when willful violations of the Gun Control Act are identified. As of fiscal year (FY) 2021, ATF employed 729 Industry Operations Investigators (IOI) to oversee approximately 131,000 FFLs. ATF's IOIs conducted 6,660 FFL compliance inspections in FY 2021.

In prior reports, the OIG identified resource challenges facing ATF and issued recommendations to ATF to improve its oversight of FFLs. Although ATF has taken action to address those recommendations, this audit again identified concerns with ATF's oversight of FFLs. Our audit did not include an evaluation of the completeness or effectiveness of ATF's compliance inspections or ATF's inspections resources, but rather focused on ATF's strategic management of its inspections program, with particular regard to workload planning and inspections results. We note throughout our report, when applicable, the potential impact of the COVID-19 pandemic on ATF inspections activities during FYs 2020 and 2021.

### ATF Risk-Based Strategy for Completing Inspections

ATF field divisions plan their inspection workloads annually using headquarters-recommended, risk-based intelligence indicators to identify FFLs with a high risk of non-compliance or exploitation by criminal activity. We reviewed a sample of inspection projections from FYs 2018 through 2020 to assess progress towards meeting inspection goals. We found that 44 percent of the time the field divisions did not meet their annual inspection projections and that ATF did not complete

56 percent of planned recall inspections, which are follow-up inspections to a previous inspection that resulted in significant public safety violations or concerns for which the FFL was either unwilling or unable to take corrective action.

We also identified 2,275 active FFLs for which the most recent inspection was completed prior to February 1, 2012, meaning that these FFLs went more than a decade without an inspection. In addition, we reviewed ATF's Top 100 initiative, whereby each of the 25 field divisions select 4 high-risk FFLs for inspection each year. We found that ATF did not complete 9 percent of these inspections within the planned timeframe. Further, ATF does not assess inspections outcomes to determine whether its intelligence indicators effectively identify high-risk FFLs.

ATF acknowledges its inability to inspect FFLs on a routine basis due to resource limitations and instead uses risk indicators to select FFLs for onsite review. However, we identified weaknesses in ATF's risk-based selection model and believe ATF can improve its process for identifying high-risk FFLs for inspection through more robust data analytics. ATF recently launched its Crime Gun Intelligence Analytics (CGIA) program, which is a tool for synthesizing information from various datasets that can be used to assess FFL activity and select FFLs for inspection, but ATF officials told us that they have not yet assessed or measured the results of the CGIA initiative.

We believe an assessment of inspection results, especially those inspections identified through high-risk FFL selection, would reinforce the validity of risk indicators or potentially identify which indicators may contribute to a higher likelihood of identifying FFLs with non-compliance or exploitation by criminal activity. In addition, ATF should employ predictive analytics and enhance modern tools with reporting capabilities to effectively leverage its voluminous inspection data to improve oversight of FFLs.

### **Inspection Results**

We reviewed FFL inspection data and found that ATF completed 111,077 compliance inspections between October 1, 2010, and February 1, 2022, and recommended revocation of 589 licenses, or 0.53 percent. Although limited by the absence of circumstantial facts surrounding individual inspections to fully assess the recommended inspection outcomes, including whether ATF determined the FFL to have willfully violated the Gun Control Act, performing this data-based analysis provides an understanding of how the guidance of ATF's policy translates to its practices. Our analysis of the inspection data failed to reveal any discernible pattern for when revocations were sought based on the number and significance of violations identified.

Similarly, we compared specific violations with subsequent administrative actions and could not find any distinct patterns for ATF's resulting actions, even for violations for which ATF policy suggests revocation. For example, among inspections that identified violations that ATF policy outlines as more likely to result in license revocation, such as discovery of a firearm with an obliterated serial number in an FFL's inventory, we found that ATF has not consistently pursued administrative action as documented in ATF policy. Further, we determined that there were 214 FFLs with repeat violations of having sold a firearm to a prohibited person, resulting in the recommendation for revocation in 15 of these instances despite ATF policy suggesting that revocation is the appropriate outcome for repeat revocable violations. We believe ATF should conduct a comprehensive review of its inspections results to help ensure more consistent application of administrative actions, appropriate outcomes in its adjudication decisions, and that FFLs are appropriately held accountable for violations of firearms regulations.

### **Settlement Agreements**

According to ATF policy, ATF officials have discretion to provide FFLs an opportunity to avoid license revocation by making a settlement offer to ATF. ATF identified 30 such settlement agreements from FYs 2018-2021. Field divisions are responsible for managing compliance with the terms of settlement agreements, such as an FFL's agreement to temporary closure, additional ATF inspections, or an audit of firearms records and inventory. However, we found that ATF did not have a system to identify and track FFLs with settlement agreements and did not consistently verify compliance with settlement agreement terms. We believe these FFLs should be tracked and monitored, and that by not doing so, ATF risks allowing FFLs with serious violation histories to continue operating in a non-compliant fashion.

### **Information Sharing and Referrals**

During an inspection, IOIs may identify actionable information for matters outside of their jurisdiction, whether regulatory or criminal in nature. ATF has a formal process to track information shared with internal and external entities but does not track the information's disposition. Therefore, ATF has an incomplete picture of the effectiveness of their information sharing. Moreover, a significant amount of information for internal use was routed incorrectly and this issue went undetected, increasing the risk that valuable law enforcement information could go unaddressed. Further, a 2021 White House Strategy directed ATF to share inspection data with 16 states that have gun dealer licensing systems to act as "force multipliers" in protecting public safety. At the time of the audit, we found that ATF had not developed a new approach to specifically address the sharing of such information. We believe ATF needs to assess its current practices to ensure alignment with the White House Strategy.

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## **Introduction**

The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) is the primary federal agency responsible for enforcing federal firearms laws, in part, through the issuance of licenses to those that engage in the business of manufacturing, importing, or dealing in firearms, otherwise known as federal firearms licensees (FFL), as well as the oversight of these entities. In furtherance of ATF's regulatory responsibilities, Industry Operations Investigators (IOI) conduct FFL inspections to detect and prevent illegal diversion of firearms and ensure compliance with federal laws and regulations.

### **Legal Framework**

ATF's FFL regulatory responsibilities derive from several laws and regulations, including the National Firearms Act, the Federal Firearms Act, the Gun Control Act, the Firearms Owners' Protection Act, and the Brady Handgun Violence Prevention Act. The laws are summarized in Table 1. In addition, ATF is responsible for ensuring that FFLs comply with ATF regulations in Title 27, Chapter II of the Code of Federal Regulations.

**Table 1**

**Overview of Select Federal Firearm Laws and Regulations**

<p><b>National Firearms Act (1934)</b> Pub. L. No. PL 73-474</p>	<ul style="list-style-type: none"> <li>Imposed registration requirements and taxes on certain firearms, such as machine guns and short-barrel long guns.</li> </ul>
<p><b>Federal Firearms Act (1938)</b> Pub. L. No. PL 75-785</p>	<ul style="list-style-type: none"> <li>Established the requirement for gun manufacturers, importers, and dealers to obtain a federal firearms license and mandated the FFLs to keep customer records.</li> </ul>
<p><b>Gun Control Act (1968)</b> Pub. L. No. PL 99-618</p>	<ul style="list-style-type: none"> <li>Repealed the Federal Firearms Act reenacted many provisions with added requirements.</li> <li>Required ATF to approve/deny firearms dealer licenses within 60 days.</li> <li>Imposed stricter licensing requirements and regulation.</li> <li>Authorized inspections of FFLs to ensure compliance with recordkeeping requirements.</li> </ul>
<p><b>Firearms Owners' Protection Act (1986)</b> Pub. L. No. PL 99-308</p>	<ul style="list-style-type: none"> <li>Limited ATF inspections of FFLs to once per year.</li> <li>Prohibited any system of registration of firearms, firearms owners, or firearms transactions.</li> </ul>
<p><b>Brady Handgun Violence Prevention Act (1993)</b> Pub. L. No. PL 103-159</p>	<ul style="list-style-type: none"> <li>Established the National Instant Criminal Background Check System (NICS), which is administered by the Federal Bureau of Investigation and used by FFLs to determine whether a person can legally purchase or possess a firearm.</li> </ul>
<p><b>Safe Explosives Act (2003)</b> Pub. L. No. PL 107-296</p>	<ul style="list-style-type: none"> <li>Increased ATF's regulatory responsibilities by requiring ATF to perform on-site compliance inspections of all federal explosives licensees at least once every 3 years.</li> </ul>
<p><b>The Bipartisan Safer Communities Act (2022)</b></p>	<ul style="list-style-type: none"> <li>Expanded FFL definition of engaging in the business of firearm dealing to include those with the predominant pursuit of profit.</li> <li>Provides FFLs with access to NICS to run background checks on current or prospective employees.</li> <li>Requires background checks for firearms purchasers under 21 to determine if the person has a juvenile record that would prohibit the purchase of a firearm.</li> <li>Established federal criminal offenses and penalties for "straw purchasers" – people who purchase guns on behalf of ineligible persons (e.g., felons).</li> </ul>

**Note:** The Bipartisan Safer Communities Act was signed into law on June 25, 2022. This audit did not include an assessment of that law's impact on ATF's inspection program.

Source: OIG analysis of laws and regulations

**ATF Organization**

ATF is composed of a headquarters component, 25 field divisions, and approximately 471 field and satellite offices. ATF's Director establishes ATF's policies and administers its activities. Within ATF leadership, the Deputy Assistant Director for Industry Operations is the headquarters-level position responsible for managing ATF's FFL inspection programs.

Each ATF field division has a Director of Industry Operations (DIO) who reports to the Special Agent in Charge (SAC). Under the DIO's supervision, Area Supervisors manage a staff of IOIs, who are responsible for conducting FFL inspections, legally mandated explosives dealer inspections, and

outreach to the firearms industry.<sup>1</sup> IOIs are regulatory investigators and follow the same career path as ATF's non-supervisory special agents; however, IOIs are not armed criminal law enforcement personnel.

## **Industry Operations Resources**

ATF reported that in FY 2021, it employed 729 IOIs overseeing approximately 131,000 active FFLs, equating to a ratio of 180 FFLs for each IOI during this timeframe. In addition to its regulatory mission to oversee FFL compliance with federal firearms regulations, ATF uses its IOI resources to carry out ATF's responsibilities related to the Safe Explosives Act, including inspections of licensed businesses and individuals that engage in manufacturing, importing, or dealing in explosives, or receiving or transporting explosives materials. ATF's cadre of IOIs also assist ATF Special Agents in criminal enforcement matters. To address IOI resource challenges, ATF can temporarily reallocate IOIs outside their assigned field division to assist requesting field divisions with the completion of their planned FFL oversight for the year. As discussed below in the *Previous OIG Reviews* section of this report, the OIG reported in 2013 on resource-related issues in ATF's FFL inspections program. Although we did not assess resources as a part of this audit, in September 2020, ATF contracted with a vendor to develop a resource strategy to identify the number of Special Agents and IOIs needed by each field division based upon certain risk data. ATF used the resource strategy in planning to allocate newly hired IOIs; however, ATF maintains that more resources are needed to effectively oversee and manage FFLs.

## **FFL Inspections**

Pursuant to the Gun Control Act and federal firearms regulations, ATF is responsible for licensing persons engaging in a firearms business and conducting compliance inspections of FFLs.<sup>2</sup> Figure 1 shows ATF's reported total active firearms licensees per year from 2010 to 2022, which averaged 133,045 active firearms licensees annually during our period of review.

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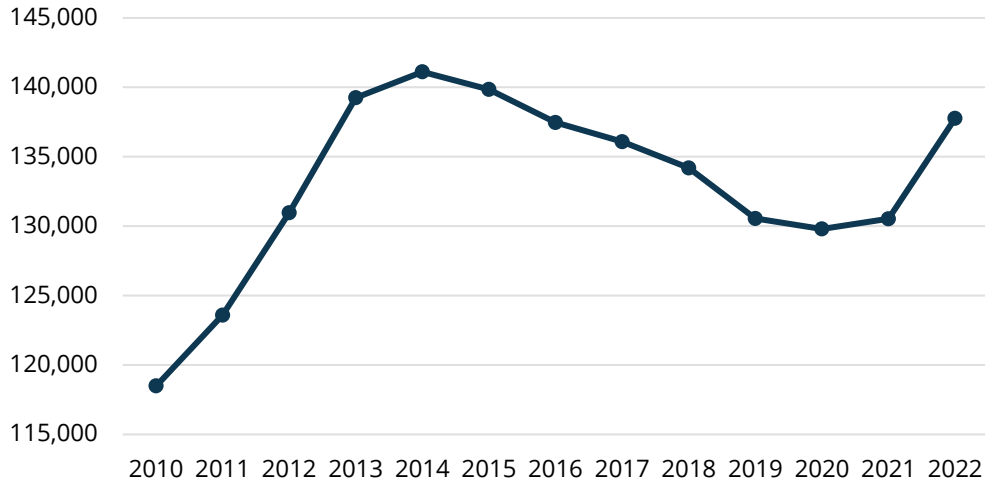
<sup>1</sup> 18 U.S.C. § 843 requires ATF to conduct a full compliance inspection of all Federal Explosive Licensees once every 3 years; these inspections are conducted by the same IOI workforce that conducts FFL inspections.

<sup>2</sup> ATF also licenses collectors of curios and relics. Generally, ATF's compliance inspection program focuses on FFLs engaged in the business of importing, manufacturing, or dealing in firearms, or importing or manufacturing ammunition, and does not often include inspections of collectors of curios and relics.



**Figure 1**

**Total Active Federal Firearms Licensees**

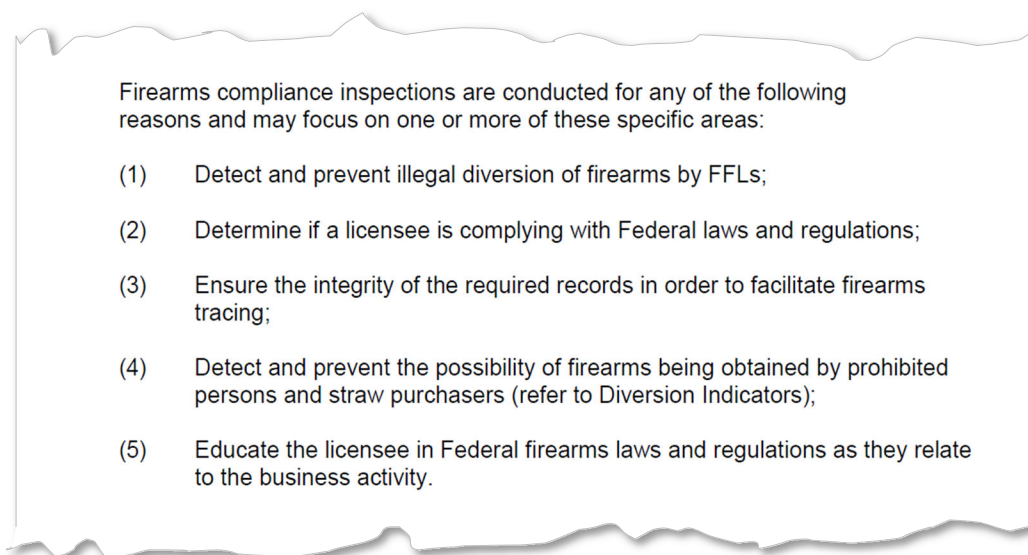


Source: OIG Analysis of ATF information

According to ATF, its inspections of FFLs serve to protect the public in that they promote internal controls to prevent and detect diversion of firearms from lawful commerce to the illegal market. Figure 2 is an excerpt from ATF's Industry Operations Manual detailing reasons for compliance inspections.

**Figure 2**

**Excerpt from ATF's Industry Operations Manual, Chapter C, Firearms Compliance Inspections**



Source: ATF Industry Operations Manual, October 2019 Edition

ATF conducts two primary types of FFL inspections: application and compliance. ATF policy states that an application inspection seeks to determine whether an applicant qualifies for a federal firearms license through the verification and assessment of certain information, including ensuring the applicant is applying for the proper type of license for the proposed business activity and determining the applicant's and any other responsible persons' ability to comply with federal, state, and local laws and regulations.<sup>3</sup> Provided the applicant meets the requirements, the Gun Control Act requires ATF to issue a license. ATF is statutorily required to respond to all FFL applications within 60 days, and ATF policy requires an IOI to conduct an on-site inspection of the proposed business prior to adjudicating the application. An approved FFL must have its license renewed every 3 years. As part of the renewal process, ATF conducts a criminal history search on all of the responsible persons operating the FFL. However, ATF does not ordinarily conduct an on-site inspection as part of the renewal process.

Compliance inspections are conducted to examine whether an FFL is complying with all federal firearms laws and regulations, is abiding by state and local laws, and is accurately maintaining required forms. Compliance inspections also seek to ensure the integrity of required records, detect the illegal diversion of firearms, and identify firearms transactions involving prohibited persons as defined by the Gun Control Act (e.g., felons).<sup>4</sup> Following a compliance inspection that results in significant public safety violations or involves a concern that the FFL is either unwilling or unable to

<sup>3</sup> A "responsible person" is someone who has the authority to direct firearm compliance decisions and operations for an FFL. One federal firearms license may cover multiple responsible persons.

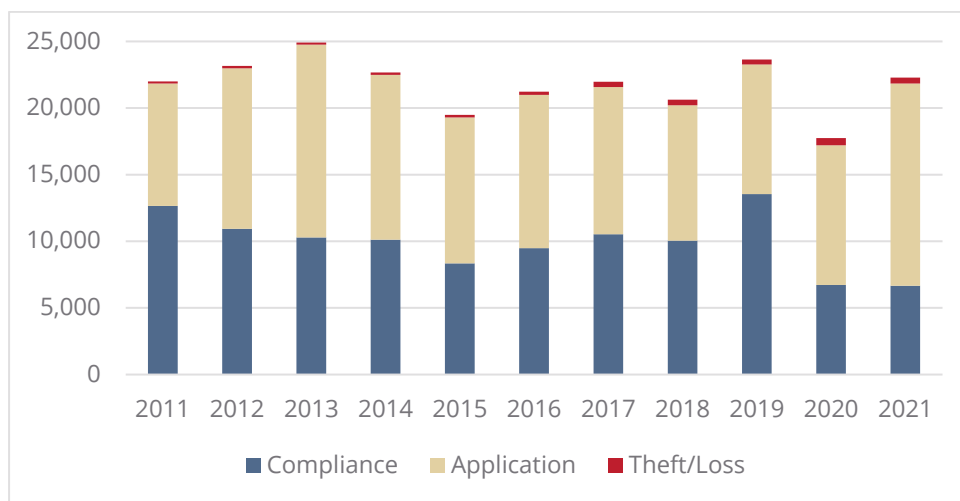
<sup>4</sup> 18 U.S.C. § 922(g).

take proper corrective action, ATF may schedule the FFL for a recall compliance inspection. ATF policy requires that recall inspections be scheduled within 2 years of the date when ATF is legally allowed to conduct another inspection; pursuant to the Firearms Owners' Protection Act, ATF inspections of an FFL may only be conducted once every 12 months.

