

# BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES' USE OF STOREFRONT OPERATIONS

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## HEARING

BEFORE THE

SUBCOMMITTEE ON CRIME, TERRORISM,  
HOMELAND SECURITY, AND INVESTIGATIONS

OF THE

COMMITTEE ON THE JUDICIARY  
HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRTEENTH CONGRESS

SECOND SESSION

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# **BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES' USE OF STOREFRONT OP- ERATIONS**

**THURSDAY, FEBRUARY 27, 2014**

HOUSE OF REPRESENTATIVES

SUBCOMMITTEE ON CRIME, TERRORISM,  
HOMELAND SECURITY, AND INVESTIGATIONS

COMMITTEE ON THE JUDICIARY

*Washington, DC.*

The Subcommittee met, pursuant to call, at 10 a.m., in room 2141, Rayburn Office Building, the Honorable F. James Sensenbrenner, Jr. (Chairman of the Subcommittee) presiding.

Present: Representatives Sensenbrenner, Goodlatte, Coble, Gowdy, Conyers, Scott, and Chu.

Staff present: (Majority) Allison Halataei, Parliamentarian & General Counsel; Jason Cervenak, Counsel; Alicia Church, Clerk; (Minority) Joe Graupensperger, Counsel.

Mr. SENSENBRENNER. The Subcommittee on Crime, Terrorism, Homeland Security, and Investigations will come to order.

Without objection, the Chair is authorized to declare recesses of the Subcommittee at any time.

I will recognize myself for 5 minutes for an opening statement.

I want to welcome everyone to today's hearing on "The Bureau of Alcohol, Tobacco, Firearms and Explosives' Use of Storefront Operations."

A little over a year ago, The Milwaukee Journal Sentinel published a very disturbing article concerning an undercover storefront operation run by the BATF&E in Milwaukee. To say that the operation was extremely flawed would be a vast understatement. It certainly was the Keystone Cops in operation. The operation was an abysmal failure that put on the street a stolen fully automatic M-4 rifle as well as other stolen firearms and numerous other failures.

The operation began in Milwaukee in early 2012, more than 3 months after Todd Jones took over as Acting Director of ATF and more than a year after the failed Operation Fast and Furious was exposed. The operation began when ATF agents opened "Fearless Distributing" in a rented property in the Riverwest neighborhood of Milwaukee. Soon thereafter, they hired a brain-damaged individual with an IQ of 54 to promote the business by distributing fli-

ers. They also pressured this individual to facilitate gun and drug buys for the operation.

The agents proceeded to conduct various gun and drug buys through the storefront. The agents paid quite a premium for the firearms. In one case, a defendant purchased a rifle for \$700 from Gander Mountain and turned around and sold it to the ATF agents a few hours later for \$2,000. One has to wonder if this firearm would have even been out on the street if it were not for the enticing deals being offered by ATF.

From there, the operation went from bad to worse. ATF agents allowed an armed felon to leave the store. The operation was burglarized, losing more than \$35,000 in merchandise. ATF damaged a rented building and refused to fix it or compensate the landlord. They left behind law enforcement-sensitive documents that included the names, vehicles and phone numbers of undercover agents. They had their government-owned guns, including a machine gun, stolen from an agent's vehicle. The automatic rifle has never been recovered.

ATF would like to point out in their testimony that this operation and others like it led to a number of arrests and convictions. I think it is important to take a look at these arrests and conviction numbers. In the botched Milwaukee operation, an analysis by the Milwaukee Journal Sentinel found that of the 34 cases charged in state and Federal court in Milwaukee, 16 of the defendants—nearly half—ended up with no incarceration. Eight cases were dismissed because the agents arrested the wrong people or the prosecutor could not go to trial because the lead ATF agent could not be called to testify. The other eight defendants received probation or stayed or deferred sentences.

The Journal Sentinel also found that of the 26 cases that resulted in conviction, the median sentence was about 2 years behind bars. Very few of the cases involved individuals with violent criminal records. Most had drug or nonviolent offenses such as burglary. In fact, one of the prosecutors in the case admitted that the flawed operation was not “the best use of resources.” He even indicated that it failed to catch the violent offender it was designed to take off the street.

Even more disturbing are the recent revelations that these same tactics were used in various cities across the country. In Albuquerque, agents gave a brain-damaged drug addict with little knowledge of weapons a “tutorial” on machine guns, hoping that he could find them one. And in Portland, Oregon, ATF agents paid \$150 to a mentally disabled individual to get a large tattoo of a squid on his neck smoking pot to promote their phony storefront operation. This does not appear to be one operation gone bad but a systemic problem plaguing the ATF.

After Operation Fast and Furious, we were told numerous times that changes were coming to the ATF under the new leadership. I certainly hope this operation and others like it are not indicative of those changes, because they are not changes for the better at all. I intend to continue to vigorously oversee ATF until I am confident that the public knows the whole truth and that the agency's mismanagement has been corrected.

I welcome our witness today and look forward to hearing his testimony.

And now I recognize the gentleman from Virginia, Mr. Scott, for his opening statement.

Mr. SCOTT. Thank you, Mr. Chairman. I appreciate you calling the hearing today.

Today the Subcommittee will examine one of our most important but often neglected Federal law enforcement agencies, the ATF. The ATF has a multifaceted mission, and today we are here to hear testimony about the past use of storefront operations as a tactic to pursue that mission.

Press accounts, I.G. reports and inquiries by this Committee have revealed missteps and poor judgment with several of the storefront operations in recent years in places such as Milwaukee, Wisconsin; Portland, Oregon; Pensacola, Florida; Albuquerque, New Mexico; and Wichita, Kansas. Undercover operations of these storefronts involve incidents that were both embarrassing and at times dangerous to public safety, such as placing one operation in close proximity to a school.

Of course, undercover operations by their very nature involve a precarious and unique type of engagement with criminals in order to discover their crimes and uncover various levels of their organizations. However, such operations which often engage the general public and may impact the rights of citizens generally can be subject to excesses and abuse. Therefore, it is critical that we examine the policies and procedures governing such operations and that we question those managing the investigations.

Management situation at the ATF has been uncertain during much of the period in which these operations were conducted. In 2005, Congress transferred the law enforcement functions of the ATF, which had since its inception been part of the Department of Treasury, to the Department of Justice and required the appointment of a director to be subject to Senate confirmation.

Between 2006 and July of last year, the ATF had five acting directors. During that time, the Senate was unable to confirm the nominees of both President Bush and President Obama, at least partly due to opposition from those who would like to weaken the agency generally from regulating the firearms industry.

