

GAO

Briefing Report to the Ranking Minority
Member, Subcommittee on Oversight,
Committee on Ways and Means, House
of Representatives

June 1993

FIREARMS AND EXPLOSIVES

Information and Observations on ATF Law Enforcement Operations





General Government Division

B-252922.1

June 24, 1993

The Honorable Amo Houghton
Ranking Minority Member
Subcommittee on Oversight
Committee on Ways and Means
House of Representatives

Dear Mr. Houghton:

This briefing report responds to a request from your predecessor, Richard T. Schulze, that we review the firearms and explosives activities of the Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury. We previously reported on ATF's firearms compliance efforts.¹ This report provides information on ATF's law enforcement operations.

Our objective was to answer the following questions: (1) What types of cases does ATF's Office of Law Enforcement investigate? (2) How are ATF's special agents allocated in relation to violent crime? (3) How does ATF set firearms and explosives law enforcement priorities? (4) What are the results of ATF's firearms and explosives cases? (5) How does ATF's Office of Law Enforcement use referrals from its Office of Compliance Operations? (6) How useful are ATF's firearms traces? and (7) How does ATF handle firearms, explosives, and other property it takes into custody?

On June 15, 1993, we briefed you on the final results of our work. This report documents the information presented in the briefing.

BACKGROUND

ATF's Office of Law Enforcement is responsible for investigating criminal violations of federal firearms,

¹Alcohol, Tobacco and Firearms: Few Firearms Licensees Had Complaints About Inspections (GAO/GGD-93-11BR, Oct. 22, 1992); Firearms License Applications: Processing Improvements Made But Applicant Qualification Checks Limited (GAO/GGD-93-20BR, Nov. 2, 1992); ATF Firearms Inspections: Use of Results to Improve Inspection Targeting Has Been Limited (GAO/GGD-93-30BR, Dec. 11, 1992).

explosives, arson, alcohol, and tobacco laws through 5 headquarters divisions, 23 division offices, and 215 field offices. Firearms investigations are directed at violent crimes and drug crimes committed with firearms, domestic and international firearms trafficking, and organized criminal activities. Explosives investigations encompass criminal bombings, thefts of explosives, and arson.

From fiscal year 1988 through 1992, ATF's Office of Law Enforcement appropriations increased about 64 percent, from about \$153 million to about \$251 million, while the number of special agents authorized for the Office of Law Enforcement increased by about 32 percent, from 1,418 to 1,876.

RESULTS

Types of Cases Investigated

ATF's special agents initiate criminal investigations when notified of apparent illegal activities by such sources as informants and federal, state, and local law enforcement agencies. In fiscal year 1992, ATF initiated 14,765 cases, and about 83 percent of these involved potential firearms violations. Similarly, from fiscal year 1988 through 1991, ATF focused its law enforcement activities primarily on firearms and concentrated to a lesser extent on explosives and arson, with very little effort devoted to alcohol and tobacco cases. (See app. II.)

Allocation of Special Agents

When geographically allocating special agents to Law Enforcement's 23 division offices, ATF considers various factors, such as internal and external staffing commitments, a staffing formula based on the total number of reported violent crimes, staffing limits, and vacancies created by promotions and retirements. Generally, ATF's staffing allocation process appears reasonable because it considers all these factors.

Although ATF's enforcement efforts focus on violent criminals who use firearms, ATF does not use available data on the number of violent crimes committed specifically with firearms in making staffing decisions. ATF officials told us that the current practice of using the total number of reported violent crimes as the basis of its staffing formula is consistent with the agency's overall law enforcement mission, which also includes reducing explosives and arson incidents. (See app. III.)

Law Enforcement Priorities

ATF's Crime Impact Program (CIP) is a national law enforcement strategy that targets the most violent crimes and offenders. ATF uses a three-phase process under CIP to set enforcement priorities and workload objectives for firearms, explosives, and other field investigations, and to monitor accomplishments. The CIP priority-setting process involves all three levels of ATF-- headquarters, division offices, and field offices. ATF headquarters monitors CIP, but it does not fully evaluate certain program components. Despite the latitude division offices have in administering CIP, ATF does not routinely examine the information used by division offices to assess crime problems and develop workload objectives.

Results of Criminal Cases

ATF recommends individuals apprehended for violating firearms, explosives, and arson laws for federal or state prosecution. Most of the criminal cases ATF recommended for prosecution from fiscal year 1988 through 1991 involved potential firearms violations. Most of the defendants charged with violating firearms, explosives, and arson laws, whose criminal cases reached final disposition from fiscal year 1988 through 1991, were convicted. At the end of each of these fiscal years, an average ranging from about 42 to 59 percent of all individuals suspected of violating these laws and recommended for prosecution were waiting to be accepted or declined.

Under ATF's Achilles Program, which focuses on violent offenders, the number of firearms cases that involved violent crimes and drug crimes increased from fiscal year 1988 through 1991, from about 16 percent (522) of total firearms cases (3,361) to about 37 percent (2,441) of total firearms cases (6,643). The number of defendants recommended for prosecution for violating statutory provisions covered by the Achilles Program similarly increased during the same 4-year period. (See app. V.)

Referrals From Compliance Inspectors

On the basis of inspection results, ATF compliance inspectors provide information to special agents about potential firearms and explosives violations. Special agents use some of this information to initiate and/or develop criminal cases. In April 1991, ATF enhanced its information system by requiring special agents to report instances in which they initiated criminal cases on the basis of referrals from compliance inspectors. However, ATF does not systematically evaluate data on referrals that do not result in the initiation of criminal cases. Thus, ATF does

not know the overall quality of referrals provided by compliance inspectors. (See app. VI.)

Usefulness of Firearms Traces

ATF's National Tracing Center (NTC) provides responses to firearms trace requests from law enforcement agencies to assist them in developing criminal investigations. From fiscal year 1988 through 1992, the annual number of trace requests received by NTC increased about 48 percent, from 34,686 to 51,420. However, ATF has not evaluated the usefulness of traces in terms of their investigative value since the early 1980s because of resource constraints and ATF's lack of control over the investigative uses of trace information.

A principal mission of NTC is to respond expeditiously to trace requests. However, NTC also does not evaluate the usefulness of traces in terms of timeliness. Prior to September 1992, ATF had time frames for completing traces under three priority categories. But it did not evaluate whether traces were completed in accordance with those standards. NTC recently began using a computerized system to record the time required to complete each firearms trace request. However, ATF still does not systematically evaluate the timeliness of traces. Moreover, it no longer has time frames to provide an objective basis for doing so. Thus, ATF cannot ensure that NTC is achieving its mission.

ATF believes the usefulness of its tracing operations is demonstrated by the fact that NTC continues to receive, process, and complete tens of thousands of firearms trace requests each year--about 82 percent of the requests received from fiscal year 1988 through 1992. (See app. VII.)

Handling of Property Taken Into Custody

In fiscal year 1991, ATF took into custody 28,980 firearms and 21,776 pounds of explosives, primarily to use as evidence in criminal investigations. Other types of property taken into custody include alcohol, tobacco, conveyances (vehicles or vessels), monetary instruments, and small amounts of drugs. ATF has several ways of taking property into custody but most commonly seizes personal property connected to potential violations of federal laws. The property ATF seizes may be forfeited to the federal government. ATF disposes of property after it is no longer needed as evidence in criminal cases by destroying it, transferring it to another federal agency, retaining it for official use, returning it to the rightful owner, or selling it. Although ATF has detailed controls for handling and disposing of the property taken into custody, it

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does not summarize property disposal information for management purposes. (See app. VIII.)

SCOPE AND METHODOLOGY

We interviewed officials and reviewed policies, procedures, and other data at ATF headquarters and interviewed senior officials at the New York Division Office (NYDO). We examined files for 50 randomly selected fiscal year 1991 cases at NYDO and extracted appropriate information on case initiation, conduct, and results. These results are not projectable to the entire universe of ATF criminal cases. We also observed NTC's operations in Landover, MD. In addition, we analyzed national crime data compiled by the Federal Bureau of Investigation and met with representatives of the U. S. Attorney's Office for the southern district of New York and the New York City Police Department.

We did our work between January and November 1992 in accordance with generally accepted government auditing standards. Our scope and methodology are discussed in more detail in appendix I.

ATF officials reviewed a draft of this briefing report and generally agreed with the information presented. However, they disagreed over the level of CIP monitoring required by ATF headquarters. They also disagreed with the need for and feasibility of measuring the timeliness of firearms traces. Their comments have been incorporated where appropriate.

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As arranged with you, we are sending copies of this report to interested parties and will make copies available to others upon request.

The major contributors to this briefing report are listed in appendix IX. If you have any questions, please contact me at (202) 566-0026.

Sincerely yours,



Henry R. Wray
Director, Administration
of Justice Issues

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ABBREVIATIONS

ATF	Bureau of Alcohol, Tobacco and Firearms
CIP	Crime Impact Program
DEA	Drug Enforcement Administration
FBI	Federal Bureau of Investigation
GSA	General Services Administration
HIDTA	High Intensity Drug Trafficking Area
ITAR	International Trafficking in Arms
LEMIS	Law Enforcement Management Information System
NFA	National Firearms Act
NTC	National Tracing Center
NYDO	New York Division Office
OCDETF	Organized Crime Drug Enforcement Task Force
UCR	Uniform Crime Report

OBJECTIVES, SCOPE, AND METHODOLOGY

Richard T. Schulze, former Ranking Minority Member, Subcommittee on Oversight, House Committee on Ways and Means, asked us to develop information on the Bureau of Alcohol, Tobacco and Firearms' (ATF) firearms and explosives law enforcement operations. On the basis of discussions with the former Congressman's staff, we agreed to focus on seven questions:

1. What types of cases does ATF's Office of Law Enforcement investigate? (See app. II.)
2. How are ATF's special agents allocated in relation to violent crime? (See app. III.)
3. How does ATF set firearms and explosives law enforcement priorities? (See app. IV.)
4. What are the results of ATF's firearms and explosives cases? (See app. V.)
5. How does ATF's Office of Law Enforcement use referrals from its Office of Compliance Operations? (See app. VI.)
6. How useful are ATF's firearms traces? (See app. VII.)
7. How does ATF handle firearms, explosives, and other property it takes into custody? (See app. VIII.)

To answer these questions, we met with law enforcement officials of the firearms, explosives, planning and analysis, and intelligence divisions at ATF headquarters and obtained information on the policies, procedures, and nationwide results of the agency's firearms, explosives, and arson law enforcement programs. We also met with senior officials at ATF's New York Division Office (NYDO) and obtained information on their programs. We selected NYDO because it had the highest number of reported violent crimes in the nation during 1990--the latest year for which national statistics were available at the time of our work.

To answer question 1, we analyzed national data on the total number of ATF firearms, explosives (including arson), alcohol, and tobacco cases initiated from fiscal year 1988 through 1992. We also reviewed data on ATF funding and staffing resources for fiscal years 1988 through 1992.

To answer question 2, we reviewed information on ATF's current staffing policies and processes and evaluated the formula ATF

uses as part of its special agent staffing allocation process. Using the formula, we recalculated what fiscal year 1992 staffing allocations would have been had ATF used the Federal Bureau of Investigation's (FBI) national crime data on the number of reported violent crimes committed with a firearm instead of the more general violent crime statistics.

To answer question 3, we reviewed information on ATF policies, procedures, and the results of its national strategy--the Crime Impact Program (CIP), and analyzed data on law enforcement priorities and workloads for fiscal years 1988 through 1992.

To answer question 4, we analyzed national data and NYDO data on the number of firearms, explosives, and arson cases ATF initiated, terminated, and recommended for prosecution from fiscal year 1988 through 1991. We also examined files for 50 randomly selected fiscal year 1991 cases at NYDO--30 of which were recommended for prosecution and 20 of which were not--and extracted appropriate information on case initiation, conduct, and results. These results are not projectable to the entire universe of ATF criminal cases. We also discussed coordination issues with ATF officials and representatives of the U. S. Attorney's Office for the southern district of New York and the New York City Police Department.

To answer question 5, we reviewed the results of ATF's 1991 national survey of special agents and compliance inspectors regarding the quality of referrals. We analyzed available fiscal year 1991 national data in ATF's Law Enforcement Management Information System (LEMIS) on criminal cases initiated in response to referrals from compliance inspectors. We also analyzed the fiscal year 1991 referral control log maintained for the Special Agent-in-Charge of NYDO.

To answer question 6, we met with officials of ATF's National Tracing Center (NTC) in Landover, MD, and obtained information on firearms tracing policies, procedures, standards, and processes, including information on how the usefulness of traces is measured. We also observed NTC's operations. In addition, we analyzed data on the number of tracing requests received from fiscal year 1988 through 1992, including the types of priority requests received during fiscal year 1992.

