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National Security, Emerging Threats, and
International Relations, Committee on
Government Reform, House of Representatives

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ATF

Thefts of Explosives from
State and Local Government
Storage Facilities Are Few
but May Be Underreported

Statement of Laurie E. Ekstrand
Director, Homeland Security and Justice



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Highlights

Highlights of [GAO-06-182T](#), a testimony before the Subcommittee on National Security, Emerging Threats, and International Relations, Committee on Government Reform, House of Representatives

Why GAO Did This Study

More than 5.5 billion pounds of explosives are used each year in the United States by private sector companies and government entities. The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) has authority to regulate explosives and to license privately owned explosives storage facilities. After the July 2004 theft of several hundred pounds of explosives from a local government storage facility, concerns arose about vulnerability to theft.

This testimony provides information about (1) the extent of explosives thefts from state and local government facilities, (2) ATF's authority to regulate and oversee state and local government storage facilities, and (3) security measures in place at selected state and local government storage facilities. This information is based on a report GAO is releasing today on these issues.

What GAO Recommends

In the report released today, GAO is recommending that the Attorney General direct the ATF Director to clarify explosives incident reporting regulations to help ensure that all entities storing explosives, including state and local government agencies, understand their obligation to report all thefts or missing explosives. The Department of Justice agreed with GAO's recommendation and indicated it would take steps to implement it.

www.gao.gov/cgi-bin/getrpt?GAO-06-182T.

To view the full product, including the scope and methodology, click on the link above. For more information, contact Laurie Ekstrand at (202) 512-8777 or ekstrandl@gao.gov.

ATF

Thefts of Explosives from State and Local Government Storage Facilities Are Few but May Be Underreported

What GAO Found

Judging from available ATF data, there have been few thefts of explosives from state and local government storage facilities. From January 2002 to February 2005, ATF received 9 reports of thefts or missing explosives from state and local facilities, compared with a total of 205 explosives thefts reported from all sources nationwide during this same period. During the course of the audit, GAO found evidence of 5 thefts from state and local government facilities, 1 of which did not appear in ATF's national database of thefts and missing explosives. Thus, the actual number of thefts occurring at state and local facilities could be higher than that identified by ATF data.

ATF has no authority to oversee or inspect state and local government explosives storage facilities. State and local agencies are not required to obtain a license from ATF to use and store explosives, and only licensees—such as private sector explosives storage facilities—are subject to mandatory oversight. Thus, ATF has no means to ensure that state and local facilities comply with federal regulations. Further, ATF does not collect nationwide information on the number and location of state and local storage facilities, nor does the agency know the types and amounts of explosives being stored in these facilities. Because this data collection is a function of the licensing process and state and local facilities are not required to be licensed, no systematic information about these facilities is collected. By comparison, all licensed private sector facilities must submit a variety of information about their facilities—including location and security measures in place—to ATF during the licensing process. ATF also collects information about these facilities during mandatory inspections.

At the 18 state and local government storage facilities GAO visited, a variety of security measures were in place, including locked gates, fencing, patrols, and in some cases electronic surveillance. All the facilities' officials told GAO that they conducted routine inventories. But most of the state and local government entities GAO visited were not required to be licensed or inspected by state or local regulatory agencies. GAO identified several instances of possible noncompliance with federal regulations, but these were related primarily to storage safety issues rather than security.

Explosives Storage Facilities in Pennsylvania and Texas



Source: GAO.

Mr. Chairman and Members of the Subcommittee:

I am pleased to be here today to discuss security and safety at state and local government explosives storage facilities. More than 5.5 billion pounds of explosives are used each year in the United States. These explosives are used by both public sector entities (such as state and local government agencies) and private sector companies for a variety of purposes—including mining, construction, avalanche control, and law enforcement. Under current federal explosives laws and regulations, the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) is responsible for licensing and regulating explosives manufacturers, importers, dealers, and users. It is primarily through this licensing authority that ATF oversees and inspects privately owned explosives facilities to ensure they comply with federal explosives storage laws and regulations. However, state and local government agencies are exempt from ATF licensing requirements.

