

Defenseless Against Illegal Gun Purchases

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One morning in September, a 22-year-old man entered a gun store in California and asked the clerk to sell him all of the ammunition he had. He didn't even look at the price. The shop employee got all of the boxes of bullets together, put them in bags, and told him how much it was. The young man paid and left.

"The owner of the store told me that in his whole career he had never seen a person coming in and buying all the ammunition, and not even asking what the price was. He just wanted to buy everything," said Graham Barlowe, resident agent in charge of the Bureau of Alcohol, Tobacco, and Firearms (ATF) field office in Sacramento, California.

In the United States, there is no federal law limiting the amount of ammunition a person can buy. In addition, laws against the indiscriminate acquisition of assault rifles are lax, gun control legislation that does exist has been weakened, and the most powerful lobby in the country is pressuring to make sure it stays that way.

That is legal in the United States. But if that's the case, who is in charge of keeping straw purchasers from continuing to supply ammunition and guns to Mexican drug traffickers? Basically, it's ATF agents. But, in addition to all of the obstacles already mentioned, the ATF is dealing with structural limitations related to budget and organization.

To begin with, the ATF hasn't had a director in four years. Former President George W. Bush proposed one, but the Senate never ratified him because lobbyists from the National Rifle Association (NRA) blocked the nomination, analysts say. So far, President Barack Obama has not named anyone else.

"I have to say that I have the greatest respect for the ATF agents in the field. They are very brave people. But the management of ATF has always been weak. I compare it with a battered wife. They have been cowed by the gun industry and by members of Congress who are favorable to the NRA and other parts of the gun industry," said Tom Díaz, an expert in arms trafficking at the Violence Policy Center (VPC).

One of the laws limiting the ATF currently is that it is only allowed to review the inventory of gun stores once a year. This is the case even though some members of Congress admit to knowing that some stores are collaborating with drug traffickers, said Díaz.

Another limitation is the number of ATF agents. "An ATF official in Chicago last year told me, 'look, the FBI has more agents in New York City alone than ATF has in the whole country. ATF is no superman. It's a weak agency.'" Diaz said.

While the ATF has around 2,500 agents across the United States, the Federal Bureau of Investigations (FBI) has around 35,241 people on its payroll. According to Díaz, 2,500 ATF agents are not enough to supervise the 55,000 gun stores and the 2,500 yearly gun shows.

States like Texas, where 40% of the guns that enter Mexico are coming in from, are experiencing critical situations, according to a Government Accountability Office (GAO) report on weapons trafficking from the United States to Mexico.

“Most of the straw purchasing in the Houston, Texas area is related to drug cartels. It’s hard to distinguish one thing from the other... mostly because straw purchasers are in the business for money,” said Armando Salas, ATF agent from the Houston, Texas field division.

But Agent Salas has no idea how many of these buyers operate in his area. “It’s very hard to know. In some border areas between Mexico and Texas, there are up to 100 to 150 FFLs (federally licensed stores), while in other areas there are 10 or 15. And it is very difficult to know how many straw purchasers there are.”

In fact, much of the illegal traffic that the ATF is able to detect, is discovered only after the weapons have already been used in a crime or fallen into the hands of criminals.

“E-Trace is essential to us, and the fact is that many of the investigations start with E-Trace. That is the first step. We talk to the buyer and ask him what he did with the weapon. Then we track the next buyer. It’s what we call back-tracing. And then we determine who the last person was who bought the weapon, or who trafficked it to Mexico,” Salas said.

E-Trace Comes Too Late

In spite of the advantages of E-trace, this program—which tracks a weapon’s serial number to find out who purchased it and in what store—does not do any follow-up on suspicious purchases. So, it can’t prevent or even slow the flow of gun trafficking. That’s what this newspaper was able to show in its report published last Sunday in which it told of how a group of 23 straw purchasers acquired 339 guns in Houston over a period of 15 months. ATF authorities sounded the warning about what was happening only after one of the guns was seized.

File # H-08-317-m from a district court in south Texas shows how one of the guns—acquired by *Ernesto J.* on June 11, 2006 at branch 18 of the Academy gun store in Houston—was used 15 months later in the killing of three policemen and a secretary, a crime perpetrated on February 7, 2007 in the state attorney general’s office of Guerrero in Acapulco.

Spotty, Good-Will Monitoring

Federal law in the United States does not establish a maximum number of machine guns and bullets an individual can buy. This makes it difficult to identify potential gun traffickers. Given this, and the limitations of E-Trace, ATF regional offices have begun training the owners of licensed gun stores, one by one, to help them identify suspicious conduct. “We teach them what

to look for, what kind of individuals to look for, for them to identify specific things, not only regarding the type of weapons they buy, but also the number of weapons,” said Salas.

The ATF has to work to persuade the store owners to be on the alert, because the law does not require them to do it. Agents say that, increasingly, stores are communicating with them to tell them about suspicious situations. Houston area agents receive three or four calls a week from different stores warning them about irregular situations, they say.

The ATF also started a campaign called, “Don’t Lie for the Other Guy” using posters and advertising to explain to the population—especially to young people who are the most frequently recruited by traffickers as straw purchasers—that buying weapons for another person is a federal crime.

What happens when an agent receives information that an individual purchased many guns in a short period of time and might be a trafficker?

“When we identify a straw purchaser, we follow him, enter the stores where he bought weapons, speak to the salesperson, and go to nearby stores and find out if the person bought there, too,” said Salas.

And what happens when they are able to arrest a straw purchaser and prove in court that he was working for drug dealers? According to Agent Salas, that person gets approximately five years in jail. However, Kristen Rand, the Legislative Director of the Violence Policy Center, says that the sentences actually tend to be shorter, more on the level of one to two years.

Another criticism that analysts make of the ATF is that “the ATF has done nothing to crack down on the dealers who are supplying the traffickers, which they have the authority to do under the 1968 Gun Control Act. They could put them under special oversight, revoke their licenses. They could drag them into criminal cases against the traffickers, but they have done none of that” Rand said.

In terms of the constant pressure the ATF faces in Congress because of the NRA, Díaz commented, “[ATF] opponents would love to see ATF fold with the FBI because it would lose its focus on guns. The gun laws would still exist, but the agents would have many things to enforce. They would have another five things to worry about. They wouldn’t be specialized.”