To answer question 7, we met with ATF officials and obtained information on the policies, procedures, and processes for acquiring, handling, and disposing of property in ATF's custody. We analyzed fiscal year 1991 nationwide data on property taken into custody by ATF special agents and the amounts of property disposed of by the end of that year. We assessed the nature and extent of information in ATF's LEMIS on the final disposition of

property taken into custody, examined the fiscal year 1991 internal reviews of handling practices used by eight field offices, and observed controls used at NYDO's evidence vault.

We did our work between January and November 1992 in accordance with generally accepted government auditing standards. We did not evaluate or test the reliability of ATF's automated information systems from which we extracted data to be analyzed and summarized for this briefing report.

ATF officials reviewed a draft of this briefing report and generally agreed with the information presented. However, ATF officials expressed some disagreement with our assessment of their monitoring of CIP and the need for and feasibility of measuring the timeliness of firearms traces. Their comments have been incorporated where appropriate.

WHAT TYPES OF CASES DOES ATF'S OFFICE OF
LAW ENFORCEMENT INVESTIGATE?

GAO Summary

ATF Law Enforcement

- initiates firearms, explosives, arson, alcohol, and tobacco cases;
 - has focused primarily on firearms cases; and
 - has steadily increased firearms funding and staffing from FY 88 through FY 92.
-

SUMMARY

ATF's Office of Law Enforcement investigates criminal violations of federal firearms, explosives (including arson), alcohol, and tobacco laws. With an appropriation of about \$223 million and 1,831 law enforcement agents, ATF initiated 13,983 criminal cases, which often involved violent crime, during fiscal year 1991. With a fiscal year 1992 appropriation of about \$251 million and 1,876 law enforcement agents, ATF initiated 14,765 criminal cases, about 6 percent more than in fiscal year 1991.

ATF has focused its law enforcement efforts primarily on firearms cases. The number of such cases ATF initiated increased by about 55 percent from fiscal year 1988 through 1992. Firearms cases increased from about 80 percent of total cases in fiscal year 1988 to about 83 percent in fiscal year 1992. From fiscal year 1988 through 1992, funding for the firearms program increased by 102 percent while authorized program staff years increased by about 73 percent.

GAO ATF Law Enforcement
Programs

- Firearms
 - Explosives (including arson)
 - Alcohol
 - Tobacco
-

ATF LAW ENFORCEMENT PROGRAMS

ATF Law Enforcement has established four programs to carry out its mission of enforcing federal firearms, explosives (including arson), alcohol, and tobacco laws. To enforce these laws, ATF develops criminal cases and recommends suspects for federal or state prosecution. During fiscal years 1988 through 1992, ATF focused its law enforcement efforts primarily on firearms cases, concentrated to a lesser extent on explosives and arson cases, and worked very little on tobacco cases.

ATF special agents target, identify, arrest, and recommend for prosecution individuals apparently engaged in illegal activities. ATF generally initiates investigations after obtaining information about illegal activities from sources such as informants and other law enforcement agencies. Special agents may use several investigative techniques, including undercover operations, electronic surveillance, and firearms traces, to develop criminal cases. ATF also develops criminal cases by participating or coordinating with other federal, state, and local law enforcement agencies.

After arresting individuals for apparent criminal violations, consulting with the U.S. Attorney, and determining that cases have merit, ATF recommends prosecution. When the U.S. Attorney accepts an ATF recommendation, charges are made by indictment--issued by a grand jury in response to evidence presented by the U.S. Attorney--or by an information--charges made under the name of the U.S. Attorney, when individuals waive grand jury rights. When the U.S. Attorney does not express an interest in prosecuting certain cases, ATF recommends such cases to state prosecutors. If they decline to prosecute, these cases are closed.

Once formally charged, defendants may be convicted by pleading guilty. If defendants plead not guilty, they go to trial where a judge or jury will convict or acquit them. Before or during the trial, the judge may dismiss some or all charges against defendants if, for example, on the basis of new evidence the U.S. Attorney requests the judge to do so.

Firearms Program

The criminal use of firearms is a serious national problem. According to the 1990 Uniform Crime Report (UCR), the incidence of firearms involved in murders, robberies, and aggravated

assaults is high.¹ Firearms were used in about 64 percent of murders, about 37 percent of robberies, and about 23 percent of aggravated assaults.

In response to criminal activity nationwide, ATF special agents target, identify, investigate, and arrest armed violent offenders, career criminals, domestic and international arms traffickers, narcotics traffickers, violent gangs, and other groups that use firearms to commit crimes. The Achilles Program, which was established with a fiscal year 1987 appropriation, significantly enhances ATF's role in the war on drugs by emphasizing enforcement of the mandatory sentencing provisions of the Comprehensive Crime Control Act of 1984, as amended (18 U.S.C. 924(c) and (e)). The program is based on the assumption that the illegal possession of a firearm is frequently the "Achilles' heel" of the violent and/or drug-dealing criminal.

A conviction under 18 U.S.C. 924(c) carries a mandatory minimum sentence of 5 years (with 20 years to life for certain subsequent convictions) for criminals convicted of possessing a firearm while committing a violent or drug-related crime. This is in addition to the sentence for the underlying drug or violent crime conviction. Convictions under 18 U.S.C. 924(e) require imprisonment of not less than 15 years for anyone possessing a firearm who has three previous state or federal convictions for a violent felony or serious drug offense, or both. It also provides for a fine of up to \$25,000. Both sections of the law prohibit parole, probation, or a suspended sentence.

ATF's Achilles Program concentrates enforcement efforts on select violent criminals who violate 18 U.S.C. 924(c) and (e). As of April 1992, ATF had assigned 186 special agents to 20 Achilles task forces located throughout the United States. The task forces, made up of ATF special agents and state and local law enforcement officers, target violent criminals in specific parts of cities with significant levels of violent crime. For example, NYDO's Achilles group works with the New York City Police Department to target violent criminals in the Bronx. In addition to other enforcement endeavors, all of ATF's 23 division offices also participate in enforcement efforts under the Achilles Program, some having developed several informal task forces in

¹The UCR is a nationwide, cooperative statistical effort through which about 16,000 city, county, and state law enforcement agencies voluntarily report data on crimes brought to their attention. Since 1930, the FBI has administered the program and issued periodic assessments of the nature and types of crime in the nation. These were the latest data available at the time of our review.

conjunction with state and local law enforcement agencies.

Explosives Program

ATF's explosives program involves investigating bombings and arson- and explosives-related incidents and helping local law enforcement agencies with such investigations, such as the February 1993 bombing of New York City's World Trade Center.

To help investigate arsons and bombings, ATF formed four National Response Teams, which consist of experts with sophisticated equipment, who can be at the scene of a bombing or arson anywhere in the country within 24 hours. ATF arson task forces located in 15 U.S. cities consist of special agents assigned primarily to assist local governments in investigating suspicious fires or bombings.

ATF special agents consider a combination of factors when deciding whether to accept an explosives or arson case. These factors include (1) the number of deaths or injuries involved, (2) the amount of commercial or industrial property damage, and (3) the local jurisdiction's capabilities and resources. Certain explosive/incendiary incidents are investigated primarily by other agencies, such as the U.S. Postal Inspection Service, which investigates bombings of postal facilities.

Alcohol Program

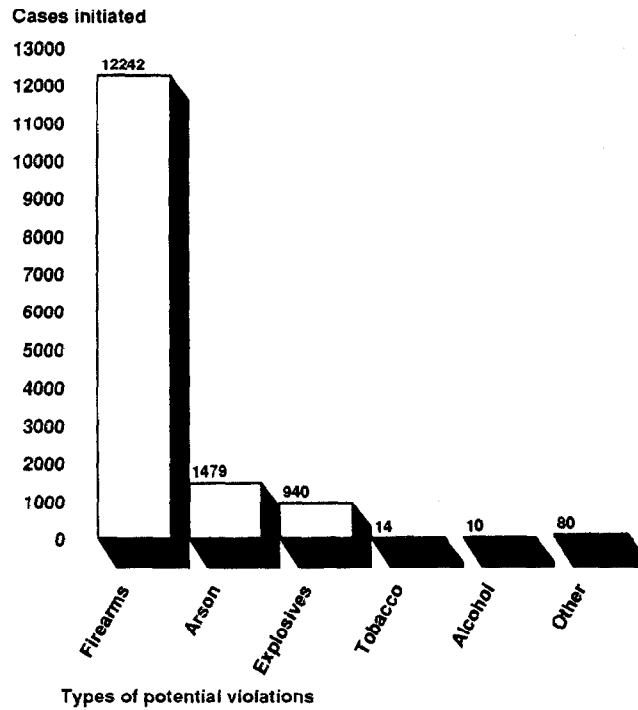
ATF devotes few law enforcement resources to its alcohol program. Under this program, special agents investigate criminal violations of the Federal Alcohol Administration Act and certain sections of the Internal Revenue Code that deal with the licensure of alcohol and liquor manufacturing facilities, regulations to ensure a fair and open marketplace, and taxation. ATF special agents also work with inspectors from ATF's Office of Compliance Operations to prevent prohibited applicants (e.g., criminals) from entering the alcohol industry and to screen out those who, if allowed entry, would be likely to unlawfully disrupt the industry.

Tobacco Program

The tobacco program receives the least amount of ATF's law enforcement resources. Occasionally, special agents work with the Office of Compliance Operations to investigate criminal violations of the federal tobacco laws. To carry out ATF's tobacco program responsibilities, the Office of Compliance Operations establishes and administers industry qualification and recordkeeping requirements; monitors operations by manufacturers, importers, and exporters; and collects excise taxes.

Figure II.1:

GAO Cases Initiated by ATF
Law Enforcement (FY 92)



Note: "Other" includes internal investigations.

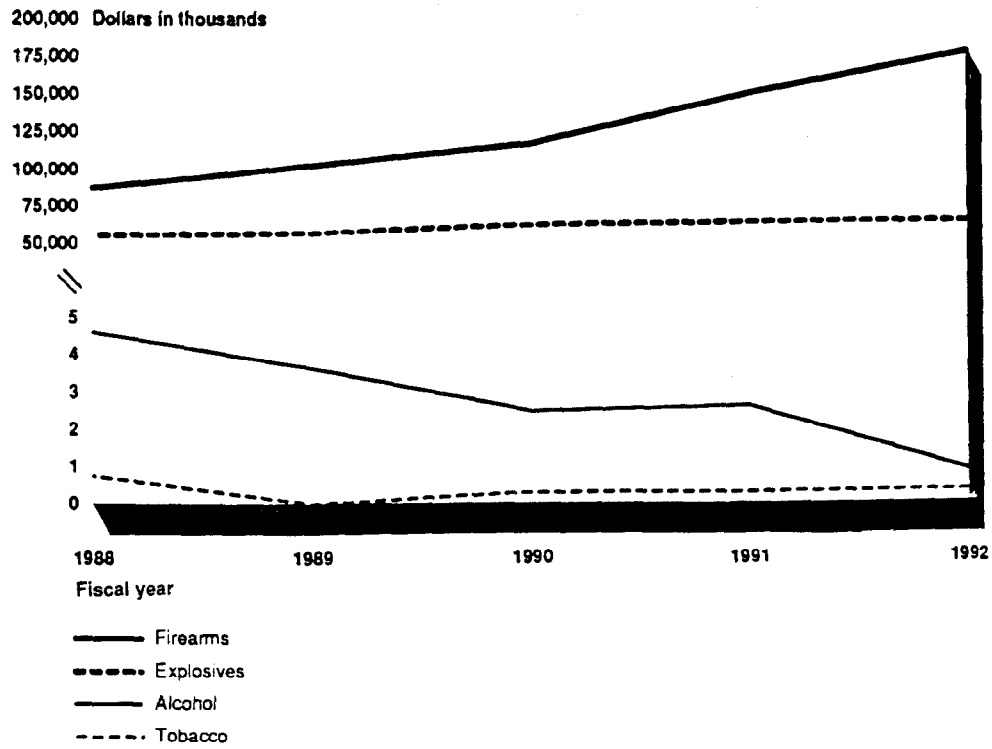
Source: ATF data.

CASES INITIATED BY ATF LAW ENFORCEMENT

ATF's LEMIS provides statistics on the types of cases initiated by special agents. As shown in figure II.1, according to LEMIS, in fiscal year 1992, about 83 percent of all criminal cases initiated involved potential violations of firearms laws, about 10 percent involved arson violations, and about 6 percent involved explosives violations. Cases involving tobacco and alcohol violations totaled less than 1 percent of total cases. The types of cases initiated by ATF during fiscal years 1989 through 1991 were similar to those developed in 1992.