While Todd Jones had been serving as acting director since 2011, he was formally nominated in January last year for the permanent position and confirmed in July. It appears that Director Jones has begun the type of leadership and stability at the ATF which has been sorely lacking. Early in his tenure as Acting Director he recognized the serious management and policy issues confronting the ATF. He took action to replace two-thirds of the top supervisors in Washington and began to implement the Monitored Case Program, which had been initiated just prior to his arrival at the agency.

Under his leadership, oversight and approval of the undercover operations has become much more rigorous. And while we have to wait until after this hearing and the pending examination by the Department of Justice I.G. before we arrive at a comprehensive set of conclusions about these issues, I want to emphasize that we still need an effective and accountable ATF.

Furthermore, I believe it is long overdue for this Committee to consider legislation to strengthen our firearms laws, although I recognize there will be a difference of opinion on what approach to take. However, I hope that we will all agree that we need to work together to support and reinforce this agency so that it can enforce whatever our firearm laws may be, as well as implement its other missions as effectively as possible.

Thank you, Mr. Chairman. I yield back.

Mr. SENSENBRENNER. I thank the gentleman from Virginia.

I now recognize the other gentleman from Virginia, the Chair of the full Committee, Mr. Goodlatte, for an opening statement.

Mr. GOODLATTE. Thank you.

I want to thank Chairman Sensenbrenner for holding today's hearing on the "Bureau of Alcohol, Tobacco, Firearms, and Explosives' Use of Storefront Operations."

Last year, after a series of articles published in the Milwaukee Journal Sentinel outlining the problems associated with ATF's failed storefront operation in Milwaukee known as Fearless Distributors, I along with Chairmen Issa and Sensenbrenner and Senator Grassley drafted a letter to the ATF Director, Todd Jones. In that letter, we asked the Director to reveal the details of the flawed operation. In response to that inquiry, ATF officials provided a briefing to congressional staff and Members on April 15, 2013. Additionally, the Department of Justice provided a written response on April 30th, 2013.

In the response from the Department of Justice, they acknowledge that Director Jones is ultimately responsible for all ATF Operations, yet claim he was not aware of this operation, which began 4 months after he assumed his duties at ATF, until January of 2013, a full year after it began. Throughout the duration of Operation Fearless, Director Jones had opportunities to be made aware of the systemic problems afflicting the operation in Milwaukee. We have heard Chairman Sensenbrenner outline the numerous issues with Operation Fearless, so there is no need to recount them here.

What I would like to find out is at what point does the ATF believe the Director should become aware of such a flawed operation? One would think that the theft of three ATF firearms, including a fully automatic rifle, would trigger a reaction from the Director. But even if that somehow failed to get his attention, the burglary of an undercover storefront where nearly \$40,000 in merchandise was stolen would surely rise to the level of the Director's office.

Well, one would think so, but according to the response from the Department of Justice, Director Jones was not made aware of the serious questions about the manner in which Operation Fearless was conducted until he was informed that a reporter for the Milwaukee Journal Sentinel had inquired about the operation. I believe this calls into question either the information that Director Jones' subordinates are giving him or the level of involvement to which Director Jones is willing to engage. I do not expect Director Jones to be involved in the minute details of every operation being run by the ATF. However, when issues such as these arise, I expect swift and immediate action to take place.

Perhaps equally as disturbing as the lack of executive oversight of this flawed operation is the lack of candor that ATF exhibited

when briefing Congress on Operation Fearless last April. The information ATF conveyed regarding Operation Fearless left the impression that the problems were an isolated incident.

However, according to another Milwaukee Journal Sentinel article in December of 2013, the problems facing the storefront operation in Milwaukee were not isolated. In fact, at around the same time Operation Fearless was being conducted, there were five other flawed storefront operations taking place in Portland, Oregon; Wichita, Kansas; Pensacola, Florida; Atlanta, Georgia; and Albuquerque, New Mexico. In an almost identical fashion, each of these operations suffered from a lack of supervision and control.

Just last week, the Department of Justice's Inspector General announced that it will initiate an investigation that will examine the systemic deficiencies of these storefront operations.

Like many, I question whether these operations attracted more crime than they prevented. I look forward to hearing from today's witness and I am committed to getting to the bottom of these serious problems and ensuring that they do not happen again.

Thank you, Mr. Chairman.

Mr. SENSENBRENNER. I thank the Chairman of the full Committee for his statement.

Without objection, other Members' opening statements will be made a part of the record.

And also without objection, the Chair will be authorized to declare recesses during votes on the House floor.

Our one witness today is Thomas E. Brandon, who was appointed Deputy Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives in October 2011. He is responsible for leading an agency of men and women charged with enforcing laws and regulations relating to firearms, explosives, arson, and alcohol and tobacco trafficking.

Prior to being appointed Deputy Director, Mr. Brandon served as the Special Agent in Charge of the Phoenix Field Division, directing operations for field operations of the ATF in Arizona and New Mexico. He began his ATF career as a special agent in Detroit. He served in many management positions, including Special Agent in Charge and Assistant Special Agent in Charge of the Detroit Field Division, Supervisory Special Agent of the Detroit Arson and Explosives Enforcement Group, Special Agent with the Office of Inspection in Washington, Supervisory Special Agent of the Achilles Enforcement Group in Los Angeles, and the Division Intelligence Officer with the Phoenix, Arizona Field Division. Mr. Brandon also held the position of Chief of the ATF's National Academy in Glynco, Georgia.

Mr. Brandon proudly served in the United States Marine Corps from 1978 to 1982. He earned his Bachelor of Science in Business Administration from Oakland University in Rochester, Michigan.

Mr. Brandon, before you begin to testify, I will swear you in. Please rise, raise your right hand.

[Witness sworn.]

Mr. SENSENBRENNER. Thank you, Mr. Brandon.

Mr. SCOTT. Mr. Chairman?

Mr. SENSENBRENNER. Yes?

Mr. SCOTT. Can I ask Mr. Conyers be recognized for a unanimous consent request?

Mr. SENSENBRENNER. Certainly.  
The gentleman from Michigan.

Mr. CONYERS. Thank you very much. I just wanted to observe that today, Mr. Chairman and Mr. Scott, we are conducting a hearing about the instances of poor decisions, and I have several observations about the situation and where we should go from here.

But overall, we must keep in mind the important mission of ATF to protect us from gun traffickers who fuel violence on our streets every day.

The engagement of undercover agents with the public sometimes creates situations that are physically dangerous or are threatening to our civil liberties, and underground operations therefore, of course, require strict guidelines and careful oversight. But we have learned that the ATF's storefront undercover operations did not have proper oversight and were poorly managed.