In addition to application and compliance inspections, ATF conducts public safety inspections, which are inspections in the aftermath of a reported theft or loss of firearms at an FFL location to determine the actual number of firearms that are missing or stolen. According to ATF data, in fiscal year (FY) 2021, IOIs conducted 6,660 FFL compliance inspections, 15,182 FFL application inspections, and 436 theft/loss inspections.<sup>5</sup> Figure 3 depicts the number of inspections, by type, since the start of FY 2011.

**Figure 3**

**Completed Inspections by Type of Inspection, FY 2011 through FY 2021**



Source: OIG analysis of ATF data

## Inspection Outcomes






In preparation for an inspection, IOIs run required database checks, including criminal background checks of all responsible persons to identify any criminal history information that might impact their eligibility to be an FFL or responsible person. During the inspection, IOIs conduct interviews and a complete reconciliation of the firearms inventory with the corresponding records maintained by the

<sup>5</sup> According to ATF, some of the records categorized in the ATF dataset as compliance inspections in fact relate to activities other than an actual inspection, such as assisting criminal enforcement investigations or responding to a request from the National Tracing Center. We include these activities in our analysis because the activities captured in this category further ATF's mission to regulate the federal firearms industry and, for some of these activities, IOIs uncovered violations of the Gun Control Act and ultimately recommended a warning conference, revocation, or other administrative action.

FFL. If any instances of non-compliance are identified, such as inventory discrepancies, missing or improper completion of required forms, or failures to complete criminal background checks, IOIs document and cite the violations. Depending on the nature and frequency of these violations, ATF can institute a series of actions in increasing order of severity. These inspection outcomes are described below in Table 2.

**Table 2**

**Overview of Inspection Outcomes**

	<b>No Violations</b>	ATF does not identify any violations during the compliance inspection.
	<b>Report of Violations Only</b>	ATF reports the violations committed by the FFL and corrective actions for the FFL to take, if applicable.
	<b>Warning Letter</b>	ATF sends a letter to the FFL that outlines violations found during the inspection, the need to correct the violations, and the potential for revocation of the license if the licensee does not come into compliance.
	<b>Warning Conference</b>	ATF requires the FFL to meet with the DIO or Area Supervisor at an ATF office to discuss the violations, corrective actions, and the potential for revocation.
	<b>Revocation</b>	If willful violations of the Gun Control Act are identified, ATF can revoke the FFL's license or deny an application to renew the license. In some instances, after a revocation has been contemplated, ATF and an FFL may enter into a settlement agreement whereby the FFL agrees to certain terms to avoid revocation.

**Source:** OIG analysis of ATF policy

**2021 White House Strategy**

In June 2021, the President announced the White House's Comprehensive Strategy to Prevent and Respond to Gun Crime and Ensure Public Safety (2021 White House Strategy).<sup>6</sup> The announcement stated that the goal of the 2021 White House Strategy is to combat gun violence and other violent crime by implementing preventive measures that address the flow of firearms used to commit crimes. One aspect of the 2021 White House Strategy addresses FFL accountability by requiring ATF to hold "rogue firearms dealers accountable for violating federal laws." Because the 2021 White House Strategy was announced near the very end of the period covered by our audit, we did not perform an in-depth analysis of ATF's activities in response to this initiative. However, we discuss

<sup>6</sup> The White House, "Fact Sheet: Biden-Harris Administration Announces Comprehensive Strategy to Prevent and Respond to Gun Crime and Ensure Public Safety," June 23, 2021, <https://www.whitehouse.gov/briefing-room/statements-releases/2021/06/23/fact-sheet-biden-harris-administration-announces-comprehensive-strategy-to-prevent-and-respond-to-gun-crime-and-ensure-public-safety/> (accessed August 8, 2022).

the FFL-related aspects of the 2021 White House Strategy in greater detail in the Audit Results section of this report.

## Previous OIG Reviews

Prior OIG reviews have examined aspects of ATF's FFL program. A July 2004 OIG review of ATF's FFL Inspection Program concluded that ATF was not fully effective in ensuring that FFLs comply with federal firearms laws because inspections were infrequent and of inconsistent quality, follow-up inspections and adverse actions had been sporadic, and the license revocation process was seldom utilized despite inspectors uncovering an average of 70 to 80 violations per inspection.<sup>7</sup> In addition, the report concluded that ATF faced significant shortfalls in resources and needed to ensure that available IOI resources would be used effectively and efficiently to ensure that FFLs comply with federal firearms laws.

An April 2013 OIG review of ATF's FFL Inspection Program revealed that in the time since the 2004 report, ATF had made a series of changes and improvements to its inspection processes, such as standardizing inspection policies and procedures.<sup>8</sup> However, the OIG also identified the following deficiencies: (1) ATF did not meet its goal of inspecting all FFLs on a 3-year or 5-year cycle, and (2) ATF did not track whether high-risk FFL inspections met annual operating plan priorities. Specifically, the review concluded that, in part, ATF's challenges with resources appeared to have contributed to ATF's inability to conduct compliance inspections on a cyclical basis. The April 2013 review also found that ATF's process for reviewing revocation cases experienced undue delays.

In 2019, the OIG reported on ATF's Frontline Initiative, a business model initiative intended to standardize ATF operations, including its regulatory functions.<sup>9</sup> The OIG found that the Frontline Initiative was lacking performance metrics and sufficient supporting data, among other findings. In responding to the OIG's recommendations, ATF stated that it recognized the need to improve data quality and completeness, and to develop more robust analytical tools to assess that data and apply it to operational decisions. To do so, ATF executed several initiatives and expanded its Frontline training to include specific training on the domain assessment process (the domain assessment process is discussed in detail in the *Audit Results* section of our report). Additionally, ATF developed a process for headquarters to examine field division compliance with Frontline requirements and field operation priorities.

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<sup>7</sup> U.S. Department of Justice (DOJ) Office of the Inspector General (OIG), [Inspections of Firearms Dealers by the Bureau of Alcohol, Tobacco, Firearms and Explosives](#), Evaluation and Inspections Report I-2004-005 (July 2004).

<sup>8</sup> U.S. Department of Justice (DOJ) Office of the Inspector General (OIG), [Review of ATF's Federal Firearms Licensee Inspection Program](#), Evaluation and Inspections Report I-2013-005 (April 2013).

<sup>9</sup> U.S. Department of Justice (DOJ) Office of the Inspector General (OIG), [Review of the Bureau of Alcohol, Tobacco, Firearms and Explosives' Implementation of the Frontline Initiative](#), Evaluation and Inspections Report Number 19-02 (February 2019).

## **OIG Audit Approach**

The objectives of this audit were to assess ATF's: (1) risk-based approach for managing FFL inspections, (2) certain activity related to the referral of FFL-related information for criminal investigation, and (3) processing of FFL revocations and other administrative actions. Our audit scope focused on ATF's activities between FYs 2018 through 2021, though we also analyzed data from FY 2011 through February 1, 2022.

To accomplish our audit objectives, we interviewed key officials from ATF headquarters and certain field divisions. This included various headquarters officials, including the Deputy Assistant Director for Industry Operations and an official from the Office of the Chief Counsel. We also interviewed field division personnel, including DIOs, area supervisors, IOIs, Division Counsels, Crime Gun Intelligence Center (CGIC) staff, and special agents.

Additionally, we reviewed ATF reports, guidance, and policies relevant to FFL inspections and its resource utilization. We reviewed documentation regarding ATF's casework management systems and several sets of data, including a universe of all inspections that occurred from October 1, 2010, to February 1, 2022, and data related to tips received by ATF from external parties, including the public and other law enforcement entities. Further, we reviewed domain assessments and performance reviews associated with five field divisions for the period of FY 2018 through FY 2021. We also examined a judgmental sample of inspection files. In conducting this audit, we remained mindful that the last 2 years of our review period include the COVID-19 pandemic, which ATF officials told us impacted ATF's inspections activity. We have noted in our report instances where this caveat may be relevant to our analysis. Additional information about the objectives, scope, and methodology for this audit is available in Appendix I.

## Audit Results

Although ATF has taken measures to address previous OIG findings related to the effectiveness of ATF's oversight of FFLs, its compliance inspection activity remains a concern. Specifically, we found that ATF has not achieved its underlying goal of inspecting FFLs every 3 years, and that some FFLs did not receive an onsite inspection in over 10 years. Further, ATF relies on a risk-based approach to identify high-risk FFLs for onsite inspection; however, ATF did not meet its projections for inspections of all FFLs identified as high-risk in its annual plans. In addition, we found that ATF has not evaluated the efficacy or validity of its risk-based approaches and risk indicators, including whether they are effective at identifying FFLs that are not in compliance or risk potential exploitation by criminal activity and require attention or more significant action such as revocation of their license. Moreover, our review of over 10 years of inspections data revealed that ATF has not addressed violations in a consistent manner, including instances of recommended FFL license revocation. For example, we found that some FFLs with repeat revocable violations have been allowed to continue their operations, including FFLs found to have committed some of the most serious violations, such as those identified in the 2021 White House Strategy. The individual circumstances surrounding each inspection, such as whether the FFL willfully violated the Gun Control Act, could provide additional context regarding individual inspection outcomes. We also identified other deficiencies in ATF's oversight of FFLs and in its information sharing practices concerning FFLs. To assist ATF in reaching its inspection program goals of reducing the possibility of firearms being diverted from legal commerce and maintaining the traceability of firearms, we believe that ATF should, along with other recommended actions, perform a comprehensive evaluation of its inspection program risk indicators and outcomes and enhance its efforts to leverage data to generate analytics for strategic oversight and monitoring of FFLs.

### ATF's Risk-Based Strategy

ATF's Congressional Budget Submissions during the scope of our audit generally stated that ATF's goal is to conduct a compliance inspection for all FFLs once every 3 years. We reviewed inspection data from October 1, 2010, to February 1, 2022, to assess the frequency of ATF's oversight of individual FFLs. We found that, similar to the findings in the OIG's 2004 and 2013 reports and as acknowledged by ATF officials, ATF is not meeting its goal. According to data concerning ATF inspections of 76,164 FFLs active as of February 1, 2022:<sup>10</sup>

- We identified 2,275 FFLs in the data for which the most recent inspection was completed prior to February 1, 2012, meaning that these FFLs went more than a decade without an inspection.

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<sup>10</sup> The dataset included all inspections for which ATF reached a final inspection outcome decision for all FFLs holding a license at any point during our review period, including those FFLs no longer holding an active license. We limited this analysis to active FFLs as of February 2022 because the dataset did not include the date that inactive FFLs became inactive or the reason for termination. We do not believe that the universe of active and inactive FFLs could be analyzed in the same way and considered analysis of currently active FFLs more valuable for ATF and other stakeholders. We are not intending this analysis to represent an assessment of the universe of ATF's inspection activity. Instead, our analysis addresses the frequency of ATF's oversight of individual FFLs.

- 44,535 FFLs, or 58 percent of the universe we assessed, only had 1 inspection (of any type) from October 1, 2010, to February 1, 2022. Additionally, only 8,242 of those inspections were *compliance* inspections.<sup>11</sup>
- Of the 31,629 FFLs that received more than 1 inspection (42 percent of the universe we assessed), only 15,361 had 2 or more *compliance* inspections. When considering those 15,361 FFLs, the average and median gap between compliance inspections were 3.57 and 3.34 years, respectively. For the 9,563 FFLs that received only two compliance inspections, the average and median gap between compliance inspections were 3.97 and 3.85 years, respectively.
- A total of 55,239 FFLs received a qualification inspection during the period of the data, indicating that these were new licensees. Only 18,314, or 33 percent, of these new FFLs also received a compliance inspection. In addition, 745 of the new FFLs were approved as FFLs in FY 2011 and as of February 1, 2022, had not had any type of inspection other than qualification.

ATF attributed its challenges with completing inspections to a lack of resources compounded by increased firearms commerce and an associated increase in individual firearms inventory and transaction records that are required to be maintained and inspected.<sup>12</sup> According to its internal policy, ATF utilizes a data-driven strategy for overcoming its resource challenges, particularly in its efforts to identify potentially non-compliant FFLs or FFLs possibly engaged in criminal activity. However, as discussed in the following sections of this report, we found that while ATF has implemented various initiatives to identify high-risk FFLs for inspection, ATF is not assessing or measuring the results of those efforts to ensure appropriate resource allocation to fulfill its regulatory mission and ensure public safety.

## Intelligence Indicators and Initiatives

Drawing upon its experience regulating the firearms industry, ATF developed intelligence indicators to help select for inspection FFLs that may be at greater risk for non-compliance with federal laws and regulations. These indicators are drawn from federal, state, and local information and data pertaining to firearms commerce and criminal activity. ATF has instituted various initiatives and operational changes to fully maximize its use of these indicators and focus its limited inspection resources on FFLs that may pose the greatest public safety risks. These programs include ATF's:

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<sup>11</sup> While any type of inspection (such as theft/loss or qualification inspection) represents an instance of ATF oversight of an FFL, only compliance inspections include the full scope oversight of a physical inventory verification, interviews of responsible persons, and document review.

<sup>12</sup> The OIG's 2013 *Review of ATF's Federal Firearms Licensee Inspection Program* identified insufficient ATF resources to meet ATF's cyclical compliance inspection goal. Our current audit did not assess ATF's inspection resources but rather focused on ATF's strategic approach to selecting FFLs for inspections and the resulting administrative action outcomes.



(1) Top 100 Initiative, (2) field division domain assessment process, (3) Crime Gun Intelligence Centers (CGIC), and (4) Crime Gun Intelligence Analytics (CGIA) platform.

### ***Top 100 Initiative***

In FY 2010, ATF implemented the Top 100 initiative to leverage available intelligence information to identify FFLs for compliance inspections based on risk rather than solely on the amount of time since the last inspection. Every year, ATF requires each of the 25 field divisions to consult data associated with the aforementioned intelligence-based indicators to make a judgmental selection of 4 FFLs within their geographic area of responsibility that the field division deems to be at risk of non-compliance or exploitation by criminal activity. ATF's selection of FFLs for the Top 100 initiative is both a proactive and reactive approach to ensuring public safety, not only through the identification of regulatory non-compliance but also by educating FFLs on how to identify suspected traffickers and other criminal actors. In its earliest days, the Top 100 focused on FFLs with the greatest number of traced guns, and the initiative has evolved to include additional indicators—such as gang-related traces and the number of NICS background check denials. ATF Headquarters provides field divisions autonomy to assess and apply the indicators based upon circumstances within their jurisdiction, and the field divisions are expected to provide the rationale for their Top 100 selections, which may be reviewed by ATF Headquarters. The inspections identified through the Top 100 initiative are considered mandatory inspections that must be completed by the field division within that fiscal year.

We spoke with ATF officials about the Top 100 Initiative and confirmed that ATF has not reviewed the outcomes of the resulting inspections to evaluate the effectiveness of this strategy. Moreover, ATF could not provide us with any documentary evidence of efforts to assess the validity, accuracy, or effectiveness of the indicators. ATF officials told us that they believe that the indicators are self-evident given their historical application throughout ATF's experience in the firearms industry.

We believe that a review of the Top 100-related inspection results could aid ATF in assessing the efficacy of the indicators and the initiative as a whole. We obtained the Top 100 lists for FY 2018 through FY 2021.<sup>13</sup> Of the 397 FFLs on the Top 100 lists for this period, our review of inspection data found that ATF did not complete 35, or 9 percent, of these mandatory inspections overall, and that ATF did not meet its Top 100 inspections goals in any year that we reviewed. We note that the last 2 years of our review period included the COVID-19 pandemic, which ATF officials told us contributed to ATF not meeting its inspections goals.

Given that the FFLs on these Top 100 lists were identified using indicators of risk of non-compliance or potential exploitation by criminal activity, we reviewed the results of the inspections to determine whether the Top 100 Initiative was effectively identifying high-risk FFLs, as demonstrated by whether these inspections: 1) identified violations, and 2) led to more significant recommended outcomes, such as a warning conference or revocation. Overall, we found that 76 percent of the Top 100 inspections reviewed resulted in recommendation outcomes related to the identification of violations. When compared to all inspections in our universe, which yielded a recommendation rate

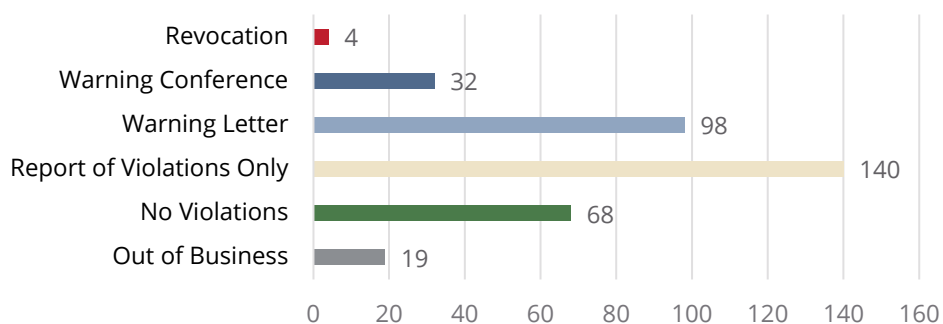
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<sup>13</sup> ATF's FY 2018 Top 100 list only included 97 FFLs, bringing the total number of FFLs identified for the 4-year period to 397 instead of 400.

of 33 percent, it appears that inspections of the Top 100 FFLs were more likely to identify violations. (We examine the universe of FFL inspections between October 1, 2010, and February 1, 2022, in further detail later in this report.) In turn, as shown in Figure 4 below, we found that 32 of the 362 Top 100 inspections completed, or 9 percent, resulted in a recommendation for a warning conference, and 4 inspections, or 1 percent, resulted in a recommendation for revocation. This distribution generally aligns with the distribution of administrative actions for the universe of FFL inspections (illustrated in Figure 6 later in the report).

**Figure 4**

**Top 100 Recommendation Outcomes, FYs 2018-2021**



**Note:** A total of 362 FFLs were inspected under the Top 100 initiative during this time, however ATF did not recommend an outcome for 1 of the FFLs because the inspection was part of a criminal investigation. Additionally, ATF may categorize an inspection outcome as “out of business” in certain instances, such as when an FFL selected for inspection discontinues the business and surrenders the license.

Source: OIG analysis of ATF data

We shared the results of our analysis with ATF Industry Operations leadership, which, as previously mentioned, has not retroactively examined the results or effectiveness of the Top 100 program. An ATF official told us that the Top 100 recommendation outcomes were not unexpected because there can be other factors that affect the outcome of an inspection. This official explained that a large volume of guns traced from crime scenes and originating from one FFL does not necessarily mean that the FFL is a non-compliant FFL and therefore an IOI may not detect any violations during an inspection. Nevertheless, we believe that ATF should assess field divisions’ application of the intelligence indicators to ensure effective identification of high-risk FFLs, which may help ATF deploy its limited resources effectively. We make a recommendation to ATF to address this matter in the *Measuring Outcomes and Efficacy* section below.