Figure II.2:

GAO ATF Law Enforcement Funding, FY 88 Through 92



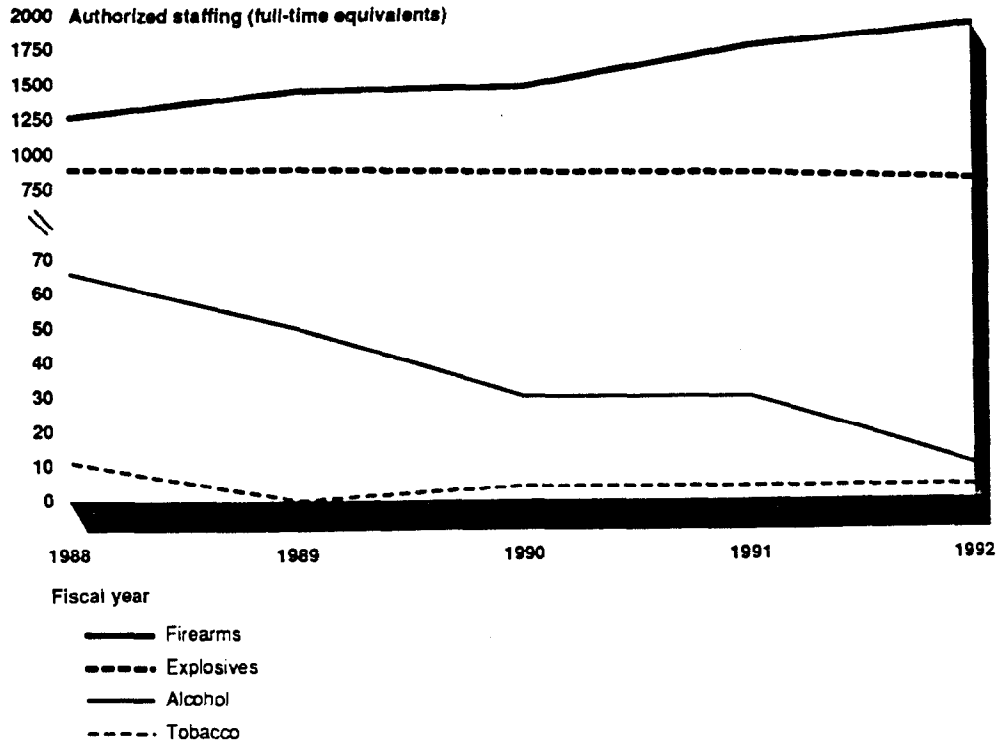
Source: ATF data.

ATF LAW ENFORCEMENT FUNDING

ATF's total law enforcement appropriations increased by about 64 percent over the past few years, from about \$153 million in fiscal year 1988 to about \$251 million in fiscal year 1992. As shown in figure II.2, firearms program funding increased from about \$84 million to about \$180 million from fiscal year 1988 through 1992. During this period, firearms program funding increased from about 56 percent to about 71 percent of total law enforcement appropriations. In addition, appropriations for ATF's explosives program increased from about \$61 million to about \$68 million from fiscal year 1988 through 1992, while alcohol and tobacco program funding continued to be very limited.

Figure II.3:

GAO ATF Law Enforcement Staffing, FY 88 Through 92



Source: ATF data.

ATF LAW ENFORCEMENT STAFFING

Total special agent authorized staffing (full-time equivalents) has increased by about 32 percent, from 1,418 in fiscal year 1988 to 1,876 in fiscal year 1992. As shown in figure II.3, authorized special agents devoted to the firearms program increased from 1,153 in fiscal year 1988 to 1,995 in fiscal year 1992 but generally declined or remained fairly constant for the explosives, alcohol, and tobacco programs. Authorized staffing levels for ATF's firearms program increased from about 55 percent of total law enforcement staffing in fiscal year 1988 to about 72 percent in fiscal year 1992. Explosives program authorized staffing decreased from about 42 percent to about 28 percent from fiscal year 1988 through 1992. Authorized staffing levels for ATF's alcohol and tobacco programs fluctuated but remained below 50.

HOW ARE ATF'S SPECIAL AGENTS ALLOCATED
IN RELATION TO VIOLENT CRIME?

GAO Summary

ATF's staffing process

- considers various factors in allocating special agents,
 - uses the total number of reported violent crimes, and
 - does not consider available data on the total number of reported violent crimes committed with firearms.
-

SUMMARY

ATF's staffing process for geographically allocating special agents to its 23 division offices considers various factors, such as internal and external staffing commitments, a staffing formula based on the total number of reported violent crimes, staffing limits, vacancies created by promotions and retirements, and other factors, (e.g., national crime trends). This process generally appears to be reasonable because it considers many relevant factors, including violent crime. However, although the primary focus of ATF's law enforcement efforts involves targeting violent criminals who use firearms to commit crimes, ATF does not use available data on the number of violent crimes committed with firearms in making staffing decisions. ATF officials believe that the data they currently consider when allocating staff resources are consistent with the agency's overall law enforcement mission.

GAO Factors ATF Considers in
Allocating Special Agents

Primary factors

- Staffing commitments
 - Staffing formula
-

PRIMARY FACTORS ATF CONSIDERS IN GEOGRAPHICALLY ALLOCATING SPECIAL AGENTS

ATF's Law Enforcement considers several factors in geographically allocating special agents to its 23 division offices. These factors seek to concentrate special agents in areas where the most violent crimes occur while not depleting the law enforcement presence in areas with fewer violent crimes. According to ATF officials, primary considerations in allocating special agents include staffing commitments to several congressionally mandated law enforcement programs and joint law enforcement task forces. Applying the ATF staffing formula is also an important factor in allocating special agents.

Staffing Commitments

ATF's first staffing priority is to fill positions for programs mandated by Congress, such as Achilles task forces. As of April 1992, 20 field offices had 186 agents dedicated to Achilles task forces. Next, ATF considers the staff it has committed to work in joint task forces with federal, state, and local law enforcement officers. In fiscal year 1991, for example, ATF committed 111 special agents to the Organized Crime Drug Enforcement Task Force (OCDETF) on a full-time basis and 122 special agents to the High Intensity Drug Trafficking Area (HIDTA) Task Force (37 full-time and 85 part-time agents).

Staffing Formula

ATF uses a staffing formula to propose the appropriate number of special agents for each division office. The staffing formula is based on the total number of reported violent crimes¹ within the division's jurisdiction, the current number of special agents assigned to each division office, and the number of special agents approved as new hires. According to ATF officials, because individuals who commit violent crimes are prone to using firearms, violent crime data represent appropriate criteria for geographically allocating special agents.

ATF calculates the number of violent crimes per agent using data from all division offices, except those with the highest and lowest number of reported violent crimes, to avoid distorting the data for division offices with mid-range crime totals. The adjusted number of violent crimes per agent is used to determine the number of agents each division office will need. For

¹The total number of reported violent crimes from the FBI Uniform Crime Report (UCR) includes murders, robberies, aggravated assaults, and forcible rapes, nationwide.

example, if the number of violent crimes per special agent is 10, and a division office has 100 reported violent crimes, that division office would need 10 special agents, according to the formula.

More specific crime data, such as the total number of reported murders, aggravated assaults, and robberies committed with a firearm, are available from the FBI.² However, ATF officials told us that the data they consider when allocating staff resources (i.e., the total number of reported violent crimes) is consistent with the agency's overall law enforcement mission, which includes reducing explosives and arson incidents. Nevertheless, as discussed in appendix II, our analysis of fiscal year 1992 ATF cases showed that arson and explosives violations comprised only about 10 percent and 6 percent of total cases, respectively, while firearms violations represented about 83 percent.

We compared FBI data on total reported violent crimes and reported violent crimes committed with a firearm for each of ATF's division offices. Our analysis showed that for fiscal year 1992, using the total number of reported violent crimes committed with a firearm did not significantly change how special agents would have been allocated to division offices. For example, according to 1990 UCR data, the total number of reported violent crimes in NYDO's jurisdiction was about 15 percent of the total number of reported violent crimes nationwide. In the same year, the total number of reported violent crimes committed with a firearm in the division was about 14 percent of all such crimes nationwide. However, results from other years may show a more significant difference. Nevertheless, ATF does not use data on the number of violent crimes committed specifically with firearms in making staffing decisions.

²The FBI's UCR does not provide data on the number of rapes committed with a firearm because, according to an FBI official, rapes are rarely committed with firearms.

GAO Factors ATF Considers in
Allocating Special Agents

Other factors

- Emerging crime trends
 - Promotions and retirements
 - Internal policies
-

OTHER FACTORS ATF CONSIDERS IN GEOGRAPHICALLY ALLOCATING SPECIAL AGENTS

As a part of its special agent staffing process, ATF also considers several other factors, which are assigned a lower priority than the primary factors. These other factors include emerging crime trends, promotions and retirements, and internal staffing policies.

Emerging Crime Trends

Trends in specific types of crime and by specific geographical locations can be identified through UCR data. However, the UCR contains data that are 2 years old when published and, according to ATF officials, are sometimes incomplete.

Promotions and Retirements

ATF considers the number of vacancies created by promotions and retirements when allocating special agents. Promotions to supervisory positions usually are made laterally to other divisions in order to avoid peer supervision, thus leaving a gap in one division office and filling a gap in another. Attrition due to retirements also creates openings that are considered during the special agent staffing process.

Internal Policies

ATF's internal staffing policy dictates the maximum and minimum number of special agents that can be assigned to each division office. These staffing limits are determined by an ATF senior law enforcement official and may vary from year to year. In fiscal year 1991, ATF set the ceiling at 135 special agents and the floor at 40 special agents per division. According to ATF officials, despite especially high violent crime statistics in fiscal year 1991, 5 division offices (New York, San Francisco, Miami, Chicago, and Los Angeles) were capped at 135 special agents. In fiscal year 1991, 3 division offices with low violent crime statistics (Nashville, St. Louis, and St. Paul) had a minimum staffing of 40 special agents.

Table III.1: Violent Crimes Reported vs. Special Agents Assigned to ATF Division Offices

ATF Division office	Total number of violent crimes reported	Actual number of special agents assigned
New York, NY	246,677	135
Los Angeles, CA	232,969	124
Miami, FL	155,367	127
San Francisco, CA	117,754	127
Chicago, IL	111,974	133
Dallas, TX	84,235	107
Washington, DC	80,616	104
Charlotte, NC	73,961	82
Detroit, MI	72,247	108
Houston, TX	71,531	93
Philadelphia, PA	69,416	91
Boston, MA	61,920	83
Cleveland, OH	52,422	61
Seattle, WA	49,838	73
Atlanta, GA	47,085	77
New Orleans, LA	45,996	55
Kansas City, MO	40,445	50
Birmingham, AL	33,565	44
Louisville, KY	31,009	48
Nashville, TN	30,202	35
St. Louis, MO	24,154	39
St. Paul, MN	22,690	45
Total	1,756,073	1,841

Note: This table compares the number of ATF special agents assigned as of June 1992 (based on the staffing formula and other factors) with the total number of violent crimes reported for calendar year 1990 in the UCR for the geographical area covered by each division office.

Source: ATF data.

TOTAL NUMBER OF REPORTED VIOLENT CRIMES VERSUS ACTUAL NUMBER OF SPECIAL AGENTS ASSIGNED TO ATF DIVISION OFFICES

Our analysis of the data in table III.1 showed that about 35 percent of ATF's special agents are assigned to the first five division offices, which accounted for 49 percent of reported violent crimes. Our analysis also showed that about 12 percent of ATF's special agents are assigned to the last five division offices, where 8 percent of all violent crimes occurred.

While ATF's staffing formula is a factor in determining the number of special agents to be allocated, it is only a guide. Therefore, the actual number of agents assigned to each division office may differ from the exact number calculated when the formula is used because of the other factors ATF considers when geographically allocating special agents.

We used ATF's staffing formula to calculate the number of special agents that could be assigned to a division office based solely on the total number of violent crimes reported in the 1990 UCR. We found that the number of special agents for each division office calculated with the formula can differ significantly from the actual number assigned using ATF's staffing limits. For example, because of the ceilings, the New York Division Office was staffed with 135 special agents, as shown in table III.1, while the formula prescribed 259 special agents.

Staff allocated to division offices by congressional mandate may cause the number of special agents to be higher than the number prescribed by ATF's staffing formula. For example, according to ATF officials, the Detroit Division Office has additional special agent staff because of special agents that were mandated by Congress to serve on an Achilles task force. In addition, some division offices have experienced attrition of special agents. As shown in table III.1, for example, the Nashville Division Office has 35 special agents instead of the 40 required by the staffing minimum because 5 were lost through attrition. The Los Angeles Division Office is capped at 135 special agents, but because of attrition it is currently staffed at 124.

GAO

Observations/Conclusions

- ATF's staffing process generally appears reasonable because it considers relevant factors and uses data on total number of violent crimes.
 - However, ATF does not consider available data on violent crimes committed with firearms in making staffing decisions.
-

OBSERVATIONS/CONCLUSIONS

ATF's process for allocating staff generally seems reasonable because the actual number of special agents allocated to each division office is determined by evaluating a combination of relevant factors. The staffing formula is a guide by which ATF management officials annually determine the appropriate number of special agents per division office based on the total number of violent crimes reported. The results of ATF's staffing formula for allocating special agents are adjusted by internal and external staffing commitments, attrition, current crime trends, and staffing limits.