In August 2004, the subcommittee held a hearing here in California to investigate the July 2004 theft of several hundred pounds of explosives from a storage facility being used by local law enforcement agencies. At that hearing, the subcommittee heard testimony from federal, state, and local officials regarding the safety and security of publicly managed explosives storage facilities and the adequacy of federal authority to regulate and oversee these facilities. Out of concern that state and local government explosives storage facilities could be vulnerable to theft, you asked us to study the security and oversight at these facilities.

My testimony this morning is based on a GAO report¹ being released today in conjunction with this hearing, and will focus on the following issues:

1. the extent to which state and local government explosives storage facilities have been vulnerable to theft,
2. the extent to which ATF regulates and oversees state and local government explosives storage facilities, and
3. the types of security measures in place at selected state and local government explosives storage facilities.

¹GAO, *ATF: Thefts of Explosives from State and Local Government Storage Facilities Are Few but May Be Underreported*, [GAO-06-92](#) (Washington, D.C.: Oct. 3, 2005).

We conducted our work on this report from February 2005 to August 2005 in accordance with generally accepted government auditing standards.

Summary

Judging from available ATF data, there have been few thefts reported at state and local government explosives storage facilities. However, these reported thefts could be understated by an unknown amount. During the 3-year period from January 2002 to February 2005, ATF received 9 reports of thefts or missing explosives from state and local law enforcement storage facilities, compared with 205 thefts from all sources nationwide. Similarly, during a *10-month period* (ending December 2003), there were 76 theft incidents reported nationwide resulting in a loss of about 6,700 pounds of high explosives and blasting agents. By comparison, over an entire *10-year period* (ending December 2004), ATF received 14 reports of theft from state and local law enforcement storage magazines, resulting in reported losses of about 1,000 pounds of explosive materials. The actual number of state and local thefts could be higher than indicated by ATF data. While ATF interprets its theft reporting requirement to mean that state and local entities, among others, must report explosives thefts, ATF officials acknowledged that state and local government entities may be unclear as to whether they are covered under this requirement. Indeed, during our site visits and other state and local contacts, we found evidence of 5 thefts from state and local government facilities, 1 of which did not appear in ATF's national database on thefts and missing explosives.

Although state and local government explosives storage facilities must comply with federal storage regulations, ATF does not have oversight authority at these facilities. ATF oversight—including the ability to conduct regulatory inspections—is linked to licensing, and state and local government entities are not required under federal explosives law to obtain such a license. ATF does not have specific statutory authority to conduct regulatory inspections at these storage facilities. Through its licensing and inspection authority, ATF is able to collect nationwide information on the number and locations of private sector storage facilities and the types and amounts of explosives being stored. Because ATF does not license and inspect state and local government facilities, no similar information is collected about them. On the basis of our audit work, we identified three types of government entities that used and stored explosives: (1) law enforcement bomb squads, (2) public universities, and (3) state and local departments of transportation. We were unable to gather sufficient information about these entities to reliably estimate the total number of state and local government storage facilities and magazines nationwide.

During our audit, we visited 14 state and local government entities—13 bomb squads and 1 public university—and observed the security measures in place at their 18 explosives storage facilities. Regarding physical security, most facilities had a locked gate to prevent vehicle access and several had fencing surrounding their storage facilities. Several storage facilities also had electronic security systems in place—such as video surveillance. These types of security measures—fences, vehicle barriers, and electronic monitoring devices—all exceed the requirements of federal explosives regulations. Officials at all the entities we visited told us they visually inspected or patrolled the facilities on a regular basis and conducted routine inventories. Most facilities were not required to be licensed or inspected by state or local regulatory agencies. Of the 5 explosives thefts we identified during our site visits and other contacts, 2 had occurred at state and local storage facilities we visited, but only 1 of these incidents appeared in ATF’s nationwide theft database.

In our report released today, we recommend that the Attorney General direct the ATF Director to clarify federal explosives regulations to ensure that state and local government agencies understand their obligation to report thefts or missing explosives. The Department of Justice agreed with our recommendation and indicated it would take steps to implement it.