The next point is that I am encouraged that the Director of ATF, Todd Jones, implemented management and policy changes in 2011 soon after he was named acting director, and he has continued to address management deficiencies since being confirmed by the Senate last year.

Prior to that time, ATF endured a period of acting directors when the Senate was unable to confirm a permanent director. I am confident that ATF is addressing the shortcomings which led to the problems with these operation storefronts, and I look forward to hearing from ATF about the changes being implemented.

And finally, if we are truly interested in reducing gun violence, we must act now on legislation to strengthen our gun laws. I am not happy that more than a year into this Congress, this ATF oversight hearing is the only hearing even tangentially related to gun violence held by this Committee and this Congress, and during this time we have had tragic mass shootings in Connecticut, down the street in the Navy Yard, and every day in this country 32 people are murdered with a firearm.

So while there is no single solution to gun violence, I urge that we adopt legislation to strengthen our gun laws and enact after careful consideration H.R. 452, the Gun Trafficking Prevention Act.

So while we examine some of the storefront operations today, I hope we remain focused on finding ways to protect the public from the harms this agency was established to combat.

I thank you for your consideration, Mr. Chairman and Mr. Scott. I yield back. Thank you.

Mr. SENSENBRENNER. Just as a note, we did invite Director Jones, and he decided to send Mr. Brandon instead.

Mr. Brandon, without objection, your full testimony will appear in the Committee record. We would ask you to summarize your testimony in 5 minutes. I think you know what the red, yellow and green lights all mean, so please proceed.

**TESTIMONY OF THOMAS E. BRANDON, DEPUTY DIRECTOR, BUREAU OF ALCOHOL, TOBACCO, FIREARMS, AND EXPLOSIVES**

Mr. BRANDON. Thank you, Chairman Sensenbrenner, Chairman Goodlatte, Ranking Member Scott, Members of the Subcommittee, for allowing me to appear here today.

I am pleased to be here to discuss ATF's undercover storefront operations, including our successes, the actions we have taken to address identified issues, and to correct some misunderstandings about these operations.

A storefront operation is an investigative technique in which undercover officers operate a business designed to identify and proactively address criminal activity. ATF's storefront operations promote public safety as they target firearms trafficking and illegal firearms possession in high-crime areas identified by our fellow state and local law enforcement partners and prosecutors.

Current ATF policy provides that storefront operations are undertaken only in response to requests for the technique by our local law enforcement partners. Storefront operation proposals also require written concurrence from the jurisdiction's chief law enforcement officer.

As a result of our storefront operations in Albuquerque, Atlanta, Milwaukee, Pensacola, Portland and Wichita, there have been nearly 300 defendants arrested, 259 convicted, and over 1,300 firearms recovered to date.

Like any long-term investigative operation, an undercover storefront carries risks. A properly managed operation minimizes those risks. ATF recognizes our responsibility to the public to mitigate the risks with sound management and professional execution.

I acknowledge, Mr. Chairman and Members of the Subcommittee, that we could have improved our execution and management of some activities in certain storefronts. We have since implemented new policies and procedures to minimize the risk of such deficiencies occurring in the future.

I want to assure you that public safety is of the utmost importance to Director Jones, me, and our new executive management team at ATF. We recognize that storefronts and other undercover operations require stringent oversight in all facets of planning and execution. Several policy and operational changes have been put in place that create a tighter process for the authorization, management, oversight and review of undercover operations. We have also made improvements to the Monitored Case Program designed to enhance coordination, communication and analysis between field and headquarters personnel. We have created an internal storefront manual addressing operational security, location, investigative support, status reviews, and closure of the storefront.

We have taken reports about our storefront operations very seriously, particularly the allegation that we took advantage of individuals of diminished mental capacity. While we can and will improve our interactions with these individuals, let me state emphatically that ATF targets criminal conduct and not individuals.

Additionally, it has been suggested that ATF agents paid higher than market prices for firearms during storefront operations. The market price for a street gun can vary widely depending on a variety of circumstances, including offender and weapon characteristics

and the nature of the interactions between the agents and the suspects. Our primary concern is protecting public safety, but we also recognize the importance of utilizing resources and taxpayer dollars wisely. We must, on occasion, pay above market prices for firearms in order to reduce the risk that an individual we believe to pose a public threat does not leave the storefront with the firearm.

Also, we conducted a review of the average prices paid for all guns in ATF undercover operations over the last 6 years. Our review indicated we paid less on average for firearms in the above-referenced storefront operations than in all other undercover operations over the same time period.

Mr. Chairman and Members of the Subcommittee, I want to conclude by saying that ATF is proud to be at the front line against violent crime. We are recognized across the country for our expertise and take great pride in our successes that reduce gun violence and remove violent offenders from the streets. I am proud of the exceptional work done every day by ATF special agents, investigators and support staff combatting violent crime.

I am happy to be here today to answer your questions but need to point out limitations on my ability to respond in certain respects. As you know, the Office of the Inspector General has announced that it is examining several specific storefront operations, and ATF is cooperating with the OIG's review.

We also are in the process of reviewing large numbers of documents in connection with congressional requests.

I will answer your questions as well as I can based on my knowledge of the matters discussed here today, but it is important to note that our understanding could change as we learn more from our ongoing document reviews and the OIG. Thank you.

[The prepared statement of Mr. Brandon follows:]



## Department of Justice

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STATEMENT OF

THOMAS E. BRANDON  
DEPUTY DIRECTOR  
BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES  
DEPARTMENT OF JUSTICE

BEFORE THE

SUBCOMMITTEE ON CRIME, TERRORISM, HOMELAND SECURITY AND INVESTIGATIONS  
COMMITTEE ON THE JUDICIARY  
U.S. HOUSE OF REPRESENTATIVES

FOR A HEARING ON

THE USE OF STOREFRONT OPERATIONS

PRESENTED ON

FEBRUARY 27, 2014

**Statement of Thomas E. Brandon, Deputy Director  
Bureau of Alcohol, Tobacco, Firearms and Explosives  
U.S. Department of Justice  
Before the Subcommittee on Crime, Terrorism, Homeland Security and Investigations  
Committee on the Judiciary  
U.S. House of Representatives  
February 27, 2014**

Chairman Sensenbrenner, Ranking Member Scott, and Members of the Subcommittee, thank you for the opportunity to appear here today to discuss Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) investigations that have utilized undercover storefront operations. It is an honor for me to represent the men and women of ATF, and I appreciate the chance to speak with you about this law enforcement technique.