According to ATF officials, violent offenders are predisposed to using firearms in the crimes they commit. Therefore, ATF targets violent offenders and bases its allocation of special agents on the total number of violent crimes reported. We found that although the FBI did not publish the total number of violent crimes committed with firearms in its 1990 UCR, the FBI can provide such data for ATF's consideration upon request. Using these more precise data relating to crimes committed with firearms did not make a significant difference in terms of how staff were allocated in fiscal year 1992. Nevertheless, these data may result in a more significant difference in future years. Despite this and the increase in violent crimes involving firearms, ATF does not use available data on the number of violent crimes committed specifically with firearms in making staffing decisions.

HOW DOES ATF SET FIREARMS AND EXPLOSIVES
LAW ENFORCEMENT PRIORITIES?

GAO Summary

- The Crime Impact Program is ATF's national law enforcement strategy.
 - ATF officials use CIP to set crime priorities and work objectives and to monitor accomplishments.
 - ATF officials monitor CIP, but certain program components are not fully evaluated.
-

SUMMARY

ATF's Crime Impact Program (CIP) is a national law enforcement strategy that provides a conceptual approach for targeting the most violent crimes and offenders. Each year ATF uses CIP to set law enforcement priorities and workload objectives for firearms, explosives, and other field investigations. Although ATF headquarters monitors CIP, which involves all organizational levels of ATF, certain program components are not fully evaluated.

GAO ATF's Crime Impact Program

- Establishes law enforcement priorities and sets workload objectives.
 - Directs firearms, explosives, and other field investigations.
 - Measures performance by comparing workload objectives to accomplishments.
-

ATF'S CRIME IMPACT PROGRAM

ATF uses CIP to establish its law enforcement priorities and set workload objectives for each fiscal year. CIP, which was adopted in 1980 as ATF's national law enforcement strategy, is used to prioritize and direct firearms, explosives, and other field investigative activities. CIP seeks to target crime problems and criminal organizations of concern to the community but beyond the enforcement capability of state and local law enforcement agencies. Under CIP, at the end of each fiscal year, ATF measures the performance of its 23 division offices by comparing the number of cases and defendants they estimated would be recommended for prosecution (workload objectives) with the actual number of cases and defendants they recommended to prosecutors (accomplishments).

GAO ATF Has Established National
CIP Categories

- Narcotics violations
 - Violent crime
 - Other firearms violations
 - Property crime
 - Arson
 - Explosives violations
 - Organized crime
 - International Trafficking
in Arms Program
-

ATF HAS ESTABLISHED NATIONAL CIP CATEGORIES

ATF's primary law enforcement responsibilities include investigating violations of federal firearms laws, particularly the use of firearms in violent and/or drug-related crimes. Under its CIP, prior to October 1992, ATF used eight categories to define the nation's crime problems and prioritize enforcement efforts. The specific national ranking of the categories in terms of priorities may vary from year to year as shown in table IV.1.

- Narcotics violations: focuses on drug dealers and organizations that use firearms in their illegal operations.
- Violent crime: targets individuals involved in violent crime who have previously been convicted of armed robbery, aggravated assault, or murder.
- Other firearms violations: focuses on career criminals who possess firearms, unlicensed firearms dealers, and licensed firearms dealers keeping required records.
- Property crime: targets burglars and fencing operations illegally dealing in large quantities of stolen firearms.
- Arson: focuses on large-scale arson-for-profit schemes.
- Explosives violations: targets individuals involved in the illegal possession, sale, or theft of explosives, the unlawful storage of explosive materials, and the illegal manufacture of destructive devices.
- Organized crime: focuses on organized groups that use firearms, explosives, and arson to perpetuate their illegal activities.
- International Trafficking in Arms (ITAR) Program: focuses on combating the illegal movement of firearms, explosives, and ammunition in international traffic.

In October 1992, the priorities dealing with property crime and organized crime were eliminated for fiscal year 1993 because of the relatively small number of cases in these categories and ATF's intent to further emphasize the targeting of violent crime. However, this briefing report addresses the eight CIP categories that existed during the time of our review.

GAO CIP's Three-Phase Process

- Crime assessment
(What is the problem?)
 - Objectives
(What is ATF going to do about it?)
 - Accomplishments
(Did ATF do it?)
-

CIP'S THREE-PHASE PROCESS

ATF uses a three-phase process for establishing law enforcement priorities and workloads under CIP: crime assessments, objectives, and accomplishments. Because crime problems vary from locality to locality, the priority-setting process involves all three levels of ATF--headquarters, division offices, and field offices--and begins at the field office level under guidance from headquarters.

In the crime assessment phase, each of the 215 field offices assesses the crime problems in its locality, using information obtained from local law enforcement officials and other reliable sources. The field offices then rank their crime problems in terms of importance (including severity and urgency) and place the problems into one of the eight previously described CIP categories. The special agent-in-charge of each of the 23 division offices uses the assessments prepared by the field offices to rank the division's overall crime problems. Division offices must assign a numerical ranking from 1 to 8 to major crime problems--with 1 being the highest priority--and submit them to headquarters by August 1 of each year.

ATF headquarters officials combine the 23 divisional rankings of the 8 categories to establish the agency's national priorities for the fiscal year. Headquarters officials determine nationwide crime priorities by reviewing the number of times the division offices ranked each crime priority, such as narcotics offenses and violent crimes, as number one.

In the objectives phase, to address crime problems identified during the assessment phase, ATF headquarters requires each division office to estimate and submit by September 1 the number of cases and defendants¹ it plans to recommend for prosecution. Each division office develops an impact plan based on the information provided by its field offices. The impact plan indicates how the division will address identified problems and sets workload objectives for each CIP crime category by estimating the number of cases and defendants the division will investigate. During the fiscal year, division offices may modify their objectives, as dictated by events and resource availability.

¹Under the criminal justice system, an individual is not considered a defendant until formally charged with violating a law. However, under ATF's CIP, every individual recommended for prosecution is classified as a defendant.

The last phase of CIP is an annual evaluation of accomplishments. Special agents-in-charge analyze how their divisions have implemented CIP by comparing the actual number of cases and defendants recommended for prosecution (accomplishments) with the estimated number of prosecutable cases and defendants (objectives) in each category. A formal report summarizing the division's accomplishments and its objectives is submitted to headquarters by November 1 of each year. At ATF headquarters, these reports are reviewed, summarized, and forwarded to management officials. ATF officials told us that the CIP reports are used for several purposes--to evaluate the performance of special agents in charge of division offices, to report to Congress and federal agencies, and to modify the CIP system where appropriate.

Table IV.1: ATF's National Ranking of Crime Priorities, FY 88 Through 92

Priority	Fiscal year				
	1992	1991	1990	1989	1988
Narcotics violations	1	1	1	1	1
Violent crime	2	2	2	2	2
Other firearms violations	3	3	4	4	4
Property crime	4	4	3	3	3
Arson	5	5	5	5	5
Explosives violations	6	6	7	7	7
Organized crime	7	7	6	6	6
International Trafficking in Arms Program/ Terrorism	8	8	8	8	8

Note: In fiscal year 1992, ATF established the ITAR Program to replace its domestic terrorism program. ATF's domestic terrorism program involved targeting extremist groups that advocated violence and committed crimes using firearms and/or explosives.

Source: ATF data.

ATF'S RANKING OF CRIME PRIORITIES

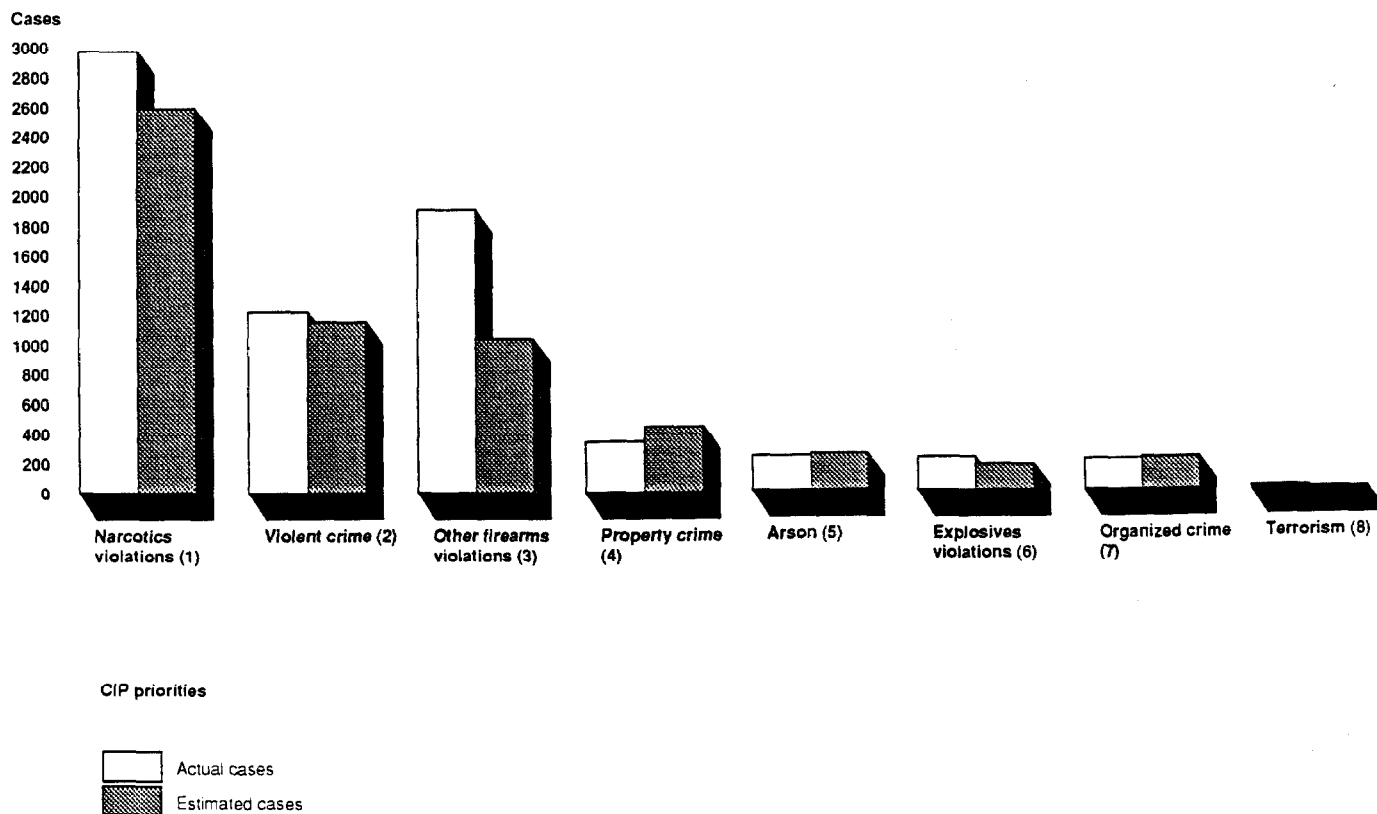
The priority order of ATF's eight national law enforcement categories generally remained the same from fiscal year 1988 through 1992,² as shown in table IV.1. While ATF focuses primarily on crimes involving firearms and explosives under most CIP categories, it consistently ranked narcotics crimes involving the use of firearms as its number one national enforcement priority during the 5-year period. However, these rankings differed slightly among the various division offices. In fiscal year 1992, for example, 19 of ATF's 22 law enforcement division offices³ ranked narcotics as the number one priority, and 3 ranked it as the number two priority. ATF's second national enforcement priority during the period was violent crimes committed with firearms. While 3 division offices considered violent crime a number one priority, 17 offices ranked it as number two, and 2 offices ranked it as number three in fiscal year 1992.

²ATF's six national law enforcement priorities for fiscal year 1993 are narcotics violations, violent crime, other firearms violations, arson, explosives violations, and the ITAR Program, in descending order.

³In January 1993, the number of ATF division offices increased to 23, with the establishment of the Baltimore, MD, office. However, this briefing report addresses data on the 22 division offices established prior to 1993.

Figure IV.1:

GAO Cases ATF Recommended for Prosecution by Priority (FY 91)



Source: ATF data.

CASES ATF RECOMMENDED FOR PROSECUTION BY CIP PRIORITY

During fiscal year 1991, the number of criminal cases ATF recommended for prosecution exceeded its estimate by about 21 percent. As shown in figure IV.1, the actual number of criminal cases ATF recommended for prosecution exceeded estimates for four crime priorities: narcotics violations committed with a firearm; violent crimes committed with a firearm; other types of firearms violations, including illegal possession; and explosives violations.