**Domain Assessments**

Field offices conduct annual domain assessments to identify the law enforcement and regulatory priorities specific to their geographic areas of responsibility to ensure ATF’s resources are aligned to

produce maximum impact.<sup>14</sup> The field office documents this assessment and the resulting workplan for the coming year. This workplan includes the annual FFL inspection plan and projections for the number of application inspections, theft/loss inspections, recall inspections, Top 100 inspections, and other compliance inspections. Near the end of the fiscal year, field offices review their work completed and report the progress towards meeting their domain assessment priorities.

To assess ATF's planning and achievement of its FFL inspection operations, we reviewed a sample of work planning metrics in domain assessments and corresponding end-of-year field office performance reviews from FY 2018 through FY 2020.<sup>15</sup> In total, we reconciled information in a sample of 72 field office domain assessments to associated end-of-year performance reviews. Our analysis found that at the time of the year-end reviews, the field offices we reviewed did not meet their compliance, Top 100, and recall inspection goals for 44 percent of their inspection projections.<sup>16</sup> We noted that some field offices included explanations for not meeting their goals in their end-of-year performance reviews. These explanations included resource shortages; reassessment of priorities; inspections initiated but not yet completed; and for FY 2020, limitations related to the COVID-19 pandemic.

We were particularly concerned to find that the field offices we reviewed met their goals for recall inspections only 44 percent of the time. By their nature, recall inspections target particularly high-risk FFLs; ATF plans for recall inspections when an inspection identifies significant public safety violations or when there is a concern that the FFL is either unwilling or unable to take proper corrective action. Especially because ATF considers recall inspections to be mandatory and to be performed within a prescribed timeframe, we are concerned that ATF inspected fewer than half of the FFLs for which domain assessments identified as planned recall inspections. Without such inspections, ATF is likely unaware of whether these non-compliant FFLs improved their operations.

The OIG's 2019 review of ATF's Frontline initiative made recommendations for enhancing the domain assessment process. ATF took action to enhance the overall process and increase the feedback and coordination between field offices and headquarters. Nevertheless, given our finding that inspection goals established in the domain assessment are often unmet, we believe the domain assessment process could be further matured. We recommend that ATF examine its domain assessment process—including the Top 100 Initiative and recall inspection activities—and refine its strategies for identifying and tracking risks, deploying resources, and accomplishing goals.

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<sup>14</sup> Each of ATF's 25 field divisions consist of multiple smaller field offices. ATF's domain assessments are created and utilized at the field office level.

<sup>15</sup> We acknowledge that ATF's FY 2020 operations were impacted by the COVID-19 pandemic, however we included this year within our analysis because it is one of the most recent years of ATF inspection activity. We discuss our methodology further in Appendix I.

<sup>16</sup> The field office must complete its end-of-year performance review before the last date of the fiscal year; therefore, the final year-end inspection numbers are not reflected in the end-of-year performance review.

### ***Crime Gun Intelligence Centers***

In 2016, ATF established a Crime Gun Intelligence Center (CGIC) in each of its field divisions to collect, analyze, and distribute intelligence data to support both its criminal enforcement efforts and its regulatory oversight of FFLs. Generally, CGICs are staffed by Special Agents, IOIs, forensic experts, intelligence specialists, and partner agencies, with the expectation that their diverse expertise will allow them to work together to develop actionable intelligence for the field division. In addition to using various crime data and intelligence databases, CGICs are also responsible for assessing information and tips received from sources both internal and external to ATF. For example, ATF may receive an anonymous tip from an FFL reporting another FFL not complying with required paperwork. After CGIC assesses such information, it determines whether further action is needed and, if so, where to route the information. When potentially relevant information for FFL oversight is vetted by CGIC, the information is routed to the field division's Industry Operations Area Supervisor, who assesses the information and determines the appropriate course of action, including whether the FFL should be added to the inspection schedule.

Each year, CGICs complete a performance review, which includes a self-critique and self-assessment of the unit's work, including written explanations of activities that support Industry Operations. To assess the CGICs' role in supporting the identification of high-risk FFLs, we reviewed a total of 101 CGIC annual performance reviews for FYs 2018 through 2021.<sup>17</sup> Within these documents, we noted numerous descriptions of instances in which a CGIC supported Industry Operations, such as by identifying high-risk FFLs for inspection or by providing information on FFLs already selected for inspection. In one example, a field division DIO requested that CGIC analyze trace data of foreign-recovered crime guns, which resulted in the initiation of an FFL compliance inspection that otherwise would not have been planned. In a separate example, a CGIC reported that it partnered with Industry Operations to identify FFLs with a significant connection to recovered firearms associated with firearms trafficking, resulting in the identification of two FFLs for inspection, one of which had not been inspected for approximately 7 years. The same CGIC also reported its identification of 14 FFLs based on a time-to-crime analysis, 5 of which had not been inspected in 9 or more years. However, while CGICs share such intelligence information with Industry Operations to identify high-risk FFLs, there is no corresponding requirement for ATF to evaluate the efficacy and fruitfulness of the intelligence shared with or used by Industry Operations. Further, we found that ATF would not be able to conduct such an evaluation, as it does not require or provide guidance for the necessary level of detail in the performance reviews, including which particular FFLs were identified for inspection. For this reason, we also were not able to evaluate the effectiveness of the CGIC-provided intelligence. We believe ATF should pursue further maturation of the CGIC program's support of Industry Operations, and we recommend that ATF refine its CGIC performance review process to include sufficient information to allow for an assessment of the outcomes and effectiveness of the CGIC intelligence that is shared with Industry Operations.

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<sup>17</sup> We reviewed a performance review or similar assessment for each year between FY 2018 and FY 2021 for each of the 25 field divisions. In 2021, a CGIC was established at the San Antonio field office, which reports to the Houston field division, providing an additional performance review in our analysis and bringing the total number of performance reviews in our analysis to 101.

### ***Crime Gun Intelligence Analytics***

In 2021, ATF implemented a tool to assist field divisions in identifying potential sources of crime guns using available data, such as the National Integrated Ballistic Information Network (NIBIN), the Firearms Licensing System, and NICS, to enhance and facilitate the use of ATF's intelligence indicators.<sup>18</sup> This tool, called Crime Gun Intelligence Analytics (CGIA), contains various modules that may be used to conduct queries of available datasets, including identifying the source of crime guns in a specific geographic area; researching trace information associated with a particular FFL; examining thefts from FFLs; and analyzing a potential individual trafficker, straw purchaser, or unlicensed dealer. Field divisions can use CGIA to identify FFLs for inspection and as a pre-inspection tool to gather information about an FFL's activities. At the time of our audit, ATF continues to add new functionality to CGIA by interfacing with additional data systems.

ATF officials told us that Area Supervisors evaluate and assess the data within CGIA to plan their inspection workload and prepare for individual inspections. For example, a Director of Industry Operations told us that she used CGIA to prepare the field office domain assessment, including the selection of an additional FFL for inspection that otherwise would not have been included in the office's inspection goals. In another example, an Acting Area Supervisor stated that he used CGIA to review data about a particular FFL prior to the initiation of an inspection. ATF officials also demonstrated CGIA's capabilities for us, including ongoing modifications to strengthen its real-time crime gun data analysis.

While ATF believes that CGIA will greatly enhance its ability to select high-risk FFLs for inspection, it acknowledges that the tool is new and more time is needed to develop and train personnel to realize its full potential. Because ATF's Industry Operations resources are already strained, we note that ATF may face challenges in developing and fully effectuating expertise in CGIA. Additionally, we found that the requirements and guidelines for use of CGIA have not yet been documented in ATF policy. Without a documented approach for Bureau-wide implementation, ATF may not fully achieve the benefits it believes CGIA can bring to its risk-based inspection selection process. Therefore, we recommend that ATF memorialize in policy and procedures how CGIA can and should be used for its Industry Operations activities, including providing guidance and examples for how CGIA can be used by IOIs to prepare for an inspection.

### ***Measuring Outcomes and Efficacy***

ATF has invested valuable resources to identify and select FFLs for compliance inspections—particularly its mandatory inspections. However, as described in detail above, we found that by missing its domain assessment work planning projections ATF runs the risk of not detecting violations committed by FFLs, and without an assessment of the results of its risk-based approaches to inspections ATF cannot confirm whether its efforts are effective and resources are being deployed to the highest priority matters. These findings echo previous OIG reports, which also identified that ATF was not achieving its inspection goals, and which found, in the case of the Frontline Initiative, that ATF was lacking performance metrics. We believe that continual evaluation of risk indicators

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<sup>18</sup> The Firearms Licensing System tracks FFL applicant and information associated with registered persons responsible for maintaining the license. The National Integrated Ballistic Information Network (NIBIN) captures and compares ballistic evidence from crime scenes.

and the initiatives that rely upon them would help ATF obtain a better understanding of where its efforts are most effective, how to best utilize risk-based approaches, and where enhancements to its data-driven inspection operations are needed, which would help to drive overall improvement of ATF's strategic inspection program and help ATF make better use of its limited resources. Therefore, to address the deficiencies noted above, we recommend that ATF establish a recurring process to assess the risk indicators that contribute to the selection of FFLs for inspection and evaluate the results of the inspections to ensure that field divisions are effectively identifying high-risk FFLs.

### Potential Information Gaps

In addition to physical IOI inspections, ATF assesses FFLs during the license renewal process, which occurs every 3 years. As noted previously, these renewals generally do not involve a physical inspection and instead are focused on assessing an FFL's eligibility for maintaining the license. In between these license renewals, an ATF official acknowledged, ATF relies upon the responsible person to self-report events and changes in circumstance that would cause the FFL to become ineligible to possess a license or raise significant concern about the security of the firearms inventory, such as felony convictions, going out of business, or being evicted from their place of operation.<sup>19</sup>

However, we found that potential gaps exist in this FFL self-reporting, and we are concerned that FFLs could experience a change in eligibility status during periods between inspections and renewals and that could go undetected by ATF. Specifically, during our review of a sample of detailed inspection files, we found instances in which FFLs experienced circumstances that impacted their license.<sup>20</sup> In one such instance, we found that a property owner alerted ATF that it was granted an eviction judgment in October 2018 and, following the eviction of the FFL, the property owner had taken possession of the firearms left at the location. According to documentation provided during our audit, in October 2018 ATF noted that the FFL could not be located and 53 unregistered machine guns and/or unmarked firearm receivers were located at the business premises from which the FFL had been evicted. ATF had previously inspected this FFL in 2013, 2015, and 2017, and each inspection identified violations that included failing to keep accurate track of firearms inventory, failing to serialize and register firearms, and failing to pay taxes. These three prior inspections resulted in administrative actions ranging from Warning Letters to a Warning Conference. ATF revoked this FFL's license in 2019. We were concerned that, despite this FFL's history of violations and administrative actions, without the property owner's action to alert ATF, the unregistered

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<sup>19</sup> As previously mentioned, the Bipartisan Safer Communities Act provides FFLs with access to NICS to run background checks on current or prospective employees. Should the NICS check result in the identification of an individual who should not be employed by the FFL, it is incumbent upon the FFL to self-report this information to ATF.

<sup>20</sup> Our sample selection process is discussed in more detail in Appendix I: Objectives, Scope, and Methodology.

machine guns and/or firearm receivers may have gone undetected, putting public safety at risk, and ATF might not have learned of the FFL's eviction from its place of business.<sup>21</sup>

We found a second instance in which an FFL had been evicted from the business premises and similarly did not notify ATF. According to ATF documentation, ATF learned of the eviction when an IOI was assigned to conduct an urgent tracing request. Upon receipt of the assignment in December 2019, the IOI reviewed the FFL's file, which contained a note that the FFL contacted ATF stating that the FFL will be going out of business. The note stated that the FFL would turn over its records appropriately.<sup>22</sup> However, at the time of the tracing request the IOI could not locate the FFL or the FFL's records and was informed that the FFL had been evicted by the owner of the premises. The property owner subsequently provided the IOI access to the business premises, but the IOI could not find any of the FFL's records. In June 2020, more than 6 months after the IOI was assigned this matter, the IOI was still unable to contact the FFL or obtain the records. ATF issued a final notice of revocation for this FFL's license in November 2020.

When presented with our concern, an ATF official noted that ATF faces limitations in its ability to obtain information about changed eligibility of its FFLs through means other than FFL self-reporting. Specifically, this official stated that if ATF were to pursue action to improve its visibility into FFL eligibility outside of the inspection and renewal processes, it will have to ensure it abides by restrictions of the Gun Control Act, which limit the circumstances under which ATF may run criminal background checks.<sup>23</sup> We also note that certain disqualifying information, such as evictions or the loss of a commercial business license, would not be identified through a criminal background check at all, but rather could generally be identified only through FFL self-reporting or an ATF physical inspection.

We believe that ATF's limited ability to routinely inspect all FFLs combined with statutory confines germane to ATF's regulatory work have created an environment where ATF relies on FFLs to self-report circumstances affecting their license eligibility and results in a risk that disqualifying behavior or events could go undetected. The examples presented above highlight challenges associated with lengthy periods between physical inspections and the information gaps in ATF's oversight of FFLs. We therefore recommend that ATF assess the potential information gaps it faces associated with changes to the eligibility of FFL responsible persons and consider policy or process solutions, or other actions, to reduce those gaps.

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<sup>21</sup> Assuming ownership of firearms in certain instances, such as through inheritance or property possession, does not necessarily require a notification be made to ATF. In this particular example, the unregistered machine guns inherently violate the National Firearms Act, which prohibits the possession of certain unregistered firearms, including machine guns. It may not be obvious to an individual unfamiliar with firearms regulations that in some instances an alert to ATF is required when assuming ownership of certain firearms.

<sup>22</sup> An FFL is required to retain 20 years of these records. When an FFL goes out of business, the FFL is required by federal law to turn these records over to ATF. This helps ensure the traceability of firearms and to ensure that FFL did not transfer any firearms to any prohibited person.

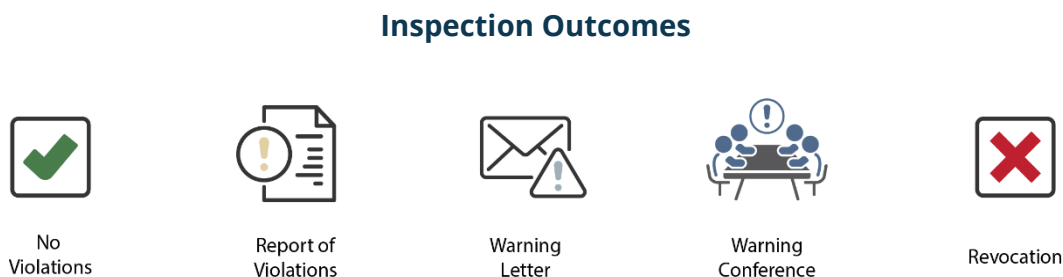
<sup>23</sup> See 28 C.F.R. § 25.6(j), "Access to the NICS Index for purposes unrelated to NICS background checks required by the Brady Act."

## Compliance Inspection Results

As previously mentioned, IOIs assess compliance with federal firearms laws and regulations by performing on-site inspections consisting of an inventory verification, firearms transfer paperwork review, and examination of the FFL's acquisition and disposition records. Depending on the size and inventory of the FFL, a compliance inspection can take a matter of days, a week, or more.

Upon completion of an inspection, IOIs determine whether action should be taken to address the violations cited. ATF's Administrative Action Policy outlines the types of federal firearms violations and subsequent inspection outcomes, as well as provides a framework for evaluating the circumstances surrounding the violations that may dictate the specific course of action that ATF will pursue, up to and including revocation. For example, the Administrative Action Policy states that administrative actions should be determined through consideration of "the nature of the violations, their impact on public safety, and ATF's ability to reduce violent crime...[as well as] aggravating and mitigating factors." Figure 5 outlines the outcomes an IOI may recommend based on violations identified during an FFL inspection, which were previously described in more detail in Table 2 above.

**Figure 5**



Source: OIG

ATF documentation lists over 120 different violations that an IOI may cite during an inspection and ATF's Administrative Action Policy provides a framework to guide ATF personnel when developing inspection outcome recommendations. While the policy states that it is desirable to have definitive guidance for IOIs conducting FFL inspections, it also recognizes that the IOIs inevitably must exercise judgment based on analysis of the individual case. The policy thus lays out a variety of questions that an IOI can consider when determining the appropriate administrative action, such as whether the FFL's violations were willful in nature, whether the continued operation of the FFL poses a threat to public safety, or whether the FFL is taking responsibility for the violations and working with ATF to correct them. For example, we reviewed information associated with one inspection for which an alternate recommendation was suggested due to a specific employee who was directly responsible for the violation and subsequently terminated employment with the FFL, after which the FFL implemented training protocols and records checks, demonstrating that the FFL addressed a cause of the violation in a responsible manner. Another example of a mitigating circumstance described by an ATF official is that an FFL may realize after the transfer that a firearm was transferred to a prohibited person and the FFL subsequently reacquires the firearm.



To examine ATF's practices with respect to its most punitive administrative action, we asked ATF officials to provide us a list of violations that can be significant enough to trigger a revocation, as recommended in ATF policy. ATF officials told us that, technically, any violation can be revocable if there is a willful violation of the Gun Control Act, but that ATF approaches the violations with reasonableness. For violations that may have less public safety impact and are more technical findings, ATF officials stated that it approaches these violations with an educational emphasis to help guide FFLs into compliance with the applicable laws and regulations, rather than proposing to revoke an FFL's license, an action that may be perceived as disciplinary in nature. Conversely, ATF officials told us that for an egregious, willful violation, such as transferring a firearm to a minor, ATF may pursue FFL revocation.

At our request, ATF officials provided the OIG with a list of federal citations for which they said IOIs should consider recommending revocation of an FFL's license (i.e., "revocable offenses") when a willful violation of the citation is identified.<sup>24</sup> According to the Gun Control Act, when ATF seeks to revoke an FFL's license, it must be able to demonstrate that the FFL *willfully* violated the law by showing an intentional disregard for regulatory requirements. We found differing opinions throughout ATF about the willfulness standard, but an ATF Senior Attorney stated that this standard for revocation is not particularly high, and that ATF is not required to prove that the FFL intended to violate the law, only that it knew its legal obligations as a licensee and purposefully disregarded or was plainly indifferent to these obligations. ATF officials further explained that ATF does not recommend the revocation of licenses for every violation and revocation actions are seldom initiated until after an FFL has been given an opportunity to comply but has failed to do so. An FFL may appeal to ATF if it receives a Notice of Final Revocation, which may be further extended into litigation if an FFL files a judicial appeal.

While we acknowledge that mitigating factors may exist when violations are identified during an inspection, and that ATF policy directs its IOIs to consider such factors, as well as the requirement to make a determination of willfulness, we also note that ATF's own internal review program has, from 2018 to 2021, similarly identified inconsistency in the application of administrative actions as an issue of concern requiring redress by ATF field divisions. Specifically, every 3 years ATF conducts a quality review of each field division, including an evaluation of Industry Operations' regulation of FFLs. The common findings identified during these internal inspections are summarized and memorialized in an annual memorandum to the head of ATF's Field Operations. However, we found that ATF has not made a concerted effort to address the ongoing concern that field divisions inconsistently apply administrative actions.