First, it is important to understand what a storefront is: a storefront operation is a valuable investigative technique in which undercover law enforcement officers operate a business that is calculated to identify and proactively intervene with criminals and criminal activity in high crime areas or hotspots. The aim of a storefront operation is to collect evidence, and to identify, arrest, and prosecute offenders. They are often conducted as joint operations with other federal, state, and local law enforcement agencies and prosecutors. ATF conducted 37 storefronts from 2009-2013. ATF had one storefront active in 2013, and currently, ATF has no active storefront operations.

Storefronts are staff, equipment, and resource intensive, and require significant planning and coordination. The success of a storefront is also dependent upon a strong partnership and on-going collaboration with our Federal, state, and local law enforcement partners. In storefront operations, ATF is focused on targeting illegal traffickers of firearms, violent offenders, and the criminal possession and use of firearms; our state and local partners are frequently involved and may focus on narcotics and other crimes. Some of ATF's storefront operations were undertaken after local law enforcement partners requested our assistance with violent crime activity in target areas. In addition, from planning to execution to prosecution, we partner with the relevant U.S. Attorney's Office. We also have implemented a requirement for written concurrence with storefront plans from the Chief Law Enforcement Officer of the jurisdiction of the operation.

ATF's primary mission is to combat violent crime, and violent crime often involves the illegal use and possession of firearms. In the right situation, the use of an undercover storefront can offer a successful avenue for removing illegal firearms and dangerous criminals from our nation's streets. ATF recognizes that operating an undercover storefront carries risks; accordingly, we emphasize planning, coordination, oversight, and management of storefront

operations in order to minimize those risks. Ensuring the safety of the public is of the utmost importance in all facets of planning and executing ATF undercover storefront operations. When problems are identified ATF seeks to learn from and address them through training and policy development.

ATF storefront operations in Milwaukee, Wisconsin; Portland, Oregon; Wichita, Kansas; Albuquerque, New Mexico; Atlanta Georgia; and Pensacola, Florida have led to nearly 300 defendants arrested, and to date, 259 have been convicted of crimes connected to these investigations. In addition, these operations have taken over 1,300 firearms off the street during undercover operations. Upon publication of a December 2013 news article asserting serious allegations regarding specific storefronts across the country, ATF Director B. Todd Jones immediately contacted the Department of Justice Inspector General (IG) to notify him of the issues identified in the article. On February 20, 2014, the IG formally notified Department leadership that the IG will investigate the storefront operations in four cities: Milwaukee, Pensacola, St. Louis, and Wichita. ATF welcomes this review and we take concerns about ATF storefront operations very seriously.

The Albuquerque, Atlanta, Pensacola, Portland, and Wichita storefront operations recently referenced in the media had been instituted and undercover storefront operations completed or nearly completed, before the arrival of Director Jones and his new management team. Under Director Jones' leadership, we have reviewed those operations in order to strengthen policies and oversight of these types of investigations/operations in the future. ATF recognizes that storefront and other undercover operations require close monitoring. Accordingly the Field Operations Division conducted an extensive review of ATF undercover operations. This has resulted in the formulation and execution of stronger management and oversight for all ATF undercover operations, including storefronts. Several policy and operational changes have been put in place in the last year and a half that create a much tighter process for the authorization, management, oversight and review of undercover operations.

These include:

- **IMPLEMENTATION OF, AND REVISION TO, THE MONITORED CASE PROGRAM**

The monitored case program is designed to ensure close investigative, operational and strategic coordination, as well as enhanced communication between the field and headquarters personnel, for ATF's most sensitive investigations and inspections. The monitored case program was implemented in July 2011. In August 2012 the program was revised to further refine documentation requirements for monitored cases. In May of 2013, an internal Monitored Case Program Order (Order), codifying the monitored case program in ATF's directives system, was

issued. This Order sets forth guidelines, Agent responsibilities, and reporting requirement benchmarks to ensure case monitoring at all levels of ATF—from the field to headquarters. The Order guidelines require all storefronts to be monitored at the field division and ATF Headquarters levels. This process includes monthly teleconferences between the Special Agent in Charge and their investigative team, and a Field Operations Deputy Assistant Director at Headquarters.

- **A STOREFRONT MANUAL**

This internal manual sets standard operating procedures, and details the purpose, goals and objectives that must be followed in setting up a storefront. For example, the manual requires that a detailed analysis of violent crime statistics and the criminal use of firearms in the proposed area of the operation must be performed before initiation of any storefront. The manual further instructs that a comprehensive list of participating agencies should be identified at the outset, and that the United States Attorney or his/her written designee must be personally involved in preliminary operational discussions, to ensure their concurrence. Operational security, location, site selection, investigative support, status reviews, and closure of the storefront are all topics covered in the manual. This manual is the first of its kind and represents a commitment by ATF to refine procedures and ensure consistent standards for storefront operations. Along with the storefront manual, ATF orders and policies have been significantly adjusted in the past year and a half regarding storefront operations.

- **THE UNDERCOVER REVIEW COMMITTEE**

In 2011, ATF revised the approval process for all new or proposed long-term and complex undercover operations. Field Special Agents in Charge must submit a detailed request for approval prior to conducting operations to an Undercover Review Committee. The Committee consists of a Deputy Assistant Director, an SES-level head of the Special Operations Division, and staff with complex undercover experience. In December 2012, an attorney from the Department of Justice that is a voting member was added to the Committee. Since December 2012, one storefront operation has met the Committee's standards and was approved.

- **FRONTLINE BUSINESS MODEL**

The Frontline business model identifies investigative priorities in advance, ensures a balanced approach between reactive and proactive investigations, conducts measurements against objectives, and ensures accountability with each of ATF's 25 Field Offices.

Mr. Chairman and members of the Subcommittee, ATF appreciates you holding this hearing so we can better provide context regarding storefront operations. Upon the Director's

arrival, he instituted changes to ATF's procedures, oversight and management to better ensure public safety and enhance our efforts to combat violent crime. To the extent that problems were identified, ATF has taken strong and decisive actions to strengthen procedures, including implementing major policy reviews and changes, to ensure that all future undercover operations are sound in every way. We will continue to implement changes as warranted.

ATF has a long history in advanced high-risk undercover operations. Undercover operations, including storefronts, are often a highly effective technique to identify and disrupt illegal violent firearms crimes. We are proud of the exceptional work done every day by ATF Special Agents, Investigators, and support staff combating violent crime.

Thank you again for the opportunity to be here today, and I would be happy to answer any questions you may have.