ATF's criminal case workload generally agreed with the ranking of its national law enforcement priorities with one exception-- violent crime. The number of actual cases in ATF's violent crime category (priority two) were considerably lower than the number of cases in its "other firearms violations" category (priority three) during fiscal year 1991. ATF officials stated that CIP is not intended to directly correlate the number of cases with the ranking of the categories. In addition, ATF's workload objectives (estimated cases) are developed before the beginning of each fiscal year and are based on information provided by state/local law enforcement officials as well as special agents' knowledge of crime problems in specific geographical areas. For example, according to ATF officials, the large number of cases in the "other firearms violations" category was a result of an unexpected number of requests for assistance from state and local law enforcement authorities. As a result, as special agents open and develop cases, differences will exist between the number of cases ATF estimates it will recommend for prosecution and the number of cases actually recommended in any given year.

GAO ATF Headquarters'
Monitoring of CIP

- ATF headquarters routinely monitors some elements of CIP.
 - However, ATF headquarters does not examine the information used by division offices to assess crime problems and develop workload objectives.
-

ATF HEADQUARTERS' MONITORING OF CIP

ATF headquarters does not routinely examine the information used by division offices to develop crime priority assessments and workload objectives. ATF officials believe such monitoring is unnecessary because special agents-in-charge are responsible for managing the division offices.

Monitoring the Development of CIP
Priorities and Objectives

ATF headquarters officials review the crime priority assessments submitted by the division offices. However, the detailed information and underlying assessments made by the numerous field offices, which form the basis and rationale for each division's priorities, are not routinely forwarded to ATF headquarters for analysis. As a result, ATF headquarters managers do not independently and fully evaluate division assessments used to establish national law enforcement priorities.

Similarly, aggregate workload objectives summarizing the number of cases and defendants division offices plan to recommend for prosecution are submitted to headquarters. However, detailed data supporting these objectives, though reviewed by division offices, are not required to be forwarded to headquarters for evaluation. Thus, ATF headquarters officials do not assess the reasonableness of these CIP estimates.

ATF officials indicated that CIP is monitored at headquarters by a program manager and as part of operational reviews every 3 years at each division office. However, these monitoring activities do not fully evaluate the data used to develop crime problem assessments and workload objectives. According to ATF officials, it is not necessary to monitor such data at headquarters because special agents-in-charge are responsible for monitoring CIP at the local level. In addition, division offices generally conduct reviews of field offices, including CIP activities, every 2 years.

GAO Observations/Conclusions

- CIP, the process ATF uses to set priorities and target criminal activities, involves all organizational levels.
 - Despite the latitude division offices have in administering CIP, ATF does not routinely examine the information used by division offices to assess crime problems and develop workload objectives.
-

OBSERVATIONS/CONCLUSIONS

CIP, the three-step process ATF uses for setting law enforcement priorities and objectives and for targeting criminal activities involves all ATF organizational levels. While ATF headquarters monitors CIP, it does not fully evaluate certain program components. Despite the latitude division offices have in administering CIP, ATF headquarters does not routinely examine the information used by division offices to assess crime problems and develop workload objectives. Thus, ATF cannot ensure the validity of the crime assessments and workload objectives developed by division offices.

WHAT ARE THE RESULTS OF ATF'S FIREARMS
AND EXPLOSIVES CASES?

GAO Summary

From FY 1988 through 1991

- most of the cases ATF recommended for prosecution involved potential firearms violations, and
 - most defendants whose cases reached final disposition were convicted.
-

SUMMARY

ATF investigates criminal cases involving potential violations of firearms, explosives, arson, alcohol, and tobacco laws. Most of the criminal cases ATF recommended for prosecution from fiscal year 1988 through 1991 involved potential firearms violations. Most of ATF's defendants charged with violating firearms, explosives, and arson laws, whose criminal cases reached final disposition from fiscal year 1988 through 1991, were convicted. At the end of each of these fiscal years, an average ranging from about 42 to 59 percent of all individuals suspected of violating these laws and recommended for prosecution were waiting to be accepted or declined.

Table V.1: Disposition of ATF Criminal Cases (FY 91)

Disposition	Number of criminal cases
Recommended for prosecution by ATF	6,474
Terminated: no potential ^a	4,365
Participated in case recommended for prosecution by another agency ^b	620
Assisted other agencies with prosecution ^c	259
Assisted others with arson/explosive investigations ^d	234
Referred to another agency for investigation	167
Total	12,119

^aIncludes cases with no basis for criminal prosecution, cases closed by a supervisor, and cases found to have no prosecutive merit after being developed.

^bATF participated in the case by providing investigative assistance to other agencies as they developed and recommended cases for prosecution (e.g., participation in undercover buy and bust operations).

^cATF also provided minimal assistance to other agencies that recommended cases for prosecution (e.g., providing expert testimony on firearms technology).

^dATF provided technical expertise to federal, state, and local officials, upon request.

Source: ATF data.

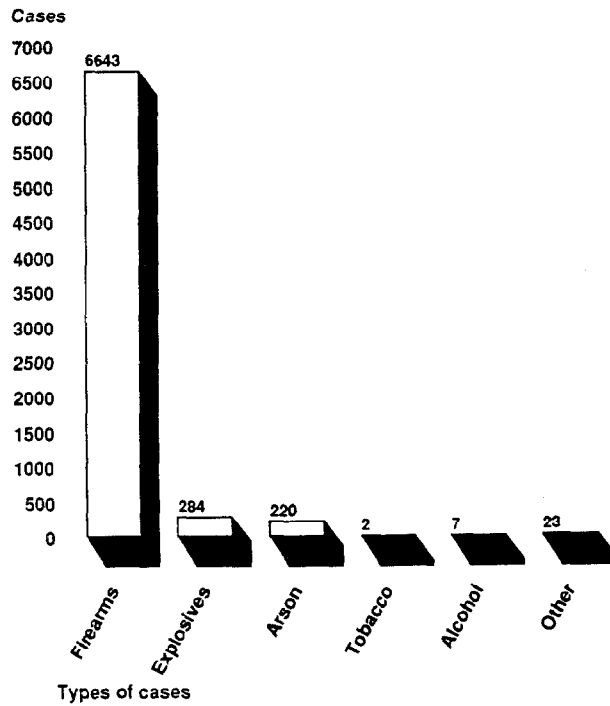
DISPOSITION OF ATF CRIMINAL CASES

ATF recommends individuals suspected of violating firearms, explosives, and arson laws for federal or state prosecution. ATF also disposes of such cases by assisting other law enforcement agencies in recommending criminal cases for prosecution. Such assistance ranges from minimal--providing expert testimony on firearms recovered at crime scenes--to significant--assisting in a search or an arrest. These cases are recommended for prosecution by other law enforcement agencies that have primary investigative responsibility, not by ATF. For example, if the Drug Enforcement Administration (DEA) requests ATF's assistance in an investigation of suspected large-scale drug traffickers using firearms to protect their illegal enterprise, DEA would have primary jurisdiction over the case because of the likelihood of seizing significant quantities of narcotics. ATF also refers criminal cases to other agencies for similar reasons. Other criminal cases are closed by ATF supervisors and terminated because no basis for criminal prosecution has been established or the case is found to have no prosecutive merit after being developed. It should be noted that cases opened in one year may not reach a final judicial determination in that year.

Table V.1 shows how ATF disposed of criminal cases during fiscal year 1991. The number of firearms, explosives, and arson cases disposed of by ATF increased by about 68 percent from fiscal year 1988 (7,220) through fiscal year 1991 (12,119). The proportion of these cases recommended for prosecution by ATF increased from about 48 percent (3,454) of total cases disposed of in fiscal year 1988 to about 53 percent (6,474) in fiscal year 1991. In addition, about 5 percent (620) of all cases disposed of by ATF in fiscal year 1991 involved ATF assistance to other agencies in recommending prosecution. From fiscal year 1988 through 1991, the percentage of total cases ATF terminated because of a lack of prosecutive potential or merit or because of a supervisory decision to close the case decreased from about 45 percent (3,223) in fiscal year 1988 to about 36 percent (4,365) in fiscal year 1991.

Figure V.1:

GAO ATF Cases Recommended for Prosecution (FY 91)



Source: ATF data.

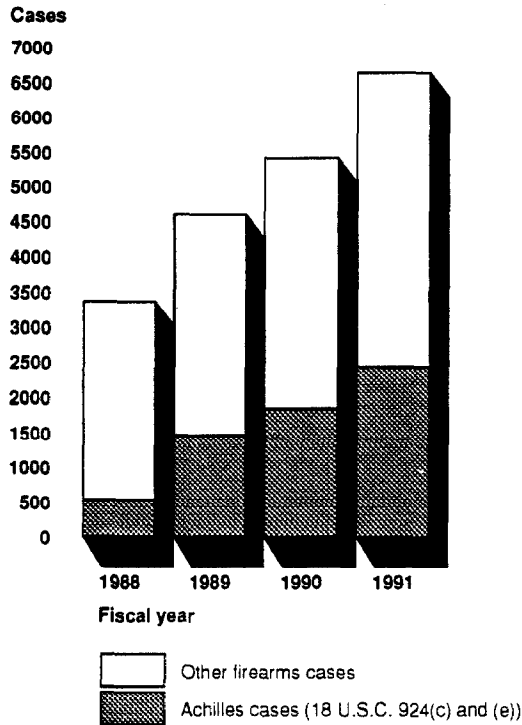
ATF CASES RECOMMENDED FOR PROSECUTION

ATF recommended 7,179 cases for prosecution in fiscal year 1991, including 6,643 firearms cases (about 93 percent).¹ In the total number of cases, 11,369 defendants were suspected of violating federal or state laws. The types and number of cases recommended for prosecution during fiscal years 1989 and 1990 were comparable to cases recommended in fiscal year 1991. (See fig. V.1.)

¹Some of these cases may have been initiated before fiscal year 1991.

Figure V.2:

GAO Firearms Cases Recommended
for Prosecution (FY 88 - 91)



Source: ATF data.

ATF FIREARMS CASES RECOMMENDED FOR PROSECUTION

By targeting armed violent offenders, career criminals, narcotics and arms traffickers, and violent gangs, our analysis of figure V.2 shows that the number of criminal cases ATF recommended for prosecution under its Achilles Program (described in app. II) increased nearly five-fold from fiscal year 1988 through 1991. Moreover, in fiscal year 1991, about 67 percent of completed Achilles cases were recommended for prosecution.

From fiscal year 1988 through 1991, the number of Achilles cases recommended for prosecution increased from about 16 percent of total firearms cases to about 37 percent of total firearms cases reflecting ATF's increased emphasis on violent crimes. Similarly, the number of defendants recommended for prosecution for violating statutory provisions covered by the Achilles Program (18 U.S.C. 924(c) and (e)) increased from about 16 percent of total defendants in fiscal year 1988 to about 36 percent of total defendants in fiscal year 1991. From October 1988 through January 1992, 1,730 defendants received sentences under 18 U.S.C. 924(c) and 689 defendants were sentenced under 18 U.S.C. 924(e). ATF reported that 11 of these defendants received life sentences for violating either provision.

Table V.2: Status of FY 91 ATF Defendants Recommended for Prosecution

Status	Firearms defendants	Explosives defendants	Arson defendants
Defendants with a final disposition:			
Convicted ^a	2,272	117	81
Declined prosecution/ no indictment	511	23	17
Prosecution by other authorities	151	8	3
Dismissed	122	4	5
Acquitted	61	3	4
Subtotal	3,117	155	110
Defendants awaiting a final disposition:			
Pending action by prosecutors	4,335	242	203
Under indictment	2,924	94	110
Other	14	0	0
Subtotal	7,273	336	313
Total	10,390	491	423

^aThese defendants were convicted of firearms, explosives, arson, and/or other violations.

Source: ATF data.

STATUS OF ATF DEFENDANTS RECOMMENDED FOR PROSECUTION

Using information reported by special agents, ATF's LEMIS tracks the judicial status of individuals apprehended for allegedly violating federal or state firearms, explosives, arson, alcohol, and tobacco laws. Of all ATF defendants recommended for prosecution from fiscal year 1988 through 1991, an average of about 46 percent were waiting to be accepted or declined by prosecutors, about 26 percent were awaiting final judicial determinations, and about 20 percent were convicted.

Of all ATF defendants recommended for prosecution in fiscal year 1991, 10,390 defendants (about 91 percent) were apprehended for potential firearms offenses (see table V.2). At the end of the year, 4,335 (about 42 percent) of these defendants were waiting for federal or state prosecutors to accept or decline ATF's recommendation for prosecution. Also, at the end of fiscal year 1991, 2,924 (about 55 percent) of the firearms defendants accepted for prosecution based on ATF recommendations were awaiting final judicial determinations.

The number of defendants convicted of a federal or state firearms violation from fiscal year 1988 through 1991 increased more than four-fold. Of firearms defendants receiving a final judicial determination² during the 4-year period, convictions increased from about 68 percent (528) to about 73 percent (2,272).