To accomplish our audit objective related to assessing ATF's processing of revocations and other administrative actions, as well as to verify the findings from ATF's internal review program, we conducted a review of data associated with ATF's FFL inspections, including the recommended

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<sup>24</sup> We used a list of revocable citations provided by ATF officials instead of ATF policy because ATF's policy outlines revocable violations narratively and with language that does not match verbatim with federal regulations. For example, ATF policy describes falsifying records as a revocable violation; however, ATF's list of revocable federal citations aligned three separate citations with this one policy item. The dataset provided by ATF records violations by federal citation and therefore our analysis is based on revocable federal citations.

outcomes of those inspections when regulatory compliance violations were cited.<sup>25</sup> We reviewed the results of compliance inspections completed between October 1, 2010, and February 1, 2022, to determine the frequency of recommended outcomes, whether these outcomes were consistently applied across ATF field divisions, to gain an understanding of ATF's application of its policy and to identify potential recommended improvements highlighted by such a data-driven analysis. While ATF policy acknowledges that each inspection has unique and sometimes complex circumstances, it establishes a "unified plan of action for resolution of violations through administrative action." The policy further states that it is intended to "promote consistent and equitable resolutions of violations of the Gun Control Act." We recognize and agree that each inspection can present unique facts and circumstances pertaining to the violations identified.

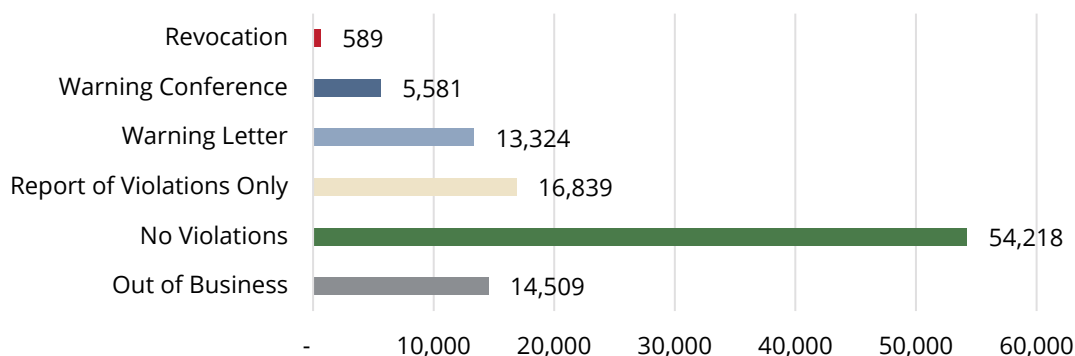
Overall, we found that of the 111,077 inspections that were completed, ATF did not identify any violations associated with inspections of 54,218 FFLs, or nearly half of all FFLs that received an inspection during our review period and recommended the revocation of 589 FFL licenses. This equates to a rate of 0.53 percent of all inspections or 1.04 percent of inspections that identified violations. Figure 6 depicts the frequency of the most-commonly recommended outcomes during our review period.

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<sup>25</sup> The inspection outcome information captured in ATF's case management system reflects the outcome recommended by ATF upon completion of the inspection. According to ATF, this information is not always updated to reflect the actual, final outcome of an inspection. For example, while ATF may recommend the revocation of a license and record such information in its case management system, subsequent to the issuance of a Final Notice of Revocation an FFL may file a judicial appeal of the decision and ultimately a decision may be made by a judge for the license not to be revoked.

Figure 6

Frequency of Recommended Outcomes,  
October 1, 2010, through February 1, 2022



**Note:** Other outcomes (such as “withdrawn” or “surrendered”) representing 8 percent of the grand total were not included in this figure because they were rare (each less than 0.3 percent frequency) or did not correspond to an administrative action. Additionally, ATF may categorize an inspection outcome as “out of business” in certain instances, such as when an FFL selected for inspection discontinues the business and surrenders the license.

Source: OIG analysis of ATF data

We further analyzed the data related to inspections resulting in a revocation recommendation to determine if the 25 field divisions executed revocation actions at roughly the same rate, or if there were certain offices that for which inspections resulted in a revocation recommendation far more or less often than others. Using the number of inspections conducted and the revocation recommendation count for each field division, we found that the revocation recommendation rates for the majority of the 25 field divisions did not have a notable level of variance and instead the rate appeared relatively consistent across field divisions.

We also examined the consistency in ATF’s approach for revocation when encountering relatively similar inspection results. To accomplish this, we reviewed the aforementioned October 1, 2010, through February 1, 2022, inspections data and created a subset of FFLs with inspections resulting in violations ATF identified as revocable offenses. We acknowledge limitations in this analysis methodology because ATF’s dataset was not intended to provide specific facts or circumstances related to individual inspections, such as whether violations were judged to be willful; however, we believe an analysis of violations and associated recommended outcomes is valuable to understand how the guidance in ATF’s Administrative Action Policy is put into practice. For example, of the 23,124 FFLs for which an IOI identified a revocable violation, we found that only 529 FFLs, or 2.3 percent, had inspections that resulted in a recommendation for the revocation of an FFL’s

license.<sup>26</sup> If this revocation rate is reflective of the instances in which ATF determined there to be at least one willful violation of the Gun Control Act, it means that in 97.7 percent of the inspections in which an IOI identified a revocable violation (amounting to 22,595 FFLs), ATF's conclusion was that those violations were not willful or that other mitigating factors existed.

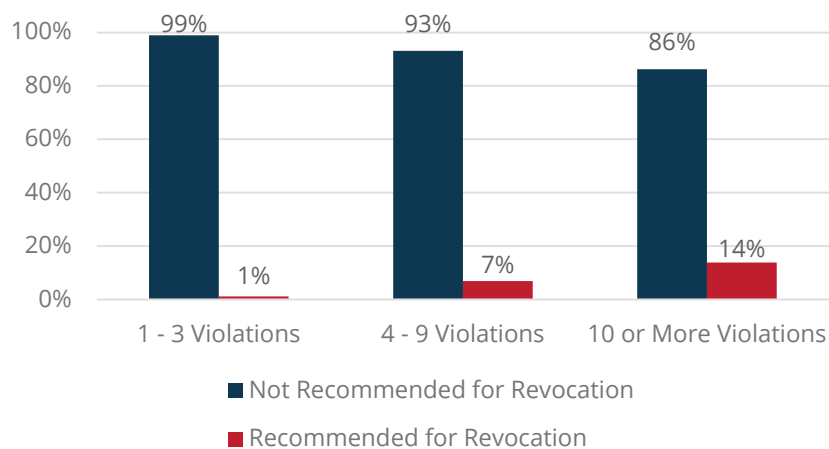
For this same subset of FFL inspections resulting in revocable offenses, we identified the number of unique violations cited as well as the recommended outcome of each inspection. We found that there was no discernible pattern evident for inspections that resulted in a revocation recommendation versus those that resulted in a recommended outcome other than a revocation. Our data analysis did not show that more violations resulted in a greater likelihood of revocation when compared to all other outcomes (i.e., warning conference, warning letters, or a report of violations). Instead, when reviewing the distribution of inspections results by the number of revocable violations, the recommended outcome was just as likely to be revocation as it was to be a lesser outcome. As stated previously, it appears as though the vast majority of inspections did not result in ATF assessing the violations as willful; this analysis further indicates that higher numbers of violations similarly did not impact the rate at which ATF assessed the FFL to have willfully violated the Gun Control Act. Although we found that there is a small increase in the rate at which ATF recommends the revocation of licenses as the number of violations increases, the impact of this effect is not substantial. For example, among the FFLs with an inspection that identified between 1 and 3 revocable violations, 99 percent did not result in a revocation recommendation; when compared with the FFLs with inspections that identified 10 or more revocable violations, 86 percent did not result in a revocation recommendation. These revocation recommendation rates are displayed in Figure 7.

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<sup>26</sup> The data from ATF did not always capture the violations associated with each inspection and when analyzing the data associated with violations, we could not review every inspection conducted by ATF. For example, ATF data only reported specific revocable violations for 529 FFLs of the 589 total FFLs with inspections resulting in recommendations for revocation during the scope of our data.

**Figure 7**

**Revocation Recommendation Rates by Number of Revocable Violations for 23,124 FFLs with Inspections Identifying Revocable Violations, October 1, 2010, through February 1, 2022**

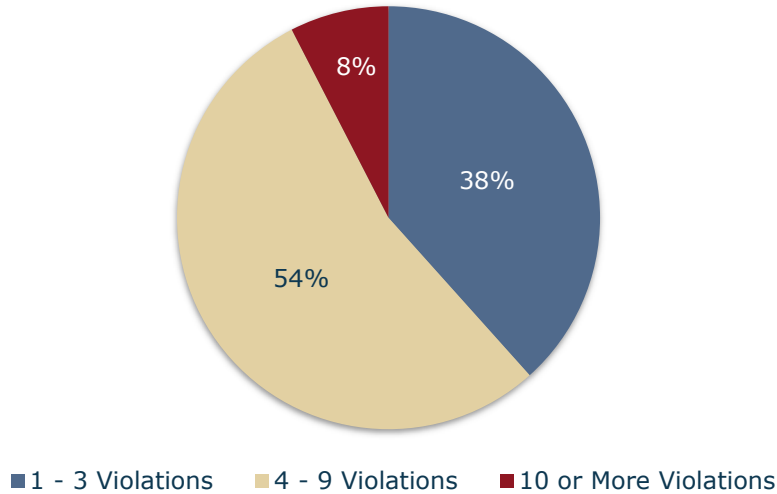


Source: OIG analysis of ATF data

We further focused our analysis on the count of violations for the 529 FFLs that had an inspection resulting in a revocation recommendation (shown in Figure 8 below). Of these FFLs, 203—or 38 percent—had inspections with 3 or less violations; conversely, 40 FFLs—or 8 percent—had 10 or more violations.

**Figure 8**

**Number of Revocable Violations for 529 FFLs with Revocation Recommendations, October 1, 2010, through February 1, 2022**



Source: OIG analysis of ATF data

We also performed a more in-depth analysis of the inspection outcomes of similar FFLs against the violations cited during inspections. In one example, we reviewed inspections of three different FFLs that identified the same violation: failing to complete a NICS background check.<sup>27</sup> We reviewed the first and only compliance inspection for each of these FFLs (as of February 2022) and found that for each of these three FFLs, ATF issued a different administrative action. We also saw little correlation between the number of failures to complete a NICS background check identified in each of these three inspections and the outcomes of those inspections. Table 3 displays the outcomes of and additional details about these three inspections.

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<sup>27</sup> According to ATF officials, ATF policy recommended revocation for some form of this violation for the entirety of our audit period. Starting in 2017 ATF policy states that revocation is recommended if an inspection finds that an FFL failed to complete a NICS background check and that the transaction resulted in the transfer of a firearm to a prohibited person.

**Table 3**

**Examples of Similar Inspections with Different Recommended Outcomes**

	<i>Inspection A:</i> <b>Warning Letter</b>	<i>Inspection B:</i> <b>Warning Conference</b>	<i>Inspection C:</i> <b>Revocation</b>
<i>Count of Violations of Failing to Complete a NICS background check</i>	4	9	1
<i>Count of All Violations<sup>a</sup></i>	625	1,282	475
<i>Date of First (and Only) Completed Compliance Inspection</i>	July 2019	August 2019	June 2021
<i>Date of License Issuance</i>	March 2017	January 2017	October 2016
<i>Type of FFL<sup>b</sup></i>	Dealer	Dealer	Dealer

<sup>a</sup> ATF counts violations based on every instance of each violation; for example, every error on a required form is counted as a violation.

<sup>b</sup> A license may be given to various types of businesses, including dealers, manufacturers, and pawnbrokers.

Source: OIG analysis of ATF data

We further reviewed ATF’s inspection data to analyze the consistency of outcomes and compliance with ATF policy. We looked at the distribution of recommended outcomes for one of the most straightforward revocable violations: discovery of a firearm with an obliterated serial number in an FFL’s inventory.<sup>28</sup> ATF policy stated that revocation can be an appropriate administrative action for this violation. Nevertheless, we determined that there was a wide range of administrative actions in the 114 inspections in which IOIs found firearms with obliterated serial numbers: those inspections resulted in the recommendation for revocation of an FFL’s license 6 times (5 percent of the time), while 51 inspections (45 percent) resulted in a recommendation for a warning conference and 31 inspections (27 percent) resulted in a recommendation for a warning letter.

Overall, our analysis of ATF’s FFL inspection data reflects similar findings from ATF’s aforementioned internal review process—that ATF may not have taken administrative actions consistently or in accordance with its policy in response to certain violations. The potential inconsistency is most evident in our analysis of inspections that resulted in revocable citations; as previously noted, almost 98 percent of inspections with at least one revocable violation did not result in a revocation recommendation. While we recognize ATF’s inspection outcome decisions—whether they recommend a report of violations, revocation, or anything in between—are multifaceted and must account for circumstances beyond simply the presence of specific violations, we believe that ATF is at risk of fostering the perception among FFLs that certain violations are tolerated, that FFLs will not

<sup>28</sup> 27 C.F.R. §478.34 prohibits the possession of a firearm with a removed, obliterated, or altered serial number, provided the firearm has at any time been shipped or transported in interstate or foreign commerce.

be held accountable for compliance with federal firearms laws, or that ATF's use of administrative actions is unpredictable or unfair. We further believe that ATF can use this and similar analyses to review inspection trends and better understand its application of administrative actions, including revocation for willful violations. We present a recommendation to ATF to address this issue at the end of the next section.

## **2021 White House Strategy “Zero-Tolerance” Requirements and Repeat Violations**

We specifically reviewed the recommended outcomes associated with inspections completed between October 1, 2010, and February 1, 2022, in which an IOI cited the FFL for at least one of the five “zero-tolerance” violations identified in the 2021 White House Strategy.<sup>29</sup> We found that, of the 7,928 FFLs with at least one inspection that resulted in at least one such revocable violation, just 404 FFLs (5 percent) received a recommendation for revocation. Among these inspections results, the most highly cited “zero-tolerance” violation—failing to run a required background check—was identified for 5,968 FFLs, yet only 256 of those FFLs, or 4.3 percent, were recommended for revocation. Similarly, there were 2,460 FFLs with inspections that had citations for firearms transfers to prohibited persons, yet only 134 of those FFLs, or 5.4 percent, were recommended for revocation. Figure 9 below depicts the frequency of FFLs cited for each of the five “zero-tolerance” violations, including revocation recommendation rates, for inspections completed between October 1, 2010, through February 1, 2022.

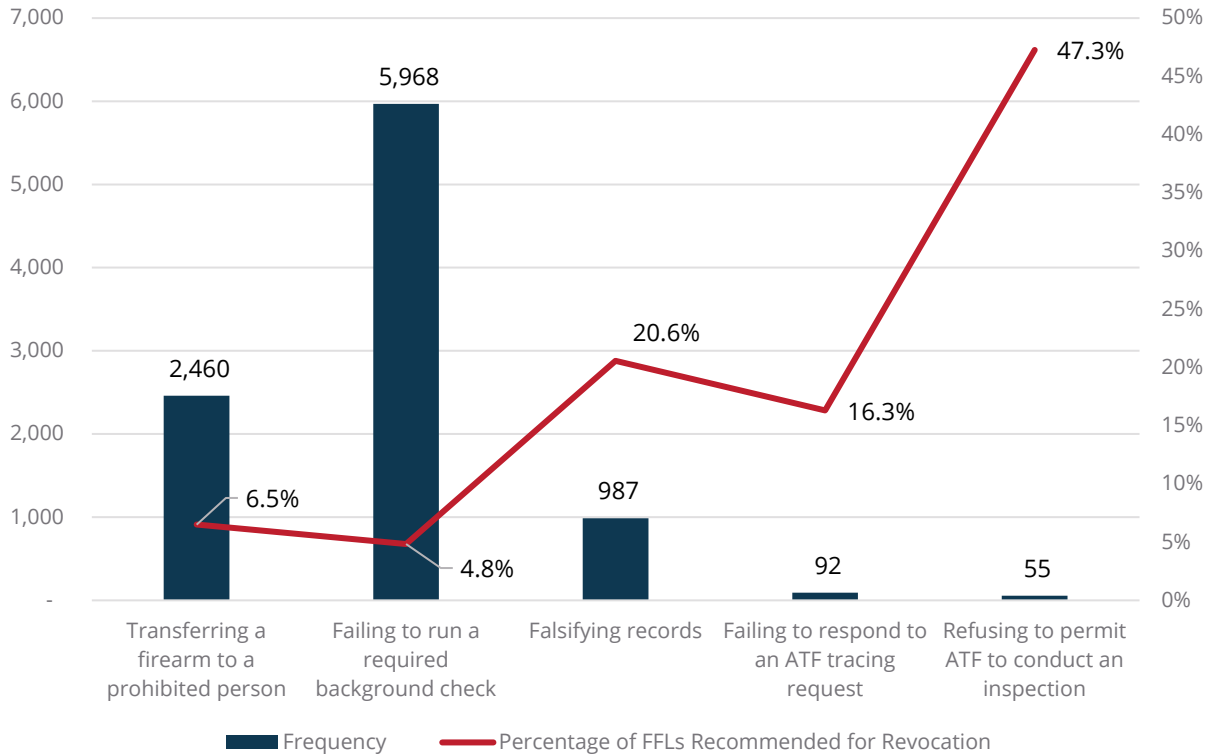
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<sup>29</sup> We chose to perform our review using the “zero-tolerance” violations announced in June 2021 because the rigid nature of such an approach to enforcement indicates they are perceived to be the most serious violations. We note, however, that while ATF policy recommended revocation for all five of these violations throughout the timeframe we assessed, the 2021 White House Strategy’s “zero-tolerance” guidance was not in place until the very end of this period. We also note that ATF must establish that an FFL willfully violated the Gun Control Act—for any violation, including these five “zero-tolerance” violations—in order to proceed with a revocation recommendation.



Figure 9

**Frequency of FFLs Cited with each “Zero-Tolerance” Violation, Including Revocation Recommendation Rate for Inspections Completed between October 1, 2010, and February 1, 2022**



Source: OIG analysis of ATF data

In January 2022, ATF updated its Administrative Action Policy to reflect the 2021 White House Strategy. Several ATF officials told us that the implementation of the 2021 White House Strategy has resulted in a significant increase in the number of recommended revocations. According to ATF, from July 2021 through March 2022, ATF initiated the revocation process for 124 FFLs. We could not assess ATF’s application of this policy directive because it remains to be seen how many of these revocation initiations will ultimately result in revocation, and the ATF data we reviewed did not allow us to determine how many revocation actions were completed.<sup>30</sup>

We also assessed ATF’s administrative actions in response to FFLs found to have repeatedly violated certain regulations, as repeat violations represent an increased risk to public safety and also impact

<sup>30</sup> The 11-plus year dataset we reviewed contained 589 revocations, each of which represents a fully contemplated revocation recommendation. The 124 initiated revocations referenced here would not have been included in our dataset because the final recommended outcome had not yet been determined by ATF by the end of our audit period.