Background

ATF is the chief enforcer of explosives laws and regulations in the United States and is responsible for licensing and regulating explosives manufacturers, importers, dealers, and users.² ATF is also responsible for regulating most, but not all, explosives storage facilities. Under federal explosives regulations, a license is required for persons who manufacture, import, or deal in explosives and, with some exceptions, for persons who intend to acquire explosives for use. No license is required solely to operate an explosives storage facility. State and local government agencies are not required to obtain an explosives license to use and store explosives. However, all persons who store explosive materials (including state and local entities) must conform with applicable ATF storage regulations, irrespective of whether they are required to obtain an explosives license for other purposes. According to ATF data, as of February 2005 there were 12,028 federal explosives licensees in the United

²Licenses are issued to persons who manufacture, import, or sell explosives, while permits are issued to persons who intend to acquire and use explosives. Throughout the remainder of this statement, references to explosives licenses, licensees, or ATF’s licensing authority refer to both explosives licenses and permits.

States.³ Roughly 7,500 of these had some kind of explosives storage facility, consisting of 22,791 permanent or mobile storage magazines.

ATF storage regulations include requirements relating to the safety and security of explosives storage magazines—that is, any building or structure (other than an explosives manufacturing building) used for storage of explosive materials. Regarding safety, the storage regulations include requirements related to location, construction, capacity, housekeeping, interior lighting, and magazine repairs, as well as a requirement that the local fire safety authority be notified of the location of each storage magazine. Regarding security, the ATF storage regulations include the following requirements:

- *Explosives handling.* All explosive materials must be kept in locked magazines unless they are in the process of manufacture, being physically handled in the operating process of a licensee or user, being used, or being transported to a place of storage or use. Explosives are not to be left unattended when in portable storage magazines.
- *Magazine construction.* Storage magazines must be theft-resistant and must meet specific requirements dealing with such things as mobility, exterior construction, door hinges and hasps, and locks.
- *Magazine inspection.* Storage magazines must be inspected at least every 7 days. This inspection need not be an inventory, but it must be sufficient to determine if there has been an unauthorized entry or attempted entry into the magazines, or unauthorized removal of the magazine contents.
- *Magazine inventory.* Within the magazine, containers of explosive materials are to be stored so that marks are visible. Stocks of explosive materials are to be stored so they can be easily counted and checked.

Notwithstanding the security requirements described above, ATF storage regulations do not require explosives storage facilities to have any of the following physical security features—fences, restricted property access, exterior lighting, alarm systems, or electronic surveillance. Also, while ATF licensing regulations require explosives licensees to conduct a physical inventory at least annually, there is no similar inventory requirement in the storage regulations applicable to other persons who store explosives.

³Including the District of Columbia, Guam, Puerto Rico, and the Virgin Islands.

Thefts Reported at State and Local Explosives Storage Facilities Are Few but May Be Underreported

According to ATF data, the number of reported state and local government thefts is relatively small when compared with the total number of thefts that have occurred nationwide. During a recent 3-year period (January 2002—February 2005), ATF received reports of 205 explosives thefts from all sources nationwide. By comparison, during this same period, only 9 thefts were reported that involved state and local government storage facilities—5 involving state and local law enforcement agencies,⁴ 3 involving state government entities (all universities), and 1 involving a county highway department. The amounts of explosives reported stolen or missing from state and local government facilities are relatively small when compared with the total amounts of stolen and missing explosives nationwide. During a recent *10-month period* for which data were available (March 2003 through December 2003), there were a total of 76 theft incidents nationwide reported to ATF, amounting to a loss of about 3,600 pounds of high explosives, 3,100 pounds of blasting agents, 1,400 detonators, and 2,400 feet of detonating cord and safety fuse. By comparison, over an entire *10-year period* (January 1995 through December 2004), ATF received only 14 reports of theft from state and local law enforcement storage magazines. Reported losses in these cases were about 1,000 pounds of explosive materials, and in 10 of the incidents less than 50 pounds of explosives was reported stolen or missing.