In fiscal year 1991, about 4 percent (491) of ATF's defendants were apprehended for potential explosives violations, and about 4 percent (423) were apprehended for potential arson violations.

²Defendants in cases that reached a final judicial determination include those who were convicted, acquitted, dismissed, declined for prosecution, or prosecuted by other authorities.

GAO Information on NYDO Criminal Cases

- Disposition of NYDO Criminal Cases (FY 88 - 91)
- Status of NYDO Defendants Recommended for Prosecution (FY 91)
- GAO Review of 50 NYDO Criminal Cases (FY 91)
 - Basis for opening
 - Length
 - Types of coordination
 - Investigative agency involvement
 - Status of defendants recommended for prosecution
 - Reasons for declining to prosecute defendants
 - Judicial outcomes of defendants accepted for prosecution
 - Federal and state convictions of defendants

INFORMATION ON NYDO CRIMINAL CASES

As part of our review, we analyzed statistical data on criminal cases investigated and disposed of by NYDO from fiscal year 1988 through 1991. We also analyzed data on the status of defendants involved in the cases that NYDO recommended for prosecution in fiscal year 1991. In addition, we randomly selected and analyzed 50 of NYDO's fiscal year 1991 criminal cases. Our analysis was based on information on case initiation, conduct, and results extracted from NYDO files. Our analysis is not projectable to the entire universe of NYDO cases.

Disposition of NYDO Criminal Cases

The number of firearms, explosives, and arson cases disposed of by NYDO increased from 363 in fiscal year 1988 to 790 in fiscal year 1991. The percentage of criminal cases NYDO recommended for prosecution decreased from about 57 percent (208) of cases disposed of in fiscal year 1988 to about 51 percent (405) in fiscal year 1991, though the percentage of these cases increased slightly from 1990 through 1991. The percentage of total criminal cases NYDO helped other agencies to recommend for prosecution fluctuated from fiscal year 1988 through 1991. In fiscal year 1988, about 9 percent (32) of NYDO's criminal cases were recommended for prosecution by another agency. In fiscal year 1991, about 7 percent (52) were recommended by another agency. The percentage of NYDO cases terminated due to the lack of prosecutive potential or merit or because of a supervisory decision to close the case increased from about 32 percent (117) in fiscal year 1988 to about 45 percent (268) in fiscal year 1990, but the number decreased to about 37 percent in fiscal year 1991.

Status of NYDO Defendants Recommended for Prosecution

In fiscal year 1991, the cases NYDO recommended for prosecution involved 905 defendants. Of these defendants about 68 percent (618) were accepted for prosecution, about 13 percent (116) were declined, and about 19 percent (171) were still waiting to be accepted or declined at the end of fiscal year 1991. Of those defendants accepted for prosecution, about 61 percent (378) were convicted, 2 percent (12) were acquitted, and about 33 percent (204) were awaiting a final judicial determination at the end of fiscal year 1991. About 4 percent (24) were dismissed.

GAO Review of 50 NYDO Cases

The results of our review show that special agents usually opened cases in response to information from confidential informants and law enforcement officials. (See fig. V.3.) Most of the 50 cases

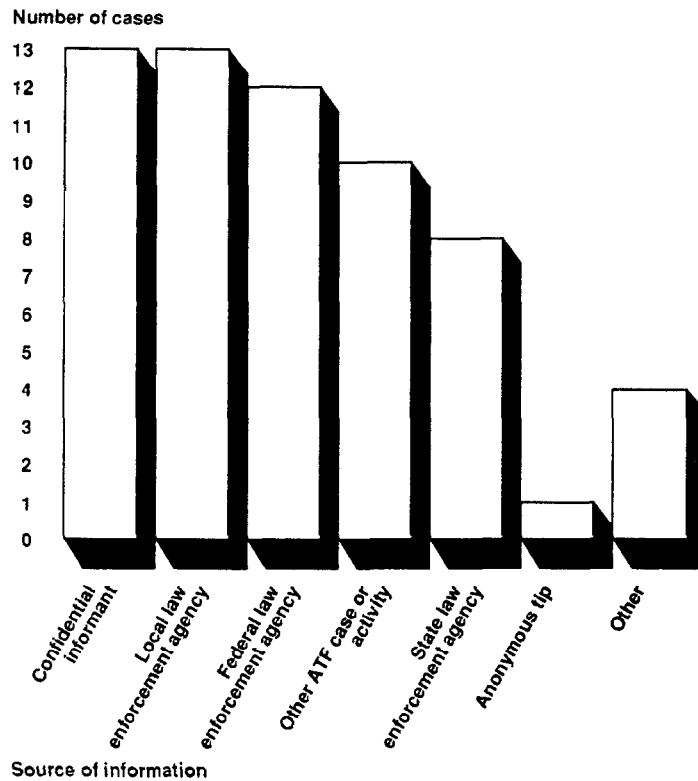
were disposed of in about 3 months. (See fig. V.4.) In addition, special agents coordinated their investigations by consulting with other ATF officials and asking officials from other law enforcement agencies to participate. (See tables V.3 and V.4.)

Thirty of the 50 cases we reviewed were recommended for federal and/or state prosecution.³ The 30 cases involved 50 defendants. (See figure V.5.) Sixteen of the 50 defendants recommended for federal or state prosecution were declined for various reasons. (See table V.5.) Of the 32 defendants accepted for prosecution, 26 were convicted of federal or state offenses, 2 were dismissed, and 4 were pending final judicial outcomes. (See figure V.6.) The status of the remaining 2 of 50 defendants is not known because this information was not in their files. The federal convictions primarily involved a combination of firearms violations and related drug crimes. State convictions usually involved the possession and transfer of firearms. (See table V.6 for convictions.)

³Twenty-five cases were originally recommended for federal prosecution, and 5 cases were originally recommended for state prosecution. Four of the 25 cases originally recommended for federal prosecution were declined and subsequently recommended for state prosecution.

Figure V.3:

GAO Review of 50 FY 91 NYDO Cases: Basis for Opening



Note: Numbers total more than 50 because a case may be opened on the basis of information from more than one source.

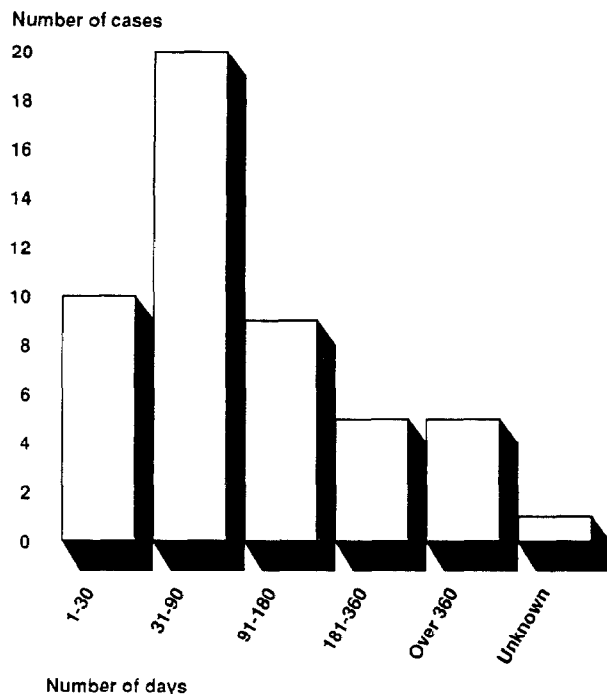
Source: GAO analysis of ATF's NYDO cases.

Review of 50 FY 91 NYDO Cases: Basis for Opening

As shown in figure V.3, NYDO usually opened criminal cases in response to information received from confidential informants and local and federal law enforcement officials. Other major sources included information from another ATF criminal case or activity, such as Office of Compliance Operations' inspections of firearms licensees. Since cases can be opened on the basis of information from more than one source, the number of cases in figure V.3 total more than 50.

Figure V.4:

GAO Review of 50 FY 91 NYDO
Cases: Length



Source: GAO analysis of ATF's NYDO cases.

Review of 50 FY 91 NYDO Cases: Length

As shown in figure V.4, 30 of the cases we reviewed were completed in 90 calendar days or less. Nine cases lasted from about 3 to 6 months, and 10 cases ranged from 6 months to 1 year or more. The length of one case was unknown because that information was not in the file. (Case length refers to the number of calendar days from the day the case was opened to the day it was terminated or recommended for prosecution.)

Table V.3: Review of 50 FY 91 NYDO Cases: Types of Coordination

Type of coordination	Number of cases
Coordinated investigative activity	18
Executed search warrant	10
Joint investigation	4
Participated in arrest	2
Participated in buy	2
ATF provided or was provided with technical information/intelligence/other information	17
ATF's Office of Law Enforcement obtained information from the Office of Compliance Operations	2
No evidence of coordination in case file	13

Source: GAO analysis of ATF's NYDO cases.

Review of 50 FY 91 NYDO Cases: Types of Coordination

In 18 of the 50 cases we reviewed, NYDO's law enforcement agents coordinated its criminal investigations with officials from other federal, state, and local law enforcement agencies. The types of investigative activities coordinated by ATF and other agencies involved executing search warrants, participating in buy and arrest operations, and carrying out joint investigations. It is not unusual for more than one other law enforcement agency to participate in an ATF criminal case. In addition, ATF's Office of Law Enforcement coordinates cases with the agency's Office of Compliance Operations, which is responsible for screening license and permit applicants and for ensuring licensees' compliance with firearms and explosives regulations. When ATF's compliance inspectors discover potential violations of firearms and explosives laws, they refer the information to the Office of Law Enforcement for investigation. Of the 50 criminal cases we reviewed, 2 involved NYDO's law enforcement agents coordinating with and obtaining information from compliance officials. (See table V.3.)

Table V.4: Review of 50 FY 91 NYDO Cases: Investigative Agency Involvement

Investigative agency involvement	Number of cases
Only ATF involved	15
Other agencies involved ^a	35
Local law enforcement agency	23
State law enforcement agency	8
FBI	7
DEA	5
U.S. Customs Service	1
U.S. Postal Inspection Service	1
Other federal agency	4

^aMore than one agency may be involved in a case.

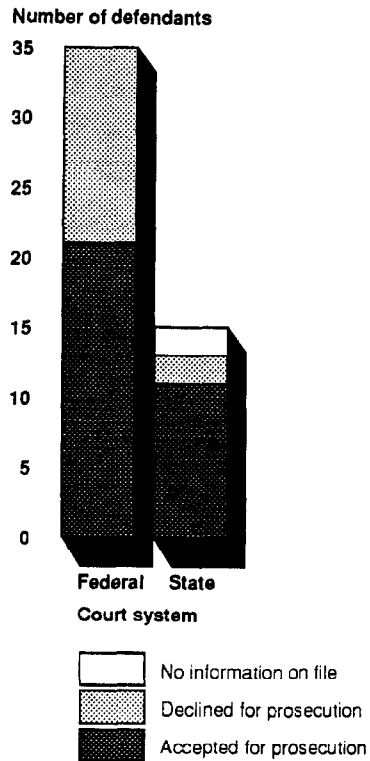
Source: GAO analysis of ATF's NYDO cases.

Review of 50 FY 91 NYDO Cases:
Investigative Agency Involvement

ATF's Office of Law Enforcement coordinates criminal cases with various federal, state, and local law enforcement agencies. As shown in table V.4, of the 50 fiscal year 1991 criminal cases we reviewed, ATF's NYDO coordinated its investigations (e.g., by participating in arrests and executing search warrants) with other law enforcement officials in 35 cases. Some cases involved coordinating with more than one other law enforcement agency. Of the 35 criminal cases that involved multiagency participation, 23 involved local agencies, 18 involved other federal agencies, and 8 involved state agencies.

Figure V.5:

GAO 30 of 50 FY 91 NYDO Cases: Defendants Recommended



Note: Four cases that were recommended for federal prosecution and declined were then recommended for state prosecution.

Source: GAO analysis of ATF's NYDO cases.

Status of 30 of 50 FY 91 NYDO Cases:
Defendants Recommended for Prosecution

Of the 50 defendants NYDO recommended for prosecution (in 30 cases), 32 were accepted by federal or state prosecutors in fiscal year 1991, and 16 were declined for prosecution. The status of 2 of the remaining 50 defendants was unknown because this information was not in their files. (See fig. V.5.)