ATF's workload. As stated previously, we understand that the dataset used to conduct this analysis does not contain specific facts or circumstances for these inspections, however, using the data associated with violations and the resulting recommended outcomes may help ATF understand and assess the application of its internal guidance. Using ATF's inspection data, we identified 214 FFLs that were cited in 2 or more individual inspections between October 2010 and February 2022 for the revocable violation of unlawful sale or delivery of a firearm to a prohibited person.<sup>31</sup> ATF recommended the revocation of the license of only 15 of these 214 FFLs (7 percent).<sup>32</sup> Among these FFLs, we further identified 10 FFLs that were cited for this violation more than 2 times, were not recommended to have their licenses revoked, and were still active as FFLs in February 2022. We closely reviewed the data associated with these inspections and found a variety of recommended outcomes ranging from a report of violations to warning conference, with subsequent inspection outcomes sometimes increasing in severity and other times lessening in severity, as depicted in Figure 10 below.

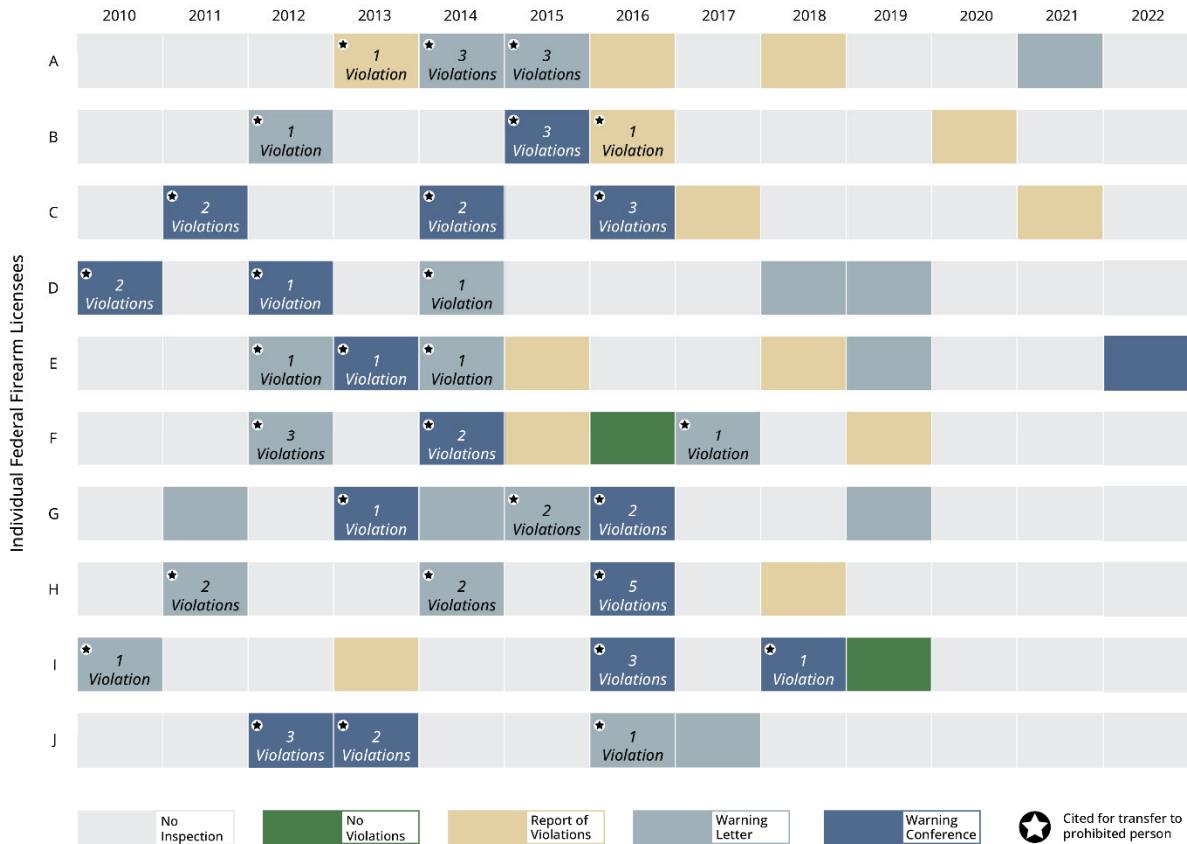
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<sup>31</sup> 27 C.F.R. §478.99(c) identifies the nine different categories of people to whom a licensed manufacturer, licensed importer, licensed dealer, or licensed collector shall not sell or otherwise dispose of any firearm or ammunition knowing or have reasonable cause to believe that such persons fit in the categories.

<sup>32</sup> Of the remaining 199 FFLs with repeat violations of selling to a prohibited person, ATF identified 95 as active license holders as of February 2022.

Figure 10

**Inspection History of FFLs with Multiple Citations of Repeat Violations  
for Firearms Transfers to Prohibited Persons  
October 1, 2010, through February 1, 2022**



Source: OIG analysis of ATF data

ATF policy recommends revocation for instances in which “the FFL has been subject to a warning conference...in the previous 5 years and the current inspection reveals repeated similar violation(s) with no significant improvement.” Eight of these 10 FFLs appear to have fit this pattern but not had their license revoked, and 2 others would have fit this pattern if ATF had conducted a warning conference instead of issuing a warning letter or a report of violation on the first or second inspection. Although the data shows that these 10 FFLs may have demonstrated improvements in response to consecutive inspections finding that they had transferred firearms to prohibited persons, the data also indicates that the improvements were insufficient to prevent them from committing the same violation again. For example, FFL J was cited in 2012 with 3 violations of transferring a firearm to a prohibited person. ATF conducted a subsequent inspection one year later in 2013 and found FFL J to have transferred firearms to prohibited persons in another two instances. Even after those five total transfers to prohibited persons in back-to-back inspections, ATF did not inspect FFL J again until 2016, during which it identified another violation of the same

citation and did not recommend revocation of the license. In another example, FFL G received consecutive inspections in 2015 and 2016, both of which resulted in two citations for transferring a firearm to a prohibited person. Still, ATF did not recommend revocation in either instance and did not inspect FFL G again until 2019.

The above summary of inspection results provides concerning examples of potential public safety risks. Additionally, repeat offenders strain ATF's limited resources, as IOIs must conduct multiple inspections of these FFLs even though, as previously noted, many FFLs have not had a single compliance inspection in the past decade. We believe that repeat offenders such as these may demand a stronger approach. Given the inconsistencies we identified in ATF's execution of recommended inspection outcomes, we recommend that ATF strengthen its controls to ensure a robust evaluation of individual inspections outcomes, particularly for those that identify repeat citations of revocable violations, and ensure FFLs that willfully violate the Gun Control Act are held accountable for relevant history of non-compliance.

As previously noted, ATF has updated its policy to reflect the 2021 White House Strategy. We did not perform in-depth analysis of this policy or ATF's activities in response to the 2021 White House Strategy because the initiative was announced near the end of our audit period. However, given the findings noted above, we also recommend that ATF assess—at an appropriate time—its implementation of the 2021 White House Strategy's "zero-tolerance" requirements to ensure ATF's updated policy is being properly executed.

## **Settlement Agreements**

According to ATF policy, at the discretion of the DIO, FFLs may be given the opportunity to avoid license revocation or denial by making a settlement arrangement with ATF. A settlement agreement typically occurs after an FFL has been issued a notice of revocation and includes conditions for continued operation of the FFL. Examples of settlement conditions include an FFL's agreement to be inspected by ATF more than once a year, the requirement to have a firearms record and inventory check conducted by an independent auditor, and a temporary closure period for the FFL to institute remedial record-keeping measures. According to ATF policy, settlements generally are not appropriate for cases in which an FFL has been found to have transferred a firearm to a prohibited person, failed to run a background check, falsified records or made false statements, failed to respond to an ATF tracing request, or refused to permit ATF to conduct an inspection.

We requested a list of all ATF FFL settlements from January 2018 to February 2022 and, although we were told that the agreements are to be uploaded into Spartan (ATF's case management system), an ATF official stated that ATF does not have a mechanism for identifying—in Spartan—FFLs with settlement agreements. As a result, ATF conducted a manual review of its current and former regulatory case management systems, N-Spect and Spartan. In addition, an ATF official conducted several other searches, including a comparison to a list of ATF cases under increased oversight cases and a review of an ATF document that is maintained related to FFL fines. These searches yielded additional FFL settlements that were not identified in ATF's initial manual review. Due to the lack of a tracking mechanism and the challenges ATF encountered while attempting to identify FFLs with signed settlement agreements, we cannot be confident that ATF produced a comprehensive list of all settlement agreements. We believe that ATF's inability to readily identify all settlement

agreements increases the likelihood that ATF is not managing risks associated with some of its highest risk licensees.

From ATF's manual search, we reviewed a total of 30 settlement agreements that were executed between FY 2018 and FY 2021. We reviewed ATF policy and found that it lacked guidance on monitoring FFL compliance with the conditions set forth in the settlement agreements. In our assessment of ATF's actions related to individual terms of the 30 settlement agreements, we found that ATF does not systematically monitor compliance. For example, of the 30 settlement agreements we reviewed, we determined that 5 settlement agreements included conditions requiring the FFL to have an independent auditor conduct a firearms inventory inspection and provide the results to ATF, but when we requested documentation from ATF about these FFLs, we found that 3 of them had not provided the independent auditor inspection results to ATF.

We also reviewed the settlement agreements to determine how often ATF inspected FFLs whose settlement agreement included a condition to waive the limitation of one inspection every 12 months. We found 16 settlement agreements that included this condition, including instances where the FFL agreed to unlimited inspections for a specified period. Of those 16 FFLs, we identified 5 FFLs that were not inspected at all during the waiver period.

We also identified one instance where, in April 2020, ATF entered into a 2-year settlement agreement with an FFL in lieu of revocation. The violations giving rise to the settlement included withholding or misrepresenting material information in applying for a license and failure to correctly maintain records of firearms transactions. The settlement required submission of quarterly firearms inventories and quarterly audit reports to ATF as well as unlimited inspections during the 2-year settlement period. According to documents provided by ATF, no follow-up inspections were initiated until January 2022, approximately 4 months prior to the settlement expiration. The inspection found the FFL had not followed several of the settlement conditions, including requirements to conduct quarterly inventories and to submit quarterly reports to ATF, and it also found that approximately 150 firearms were missing. In May 2022, ATF officials recommended revocation. We believe that by not monitoring the FFL's actions to comply with the settlement agreement more closely, ATF missed an opportunity to identify these issues earlier than the end of the settlement agreement period, which in turn could potentially have avoided the loss of some or all of the missing firearms.

Based on the known violations identified during inspections and the fact that a settlement agreement is generally an alternative to revocation, we believe that ATF should be closely monitoring FFLs with which it has executed a settlement agreement to ensure they are complying with the terms of the settlement. We also believe that ATF should consider prioritizing compliance inspections for those FFLs that currently or previously had settlement agreements. We recommend that ATF develop a process to track all settlement agreements and monitor whether the settlement agreement terms are satisfied. In addition, we recommend that ATF develop a policy and procedure for addressing FFLs that do not comply with the terms of their settlement agreement.

## Strategic Use of Inspection Data

Data can be a powerful tool to inform decision-making and help strategically manage operations by generating quantitative metrics that objectively evaluate progress toward clearly defined, measurable goals. ATF has recognized the value of various aspects of firearms-related information, such as “time-to-crime” and gun tracing data, to aid in focusing its criminal enforcement resource allocation and investigative efforts. In addition, in response to the OIG’s 2019 report related to the Frontline Initiative, ATF stated that it recognized the need to improve data quality and completeness, and to develop more robust analytical tools to assess that data and apply it to operational decisions. However, based on the results of our current audit, we believe ATF should improve its ability to employ robust data analytics to support other aspects of its regulatory inspections operations.

Specifically, ATF experienced difficulty in providing us the data we use in this report. We requested data related to FFL inspections and met with ATF on numerous occasions to discuss apparent errors and omissions we identified in the dataset provided. After each meeting, ATF provided a new dataset to address our concerns with the accuracy and completeness of the information and, after many iterations of requests and submissions, ATF ultimately provided us with a dataset that we believe is adequate for us to make conclusions and support our findings. However, we are concerned that ATF does not have a built-in capability to produce accurate datasets on-demand and would require several iterations and verifications before arriving at usable data for analysis. Without proper tools, knowledge, or expertise for extracting, using, and analyzing inspections data, ATF will not be able to strategically manage its program, including for resource allocation and consistency in developing recommendations based on inspections results. Through discussions with ATF, we further learned that similar underlying data is used in developing reports for Congress, the White House, and the public, raising the concern that ATF is at risk of using inaccurate or incomplete information for those reports.

Data is one of an organization’s most valuable oversight assets, however ATF officials told us that Spartan is not currently used as an oversight tool to identify trends associated with regulating the firearms industry. We believe that this database system should also have a built-in mechanism to extract accurate and reliable data in a timely manner. The proactive use of data analytics to break down patterns and make connections in the data will help improve ATF’s regulatory oversight of FFLs by providing real-time information for decision makers. While ATF officials told us that there are planned future developments that would incorporate advanced analytics tools into Spartan, they also said it is unknown when those developments will be incorporated as ATF has stated that its current focus is on continuing system development and enhancement for criminal enforcement operations. Therefore, we recommend that ATF assess the prioritization of its resources with respect to the development of analytics tools within Spartan to ensure that the priority assigned to such developments fully takes into account the issues we have identified, including the value of more strategic use of the system in ATF’s FFL oversight, and particularly the impact of these developments on reporting for external entities. We also recommend that ATF implement a process to conduct ongoing formal, data-based, comprehensive reviews of inspections results to ensure consistent application of the standards and assist ATF in reaching its inspection program goals of reducing the possibility of firearms being diverted from legal commerce and maintaining the traceability of firearms.

## **FFL-Related Referrals for Criminal Investigation and Information Sharing**

During the course of an inspection, an IOI may identify actionable information for matters outside of the IOI's federal regulatory authority. For example, an IOI may obtain information suggesting potential criminal activity by an FFL that warrants an investigation. In these instances, ATF policy directs IOIs to pass the information along to the appropriate party, such as an ATF CGIC or a partner law enforcement entity. Internal information collected and shared within ATF is tracked through a formal process—called a Suspicious Activity Report (SAR)—to maintain accountability of receipt of the information and routing disposition. Information shared with external entities is also formally tracked, however we noted that ATF does not require tracking of any disposition information other than the name of the receiving external entity. To assess certain activity related to the referral of FFL-related information for criminal investigation, we reviewed how ATF tracks and manages information of suspected criminal activity that is shared by Industry Operations.

We requested and reviewed criminal enforcement case data for instances where an FFL was the subject of an investigation associated with a referral from Industry Operations. According to information provided by ATF, between October 1, 2017, and April 1, 2021, there were seven such investigations of FFLs. We reviewed inspection and criminal enforcement information for four of these cases, spoke with Industry Operations and criminal enforcement personnel involved with the investigations, and determined that the internal referral process was successfully utilized. Further, because these referrals resulted in investigative activity that involved Industry Operations, IOIs were inherently abreast of the case disposition and activity related to the referral.

We also reviewed the universe of all internal referrals from Industry Operations—not exclusive to the aforementioned investigations resulting in an FFL becoming the subject of a criminal investigation—and identified 1,727 internal referrals since the full implementation of Spartan in the summer of 2018. These referrals were passed to CGIC, as required and previously described, for assessment and determination of ATF's next steps. Of these referrals, 1,010, or approximately 59 percent, were forwarded to criminal enforcement. The internal referral process does not require documenting the disposition of that information beyond whether the shared information resulted in a lead to criminal enforcement or an intelligence product, or whether no further action was taken. ATF officials told us that tracking and monitoring of the referral outcome is at the discretion of individual field divisions and not required. As an example of how a field office might follow up on a referral, some field-level ATF personnel with whom we spoke mentioned that they discuss the status of referrals during monthly field division meetings.

In addition to our review of internal referrals, we looked at ATF's process for handling referrals to external entities. We found that such matters were often recorded inaccurately, and ATF lacked complete information about the final disposition of the referral. Specifically, during our review of Industry Operations' referrals to external parties occurring between 2018 and 2022, we identified 199 instances out of 458 referrals, or 43 percent, where an internal referral was recorded as if it were a referral to an external entity contrary to ATF policy. In response to our request for further information about this issue, an ATF official acknowledged that ATF was unaware of these errors in categorization and suggested that some field divisions may have misunderstood the intricacies of ATF's multiple information sharing processes. ATF subsequently implemented a training course in March 2022 to reiterate to users how to categorize referrals to external entities. While we are

encouraged that ATF took immediate action to educate its employees in this area, we are concerned that such a high error rate in this process could have gone undetected.

In addition, similar to the incomplete feedback loop of internally shared information, we found that ATF does not have a policy requiring follow up with its external partners to track or monitor the referral, such as whether the external party used the information to pursue a criminal investigation and to obtain the results. Instead, ATF tracks the receiving external agency. We believe the tracking and assessment of the outcomes from shared information could provide insights for more targeted and effective information sharing from Industry Operations.

Absent appropriate oversight of its information sharing processes and more robust information about whether its information sharing is benefiting internal and external partners, ATF has an incomplete picture of the value and effectiveness of its information sharing practices. Therefore, we recommend that ATF adopt mechanisms to improve the accuracy of its information-sharing data and the completeness of its information about the outcomes of internal and external referrals and use this information to better assess the value and effectiveness of its information sharing practices, with the goal of providing enhanced oversight of FFLs.

### **2021 White House Strategy for External Sharing of Inspection Information**

To help further ATF's information sharing efforts, the 2021 White House Strategy directs ATF to equip states with ATF inspection data for those 16 states that have gun dealer licensing systems. According to the 2021 White House Strategy, sharing data can allow those states to act as "force multipliers" in protecting public safety by empowering them to determine whether to take their own actions on the non-compliant FFLs. In May and September 2022, we inquired about ATF's efforts in this area and were informed that there is no new specific enterprise-wide strategy for information sharing and that the aforementioned referral process and existing coordination and collaboration at the field division level address the 2021 White House Strategy's objective and that this approach was necessary due to differences in state-level regulatory practices. Given that the White House Strategy, issued in June 2021, stated that "[s]tarting next month, ATF will begin sharing inspection data..." it is unclear whether the White House Strategy intended something more specific or a change in ATF's approach. We recommend that ATF consult with Department officials to assess current practices and ensure the 2021 White House Strategy is being met.