While the ATF theft data indicate that thefts from state and local facilities make up only a small part of the overall thefts nationwide, these reports could be understated by an unknown amount. There are two federal reporting requirements relating to the theft of explosives. One is specific to all federal explosives licensees (and permittees) and requires any theft or loss of explosives to be reported to ATF within 24 hours of discovery. The second reporting requirement generally requires any other “person” who has knowledge of the theft or loss of any explosive materials from his stock to report to ATF within 24 hours. Although the term “person” as defined in law and regulation does not specifically include state and local government agencies,⁵ ATF has historically interpreted this requirement as applying to nonlicensed state and local government explosives storage facilities. However, ATF officials acknowledged that some state and local

⁴One of these was later determined to be the possible result of training explosives that had been mistakenly discarded.

⁵The term “person” is defined in statute and regulation as “any individual, corporation, company, association, firm, partnership, society, or joint stock company” (see 18 U.S.C. § 841(a); and 27 C.F.R. § 555.11).

government entities could be unsure as to their coverage under the theft reporting requirements and, as a result, may not know they are required to report such incidents to ATF. Indeed, during our site visits and other state and local contacts, we identified five state and local government entities that had previously experienced a theft or reported missing explosives—two involving local law enforcement agencies, two involving state universities, and one involving a state department of transportation.⁶ However, one of these five incidents did not appear in ATF’s nationwide database of reported thefts and missing explosives. Based on these findings, the actual number of thefts occurring at state and local government storage facilities nationwide could be more than the number identified by ATF data.

ATF Lacks Authority to Regulate and Oversee State and Local Explosives Storage Facilities Nationwide

There is no ATF oversight mechanism in place to ensure that state and local government facilities comply with federal explosives regulations. With respect to private sector entities, ATF’s authority to oversee and inspect explosives storage facilities is primarily a function of its licensing process. However, state and local government entities are not required to obtain a federal license to use and store explosives. In addition, ATF has no specific statutory authority to conduct regulatory inspections at state and local government storage facilities. Under certain circumstances, ATF may inspect these facilities—for example, voluntary inspections when requested by a state and local entity, and mandatory annual inspections at locations where ATF shares space inside a state and local storage magazine. Regarding those state and local government facilities that ATF does not inspect, ATF officials acknowledged they had no way of knowing the extent to which these facilities are complying with federal explosives regulations.

ATF officials stated that if the agency were to be required to conduct mandatory inspections at all state and local government storage facilities, they would likely need additional resources to conduct these inspections because they are already challenged to keep up with inspections that are mandated as part of the explosive licensing requirements. Under provisions of the Safe Explosives Act, ATF is generally required to physically inspect a license applicant’s storage facility prior to issuing a federal explosives license—which effectively means at least one inspection every 3 years. At the same time, however, ATF inspectors are

⁶Two of these five incidents occurred at locations we visited; three occurred at other locations we identified during the course of our audit work.

also responsible for conducting inspections of federal firearms licensees. The Department of Justice Inspector General reported that ATF has had to divert resources from firearms inspections to conduct explosives storage facility inspections required under the Safe Explosives Act. Despite recent funding increases for ATF's explosives program, giving ATF additional responsibility to oversee and inspect state and local government storage facilities could further tax the agency's inspection resources. According to ATF officials, because inspection of explosives licensees is legislatively mandated, the effect of additional state and local government explosives responsibilities (without related increases in inspector resources) could be to reduce the number of firearms inspections that ATF would be able to conduct.

ATF does not collect nationwide information on the number and location of state and local government explosives storage facilities, nor does the agency know the types and amounts of explosives being stored in these facilities. Since data collection is a function of the licensing process and state and local facilities are not required to be licensed, no systematic information about these facilities is collected. With respect to private sector licensees, ATF collects descriptive information concerning explosive storage facilities as part of the licensing process. ATF license application forms require applicants to submit information about their storage capabilities, including specific information about the type of storage magazine, the location of the magazine, the type of security in place, the capacity of the magazine, and the class of explosives that will be stored. ATF also collects information about licensed private sector storage facilities during mandatory inspections, through examination of explosives inventory and sales records and verification that storage facilities meet the standards of public safety and security as prescribed in the regulations.