Table V.5: Review of 30 of 50 FY 91 NYDO Cases: Reasons for Declining to Prosecute 16 Defendants

Reason	Number of defendants
Defendants declined for federal prosecution:	
Defendants prosecuted by other authorities	4
Minimal federal interest/no deterrent value	4
No reason for declination in file	2
Defendant serving a sentence	1
Defendant a fugitive	1
Defendant convicted of other charges	1
Weak or insufficient evidence	1
Total declined for federal prosecution	14
Defendants declined for state prosecution:	
No reason for declination in file	2
Total declined for state prosecution	2

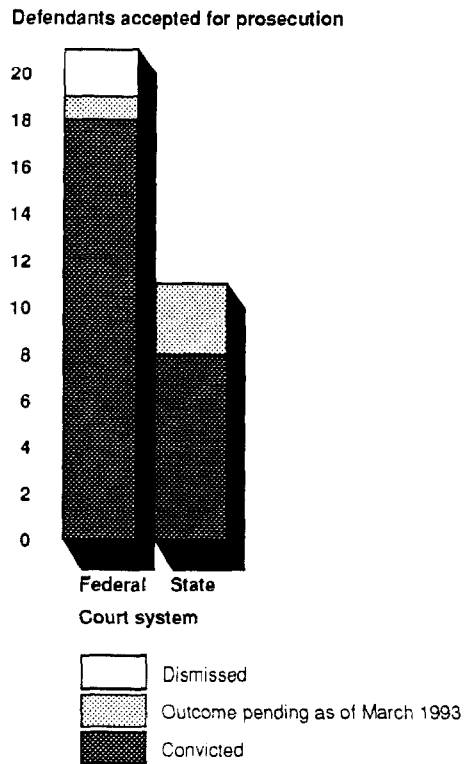
Source: GAO analysis of ATF's NYDO cases.

Review of 30 of 50 FY 91 NYDO Cases:
Reasons for Declining to Prosecute 16 Defendants

Of the 50 defendants recommended for prosecution, 14 were declined by federal prosecutors. Five were declined because they were being prosecuted by other authorities or had been convicted of other charges. Federal prosecutors declined to prosecute four other defendants because of minimal interest in pursuing criminal charges and no obvious value in deterring future criminal behavior. Another three defendants were declined because of weak or insufficient evidence, fugitive status, or because the defendant was already serving a sentence. The reasons for declining the other two defendants could not be determined from the files. Two defendants were declined by state prosecutors. The reasons for these declinations were not documented in the files. (See table V.5.)

Figure V.6:

GAO Review of 30 of 50 NYDO Cases: Judicial Outcomes



Note: This figure represents the 32 defendants in the 30 cases recommended for prosecution who were accepted for prosecution.

Source: GAO analysis of ATF's NYDO cases.

Review of 30 of 50 FY 91 NYDO Cases: Judicial Outcomes of Defendants Accepted for Prosecution

Of NYDO's 32 defendants accepted for prosecution (in 30 cases) in fiscal year 1991, 26 were convicted of federal or state violations and 2 were dismissed. As of March 1993, four defendants were awaiting final judicial outcomes. (See fig. V.6.)

Table V.6: Review of 30 of 50 FY 91 NYDO Cases: Federal and State Convictions

Violation	Number of charges convicted on ^a
Federal:	
Drug trafficking	8
Drug crimes with firearms	6
Firearms possession/trafficking	6
Attempted drug trafficking	2
Armed career criminal	1
Juvenile offense	1
Total federal charges defendants were convicted of violating	24
State:	
Firearms possession/transfer	6
Arson	2
Disorderly conduct	2
Robbery	1
Total state charges defendants were convicted of violating	11

^aTotals add to more than 32 because some defendants were convicted of violating more than 1 charge.

Source: GAO analysis of ATF's NYDO cases.

Review of 30 of 50 FY 91 NYDO Cases: Federal and State Convictions

Table V.6 shows that federal convictions of NYDO defendants most frequently involved drug crimes, while most of the state convictions of NYDO's defendants involved the possession and transfer of firearms. Possession and trafficking of firearms accounted for 6 of the 24 federal convictions and 6 of the 11 state convictions out of the 30 cases recommended for prosecution.

HOW DOES ATF'S OFFICE OF LAW ENFORCEMENT USE REFERRALS
FROM ITS OFFICE OF COMPLIANCE OPERATIONS?

GAO Summary

- ATF uses some referrals from its compliance inspectors to initiate or develop cases.
 - ATF requires special agents to record in LEMIS cases initiated on the basis of compliance referrals.
 - ATF does not systematically evaluate the overall quality of compliance referrals.
-

SUMMARY

ATF compliance inspectors provide information about potential firearms and explosives violations to the agency's Office of Law Enforcement special agents on the basis of the results of inspections. Special agents use some of this information to initiate and/or develop criminal cases. During fiscal year 1991, ATF surveyed its compliance inspectors and special agents regarding referral processes, practices, and results. After the survey, in April 1991, ATF enhanced its LEMIS by requiring special agents to report instances in which they initiated criminal cases on the basis of referrals from compliance inspectors.

Tracking the status and final disposition of criminal cases initiated in response to information referred from inspectors should help ATF evaluate the quality of referrals. However, ATF does not collect information on, or systematically evaluate, referrals that do not result in the initiation of criminal cases. As a result, ATF headquarters officials do not know the overall quality of the information compliance inspectors routinely refer to special agents.

GAO ATF's Referral Process

- ATF compliance inspectors conduct on-site inspections and refer information on potential criminal violations to law enforcement agents.
 - Law enforcement agents use some referrals to initiate or develop cases.
-

ATF'S REFERRAL PROCESS

ATF's Office of Compliance Operations regulates the firearms and explosives industries and conducts on-site inspections of importers, manufacturers, and dealers.¹ It also screens and processes applications for firearms licenses and explosives permits or licenses.

While conducting inspections, ATF inspectors may discover various potential violations of firearms and explosives laws and regulations.² Compliance inspectors refer information to special agents regarding potential criminal violations discovered during inspections. For example, a compliance inspection of a firearms dealer's records may reveal questionable purchases of handguns by individuals with criminal records. In such instances, special agents may open criminal cases and investigate individuals suspected of violating federal firearms laws.

¹ATF's Office of Compliance Operations also has regulatory responsibilities for the alcohol and tobacco industries.

²Inspectors can discover or receive information on criminal and civil violations under the jurisdiction of ATF and other federal, state, or local agencies. Such information is referred to the agency with jurisdiction.

GAO Results of ATF's Referral
Survey

- A 1991 national internal survey of referrals found no uniform system for tracking the receipt, status, and final disposition of referrals.
 - In 1991, ATF modified LEMIS to document the origin of cases initiated in response to compliance referrals.
-

ATF SURVEY LED TO ENHANCED MANAGEMENT INFORMATION ON CASES
RESULTING FROM REFERRALS

Prior to April 1991, ATF field offices did not have a uniform computerized system for tracking the receipt, status, and final disposition of criminal cases resulting from referrals. During February and March 1991, ATF headquarters conducted a national internal survey evaluating the quality of referrals received by its law enforcement agents from compliance inspectors. After analyzing the survey results, ATF concluded that the quality of referrals could not be determined because there was no system to track the outcomes of referrals.

In response to a survey question regarding whether ATF's law enforcement field offices track referrals received from Compliance Operations, officials from over 80 field offices provided 13 different responses. Most of these officials responded that they informed compliance inspectors of the actions taken in response to referrals, as required by ATF policy, by returning ATF's referral form with the receipt and status documented. However, 25 of these ATF field offices responded that they did not track referrals. Twenty-seven field offices responded that they used a manual log to track referrals, others responded that they tracked referrals only when "warranted," and a few responded that they had never received a referral.

After the survey, effective April 24, 1991, ATF headquarters required special agents to record in LEMIS when criminal cases are initiated in response to Compliance Operations referrals. However, data on referrals that do not result in the initiation of criminal cases are maintained manually in administrative files in most of ATF's field offices and are not recorded in LEMIS.

Table VI.1: Law Enforcement's Response to Referrals
(April 24 through September 30, 1991)

	Number of cases ^a
Total criminal cases developed	57
Cases recommended for prosecution	29
Cases terminated: no potential	27
ATF assisted with another agency's prosecution	1

^aATF started collecting computerized data on the status and final disposition of cases initiated in response to referrals on April 24, 1991; therefore, data are for this date through September 30, 1991.

Source: GAO analysis of ATF data.

LAW ENFORCEMENT'S RESPONSE TO COMPLIANCE REFERRALS

From April 24 through September 30, 1991, LEMIS reported that, nationally, ATF law enforcement developed and recommended 29 cases for prosecution as a result of 57 cases initiated in response to referrals from compliance inspectors. The 29 cases involved 31 defendants, most of whom were suspected of violating federal firearms statutes. Since the referrals that did not result in the initiation of criminal cases are not reported to LEMIS, the total number of referrals received by Law Enforcement is unknown.

GAO GAO Analysis: NYDO's
Response to Referrals (FY 91)

Action taken by ATF's NYDO on 54 referrals:³

- 34 were accepted for evaluation
- 13 could not be determined by GAO because of incomplete documentation
- 7 were not accepted for evaluation

Results of the 34 referrals accepted for evaluation:

- 15 involved no federal criminal violations
- 11 resulted in the initiation of 12 criminal cases
- 5 could not be determined by GAO because of incomplete documentation
- 2 initiated a request for additional information from Compliance Operations
- 1 involved a request for information from another ATF division office.

³Referrals contained information on potential illegal activities.

GAO'S ANALYSIS OF NYDO'S RESPONSE TO REFERRALS

Since ATF does not systematically record and evaluate national data on the status and disposition of referrals that did not result in criminal cases, we reviewed the ATF NYDO manual log documenting referrals received during fiscal year 1991 to determine the extent to which referrals resulted in criminal cases. This log recorded NYDO's special agents' responses to 54 referrals from compliance inspectors. The log did not include all referrals submitted to NYDO field offices located outside of New York City. Examples of these referrals ranged from suspecting convicted felons of purchasing firearms to suspecting dealers of selling firearms without a license.

We determined that of the 54 referrals sent to NYDO, 34, or 63 percent, were accepted for evaluation because preliminary investigative work indicated that they might involve violations. Seven referrals were not accepted or considered useful after preliminary investigative work showed no potential violations. We were unable to determine what happened to 13 referrals because the information in NYDO's referral log was incomplete.

Of the 34 referrals NYDO special agents accepted for evaluation, 11 led to the initiation of 12 criminal cases. Seven of these cases had been recommended to federal or state prosecutors and five had not been as of July 1992. Of the eight defendants in the seven cases recommended for prosecution, four defendants pleaded guilty to state charges, one plead guilty to federal charges, one had charges dropped, one had charges pending at the state level, and another had charges pending at the federal level as of March 1993.

GAO Observations/Conclusions

- ATF has enhanced its information on cases opened in response to compliance referrals.
 - However, ATF does not systematically record and evaluate referrals that do not result in the initiation of criminal cases. Thus, ATF does not know the overall quality of referrals.
-

OBSERVATIONS/CONCLUSIONS

ATF has taken the initiative to require its special agents to identify and record, in LEMIS, criminal cases initiated on the basis of referrals from compliance inspectors. However, ATF does not systematically record and evaluate data on referrals that do not result in the initiation of criminal cases. Thus, ATF does not know the overall quality of referrals provided by compliance inspectors.

HOW USEFUL ARE ATF'S FIREARMS TRACES?

GAO Summary

- Each year ATF handles tens of thousands of firearms trace requests.
 - ATF does not evaluate the usefulness of firearms traces in terms of their investigative value.
 - While a principal mission of NTC is to respond expeditiously to trace requests, ATF no longer has time frames for completing traces and does not evaluate the usefulness of traces in terms of timeliness.
-

SUMMARY

ATF's National Tracing Center (NTC) provides information to law enforcement agencies in response to tens of thousands of firearms trace requests. These trace requests are categorized into three priority levels, depending on the urgency of the trace.

ATF does not evaluate the usefulness of traces in terms of investigative value because of resource constraints and its inability to control the investigative uses of trace information.

A principal mission of NTC is to provide expeditious responses to trace requests. Prior to September 1992, ATF had time frames for completing traces under each priority category. But it did not evaluate whether traces were completed in accordance with those standards. NTC recently began using a computerized system to record the time required to complete each firearms trace request. However, ATF still does not systematically evaluate the usefulness of traces in terms of timeliness. Moreover, ATF no longer has time frames to provide an objective basis for doing so.

ATF believes the usefulness of its tracing program is demonstrated by NTC annually (1) continuing to receive, process, and complete tens of thousands of firearms trace requests; and (2) processing records for hundreds of firearms dealers that go out of business.

GAO ATF's Tracing Operations

- Most trace requests are made by law enforcement agencies.
 - From FY 1988 through 1992,
 - the annual number of trace requests received by NTC increased by about 48 percent; and
 - NTC successfully completed about 82 percent of the traces received by identifying the origin and ownership of firearms.
-

ATF'S TRACING OPERATIONS

NTC, located in Landover, MD, provides firearms tracing services to federal, state, local, and foreign law enforcement agencies. With a staff of approximately 50, NTC systematically tracks firearms from manufacturer to purchaser (and/or possessor) to assist law enforcement in identifying suspects involved in criminal violations, establishing stolen status, and proving ownership. NTC plans to relocate to Martinsburg, WV, during fiscal year 1994.