## Conclusion and Recommendations

Although ATF has taken steps to address findings and recommendations in prior OIG reports concerning ATF's oversight of FFLs, in this audit we identified existing processes and data that ATF could leverage to improve its compliance inspection activities and enhance its regulatory mission. For example, ATF relies on risk indicators and various selection initiatives to identify high-risk FFLs for inspection because it is unable to inspect every FFL on a routine basis. However, we found that ATF has not assessed the validity of these indicators, nor has it reviewed the results of the selection initiatives to determine their effectiveness; as such, we believe that ATF cannot confirm whether its risk-based approaches are successful. Further, while individual circumstances, such as whether the FFL willfully violated the Gun Control Act, may affect the recommended outcome of any given inspection, when we analyzed the universe of 111,077 compliance inspections results from October 1, 2010, through February 1, 2022, we found that when ATF identifies violations of federal firearms laws and regulations during an inspection, it appears to approach the recommendation of administrative actions inconsistently as compared to its policy. This finding of inconsistency in inspection outcomes has also been a finding identified during ATF's internal reviews from 2018 to 2021. In addition, when IOIs have identified some of the most serious violations, including for FFLs found to have repeatedly violated certain regulations, ATF data indicates a similarly inconsistent approach in the application of its policy. We believe that more robust review of inspection results, both individually and also at a global level, would help ATF assess the validity of its intelligence indicators and ensure more consistent application of administrative actions in response to violations.

Additionally, ATF does not have a system to identify and track FFLs with settlement agreements and does not consistently verify compliance with settlement agreement terms. By not doing so, ATF may be allowing FFLs with serious violation histories to continue operating in a non-compliant fashion. We also identified potential gaps in the regulation of FFLs due to the reliance upon FFLs to self-report disqualifying events, as well as gaps in the effectiveness of ATF's information sharing and criminal enforcement referral processes. We believe these areas could be improved through enhanced monitoring and attention by ATF. Finally, we believe that ATF could derive greater value from its existing inspection data by employing predictive analytics and developing modern tools that allow for reporting to improve oversight of FFLs. Ultimately, we believe improvements in these areas will assist ATF in reaching its inspection program goals of reducing the possibility of firearms being diverted from legal commerce and maintaining the traceability of firearms. We make 13 recommendations to ATF to enhance the oversight and effectiveness of its FFL inspection program and create a more effective environment for holding FFLs accountable.

We recommend that ATF:

1. Examine its domain assessment process—including the Top 100 Initiative and recall inspection activities—and refine its strategies for identifying and tracking risks, deploying resources, and accomplishing goals.
2. Refine its CGIC performance review process to include sufficient information to allow for an assessment of the outcomes and effectiveness of the CGIC intelligence that is shared with Industry Operations.

3. Memorialize in policy and procedures how CGIA can and should be used for its Industry Operations activities, including providing guidance and examples for how CGIA can be used by IOIs to prepare for an inspection.
4. Establish a recurring process to assess the risk indicators that contribute to the selection of FFLs for inspection and evaluate the results of the inspections to ensure that field divisions are effectively identifying high-risk FFLs.
5. Assess the potential information gaps it faces associated with changes to the eligibility of FFL responsible persons and consider policy or process solutions, or other actions, to reduce those gaps.
6. Strengthen its controls to ensure a robust evaluation of the resolution of individual inspections outcomes, particularly for those that identify repeat citations of revocable violations and ensure FFLs that willfully violate the Gun Control Act are held accountable for relevant history of non-compliance.
7. Assess—at an appropriate time—its implementation of the 2021 White House Strategy’s “zero-tolerance” requirements to ensure ATF’s updated policy is being properly executed.
8. Develop a process to track all settlement agreements and monitor whether the settlement agreement terms are satisfied.
9. Develop a policy and procedure for addressing FFLs that do not comply with the terms of their settlement agreement.
10. Assess the prioritization of its resources with respect to the development of analytics tools within Spartan to ensure that the priority assigned to such developments fully takes into account the issues we have identified, including the value of more strategic use of the system in ATF’s FFL oversight, and particularly the impact of these developments on reporting for external entities.
11. Implement a process to conduct ongoing formal, data-based, comprehensive reviews of inspections results to ensure consistent application of the standards and assist ATF in reaching its inspection program goals of reducing the possibility of firearms being diverted from legal commerce and maintaining the traceability of firearms.
12. Adopt mechanisms to improve the accuracy of its information-sharing data and the completeness of its information about the outcomes of internal and external referrals and use this information to better assess the value and effectiveness of its information sharing practices, with the goal of providing enhanced oversight of FFLs.

13. Consult with Department officials to assess current practices and ensure the 2021 White House Strategy is being met.

# APPENDIX 1: Objectives, Scope, and Methodology

## Objectives

The objectives of our audit were to assess ATF's: (1) risk-based approach for managing FFL inspections, (2) certain activity related to the referral of FFL-related information for criminal investigation, and (3) processing of FFL revocations and other administrative actions.

## Scope and Methodology

To accomplish our objectives, we reviewed ATF policies and guidance relevant to ATF's Industry Operations, including the Industry Operations Manual, Frontline Manual, relative ATF Orders for Firearms Inspections, Monitored Case Program Guidance, and the White House's Comprehensive Strategy to Prevent and Respond to Gun Crime and Ensure Public Safety (2021 White House Strategy). Additionally, we interviewed 57 ATF officials, including ATF field division personnel, headquarters personnel, Division Counsels, special agents, and Industry Operations Investigators. The team received in-person and virtual demonstrations from ATF on the CGIA Dashboard and Spartan systems. As part of this audit, we also performed on-site fieldwork at the Chicago and Houston Field Divisions. Our audit generally covered, but was not limited to, FY 2018 through 2021. We note that the scope of our audit includes the COVID-19 pandemic, which we chose to include within our review given the continued operational status, even if limited at times, of ATF and the active FFLs. ATF officials identified instances when the COVID-19 pandemic's impacts potentially contributed to the findings of our audit and we noted these considerations in our report, when applicable. Our audit did not include an evaluation of the completeness or effectiveness of ATF's compliance inspections, but rather focused on ATF's strategic management of its inspections program, with particular regard to workload planning and inspections results. Our audit also did not include an assessment on ATF's inspections resources, which were acknowledged by the OIG in a previous report.<sup>33</sup>

The team requested and reviewed several sets of data, including a universe of all inspections that occurred from October 1, 2010, to February 1, 2022. We also reviewed the universe of settlement agreements provided by ATF, which amounted to 30 agreements entered into from FY 2018 through FY 2021. Additionally, we reviewed all CGIC performance reviews for FY 2018 to 2021 to examine the self-reported assessment of ATF CGICs in supporting Industry Operations. We also reviewed all referrals and Suspicious Activity Reports generated from the time of implementation of Spartan in 2018 until February 2022 and originating from Industry Operations.

## Sample-Based Testing

To accomplish our audit objectives, we performed sample-based testing of inspection files, domain assessments, FFL investigation cases, and external referral matters. For inspection file testing, we selected a sample of 134 inspection files from various field offices to assess inspection reports, violations (if applicable) cited during the inspection, and the recommendations made by ATF. We

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<sup>33</sup> U.S. Department of Justice (DOJ) Office of the Inspector General (OIG), [Review of ATF's Federal Firearms Licensee Inspection Program](#) Evaluation and Inspections Report I-2013-005 (April 2013).

reviewed the following six field divisions' domain assessments and performance reviews for the period from October 2017 to September 2020: Boston, Dallas, Houston, Kansas City, Phoenix, and Seattle. These field divisions included 24 field offices for a total of 72 performance reviews and domain assessments. For FFL investigation cases and external referral matters, we reviewed a sample of items originating from IOI activity.

In these efforts, we employed a judgmental sampling design to obtain broad exposure to numerous facets of the areas we reviewed. This non-statistical sample design did not allow projection of the test results to the universe from which the samples were selected.

### **Statement on Compliance with Generally Accepted Government Auditing Standards**

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

### **Internal Controls**

In this audit, we performed testing of internal controls significant within the context of our audit objectives. We did not evaluate the internal controls of ATF to provide assurance on its internal control structure as a whole. ATF management is responsible for the establishment and maintenance of internal controls in accordance with OMB Circular A-123. Because we do not express an opinion on ATF's internal control structures as a whole, we offer this statement solely for the information and use of ATF.<sup>34</sup>

In planning and performing our audit, we identified several internal control components and underlying internal control principles as significant to the audit objectives.<sup>35</sup> These include:

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<sup>34</sup> This restriction is not intended to limit the distribution of this report, which is a matter of public record.

<sup>35</sup> GAO's [Standards for Internal Control in the Federal Government](#) (GAO Green Book) lists the internal control components as control environment, risk assessment, control activities, information and communication, and monitoring.

Internal Control Components & Principles Significant to the Audit Objectives
<b>Control Environment</b>
The oversight body should oversee the entity's internal control system.
<b>Control Activities</b>
Management should design control activities to achieve objectives and respond to risks.
Management should design the entity's information system and related control activities to achieve objectives and respond to risks.
Management should implement control activities through policies.
<b>Information and Communication</b>
Management should use quality information to achieve the entity's objectives.
<b>Monitoring</b>
Management should establish and operate monitoring activities to monitor the internal control system and evaluate the results.

Source: OIG

We assessed the design and operating effectiveness of these internal controls and identified deficiencies that we believe could affect ATF's ability to effectively and efficiently oversee its regulatory function. The internal control deficiencies we found are discussed in the Audit Results section of this report. However, because our review was limited to those internal control components and underlying principles that we found significant to the objectives of this audit, it may not have disclosed all internal control deficiencies that may have existed at the time of this audit.

**Compliance with Laws and Regulations**

In this audit, we tested, as appropriate given our audit objectives and scope, selected transactions, records, procedures, and practices, to obtain reasonable assurance ATF's management complied with federal laws and regulations for which non-compliance, in our judgment, could have a material effect on the results of our audit. Our audit included examining, on a test basis, ATF's compliance with the following laws that could have a material effect on ATF's operations:

- 18 U.S.C. Chapter 44 – Gun Control Act of 1968,
- 26 U.S.C. Chapter 53 – National Firearms Act

This testing included interviewing auditee personnel, analyzing data, assessing internal control procedures, and examining procedural practices. However, nothing came to our attention that caused us to believe that ATF was not in compliance with the aforementioned laws.

**Computer-Processed Data**

During our audit, ATF provided data related to FFL inspections from October 1, 2010, to February 1, 2022, obtained from ATF's N-Spect and Spartan, which are ATF's electronic file management systems. ATF provided an electronic file of all the inspection that include qualification, compliance, theft/loss, administrative, and general actions which include assistance to law enforcement assistances. From this dataset, we performed an in-depth review of inspections data for 163,902 unique FFLs and resulting from inspections activity taking place from October 1, 2010, to

February 1, 2022. We did not test the reliability of these systems as a whole; therefore, any findings identified involving information from this system were verified with documentation from other sources.

To assess the quality and reliability of the data, we reviewed the data for missing data and logical inconsistencies. We identified that certain data fields were not complete, consistent, or necessarily reliable information. Specifically, we found missing and invalid values in fields such as violation, date fields, CFR citation, and recommendations. We discussed these issues with ATF officials throughout the course of the audit. ATF officials provided various explanations for the missing or invalid data. ATF also explained that some of the issues occurred when ATF incorrectly extracted and merged the information from N-Spect and Spartan together. In addition, we compared the outcomes of the inspection data to the sample of inspection file documents tested to confirm the accuracy of data input for those inspections. From these efforts, we discussed any issues identified with ATF officials and determined that data is sufficiently reliable for use in a limited capacity in this report. As a result of the data weaknesses identified, we only use the data provided to conduct a summary analysis to identify trends and report total outcomes.

## APPENDIX 2: The Bureau of Alcohol, Tobacco, Firearms and Explosives' Response to the Draft Audit Report



U.S. Department of Justice

Bureau of Alcohol, Tobacco,  
Firearms and Explosives

[Executive Assistant Director]

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Washington, DC 20226

[www.atf.gov](http://www.atf.gov)

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MEMORANDUM TO: Assistant Inspector General for Audit  
Office of Inspector General  
United States Department of Justice

FROM: Executive Assistant Director of Operations  
Office of the Director  
Bureau of Alcohol, Tobacco, Firearms and Explosives

SUBJECT: OIG Audit of ATF's Risk-Based Inspection Selection Processes  
and Administrative Actions issued to Federal Firearms  
Licensees

This memorandum responds to the recommendations contained in the Office of Inspector General's (OIG) report titled "Audit of the Bureau of Alcohol, Tobacco, Firearms and Explosives' Risk-Based Inspection Selection Processes and Administrative Actions issued to Federal Firearms Licensees." We welcome OIG's constructive comments and appreciate the opportunity to respond.

We are grateful for OIG's thorough and thoughtful review of this important topic, and as we further outline below, concur with each of the audit's recommendations. ATF has recently restructured its executive leadership to enhance Industry Operations (IO) program oversight and execution. Specifically, ATF has established a new executive leadership position in the Field Operations Directorate, the Associate Assistant Director for Industry Operations, with direct responsibility for the planning and execution of strategic objectives for the nationwide IO program. In addition, ATF has established a Chief Compliance, Standards and Risk Officer to provide an additional layer of review and oversight to ensure that IO adheres to orders and policies applicable to the Federal Firearms Licensee (FFL) inspection process. This executive will design and implement bureau-wide internal compliance standards that will be used to evaluate the efficacy of ATF policies in achieving substantive program objectives, particularly with respect to the regulation of FFLs. ATF is currently in the process of advertising for these new positions.



Before we address those recommendations, we would like to provide clarification and context to some of the report's findings.

First, we are concerned that the manner in which the report presents the percentage of the "Top 100" FFL inspections that ATF "did not complete" is potentially misleading. Several factors—to include complexity of the inspection, timing within the fiscal year, and whether a resulting administration action continues across fiscal years—can result in an inspection remaining "open" beyond a single fiscal year. Furthermore, as the report acknowledges, the audit's review period overlapped the pandemic. Covid-19 restrictions limited ATF's ability to conduct in-person inspections, and therefore meet our inspection goals, as many FFLs operated in jurisdictions that required them to close. The data from fiscal years 2020 through 2022 skews the results in a negative light for ATF.

Covid-19 restrictions similarly disrupted the introduction of Crime Gun Intelligence Analytics (CGIA) as ATF's primary tool for evaluating deployment of inspection resources to conduct risk-based inspections. CGIA was activated in February 2020 with an implementation plan that focused on national, hands-on, in-person training. That plan, however, was derailed by the March 2020 government-wide pandemic shut-down. ATF was only able to complete one in-person training before that shut-down and, due to the unique operational environment during that period, had limited capacity to provide alternative training. Consequently, CGIA was not fully utilized during the review period, and the results of the OIG's sampling do not reflect current ATF practices. CGIA is now fully implemented, and ATF is actively using it to select FFLs for inspection.

Second, the report suggests ATF has not addressed violations in a consistent manner when citing FFLs for non-compliance, based on a comparison of cited violations with outcomes. ATF does not believe, however, that a simple comparison of those two variables supports such a conclusion. While the citation of the same violation for two different FFLs may give the appearance that the underlying circumstances are the same, this is rarely the case. Widely varying types of conduct can violate a single regulatory provision. The evaluation of any specific violation, to include transferring a firearm to a prohibited person, is a fact-specific inquiry, not a cookie-cutter application. Furthermore, citations are issued upon finding a violation without a determination as to whether the violation was willful, which is a distinct element that necessarily affects a final recommendation.

Third, the report highlights the length of time between inspections. While ATF agrees that the length of time since the most recent inspection is a relevant consideration, we believe the report does not sufficiently explain that frequency of inspection is a lesser consideration in a risk-based inspection. As previous OIG reports have noted, staffing limitations with the size of ATF's Industry Operations Investigator (IOI) cadre pose a substantial challenge to achieving a regular inspection cycle for FFLs. Although recent budgets have allowed ATF to modestly expand its IOI cadre, the level of IOI staffing remains well below that needed to achieve a regular cycle of inspections for the full FFL population.<sup>1</sup> This constraint on ATF's IOI cadre is one of the primary reasons that risk-based deployment of inspection resources is prioritized. In conducting a genuinely risk-based analysis, however, length of time since the last inspection is not, standing

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<sup>1</sup> As the report notes, as of fiscal year (FY) 2021, ATF's staff of only 729 IOIs was responsible for inspection and oversight of more than 130,000 FFLs. Approximately 80,000 of these FFLs are manufacturers, importers, or retail dealers.

alone, a sufficient basis to prioritize an inspection. If no indication exists that the FFL is a source of crime guns or is otherwise a compliance risk, length of time since last inspection is not a basis to prioritize limited inspection resources.

Fourth, we are concerned with the report's interpretation of the data cited in Figure 10 and Table 3. The data in Figure 10, "Inspection History of FFLs with Multiple Citations of Repeat Violations for Firearms Transfers to Prohibited Persons October 1, 2010, through February 1, 2022," is cited as evidence that ATF failed to comply with its own policies with respect to revoking (FFLs that transferred a firearm to a prohibited person (someone with a felony conviction or other disqualifying factor rendering them unable to lawfully possess a firearm)). However, a closer examination of those cases reveals that the majority of the cited FFLs had not actually transferred a firearm to a prohibited person, but rather had committed some related, but distinct, violation.<sup>2</sup> Moreover, in most instances, these related violations did not, standing alone, warrant a revocation recommendation under ATF policy. Prior to 2016, ATF Industry Operations Investigators (IOIs) often cited FFLs for transferring a firearm to a prohibited person in these circumstances. To avoid conflating violations that did not involve the actual transfer of firearms to prohibited persons with related violations, in 2016 ATF issue specific guidance that IOIs were not to cite the prohibited person violation where the inspection established that the purchaser was not in fact prohibited. Figure 10 reflects how this guidance has resulted in more precise data; it depicts a steep decline in the number of citations for the prohibited person violation after 2016. In short, ATF did not routinely fail to follow our own policy with respect to revoking FFLs for transferring a firearm to a prohibited person. Furthermore, the actual violations, while serious, did not result in prohibited persons obtaining firearms.

Similarly, the data in Table 3, "Examples of Similar Inspections with Different Recommended Outcomes," is cited as evidence that ATF failed to adhere to its policy regarding revocation of 3 FFLs cited for failure to conduct background checks. This conclusion, however, is based on a misinterpretation of ATF policy. During the timeframe that each of the underlying inspections of these FFLs occurred, ATF policy provided that failure to complete a background check warranted a revocation recommendation only if either the transferee was a prohibited person or the same violation had been cited in a prior inspection.<sup>3</sup> While that policy changed with the June 23, 2021 directive from the Attorney General for ATF to implement enhanced regulatory enforcement (the so-called "zero-tolerance" policy), the three inspections referenced in Table 3 all occurred prior to that policy change.