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Mr. SENSENBRENNER. Well, thank you very much, Mr. Brandon. I guess your last statement disturbs me because the Milwaukee operation has been out there for a while, and you knew that somebody would be coming and testifying sooner or later before this Subcommittee, and you are still doing a document review. Let me ask you first, when did you first know about Operation Fearless?

Mr. BRANDON. It was during the planning for taking the operation down with the enforcement activity for the arrests. I knew that there was a storefront in Milwaukee and that there was a planned enforcement activity, and I believe that was September or October of 2012.

Mr. SENSENBRENNER. Was this before or after the articles started appearing in the Milwaukee Journal Sentinel?

Mr. BRANDON. That was before.

Mr. SENSENBRENNER. Okay. When did the first article appear in the Journal Sentinel? Does anybody know? Was it December? Okay. I would like to know why I learned about this from my hometown newspaper if the storefront was already being taken down prior to the appearance of the first article. After all, I am the Chairman of your oversight subcommittee, and it was not in my home town but very close to it.

Mr. BRANDON. Mr. Chairman, personally I want to apologize to you for that. This whole process was new to me, dealing with Capitol Hill, and with what I know now, I would have made sure you were aware of it.

Mr. SENSENBRENNER. Surely someone in the shop has been dealing with Capitol Hill because I have been here for a while, and again I do not like to hear about people tripping over their shoelaces on the front page of the Sunday paper.

In December I like to watch Packer games without other things on my mind.

Mr. BRANDON. My family are big Packer fans. But again, to answer your question, sir, you should not have heard about it in the newspaper, period.

Mr. SENSENBRENNER. Okay. When did you learn about the other storefront operations?

Mr. BRANDON. That would be through the newspaper article.

Mr. SENSENBRENNER. Okay. When were you led to believe that Milwaukee was not an isolated incident?

Mr. BRANDON. That would be through the newspaper article.

Mr. SENSENBRENNER. You are talking about the Journal Sentinel articles?

Mr. BRANDON. Yes.

Mr. SENSENBRENNER. All of them?

Mr. BRANDON. Yes.

Mr. SENSENBRENNER. When did you become aware of the other botched storefront operations, particularly those in Pensacola, Portland, Wichita, and Albuquerque?

Mr. BRANDON. Mr. Chairman, those five other storefront operations all were initiated before the then acting director, now director, came on board on August 31st. I do know that there was one taken down in July of 2011 and another in October of 2011 that culminated the enforcement activity of those. But all of them were conducted actively prior to acting director, now Director Jones' arrival to ATF.

Mr. SENSENBRENNER. Okay. Well, somebody was acting director at the time, and in Portland you opened a gun store across the street from a middle school which ends up bringing criminals and more guns right in the vicinity of a school. That is an amazing lack of judgment, at least in my view. How did the location of the Port-

land gun store end up being decided to be right across the street from a school?

Mr. BRANDON. From my briefing, they were looking for a lease that would tie them to 1 year as opposed to two. But, Mr. Chairman, I share your concerns, and that was a mistake, and it should have never occurred across from a school. They changed the hours when they learned of it and made it in the evening so the children would not be at school. But bottom line, it should not have happened. We have new reforms now in the storefront manual. There is a rigorous review that will prevent that from happening.

Mr. SENSENBRENNER. Okay. The other thing that seems to be somewhat common is that people of diminished mental capacity seem to be recruited for one job or the other. We know of at least two of them. Is that going to stop, or are we still going to be hiring these folks and maybe giving them tattoos at taxpayers' expense?

Mr. BRANDON. Mr. Chairman, again, I share your concern very personally and heartfelt about people with diminished mental capacity. The ATF targets criminal conduct, not people with low IQs. But in the case with the defendant that had the tattoo, they came into the storefront wanting to get the tattoo. The undercover actually were trying to talk them out of it and were saying, hey, let us hold off, let us check with our business manager or something, because it is our logo. And then they, in fact, came back into the storefront with the tattoo artist and left and got them. So it was not something approved.

But also, ATF, the undercover agents, to enhance their undercover capacity, gave them each \$150. Again, that was not great judgment. A Federal judge has ordered us to remove the tattoo. We are happy to comply with that. The defendant has had two sessions where he was supposed to go. He did not show up. But we remain ready to comply with the judge's order.

Mr. SENSENBRENNER. It shocks me that it has to become a Federal case to get a tattoo removed.

The gentleman from Virginia, Mr. Scott.

Mr. SCOTT. Thank you, Mr. Chairman.

Mr. Brandon, you indicated that the present process for setting up one of these storefront operations involves concurrence with a request from the local law enforcement agency?

Mr. BRANDON. That is correct, sir.

Mr. SCOTT. What else is in the process? That can not be the only thing.

Mr. BRANDON. No. For any undercover operation for a storefront, in this case, to go forward, it has to go before an undercover review committee. That was my direction as far as it now includes someone from the Department of Justice, an attorney from the Criminal Division who is a voting member on the undercover review committee. That puts us in line with FBI and DEA on their policies. And then also the rigorous look at compliance with our standard operation and procedures, the storefront manual that I said that was published by Assistant Director Ron Turk.

Mr. SCOTT. Do the people involved in it have any special training, or do they just learn on the job?

Mr. BRANDON. Well, that is another thing I directed, is that before an undercover storefront operation can go, they have to have

training from the management team online down to the case agents by people that have experience in this, and also have proven successes in it.

Mr. SCOTT. Have you seen a difference in the storefront operations, the sting operations now than in the past?

Mr. BRANDON. Well, our activity has gone down. Right now we have zero, but we have gone to controlled undercover environments, and that is the whole purpose of the storefront. It enhances the public safety, the undercover agents' safety, and also is able to get good evidence on audio and video. We keep refining and retooling to enhance getting violent criminals off the street.

Mr. SCOTT. These incidents we have been reading about have clearly been an embarrassment. Have you fixed it so we will not have to read about these in the future?

Mr. BRANDON. Yes. I mean, I would like to put some of them in context, but absolutely. We are reforming under Director Jones' leadership, and the oversight from headquarters has been significantly enhanced.

Mr. SCOTT. Now, are there any problems with enforcing—do we need to have any legislation to help you enforce your gun laws, like background loopholes, including the gun show?

Mr. BRANDON. Sir, we enforce the laws that you give us, and we will continue to do so.

Mr. SCOTT. How does the gun show loophole and other loopholes in the background check hurt your ability to keep guns out of the hands of people who should not have them?

Mr. BRANDON. Well, in general, the purpose of a storefront operation is to absorb the black market supply of guns on the street. It is never to go after people and firearms in legal commerce.