During the course of our audit work, we compiled some data on state and local government entities that used and stored explosives. At the 13 state and local law enforcement bomb squads we visited, there were 16 storage facilities and 30 storage magazines. According to Federal Bureau of Investigation data, there are 452 state and local law enforcement bomb squads nationwide. However, because of the limited nature of our fieldwork, we cannot estimate the total number of storage facilities or magazines that might exist at other bomb squad locations. Moreover, other state and local government entities (such as public universities and state and local departments of transportation) in addition to law enforcement bomb squads also have explosives storage facilities. At the one public university we visited, there were 2 storage facilities and 4 storage magazines. Again, however, because of the limited nature of our fieldwork,

we cannot estimate the total number of storage facilities and magazines that exist at these other state and local government entities nationwide.

Security Measures Varied at State and Local Explosives Storage Facilities We Visited

We found that security measures varied at the 14 state and local government entities we visited. Overall, we visited, 2 state bomb squads, 11 city or county bomb squads (including police departments and sheriffs' offices), and 1 public university. Four of the 14 state and local entities had 2 separate storage areas, resulting in a total of 18 explosives storage facilities among the 14 entities. Three of these storage facilities were located on state property, 7 were located at city or county police training facilities, 7 were located on other city or county property, and 1 was located at a metropolitan airport. Eleven of the 18 explosives storage facilities we visited contained multiple magazines for the storage of explosives. As a result, these 18 facilities comprised a total of 34 storage magazines. All of the 18 facilities contained a variety of high explosives, including C-4 plastic explosive, detonator cord, TNT, binary (two-part) explosives, and detonators. Estimates of the amount of explosives being stored ranged from 10 to 1,000 pounds, with the majority of the entities (9) indicating they stored 200 pounds or less.

At each of the 14 state and local storage entities we visited, we observed the types of security measures in place at their explosives storage facilities. Our criteria for identifying the type of security measures in place included existing federal explosives storage laws and regulations (27 C.F.R., Part 555, Subpart K) and security guidelines issued by the explosives industry (the Institute of Makers of Explosives). Most of these security measures (fencing, vehicle barriers, and electronic surveillance, for example) are not currently required under federal storage regulations. However, we are presenting this information in order to demonstrate the wide range of security measures actually in place at the time of our visits.

- *Physical security.* Thirteen of the 18 storage facilities restricted vehicle access to the facility grounds by way of a locked exterior security gate or (in one case) by virtue of being located indoors. Five of the 13 facilities restricted vehicle access after normal working hours (nights or nights and weekends). Officials at 7 other facilities said that vehicle access to the facilities was restricted at all times, including the 1 indoor facility that was located in the basement of a municipal building. Six of the 18 storage facilities had an interior barrier—consisting of a chain-link fence with a locked gate—immediately surrounding their storage magazines to prevent direct access by persons on foot. One other facility (the indoor basement facility), relied on multiple locked doors to prevent access by unauthorized personnel. Conversely, at 1 facility we visited, the storage

magazine could be reached on foot or by vehicle at any time because it did not have fencing or vehicle barriers to deter unauthorized access. In addition to restricted access to storage facilities, officials at all of the 18 storage facilities we visited told us that official personnel—either bomb squad or other police officers—patrolled or inspected the storage facility on a regular basis. And, at 9 of the 18 storage facilities we visited, officials said that state or local government employees—police training personnel, jail or correctional personnel, or other city/county employees—maintained a 24-hour presence at the facilities.