Finally, we would like to clarify our use of the term "risk" in the context of identifying the "Top 100" federal firearms licensees (FFLs) for inspection. "Risk" extends beyond potential non-compliance with regulatory and statutory requirements; it also includes the vulnerability of an FFL

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<sup>2</sup> These related violations primarily involved a firearm purchaser incorrectly indicating on the firearm transfer record, ATF Form 4473, that they fell within a category prohibiting them from possessing a firearm. Because the purchaser was not, in fact, prohibited, they successfully completed the applicable background check. Moreover, in conducting the inspection, ATF confirmed that the firearm purchaser was not prohibited at the time of the transaction and could legally receive and possess the firearm. Despite the non-prohibited status of the purchaser, however, the FFL nevertheless committed a violation by transferring the firearm; in circumstances where the purchaser indicates prohibited status on the 4473, the FFL should not proceed with the transaction, including submission of a background check request.

<sup>3</sup> Consequently, the assertion in Footnote 27 of the report that "ATF policy recommended revocation for this violation for the entirety of our audit period" is not accurate.

to exploitation by firearms traffickers. A substantial factor in our assessment is the number of crime gun traces to the FFL. The number of traces, however, is not necessarily indicative of non-compliance by the FFL, but rather can reflect other factors such as sales volume and geographic location. Inspecting FFLs with a high volume of traces is a priority for ATF regardless of whether the traces can be linked to regulatory non-compliance, as the FFL is a source of crime guns. The inspection process allows ATF to engage with the FFL on strengthening internal controls and protocols to identify and prevent straw-purchasing and other criminal diversion schemes. These inspections also provide ATF access to records that may reveal as-yet undetected criminal diversion activity that does not involve FFL regulatory violations or complicity with firearms traffickers. Simply stated, given the nature of criminal firearm diversion, public safety considerations extend beyond regulatory compliance.

**Recommendation 1: Examine its domain assessment process—including the Top 100 Initiative and recall inspection activities—and refine its strategies for identifying and tracking risks, deploying resources, and accomplishing goals.**

ATF concurs with this recommendation and will convene a working group to assess and refine the Domain Assessment process for Industry Operations to ensure that Crime Gun Intelligence Analytics is effectively used to identify and develop yearly inspection plans that best deploy our limited resources. The group will include a focus on effectiveness and tracking of the Top 100 program. It will also make recommendations to ensure recall inspection activity is tracked and to incorporate Headquarters' level oversight to meet recall inspection goals. Our case management system, Spartan, has a number of reports available to field division management and Headquarters that help track those inspections prioritized in field divisions' domain assessments. This includes reports identifying FFLs that merit a recall inspection and reports tracking the Top 100 assignments. (See attachments.)

**2. Refine the CGIC performance review process to include sufficient information to allow for an assessment of the outcomes and effectiveness of the CGIC intelligence that is shared with Industry Operations.**

ATF concurs with this recommendation. ATF will update the Crime Gun Intelligence Center (CGIC) Domain Assessment to include a section that tracks the number of intelligence referrals and products shared with Industry Operations, as well as the outcomes and effectiveness of those referrals and intelligence products. This section will also include a summary of the Suspicious Activity Reports (SARs) that were shared by Industry Operations to the CGIC and referred for Criminal Enforcement follow-up, and the outcomes and effectiveness of those SARs.

**3. Memorialize in policy and procedures how CGIA can and should be used for its Industry Operations activities, including providing guidance and examples for how CGIA can be used by IOIs to prepare for an inspection.**

ATF concurs with this recommendation. The timeframe under review for this report, fiscal years 2018 through 2020, largely pre-dates the deployment and implementation of Crime Gun Intelligence Analytics (GCIA) as the primary tool for identifying risk-based inspection. CGIA is now active and ATF has directed our Industry Operations Investigators (IOIs) to use the information available in CGIA dashboards during their pre-inspection work.

In an effort to expand the use of CGIA and enhance the intelligence led data derived from this system, ATF has created six additional dashboards aimed at identifying the FFLs that are the source of crime guns within each Field Division and Area Office. These six new dashboards identified as the “CGIA IO Recommended Queries” incorporate National Instant Criminal Background Check (NICS) data and Annual Firearms Manufacturing and Exportation Report (AFMER) data for the first time. With the incorporation of NICS data, FFLs can now be analyzed for a trace-to-disposition ratio relative to time-to-crime and time-to-first shooting. This additional data allows ATF to pinpoint those FFLs that are disproportionately the source of crime guns. These new dashboards are described in the attached document, “IO Recommended Queries – Overview.”

Further, ATF has expanded the CGIA FFL History Dashboard to include NICS and AFMER data. The primary use of this dashboard is to assist IOIs in pre-inspection analysis. This dashboard allows the IOI to examine the FFLs they are assigned to inspect, and to learn pertinent details including the volume of transactions, type of transactions (handgun, long gun, secondary market), firearm manufacturing activity, and shooting, trace, and multiple sales related data.

Lastly, the CGIA program has expanded to include 12 instructors and a program manager. This additional staffing is being utilized to train field division personnel, create guidance documents, and enhance the dashboards.

**Recommendation 4: Establish a recurring process to assess the risk indicators that contribute to the selection of FFLs for inspection and evaluate the results of the inspections to ensure that field divisions are effectively identifying high-risk FFLs.**

ATF concurs with this recommendation. ATF is continually reviewing inspection results to determine that we have identified and inspected high-risk FFLs. We are also quantifying and evaluating those results during the annual domain assessment process and subsequent reviews. This analysis includes a review of referrals/Significant Activity Reports (SARs) generated, number of firearms reconciled, missing firearms reported, traces perfected and adverse action outcomes. ATF will convene a working group to formalize a process to review inspection results as part of the domain assessment process to ensure consistency in effectively identifying FFLs most at risk for noncompliance and firearms diversion.

**Recommendation 5: Assess the potential information gaps it faces associated with changes to the eligibility of FFL responsible persons and consider policy or process solutions or other actions to reduce those gaps.**

ATF concurs with this recommendation. ATF is statutorily authorized to conduct background checks on FFL responsible persons at the time of license applications and renewals. During the time-period between renewals, which is typically three years, ATF relies on FFLs to self-report if one of their responsible persons becomes ineligible due to a felony conviction or other disqualifying factor. Prior to OIG’s commencement of this review, ATF had already identified this information gap and begun considering options to address it.

Specifically, ATF explored the possibility of conducting annual National Instant Criminal Background Check System (NICS) checks on all FFL responsible persons or, alternatively, enrolling all FFL responsible persons in the FBI's Rap Back service. Rap Back is a subscription service that provides continuous vetting of enrolled subjects and alerts subscribers whenever the subject is arrested or has another triggering event (which may include a notification of an event that is not disqualifying under Federal law). However, we determined that ATF lacks the authority to pursue either of these avenues without nexus to a civil or criminal law enforcement activity pursuant to the Gun Control Act of 1968 or National Firearms Act. (See attachment, "Rap Back Analysis".) Moreover, the option of subjecting FFL responsible persons to annual NICS checks could potentially create an administrative and resource burden for NICS.

Subsequently, the Bipartisan Safer Communities Act (BSCA) (Pub. L. 117-159, 136 Stat. 1313) was enacted June 25, 2022. Among other things, it amended the Brady Act to allow FFLs to use NICS for purposes of voluntarily conducting an employment background check relating to a current or prospective employee. (See 34 U.S.C. 40901(b)(2).) The BSCA notes that these new NICS checks of current or prospective FFL employees are to be "voluntary." The FBI interprets "voluntary" to mean that these NICS checks are not required to be conducted by FFLs, and written consent of the current/prospective employee is required. The intent of the provision is to identify situations where prohibited persons might be in positions that allow them ready access to firearms. ATF is drafting a new form for purposes of conducting these voluntary Firearm Handler Background Checks, and ATF will seek emergency review and approval from OMB.

Also, in preparation for an FFL compliance inspection, it is ATF's practice to run National Crime Information Center (NCIC), Interstate Identification Index (III) and National Law Enforcement Telecommunications System (NLETS) checks on responsible persons. This practice, which has always been a part of our IOI Manual, is now captured in the Spartan case management system workflow for inspections. While these checks are limited to only those FFLs scheduled for inspections, they are an invaluable opportunity to review the eligibility of responsible persons outside of the license renewal process.

**Recommendation 6: Strengthen its controls to ensure a robust evaluation of the resolution of individual inspections outcomes, particularly for those that identify repeat violations of revocable violations and ensure FFLs that willfully violate the Gun Control Act are held accountable for relevant history of non-compliance.**

ATF concurs with this recommendation. ATF's FFL Administrative Action Policy (ATF O 5370.1F) has undergone several revisions to address revocable offenses, including repeat violations. The current version of the policy came into effect in January 2023. (See attachment, "Federal Firearms Administrative Action Policy and Procedures".) It requires all inspections that result in administrative action recommendations warranting revocations to be reviewed by field supervisors, division counsel, and Directors of Industry Operations (DIOs), followed by headquarters' Field Management Staff (FMS) review for acceptance into the Monitored Case program. Once accepted, these cases are reviewed directly by Deputy Assistant Director (DAD) (IO) and counsel to ensure all relative criteria have been met under administrative action and zero tolerance policies.

In addition to these controls, when an IOI enters inspection results into Spartan, the system will prompt them with a recommendation consistent with the Administrative Action Policy and based on cited violations and the corresponding findings during the inspection. If an IOI or supervisor in the review process selects an alternate administrative action it will be routed to the appropriate level reviewer such as the DIO or DAD(IO) for concurrence before the action is taken.

In Calendar Year 2023, Field Operations plans to undertake a review of the most recent Administrative Action policy to ensure it is consistently and effectively holding FFLs accountable for non-compliance.

**Recommendation 7: Assess—at an appropriate time—its implementation of the 2021 White House Strategy’s “zero-tolerance” requirements to ensure ATF’s updated policy is being properly executed.**

ATF concurs with this recommendation. In July 2021, ATF’s Acting Assistant Director for Field Operations issued a memorandum to all Special Agents in Charge (SACs) and DIOs implementing the Administration’s Comprehensive Strategy to Prevent and Respond to Gun Crime and Ensure Public Safety. The memorandum established a zero-tolerance policy for FFLs that commit willful violations which greatly affect public safety and ATF’s ability to trace firearms recovered in violent crimes. This policy was later incorporated into ATF’s FFL Administrative Action Policy (ATF O 5370.1E, dated January 2022) and retained in the succeeding version of that Order (ATF O 5370.1F, dated January 2023). (See attachments.)

ATF routinely reviews all administrative action cases, to include those under the enhanced regulatory enforcement (so-called “zero tolerance”) policy, to ensure proper review and consistent recommendations. Administrative action and enhanced regulatory enforcement policy reviews begin at the field division level and elevate through the management chain to Headquarters. Prior to the DAD (IO) receiving these cases for concurrence, Field Management Staff (FMS) documents and reviews the facts to validate for their sufficiency under the policy to be accepted as a “monitored” case. All administrative action cases for revocation must have Headquarters approval prior to the field division proceeding with any administrative action. Moreover, we are developing an Analytics dashboard to identify all cases that meet administrative action and enhanced regulatory enforcement policy criteria. Analysis will be conducted quarterly for all divisions to ensure proper execution of the enhanced regulatory enforcement policy. The dashboard is in the process of being tested and the expected date of completion is by end of third quarter fiscal year 2023.

**Recommendation 8: Develop a process to track all settlement agreements and monitor whether the settlement agreement terms are satisfied.**

ATF concurs with this recommendation. Prior to the issuance of this report, ATF has taken steps to address this concern. In January 2023, we updated our FFL Administrative Action Policy (ATF O 5370.1F) to require the DIO and Field Counsel to take all appropriate steps to ensure that compliance with the terms of settlement agreements are closely monitored and documented. Furthermore, the updated policy requires that all settlement agreements are subject to ATF’s Monitored Case Program until the settlement is completed and closed with proper supervisory approval. (See attachment.) To assist managers with this responsibility, ATF’s Spartan case management system will be updated to identify settlement cases and provide digital reminders/notification for re-inspection after 12 months to

verify compliance with the agreement. Until this automated functionality is implemented, DIOs will be tracking agreements within their field division and Headquarters provide oversight via the Monitored Case program to ensure corrective actions are completed.

**Recommendation 9: Develop a policy and procedure for addressing FFLs that do not comply with the terms of their settlement agreement.**

ATF concurs with this recommendation. ATF headquarters and field divisions will track approved settlement agreements. Consistent and routine review will follow each agreement to include a follow-up inspection to ensure compliance with the settlement agreement. Currently, DIOs are tracking settlement agreements within their field divisions to ensure compliance by the industry member. In the future, Spartan will have the functionality to identify settlement cases and provide digital reminders/notification for re-inspection after 12 months to verify compliance with the agreement. Field divisions will review and assess the compliance or non-compliance with any settlement agreement and make the appropriate recommendation based off inspection review findings with follow-up inspection if necessary.

**Recommendation 10: Assess the prioritization of its resources with respect to the development of analytics tools within Spartan to ensure that the priority assigned to such developments fully takes into account the issues we have identified, including the value of more strategic use of the system in ATF's FFL oversight, and particularly the impact of these developments on reporting for external entities.**

ATF concurs with this recommendation. The Spartan application runs on a business process management system and is not intended to provide for all Bureau analytical needs. To resolve this and other data analytical needs, ATF has invested in analytics tools. Further, ATF established the newly formed Data Management Division (DMD) within the Office of Science and Technology and invested both contract and Federal Full-Time Equivalents (FTEs) to build out much needed reports. DMD is actively working on the development of additional analytical reports to be available through ATF Analytics.

Today, the ATF Enterprise Data Warehouse (EDW) already receives data directly from the Spartan backend database and multiple other ATF applications. This enables work on tailored analytical needs for mission support, for optimal architecture and rich analytical experience.

**Recommendation 11: Implement a process to conduct ongoing formal, data-based, comprehensive reviews of inspections results to ensure consistent application of the standards and assist ATF in reaching its inspection program goals of reducing the possibility of firearms being diverted from legal commerce and maintaining the traceability of firearms.**

ATF concurs with this recommendation. ATF will convene a working group to formalize a process for reviewing inspection results as part of the domain assessment process to ensure consistency in the application of our Administrative Action Policy to those FFLs identified as being noncompliant.

**Recommendation 12: Adopt mechanisms to improve the accuracy of its information-sharing data and the completeness of its information about the outcomes of internal and external referrals, and**

**use this information to better assess the value and effectiveness of its information sharing practices, with the goal of providing enhanced oversight of FFLs.**

ATF concurs with this recommendation. ATF managers in each field division meet on a quarterly basis to evaluate referrals and Suspicious Activity Reports (SAR) to determine whether criminal enforcement action is warranted. These quarterly meetings ensure management oversight, provide open lines of communication, facilitate information sharing and strengthen the partnership of our CE and IO groups. In particular, the meetings provide insight into various circumstances IOIs encounter in the field, as well as the types of information they are able to identify and analyze. At present, Spartan is operational only for Industry Operations cases. Once the Criminal Enforcement component of Spartan is deployed, users will be better able to track internal referrals/SARs. With respect to external referrals, ATF will update our policy and procedures to request recipient agencies provide ATF with the outcome of those referrals. ATF cannot compel outside agencies to provide this information, but we will make a good faith effort to solicit feedback.

**Recommendation 13: Consult with Department officials to assess current practices and ensure the 2021 White House Strategy is being met.**

ATF concurs with this recommendation. ATF regularly consults with Department of Justice leadership, including monthly meetings with the Deputy Attorney General, to ensure that ATF operations appropriately address and support Department priorities.

Please let me know if I can be of further assistance on this or any other matter.

ROBERT  
CEKADA

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ROBERT CEKADA  
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Robert Cekada



## **APPENDIX 3: Office of the Inspector General Analysis and Summary of Actions Necessary to Close the Audit Report**

The OIG provided a draft of this audit report to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). ATF's response is incorporated as Appendix 2 of this final report. In response to our draft audit report, ATF concurred with our recommendations and discussed the actions it will implement in response to our findings. As a result, the audit report is resolved.

### **Analysis of ATF's Response**

ATF's response included what it believes are clarifications and context to information included in the audit report. We would like to address some of those points. First, ATF's response indicates that ATF does not believe there is value in analyzing specific cited violations and recommended outcomes. We disagree. While we acknowledge that ATF's inspection outcome decisions are multifaceted and any analysis must account for circumstances beyond simply the presence of specific violations, we believe there is value in conducting macro-level analyses to understand the relationship between cited violations and recommended outcomes to assess the application of administrative actions by its entire Industry Operations workforce. We reviewed 23,124 inspections that identified at least 1 revocable violation and found that only about 2 percent of those inspections resulted in a recommended revocation. In addition, our analysis of FFLs with 10 or more revocable violations showed that 86 percent of those FFLs were not recommended for revocation. The number of inspections that resulted in outcomes different from ATF policy indicates that ATF could benefit from conducting analysis in this area. We further note that, as discussed in our report, ATF's internal review program has also identified this issue on multiple occasions.

Additionally, ATF's response appears to indicate that the OIG believes the length of time in between inspections should be a basis for prioritizing inspection resources. However, this reflects a misunderstanding of the intent of this discussion in the report. We presented data related to the frequency of ATF's oversight of individual FFLs *because* of its inability to inspect all FFLs on a recurring basis, thus reflecting the importance of an effective risk-based selection process and the need for ATF to assess and measure the effectiveness of its process and the resulting selections.

ATF also expressed concern with the report's interpretation of the data cited in Figure 10 related to FFLs that were repeatedly cited with a violation of transferring a firearm to a prohibited person. Although ATF did not provide additional information about this finding during the course of the audit after we brought the matter to its attention, ATF stated in its response that it has since examined the details of the inspections displayed in Figure 10. ATF said its review found that while ATF's data provided to the OIG during the audit showed that these FFLs had repeatedly transferred a firearm to a prohibited person, the majority of the FFLs cited had not transferred a firearm to a prohibited person, but rather had committed some related, but distinct, violation that did not warrant a revocation recommendation. In its response, ATF also stated that the issues with the data it provided to the OIG relate to technical misinterpretations by ATF employees conducting the inspections and entering data into the system and that ATF's recent examination shows that the

violations did not result in prohibited persons obtaining firearms.<sup>36</sup> We cannot make an assessment of the information provided in ATF's response without reviewing supporting documentation; however, we note ATF's statement that "in most instances these related violations did not...warrant a revocation recommendation," which we interpret to mean that ATF's examination of these FFLs found that the violations identified during inspections of some of these FFLs did likely warrant a revocation recommendation. We further note that although ATF's response indicates that the FFLs generally did not make transfers to prohibited persons, the response acknowledges that the related violation that should have been cited during the inspection was still, nevertheless, a violation because the FFL should not have transferred the firearm. Overall, the information provided in ATF's response does not change the report's findings that ATF may not be recommending outcomes in line with its policy and that, in the case of these repeat offenders, post-inspection FFL improvements were insufficient to prevent the FFLs from committing the same violation and such repeat offenders strain ATF's limited resources.