Mr. SCOTT. What kind of statutes are available to help in preventing gun trafficking?

Mr. BRANDON. Again, I think it is well known, but we use the laws we enforce to address violent crime, and we will continue to do so, and if you give us new laws, we will apply them accordingly.

Mr. SCOTT. What about a straw purchase where someone buys a firearm on behalf of someone else? Are the laws strong enough in that area?

Mr. BRANDON. Again, I just leave it up to us for enforcing it. It has been well known that that is viewed as being a soft penalty for those things. But again, we just investigate the criminal activity.

Mr. SCOTT. What is the penalty now for someone who purchases a firearm on behalf of someone else?

Mr. BRANDON. I believe under the Gun Control Act it can go up to 10 years, but under the sentencing guidelines it is usually a very minor thing and it is usually a minimal sentence.

Mr. SCOTT. One of the high-profile cases involving ATF was the Boston Marathon bombing. A lot of agencies were involved. Was there a problem in coordinating your efforts?

Mr. BRANDON. No. In fact, I remember where I was in the Detroit airport when I learned of that, and I immediately contacted my counterpart, Sean Joyce, who is the deputy director of the FBI, and I said, hey, this is clearly in my view an act of terrorism, but any and all resources are available to ATF to work collaboratively

with the FBI. The FBI drew on our resources, and we had a very good working relationship to share our expertise with explosives and post-blast incidents.

Mr. SCOTT. Thank you, Mr. Chairman.

Mr. SENSENBRENNER. Thank you.

The gentleman from Virginia, Mr. Goodlatte.

Mr. GOODLATTE. Thank you, Mr. Chairman.

Mr. Brandon, welcome. I also want to thank you for meeting me in Front Royal, Virginia last year to visit your canine training facility, which is an impressive operation, and you do good work in making sure that law enforcement agencies around the world have dogs capable of detecting explosives and firearms and so on. So, thank you for that.

I do want to focus, however, on what happened in Milwaukee. When this program began in January of 2012, Director Jones was also serving as U.S. Attorney for Minnesota. In fact, he served as both ATF Director and U.S. Attorney for much of 2012; is that not correct?

Mr. BRANDON. That would be correct.

Mr. GOODLATTE. How many days per week was Director Jones in the ATF office?

Mr. BRANDON. He would arrive on Monday morning, flying in from Minnesota, and then I believe fly out late Thursday evening.

Mr. GOODLATTE. And this was every week?

Mr. BRANDON. Yes.

Mr. GOODLATTE. What percentage of his time would you say was dedicated to ATF business?

Mr. BRANDON. Well, he was doing double duty. I mean, the man was working I would say 18, 16, 17 hours a day. So he was fully committed to being the director, acting director.

Mr. GOODLATTE. Well, jobs like these and jobs of Members of Congress are definitely double-duty jobs. I mean, all of us work 80, 90 hours a week as well, for one job. So do you think the director of the ATF should be a part-time position where you are responsible for carrying out another, clearly full-time operation as the U.S. Attorney for the entire state of Minnesota?

Mr. BRANDON. No. I think we were happy that he was confirmed as our director.

Mr. GOODLATTE. Given all of the controversy that was surrounding the ATF at the time, do you not think the agency needed a full-time director?

Mr. BRANDON. Yes. It was needed, but he was fully engaged.

Mr. GOODLATTE. Why did the ATF fail to disclose to Congress the numerous other flawed storefront operations when they provided briefings in April of last year?

Mr. BRANDON. Mr. Chairman, I share your concern on that. The assistant director, Michael Gleysteen of Office of Professional Responsibility and Security Operations, the briefing was just for Milwaukee and was delivered in that context.

Mr. GOODLATTE. We were given the impression as a part of that briefing that Operation Fearless was an isolated incident.

Mr. BRANDON. I am unaware of that impression, but I knew that the goal was to deliver the information. In fact, that investigation, when I learned of it, I brought Michael Gleysteen into my office

and talked to him and it was kind of a culture change in ATF. I said, hey, get down to the bottom of this, and he had a team there flying overnight, and it was a programmatic review of how the investigation was conducted. I know that his intention in delivering that briefing was solely on Milwaukee.

Mr. GOODLATTE. All right. Well, let us expand it beyond Milwaukee, which is what this hearing is about today.

In your testimony, you claim that the ATF conducted 37 storefront operations between 2009 and 2013. We know of at least six operations that had serious problems associated with them. Right now, are you prepared to tell us that these were the only six operations with serious problems?

Mr. BRANDON. Mr. Chairman, I know the OIG is looking at some of those storefronts. So with the information I have right now, I would say that.

Mr. GOODLATTE. Would you call a program where one in six operations has significant problems a successful one?

Mr. BRANDON. Well, I do. I mean, putting this into context, there were deficiencies, like I said in my opening statement, with some of these storefronts, but there have been many successes. It still remains a viable investigative technique when managed well.

Mr. GOODLATTE. Right. That last part is key, though, adequate supervision, right?

So right now you say you are down to zero. What are your future plans going forward? Because it seems to me that the technique, which is not a new one, has not been used exclusively by ATF. I am familiar with other operations in other places at other times used by law enforcement to deal with fencing of stolen goods and other things that have successfully led to a lot of good prosecutions. They are difficult to maintain for a long period of time, and they do require very significant supervision. What are the ATF's plans moving forward?

Mr. BRANDON. Mr. Goodlatte, again, I share your concerns. Some of the reforms have been with the ATF's storefront manual. What happened here is I know from being a career ATF agent over 25 years, you had earnest, hard-working undercover ATF agents having successes in various states, and the policy was lacking for this undercover activity. It is now in place. From my observation of this, that is how—

Mr. GOODLATTE. The policy is in place, but there are no operations in place. What are your future plans?

Mr. BRANDON. Well, we are receptive to the storefront investigative technique. My observation is just because they are so resource intensive, and then getting them all prosecuted, the cases, there is an ebb and flow of activity because the divisions are staffed to a certain level. Lately we have been under-staffed in many divisions. So I could picture it picking up as we bring on new people and get them properly trained.

Mr. GOODLATTE. Thank you, Mr. Chairman.

Mr. SENSENBRENNER. The gentleman from Michigan, Mr. Conyers, the Chairman Emeritus of the Committee.

Mr. CONYERS. Thank you, Mr. Chairman.

Deputy Director Brandon, the vast majority of licensed gun dealers seem to abide by the law, but a small percentage of dealers vio-

late the law and supply a disproportionate amount of guns used in crime.

Now, is it not correct that the ATF is generally limited to inspecting gun dealers to once per year?