- *Electronic security.* Four of the 18 explosives storage facilities had either an alarm or video monitoring system in place. Two storage facilities with video surveillance took advantage of existing monitoring systems already in place at their storage locations—one located at a county correctional facility and one located inside a municipal/police building. Officials at 4 storage facilities told us they had alarm systems planned (funding not yet approved), and officials at 3 facilities said they had alarm systems pending (funding approved and awaiting installation). Officials at 2 facilities also told us they planned to install video monitoring. Regarding the feasibility of installing electronic monitoring systems, 4 officials noted that storage facilities are often located in remote areas without easy access to electricity. Regarding the possibility of new federal regulations that would require electronic security at storage magazines, 9 officials told us they would not object as long as it did not create an undue financial burden.
- *Inventory and oversight issues.* Officials at all 14 of the entities we visited told us they performed periodic inventories of the contents of their explosives storage magazines in order to reconcile the contents with inventory records. In addition, 9 entities said they had received inspections of their storage facilities, primarily by ATF. Six entities told us they received the inspections on a periodic basis, with another 3 entities having received a onetime inspection. Regarding oversight by multiple regulatory authorities, one entity had been inspected by both ATF and a local government authority, while another entity was inspected on a recurring basis by both ATF and a state government authority. Five of the 14 entities we visited told us they were required to obtain a license from state regulatory authorities to operate their explosives storage facilities. One of these entities was also required (by the state regulatory authority) to obtain a federal explosives license issued by ATF. Officials at 13 entities we visited said they did not object to the possibility of federal licensing or inspection of their explosives storage facilities. Officials at 3 state and local entities noted that additional federal oversight was not a concern as long as they were not held to a higher standard of security and safety than ATF requires of private industry.

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- *Thefts and compliance issues.* Two of the five thefts we documented during our site visits and other state and local contacts occurred at state and local entities we visited. At one storage facility, officials told us that criminals had once used a cutting torch to illegally gain entry to an explosives storage magazine. At another storage facility, officials said that an unauthorized individual had obtained keys to a storage magazine and taken some of the explosives. In both incidents, the perpetrators were apprehended and the explosives recovered. However, one of these incidents did not appear in ATF's nationwide database of reported thefts and missing explosives. We also observed storage practices at four facilities that may not be in compliance with federal explosives regulations. However, these circumstances appeared to be related to storage safety issues, rather than storage security. In April 2005, the National Bomb Squad Commanders Advisory Board—which represents more than 450 law enforcement bomb squads nationwide—initiated a program encouraging bomb squads to request a voluntary ATF inspection, maintain an accurate explosives inventory, and assess the adequacy of security at their explosive storage facilities to determine if additional measures might be required (such as video monitoring, fencing, and alarms). This is a voluntary program and it is too soon to tell what effect, if any, it will have towards enhancing security at state and local law enforcement storage facilities and reducing the potential for thefts.

Conclusions and Recommendations

The overall number of state and local government explosives storage facilities, the types of explosives being stored, and the number of storage magazines associated with these facilities are currently not known by ATF. ATF has no authority to oversee state and local government storage facilities as part of the federal licensing process, nor does it have specific statutory authority to conduct regulatory inspections of these facilities. As a result, ATF's ability to monitor the potential vulnerability of these facilities to theft or assess the extent to which these facilities are in compliance with federal explosives storage regulations is limited.

According to ATF's interpretation of federal explosives laws and regulations, state and local government agencies—including law enforcement bomb squads and public universities—are required to report incidents of theft or missing explosives to ATF within 24 hours of an occurrence. Because this reporting requirement applies to any "person" who has knowledge of a theft from his stock and the definition of "person" does not specifically include state and local government agencies, ATF officials acknowledged that these entities may be unsure as to whether they are required to report under this requirement. If state and local

government entities are unsure about whether they are required to report thefts and missing explosives, ATF's ability to monitor these incidents and take appropriate investigative action may be compromised by a potential lack of information. Further, the size of the theft problem, and thus the risk, at state and local government storage facilities will remain unclear.

To allow ATF to better monitor and respond to incidents of missing or stolen explosives, the report we are releasing at this hearing recommends that the Attorney General direct the ATF Director to clarify the explosives incident reporting regulations to help ensure that all persons and entities who store explosives, including state and local government agencies, understand their obligation to report all thefts or missing explosives to ATF within 24 hours of an occurrence. The Department of Justice agreed with our recommendation and said it would take steps to implement it.

Mr. Chairman, this concludes my prepared statement. I would be happy to respond to any questions that you or members of the subcommittee may have.

Contact and Staff Acknowledgments

For information about this testimony, please contact Laurie E. Ekstrand, Director, Homeland Security and Justice Issues, at (202) 512-8777, or EkstrandL@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this testimony. Other individuals making key contributions to this testimony include William Crocker, Assistant Director; Philip Caramia; and Michael Harmond.

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