Finally, ATF's response addressed the OIG's assessment of similar inspections with different recommended outcomes (Table 3) by citing its policy for administrative actions associated with the violation of failing to complete a National Instant Criminal Background Check System (NICS) check. As stated in our report, our analysis of these inspections outcomes is meant to illustrate circumstances for which similar FFLs with the same violations received different recommended outcomes; nowhere in the report do we state that we believe ATF should have recommended revocation for these FFLs. The information displayed in Table 3 is intended to help demonstrate that ATF should review inspection outcomes and trends to better understand its application of administrative actions. ATF also noted that the OIG's footnote related to this violation did not present the complete policy guidance allowing for exceptions to revocation recommendations; as a result, we have updated our footnote.

The following provides the OIG's analysis of ATF's responses to our recommendations and summary of actions necessary to close the response.

#### **Recommendations for ATF:**

##### **1. Examine its domain assessment process—including the Top 100 Initiative and recall inspection activities—and refine its strategies for identifying and tracking risks, deploying resources, and accomplishing goals.**

Resolved. ATF concurred with our recommendation. ATF stated that it will convene a working group to assess and refine the domain assessment process for Industry Operations to ensure that Crime Gun Intelligence Analytics (CGIA) is effectively used to identify and develop yearly inspection plans that best deploy ATF's limited resources. According to ATF, the working group will include a focus on the effectiveness and tracking of the Top 100 Initiative and will make

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<sup>36</sup> According to its response, ATF has been aware of this issue since at least 2016, when it provided specific guidance to employees on the matter. Although ATF has been aware of this for some time, it did not make us aware of the matter until its formal response to our report. We use this information in our report because it represents ATF's official records of its inspections activities. As we note in our report, deficiencies in ATF data and data environment put ATF at risk of using inaccurate or incomplete underlying data in developing reports provided to stakeholders.

recommendations to ensure recall inspection activity is tracked and to incorporate ATF headquarters-level oversight to meet recall inspection goals. ATF further stated that its case management system, Spartan, has reports available that help track inspections prioritized in field divisions' domain assessments, such as reports identifying FFLs that merit a recall inspection and reports tracking the Top 100 Initiative assignments. To demonstrate Spartan's reporting capabilities, ATF provided the OIG with the Spartan Report Industry Operations Reference Guide and additional screenshots of the available report titles.<sup>37</sup> However, ATF did not provide examples of these reports to show what information is contained within them or an example of how these reports will be used in the selection of FFLs for inspection. As such, we could not determine the usefulness of these reports for potential contribution to the domain assessment process.

This recommendation can be closed when ATF provides evidence that it examined its domain assessment process—including the Top 100 Initiative and recall inspection activities—and refined its strategies for identifying and tracking risks, deploying resources, and accomplishing goals.

**2. Refine the CGIC performance review process to include sufficient information to allow for an assessment of the outcomes and effectiveness of the CGIC intelligence that is shared with Industry Operations.**

Resolved. ATF concurred with our recommendation. ATF stated that it will update its Crime Gun Intelligence Center (CGIC) domain assessment form to include a section that tracks the number of intelligence referrals and products shared with Industry Operations, as well as the outcomes and effectiveness of those referrals and intelligence products. ATF further stated that this section will include a summary of Suspicious Activity Reports (SARs) that are shared by Industry Operations to the CGIC and referred to Criminal Enforcement for follow-up and the outcomes and effectiveness of those SARs.

This recommendation can be closed when ATF provides evidence that it refined the CGIC performance review process to include sufficient information to allow for an assessment of the outcomes and effectiveness of the CGIC intelligence that is shared with Industry Operations.

**3. Memorialize in policy and procedures how CGIA can and should be used for its Industry Operations activities, including providing guidance and examples for how CGIA can be used by IOIs to prepare for an inspection.**

Resolved. ATF concurred with our recommendation. In its response, ATF stated that the timeframe under review for this report, fiscal years 2018 through 2020, largely pre-dates the deployment and implementation of CGIA as the primary tool for identifying risk-based inspections. However, as noted in our report, our audit generally covered fiscal years 2018 through 2021, which includes the year ATF implemented CGIA to assist its field divisions.

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<sup>37</sup> ATF's response to various recommendations, including Recommendation 1, included attachments for our review. We did not attach those documents to the final report due to their volume, however we discuss our review and assessment of those documents in our analysis of ATF's response.

ATF's response further stated that ATF has directed its Industry Operations Investigators to use the information available in CGIA dashboards during their pre-inspection work. Our report notes that ATF continues to add new functionality to CGIA. ATF also stated in its response that it has created six additional dashboards aimed at identifying the FFLs that are the source of crime guns; ATF provided a list and descriptions of these dashboards. ATF further stated that it has expanded the CGIA program to include 12 instructors and a program manager to train field division personnel, create guidance documents, and enhance the dashboards. While we recognize that CGIA is actively being used by ATF and believe additional dashboards will assist in further utilization of CGIA, ATF's response to our report does not address additional steps taken to memorialize policies and procedures for how CGIA should be used for its Industry Operations activities.

This recommendation can be closed when ATF provides evidence that it memorialized in policy and procedures how CGIA can and should be used for its Industry Operations activities, including providing guidance and examples for how CGIA can be used by IOIs to prepare for an inspection.

**4. Establish a recurring process to assess the risk indicators that contribute to the selection of FFLs for inspection and evaluate the results of the inspections to ensure that field divisions are effectively identifying high-risk FFLs.**

Resolved. ATF concurred with our recommendation. ATF stated that it is continually reviewing inspection results to determine whether it has identified and inspected high-risk FFLs. ATF also stated that it is quantifying and evaluating those inspection results during the annual domain assessment process and subsequent reviews. Finally, ATF stated that it will convene a working group to formalize a process to review inspection results as part of the domain assessment process to ensure consistency in effectively identifying FFLs most at risk for noncompliance and firearms diversion.

We believe that the continual review of inspection results will enhance ATF's capabilities in this area. However, as indicated in our report, this review should include an assessment of inspection results nationwide, not just through the field division domain assessment process. To maintain an effective risk-based inspection approach, it is key to have centralized, continuous data analytics to identify new trends, patterns, and outliers. Additionally, we believe that a universal monitoring approach that reviews field divisions' inspections outcomes will allow for sharing lessons learned across field divisions to identify high-risk FFLs. This recommendation can be closed when ATF provides evidence that it has established a recurring process to assess the risk indicators that contribute to the selection of FFLs for inspection and evaluate the results of the inspections to ensure that field divisions are effectively identifying high-risk FFLs.

**5. Assess the potential information gaps it faces associated with changes to the eligibility of FFL responsible persons and consider policy or process solutions or other actions to reduce those gaps.**

Resolved. ATF concurred with our recommendation. ATF stated that prior to the OIG's commencement of this review, it had already identified this information gap and begun considering options to address it. ATF stated that it explored the possibility of conducting

annual NICS checks on all FFL responsible persons or, alternatively, enrolling all FFL responsible persons in the Federal Bureau of Investigation's (FBI) Rap Back service. However, ATF determined that it lacks the authority to pursue either of these avenues without a nexus to a civil or criminal law enforcement activity pursuant to the Gun Control Act of 1968 or National Firearms Act. Moreover, ATF stated that it believes that conducting annual NICS checks on FFL responsible persons could create an administrative and resource burden for FBI's NICS office.

ATF's response also referred to the June 2022 Bipartisan Safer Communities Act, which allows FFLs to use NICS to conduct, on a voluntary basis, an employment background check of current or prospective employees to identify situations where prohibited persons might be in positions to access to firearms. However, ATF noted that the FBI interprets "voluntary" to mean that these NICS checks are not required to be conducted by FFLs, and written consent of the current or prospective employee is required. ATF stated that it is drafting a new form for purposes of conducting these voluntary checks, for which ATF will seek emergency review and approval from the Office of Management and Budget.

Finally, ATF referenced its current practice of running various law enforcement database checks on FFL responsible persons in preparation for an inspection and further stated that this practice has been incorporated into its Spartan case management system inspection workflow. While we believe that adding this feature will help ensure these checks are completed, as noted in our report, there exists the potential for responsible persons to engage in actions that can render them prohibited in between compliance inspections and the license renewal process without ATF becoming aware of these actions.

The information provided in ATF's response reflects information provided to the OIG during our audit. However, during the audit these officials also stated that they would continue to assess possible methods for identifying prohibitive behavior. This recommendation can be closed when ATF provides evidence that it assessed the potential information gaps it faces associated with changes to the eligibility of FFL responsible persons and considered policy or process solutions or other actions to reduce those gaps.

**6. Strengthen its controls to ensure a robust evaluation of the resolution of individual inspections outcomes, particularly for those that identify repeat violations of revocable violations and ensure FFLs that willfully violate the Gun Control Act are held accountable for relevant history of non-compliance.**

Resolved. ATF concurred with our recommendation. ATF stated that in January 2023 it issued a revised FFL Administrative Action Policy (ATF Order 5370.1F), which ATF also provided for our review. ATF further stated that the policy has undergone several revisions to address revocable offenses, including repeat violations, and indicated that the policy requires all inspections that result in administrative action recommendations warranting revocations to be reviewed by field supervisors, Division Counsel, and Directors of Industry Operations (DIO), followed by review for acceptance into ATF's Monitored Case program by the Field Management Staff at ATF headquarters. According to ATF, once accepted, these cases are reviewed directly by the Deputy Assistant Director for Industry Operations and counsel to ensure all relative criteria have been met under administrative action and "zero-tolerance" policies. In addition, ATF's response noted

that when an IOI enters inspection results into Spartan, the system prompts the IOI with a recommendation consistent with the Administrative Action Policy.

We compared ATF's revised policy with previous policy versions and note that it does not represent a significant departure from ATF's prior policy. Therefore, we are concerned that the latest policy update may not result in the robust evaluation referenced in our recommendation and therefore may not lead to improved oversight of FFLs. However, ATF also noted that in calendar year 2023, Field Operations plans to undertake an additional review of the most recent Administrative Action Policy to ensure it consistently and effectively holds FFLs accountable for non-compliance.

This recommendation can be closed when ATF provides evidence that it has strengthened its controls to ensure a robust evaluation of the resolution of individual inspections outcomes, particularly for those that identify repeat violations of revocable violations and ensure FFLs that willfully violate the Gun Control Act are held accountable for relevant history of non-compliance.

**7. Assess—at an appropriate time—its implementation of the 2021 White House Strategy's "zero-tolerance" requirements to ensure ATF's updated policy is being properly executed.**

Resolved. ATF concurred with our recommendation. ATF's response stated that in July 2021, ATF's Acting Assistant Director for Field Operations issued a memorandum establishing a "zero-tolerance" policy for FFLs that commit willful violations that greatly affect public safety and ATF's ability to trace firearms recovered in violent crimes. According to ATF, this memorandum implemented the White House Comprehensive Strategy to Prevent and Respond to Gun Crime and Ensure Public Safety (2021 White House Strategy). ATF provided evidence of its updated FFL Administrative Action Policy (ATF Order 5370.1F) and the OIG verified that ATF Order 5370.1F reflects the 2021 White House Strategy "zero-tolerance" requirements.

Additionally, ATF stated that it routinely reviews all inspections resulting in administrative action, including those under the enhanced regulatory enforcement, such as inspections with "zero-tolerance" policy-related findings, to ensure proper review and consistent recommendations. ATF further described the process for reviewing administrative actions related to the enhanced regulatory policy, which we note was in place during our audit review period. Finally, ATF's response stated that it is developing an analytics dashboard to identify all inspections that meet administrative action and enhanced regulatory enforcement policy criteria in order to conduct quarterly analysis to ensure proper execution of the enhanced regulatory enforcement policy. According to ATF, the dashboard is being tested and ATF expects completion by the end of third quarter of fiscal year 2023. We believe that ATF's planned analytics dashboard and quarterly analysis—in conjunction with the actions described above related to Recommendation 6—have the potential to provide opportunities to perform the type of review envisioned by our recommendation.

This recommendation can be closed when ATF provides evidence that it has assessed—at an appropriate time—its implementation of the 2021 White House Strategy's "zero-tolerance" requirements to ensure ATF's updated policy is being properly executed. This evidence should include its analytics dashboard and resulting analysis of inspections that meet its enhanced regulatory enforcement policy criteria.

**8. Develop a process to track all settlement agreements and monitor whether the settlement agreement terms are satisfied.**

Resolved. ATF concurred with our recommendation. In its response, ATF stated that it plans to update the Spartan case management system to identify settlement cases and provide digital notification for re-inspection after 12 months to verify compliance with the settlement agreement. ATF further stated that until this automated functionality is implemented, DIOs will track settlement agreements within their field division and headquarters will provide oversight through the Monitored Case program to ensure corrective actions are completed. In addition, ATF stated that in January 2023, ATF Order 5370.1F was updated to require the DIO and Division Counsel to take all appropriate steps to ensure that compliance with the terms of settlement agreements is closely monitored and documented. ATF further stated that the updated policy requires that all settlement agreements are subject to ATF's Monitored Case Program until the settlement is completed and closed with proper supervisory approval.

While settlement-related Spartan tracking and notification functionality is a clear improvement over the settlement monitoring practices in place during our audit, we believe the frequency of the notification is insufficient to address the totality of our concerns. Specifically, as noted in our report, a settlement agreement typically occurs after an FFL has been issued a notice of revocation. It stands to reason that if a settlement agreement includes requirements other than a re-inspection at the 12-month mark, such as quarterly inventory and reporting requirements, the associated need for more stringent requirements should be paired with more robust monitoring. As a result, we believe ATF should not rely on annual automated inspection reminders in Spartan for monitoring compliance with settlement agreements. While we believe that tracking settlement agreements through the Monitored Case Program has the potential to improve compliance by maintaining visibility on settlement agreements, we also believe that this will require the focus of the Monitored Case Program briefings to include compliance with the specific terms of the settlement agreements.

This recommendation can be closed when ATF provides evidence that it has developed a process to track all settlement agreements and monitor whether the settlement agreement terms are satisfied.

**9. Develop a policy and procedure for addressing FFLs that do not comply with the terms of their settlement agreement.**

Resolved. ATF concurred with our recommendation. Similar to its response to Recommendation 8, ATF stated that ATF headquarters and field divisions will track approved settlement agreements and that consistent and routine review will follow each agreement to include a follow-up inspection to ensure compliance with the settlement agreement. ATF further noted that currently DIOs are tracking settlement agreements within their field divisions to ensure compliance by the FFL. Additionally, ATF stated that in the future, Spartan will have the functionality to identify settlement cases and provide digital notifications for re-inspection after 12 months to verify compliance with the agreement. As stated in our analysis related to Recommendation 8, ATF should not rely solely on annual automated inspection reminders in

Spartan for monitoring compliance with settlement agreements because certain terms in the settlement agreements may be more frequent than annually.

Finally, ATF's response to this recommendation stated that field divisions will review and assess the compliance with any settlement agreement and make the appropriate recommendation based off inspection review findings and necessary follow-up. However, we noted that ATF did not reference documenting this review and assessment in policy or procedure, nor does ATF policy address handling FFLs that do not comply with settlement agreement terms.

This recommendation can be closed when ATF provides evidence that it has developed a policy and procedure for addressing FFLs that do not comply with the terms of their settlement agreement.

**10. Assess the prioritization of its resources with respect to the development of analytics tools within Spartan to ensure that the priority assigned to such developments fully takes into account the issues we have identified, including the value of more strategic use of the system in ATF's FFL oversight, and particularly the impact of these developments on reporting for external entities.**

Resolved. ATF concurred with our recommendation. ATF stated that the Spartan application runs on a business process management system and is not intended to provide for all of ATF's analytical needs. ATF described its efforts to invest in analytics tools and establish a Data Management Division (DMD) staffed with both contract and federal full-time equivalents to develop reports. ATF stated that the DMD is actively working on the development of additional analytical reports. Finally, according to ATF, its Enterprise Data Warehouse is currently receiving data directly from Spartan and multiple other ATF applications and this enables ATF to respond to tailored analytical needs. These described actions hold promise to help ensure the strategic use of ATF's data and we look forward to reviewing evidence of the impact of these developments.

This recommendation can be closed when ATF provides evidence that it has assessed the prioritization of its resources with respect to the development of analytics tools to ensure that the priority assigned to such developments has taken fully into account the issues we have identified, including the value of more strategic use of the system in ATF's FFL oversight, and particularly the impact of these developments on reporting for external entities.

**11. Implement a process to conduct ongoing formal, data-based, comprehensive reviews of inspections results to ensure consistent application of the standards and assist ATF in reaching its inspection program goals of reducing the possibility of firearms being diverted from legal commerce and maintaining the traceability of firearms.**

Resolved. ATF concurred with our recommendation. ATF stated that it will convene a working group to formalize a process for reviewing inspection results as part of the domain assessment process to ensure consistency in the application of its Administrative Action Policy to those FFLs identified as being noncompliant. While we believe ATF's decision to convene a working group is a positive first step, we do not believe that ATF should limit itself to reviewing results as part of



the domain assessment process and should also apply an enterprise approach to conduct comprehensive reviews of inspection results across ATF domains.

This recommendation can be closed when ATF provides evidence that it has implemented a process to conduct ongoing formal, data-based, comprehensive reviews of inspections results to ensure consistent application of the standards and assist ATF in reaching its inspection program goals of reducing the possibility of firearms being diverted from legal commerce and maintaining the traceability of firearms.

**12. Adopt mechanisms to improve the accuracy of its information-sharing data and the completeness of its information about the outcomes of internal and external referrals and use this information to better assess the value and effectiveness of its information sharing practices, with the goal of providing enhanced oversight of FFLs.**

Resolved. ATF concurred with our recommendation. In its response, ATF stated managers in each field division meet on a quarterly basis to evaluate referrals and SARs to determine whether criminal enforcement action is warranted, thus ensuring management oversight, providing open lines of communication, facilitating information sharing, and strengthening Criminal Enforcement and Industry Operations partnerships. More importantly, ATF noted that users will be able to better track internal referrals and SARs once the Criminal Enforcement component of Spartan is deployed. While we believe Criminal Enforcement's Spartan deployment will assist and improve its internal information sharing, ATF did not provide a timeframe for this deployment.

With respect to external referrals, ATF stated that it will update policy and procedures to request recipient agencies provide ATF with the outcome of those referrals. ATF acknowledged that it cannot compel outside agencies to provide this information, but that it will make a good faith effort to solicit feedback.

This recommendation can be closed when ATF provides evidence that it has adopted mechanisms to improve the accuracy of its information-sharing data and the completeness of its information about the outcomes of internal and external referrals and uses this information to better assess the value and effectiveness of its information sharing practices, with the goal of providing enhanced oversight of FFLs.

**13. Consult with Department officials to assess current practices and ensure the 2021 White House Strategy is being met.**

Resolved. ATF concurred with our recommendation. ATF stated that it regularly consults with Department of Justice leadership, including monthly meetings with the Deputy Attorney General, to ensure that ATF operations appropriately address and support Department priorities. However, ATF did not provide any evidence that the meetings have included an assessment of its current practices to ensure the 2021 White House Strategy is being met.

This recommendation can be closed when ATF provides evidence that it has consulted with Department officials to assess current practices and ensure the 2021 White House Strategy is being met.