Mr. BRANDON. That would be correct, sir.

Mr. CONYERS. And due to resource constraints, how frequently are most dealers actually inspected?

Mr. BRANDON. I recall I think it is once every 7 years.

Mr. CONYERS. Well, that is, to me, a very important consideration in this discussion this morning.

Is the ATF allowed to require gun dealers to physically check their inventory against their records, which would, of course, help deal with instances of missing guns and the successful tracing of guns used in crime?

Mr. BRANDON. Congressman, they are not required.

Mr. CONYERS. Well, then the natural question that follows is why not?

Mr. BRANDON. We are prohibited from requiring that.

Mr. CONYERS. Prohibited by whom?

Mr. BRANDON. It is in the appropriations, I believe.

Mr. CONYERS. Well, I think I am going to have to have staff research this because I am not sure if that is correct or not.

Is that correct?

Okay. Staff assures me that that is a correct response.

If a gun dealer is found to have committed serious violations and is in jeopardy of losing their Federal license, is it not true that they may transfer their license to a store employee or a family member so that the business may continue operating without accountability for the violations?

Mr. BRANDON. Congressman, that is handled on a case-by-case basis, and I do know of licensees trying to do that.

Mr. CONYERS. Well, I am hopeful that that will be looked into carefully here on the Committee and by you and the operation itself. I think that is an important consideration.

Thank you, Mr. Chairman. That ends my questioning of the witness.

Mr. SENSENBRENNER. Well, thank you very much.

The gentleman from North Carolina, Mr. Coble.

Mr. COBLE. Thank you, Mr. Chairman.

Mr. Brandon, good to have you with us. Let me combine or consolidate three or four questions into one, Mr. Brandon. How many firearms have been stolen from ATF agents' vehicles over the past, say, two or 3 years?

Mr. BRANDON. I do not know the exact number, sir, but I would be happy to take that back and get the answer for you.

Mr. COBLE. That would be fine if you could do that. And also, I would like to know how many were fully automatic. And if any firearms stolen from ATF agents' vehicles particularly fully automatic firearms, which individuals at headquarters would be notified?

Mr. BRANDON. I was notified of the incident in Milwaukee when the rifle that belonged to a special response team member who was also doing the undercover. That firearm was stored in an SUV that was alarmed and locked, and also in a vault that is bolted to the car, or to the SUV in this case. The people that broke into the vehi-

cle, it was in broad daylight, parked in an area that had pedestrian traffic. But that would be the one instance, to answer your question, sir, that I know of, of an automatic firearm, in this case a three-round burst, that was stolen.

Mr. COBLE. And if you could get back to us about the total number that was stolen, I would be appreciative to you for that.

Mr. BRANDON. Yes, sir.

Mr. COBLE. I am told, and I do not recall who told me or where I read it, but that one individual purchased a firearm for a few hundred dollars at Gander Mountain and turned around and sold it to the ATF for a couple of thousand dollars a few short hours later. Are you familiar with this?

Mr. BRANDON. Yes, sir.

Mr. COBLE. Elaborate a little bit more, if you will.

Mr. BRANDON. Sure. Again, that was a concern to me, and also it is part of the reforms in the storefront manual. The firearms were not being traced when they were purchased because they were afraid to alert and compromise the undercover location through the trace process. We have methods to be able to trace it but not alert the firearms dealer so that we could be aware if there is any type of trend that people are going into a licensee, buying it, and turning around and bringing it to us. But the reform is in the storefront manual to address that.

Mr. COBLE. I thank you, sir.

I yield back, Mr. Chairman.

Mr. SENSENBRENNER. Thank you very much.

The gentleman from South Carolina, Mr. Gowdy.

Mr. GOWDY. Thank you, Mr. Chairman.

Special Agent Brandon, I was told this morning by my friend of 20 years, Special Agent C.J. Hyman, that you are a good person and a stand-up guy. So I am going to ask the same questions that I was going to ask, but I will ask them in a different tone of voice given C.J. Hyman vouching for you.

I want to start by asking you this. They had a very successful storefront operation in Greenville, South Carolina, led by Special Agent C.J. Hyman and a prosecutor by the name of Lance Crick. Why not get those guys to come do training? It should not be that tough to run a storefront operation the way that Chairman Goodlatte and Chairman Sensenbrenner and Mr. Scott and others would expect it to be run.

So when you have a group that has done it successfully, my advice to you—you do not have to take it—get C.J. and Lance to come to Glynco or wherever and train your folks on how to do it the right way.

Mr. BRANDON. Congressman, again, it is a pleasure meeting you here. and C.J. spoke highly of you, and I think the world of him.

But your point we already incorporate in the storefront manual. That was an obvious thing of, hey, why do not we have a mentoring process of people who have been successful where we have done them all around the country and teach that. So now that is part of our standard operation procedures. I agree completely with you.

Mr. GOWDY. I am, by far, the worst lawyer on this panel, but I do not think even I indicted someone who had the alibi of being in

prison at the time the crime was committed. If I did, I do not recall doing that. How does that happen?

Mr. BRANDON. I am unfamiliar with the example you are stating.

Mr. GOWDY. There was a report that one of the folks arrested or indicted was actually in prison at the time the alleged crime was committed, which is a really good alibi.

Mr. BRANDON. I have to agree with you.

Mr. GOWDY. Well, if you do not know, then it is not fair to ask you about it.

Mr. BRANDON. I do know about the things in Milwaukee where there were four instances. Again, I was not pleased when I heard this. It is addressed in the storefront manual, proper identification. This goes back to that operation, not having an outside cover team. That was a deficiency. It should have been, because then you would follow the people away. I know the experience of some of you as prosecutors, that you do it to identify them without compromising the storefront.

So in complete candor, that is how I tracked it down, and there were deficiencies. I will add, not that it minimizes anything, the people were not jail, you know booked and jailed, when they questioned them saying, hey, I am not that guy, they were taken to the command post, and then when it was confirmed, they were released and driven back to their homes. So I agree with you, there is no justification for that.

Mr. GOWDY. Well, my colleagues have done such a good job of asking you about the storefront operations, I want to switch gears in the little bit of time we have left.

Mr. Conyers, the Ranking Member from Michigan, asked again about additional gun legislation, and I had a group of moms come and meet with me in Greenville last week, actually, incredibly conscientious moms who wanted to meet with me about closing whatever loopholes remain with respect to background checks.

It just strikes me, as an old, washed-up prosecutor, that before we talk about new weapons in your arsenal, it is fair to ask how are we doing enforcing the ones that we already have. You can not do it this morning, and you may not be able to do it in a month, but at some point it would help me, and I presume other Members of the Judiciary, to see a list of referrals from local law enforcement.

924(e) is a perfect example. That is a mandatory minimum 15 years. I mean, even for a Department of Justice that does not like mandatory minimums, that is a big hit.

So how many referrals from locals did we not accept? How many did the AUSA decline prosecution on? We could do it with 924(e)s, we could do it with 924(c)s. I know lying and buying cases do not carry a lot of bang for the buck, but let us fix that part of it. If that is why we are not prosecuting lying and buying cases or current background check failures, let us fix that. Let us make it where it is more attractive to your agents to investigate those cases, or more attractive to the prosecutors to prosecute them.

But at some point it would be helpful to us to know whether you are getting the referrals from local law enforcement and not investigating or not adopting the case, or whether you are and working them up and the prosecutors are declining to prosecute it. That

would be helpful to me. If we are going to discuss new weapons, I would really like to know how we are doing with the ones that we currently have.

And with that, give my best to the agents in Greenville.

Mr. BRANDON. Congressman, I agree with you, and I will take that back to the Department. I just want to add that in Milwaukee, there were four 924(e) defendants in the Milwaukee storefront. And as a career guy, those are great cases, great targets.

Mr. SENSENBRENNER. I thank the gentleman from South Carolina.

There are a couple of loose ends that I would like to ask you, Mr. Brandon, to provide the Subcommittee with some more information. The information that I received indicate that there are about 60,000 Federal firearms licensees, and ATF has got about 500 inspectors. Now, if there is an inspection that is taking place once every 7 years, that means that those 500 people do an average of 18 inspections a year. Certainly, we want to make sure that the inspections are done in an adequate and timely and frequent-enough manner.

So can you provide the information on how many active inspectors there are, and can you also have some kind of a log on how often or how much of their time the inspectors actually do inspecting?

Mr. BRANDON. Yes, Chairman, I will take those back to the Department and get you the specific numbers. But again, to put it in context, as far as inspections through the trace process, we prioritize. If a number of crime guns are being traced to a specific FFL, in the interest of public safety those will be inspected more frequently.

Mr. SENSENBRENNER. I understand that. But there seems to be a disconnect on the numbers on that, and we are going to need to have the numbers to make a determination on that.

The other point I would like to make is we are going to have somebody from the ATF back, hopefully Mr. Jones or you or both of you, after the Inspector General's report on storefront operations, largely to see how many of the recommendations of the Inspector General, whatever they may be, will end up being adopted; and if not, why not; and if they are not being fully implemented, why not. So be advised; we will see you again.

Mr. BRANDON. It has been a pleasure, sir.

Mr. SENSENBRENNER. Thank you very much.

And with that, without objection, the Subcommittee hearing is adjourned.

[Whereupon, at 10:53 a.m., the Subcommittee was adjourned.]

## A P P E N D I X

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MATERIAL SUBMITTED FOR THE HEARING RECORD



**U.S. Department of Justice**

Bureau of Alcohol, Tobacco,  
Firearms and Explosives

*Office of Public and Governmental Affairs*

Washington, D.C. 20226

MAY 23 2014 [www.atf.gov](http://www.atf.gov)

The Honorable Robert Goodlatte  
Chairman, Committee on the Judiciary  
U.S. House of Representatives  
Washington, DC 20515

Dear Mr. Chairman:

This is in response to your letter of April 27, 2014, to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) requesting any ATF edits to the hearing transcripts, which we have enclosed, and asking that we provide an answer to the question you posed to ATF Deputy Director Thomas Brandon on February 27, 2014, at the House Judiciary Subcommittee on Crime, Terrorism, Homeland Security and Investigations – Hearing on the Bureau of Alcohol, Tobacco, Firearms and Explosives' Use of Storefront Operations. You asked Deputy Director Brandon to provide the information on the number of ATF Industry Operations Investigators (IOI) and if we have a log that shows how much of their time they spend performing inspections.

ATF's field personnel consist mainly of IOIs and Special Agents. Extracting supervisory personnel and other Intelligence-related employees, as of Fiscal Year 2013, there are 655 Industry Operation Investigators nationwide. ATF Investigators focus their efforts on regulating the legal commerce of firearms and explosives commodities.

To address your question of how much time an investigator spends actually conducting inspections, we broke down the IOIs' time as reported by the type of assignment. In addition to performing inspections, IOI duties vary and include conducting outreach activities to the regulated industry members, answering questions from the general public, providing support to criminal enforcement operations, attending and providing various types of training activities, and participating in professional development opportunities.

Investigators conduct four types of inspections: firearms qualification and compliance inspections and explosives qualification and compliance inspections. Qualification inspections are conducted as an individual or company enters into the firearms or explosives business. Qualification inspections are conducted with every new applicant that applies for a Federal firearms license (FFL) under the Gun Control Act of 1968 or Federal explosives license (FEL) under the Safe Explosives Act (SEA). IOIs provide the license applicant education so they know about the regulatory requirements of their industry and ensure they have adequate business premises. Compliance inspections ensure the industry member is operating within the parameters of the appropriate statutes, including recordkeeping, and inventory and personnel verification.

The Honorable Robert Goodlatte

SEA inspection assignments are mandated by Federal Statute and take precedence over all other firearms work performed by IOIs. Firearms compliance inspections are a priority as well, but can vary in scope and staffing requirements. For example, large manufacturers that have 100,000 firearms in their inventory could require a team of dozens of investigators onsite for weeks to review inventory and records. Conversely, a home-based FFL or a local business with a small inventory would require a much smaller team or an individual IOI for the inspection.

Below are approximate inspection percentages that include all activity associated with an individual inspection from paperwork, travel time, and any follow-up activity.

| ATF Compliance Activity   | FY-09 | FY-10 | FY-11 | FY-12 | FY-13 |
|---------------------------|-------|-------|-------|-------|-------|
| Compliance Inspections    | 70%   | 66%   | 68%   | 65%   | 62%   |
| Qualification Inspections | 16%   | 16%   | 18%   | 22%   | 25%   |
| Other*                    | 14%   | 18%   | 14%   | 13%   | 13%   |
| ATF IOI Staffing          | 601   | 590   | 624   | 618   | 655   |

\*conducting outreach activities to the regulated industry members, answering questions from the general public, providing support to criminal enforcement operations, attending and providing various types of training activities, and participating in professional development opportunities

We hope this is responsive to your request. If you need further information, please do not hesitate to contact us.

Sincerely,



James H. Burch, II  
Assistant Director

Enclosure