Any federal, state, local, or foreign law enforcement agency may submit firearms trace requests to NTC, which receives requests by messenger, mail, facsimile transmission, telephone, telex, or through electronically voiced answering machines. Using an ATF trace request form, law enforcement officers are asked to provide NTC with detailed information on the firearms they want traced, such as manufacturer, serial number, type, model, caliber or gauge, magazine or cylinder capacity, barrel length, type of finish, country of origin, and any other identifying marks. The manufacturer's name and serial number are critical identifiers without which a trace cannot be processed. NTC tracks the ownership of firearms by contacting manufacturers, retailers, wholesalers, and importers and by reviewing documentation, including out-of-business records.

According to NTC, firearms traces are considered successfully completed when NTC identifies the owner, which is the individual purchaser, the licensee (e.g., a firearms dealer), or a government or law enforcement office. The number of trace requests received by NTC increased about 48 percent, from 34,686 in fiscal year 1988 to 51,420 in fiscal year 1992. NTC successfully completed about 82 percent of the traces received during the 5-year period.

**GAO Trace Request Priorities
(FY 92)**

- Priority I: urgent requests
(3,875 completed)
 - Priority II: expedite requests
(23,558 completed)
 - Priority III: routine requests
(15,582 completed)
-

FIREARMS TRACES ARE CATEGORIZED INTO THREE PRIORITY LEVELS

ATF has three priority categories for completing trace requests. When requesting firearms traces, law enforcement officers are asked to select one of the three categories depending on the urgency of the trace, as follows:

- Priority I (urgent) requests are to be submitted to NTC only when a firearm is used in a crime of violence and/or tracing information is essential to apprehend or hold a suspect. A specific reason for urgency, such as a crime of violence against an important public official or a law enforcement official, must accompany a request in this category.
- Priority II (expedite) requests must indicate that time is an essential factor for completing a criminal investigation.
- Priority III (routine) requests are needed to complete a criminal investigation.

Of the 43,015 firearms trace requests completed during fiscal year 1992, 3,875 were priority I, 23,558 were priority II, and 15,582 were priority III.

From 1984 through 1992, ATF applied specific time frames in which to complete a trace to each priority category. Priority I requests were to be completed in 1 work day or less. Priority II and III requests were to be completed within 3 to 5 work days and 5 to 7 work days, respectively. In September 1992, these time frames were eliminated. But ATF officials stated that the time required to complete traces ranges from 24 hours for "urgent" requests to several weeks for "routine" requests.

ATF officials gave several reasons for eliminating and not revising the time frames, including: (1) the number of trace requests received has increased about 63 percent since 1984 when the original time frames were established; (2) NTC has received few complaints about the time required to complete trace requests; and (3) factors outside of ATF's control occur, such as when federal firearms licensees do not cooperate with NTC over the phone and agents must make personal visits to obtain the trace information.

GAO ATF Does Not Evaluate the
Usefulness of Firearms Traces

- ATF has not evaluated the usefulness of traces in terms of their investigative value since an early 1980s survey.
 - ATF has a mission to provide firearms trace information in a timely manner and recently began using a computer to record the time required to complete traces.
 - However, ATF no longer has time frames for completing traces; thus, it has no objective basis for evaluating their usefulness in terms of timeliness.
-

ATF DOES NOT EVALUATE THE USEFULNESS OF FIREARMS TRACES

With the exception of an early 1980s survey, ATF has not evaluated the usefulness of firearms traces. That survey evaluated their usefulness in terms of whether the information assisted law enforcement agencies in developing criminal investigations. ATF surveyed its special agents and local police departments to follow up on and determine the impact of 24,852 firearms traces. ATF found that about 81 percent of these traces had been useful because they were "of some enforcement value" (i.e., leading to a suspect or to a person connected with the investigation). The survey also found that 54 percent of the traces "aided in solving a crime and/or assisted in an apprehension or indictment."

According to ATF, additional surveys of the usefulness of firearms tracing have not been conducted because of (1) staff resource constraints and (2) the belief that ATF cannot meaningfully evaluate the usefulness of firearms trace information because it does not control the investigative uses of the information.

A principal mission of NTC is to provide expeditious responses to firearms trace requests. Yet, the usefulness of traces to law enforcement in terms of timeliness is not known, although trace requests are assigned in priority order, according to ATF. In early 1993, NTC began using a computerized system to record the time required to complete traces. According to an ATF official, the information showed that during March 1993, on average, NTC completed priority I trace requests within 24 hours, priority II requests in less than 10 days, and priority III requests in about 16 days.¹ It also showed that work on many requests did not begin for 18 days because of backlogs. Nevertheless, as previously discussed, ATF no longer has time frames for completing traces. Therefore, ATF has no objective basis for evaluating whether its traces are useful to law enforcement in terms of timeliness and currently has no plans to conduct an evaluation.

ATF officials told us that NTC demonstrates the usefulness of its tracing operations program annually by (1) continuing to receive, process, and complete tens of thousands of trace requests; and (2) processing records for hundreds of firearms dealers that go out of business. In addition, an ATF official told us that foreign law enforcement agencies (e.g., Canada and Mexico) find NTC's tracing operations useful in developing criminal investigations.

¹Time required to complete a trace request is measured from the date the work begins, not the date the request is received.

GAO Observations/Conclusions

- ATF does not evaluate the usefulness of firearms traces in terms of their investigative value.
 - ATF has a principal mission of completing traces expeditiously, but it has not evaluated timeliness and no longer has completion time frames for its priority categories.
-

OBSERVATIONS/CONCLUSIONS

ATF does not evaluate the usefulness of firearms traces in terms of whether the information was of value to law enforcement agencies in developing cases. ATF does not conduct such evaluations because of resource constraints and its lack of control over the investigative uses of trace information.

On the other hand, ATF has established expeditious response to traces as a principal mission of NTC. It has also established priority categories for trace requests based on urgency and recently began using a computerized system to record the time required to complete traces. However, ATF did not evaluate the usefulness of NTC's traces in terms of timeliness when it had time frames for completion. Moreover, ATF no longer has time frames for completing each of its priority categories. Thus, it currently has no objective basis for evaluating the timeliness of NTC's traces and does not know whether NTC is achieving its mission of providing timely trace information to law enforcement agencies.

ATF officials believe that NTC demonstrates its usefulness annually by (1) handling tens of thousands of firearms trace requests from federal, state, local, and foreign law enforcement agencies; and (2) processing records for hundreds of firearms dealers that go out of business.

HOW DOES ATF HANDLE FIREARMS, EXPLOSIVES, AND
OTHER PROPERTY IT TAKES INTO CUSTODY?

GAO Summary

- ATF takes many types of property into custody.
 - ATF has detailed property controls for handling firearms, explosives, and other property taken into custody.
 - ATF does not summarize property disposal information for management purposes.
-

SUMMARY

ATF's special agents take firearms and explosives into custody primarily for use as evidence during criminal investigations. Other types of property taken into custody include ammunition and small amounts of illegal drugs. ATF takes property into custody in several ways, with the most common method being seizure of personal property connected to potential violations of federal laws. Property seized by ATF may be forfeited to the federal government.

ATF has detailed controls for handling property taken into custody and collects data on how seized property is disposed. However, ATF does not summarize data for management purposes on when any property was disposed of and the specific method of disposition.

GAO How ATF Takes Property Into
Custody

- Seizes property for forfeiture.
 - Purchases and retains property for evidentiary purposes.
 - Acquires abandoned property from owners.
-

HOW ATF TAKES PROPERTY INTO CUSTODY

ATF takes property into custody primarily by seizing it for forfeiture. It also obtains and retains it for evidentiary purposes, purchases it for evidentiary purposes, and acquires it when voluntarily abandoned by owners. ATF agents may seize personal property for forfeiture to the United States when the property is used, involved in, or intended to be used in the violation of a federal law. Property that is not subject to forfeiture may be retained for use as evidence when the property could aid in a particular apprehension or conviction. ATF also may purchase property during a criminal investigation for use as evidence. If criminal prosecution is not anticipated, property that is subject to seizure for forfeiture may be abandoned or voluntarily turned over to ATF by the owner for appropriate disposition.

In fiscal year 1991, about 77 percent of firearms (22,438) taken into custody by ATF were obtained through seizure for forfeiture. Firearms taken into custody but not seized for forfeiture included 4,646 retained for use as evidence, 1,206 purchased for use as evidence, and 690 abandoned to ATF by the owners. During the year, about 67 percent of the 21,776 pounds of explosives, about 78 percent of the 1,606 blasting caps, and about 90 percent of the 3,938 units of destructive devices taken into custody by ATF were obtained through seizure for forfeiture.

GAO Property in ATF's Custody

Types of property taken into custody:

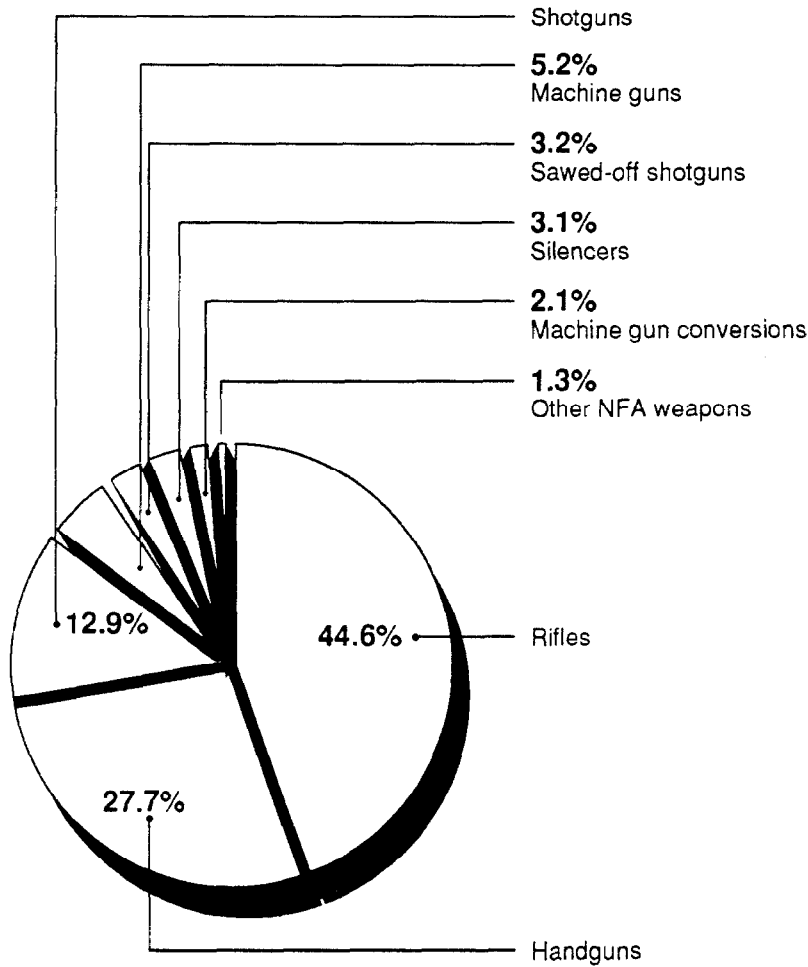
- Firearms
 - Ammunition
 - Explosives
 - Alcohol
 - Tobacco
 - Illegal drugs
 - Conveyances
 - Monetary instruments
-

TYPES OF PROPERTY ATF TAKES INTO CUSTODY

In addition to firearms, ammunition, and explosives, which account for most of the property taken into custody, ATF seizes alcohol, tobacco, conveyances (such as vehicles or vessels), monetary instruments, and small quantities of illegal drugs. In fiscal year 1991, ATF took into custody 28,980 firearms, including rifles, handguns, shotguns, and machine guns. It also took into custody 21,776 pounds of explosives, including high, low, and military explosives, blasting agents, and detonating cords. Other explosives property ATF took into custody included destructive devices and blasting caps.

Figure VIII.1:

GAO Firearms Property ATF Took Into Custody (FY 91)



Note: Other National Firearms Act (NFA) weapons are any weapons capable of being concealed on the person and from which a shot can be discharged through the energy of an explosive.

Source: ATF data.

FIREARMS PROPERTY ATF TOOK INTO CUSTODY

During fiscal year 1991, ATF took into custody 28,980 firearms, of which about 45 percent were rifles and about 28 percent were handguns. The remaining firearms included shotguns, machine guns, sawed-off shotguns, silencers, and other weapons. (See fig. VIII.1.) ATF also took into custody 297,235 rounds of ammunition.

Table VIII.1: Explosives Property ATF Took Into Custody (FY 91)

Type of explosive	Totals
High explosives (lbs.)	9,681
Low explosives (lbs.)	2,490
Military explosives (lbs.)	443
Blasting agents (lbs.)	73
Detonating cords (lbs.)	9,089
Destructive devices	3,938
Blasting caps	1,606

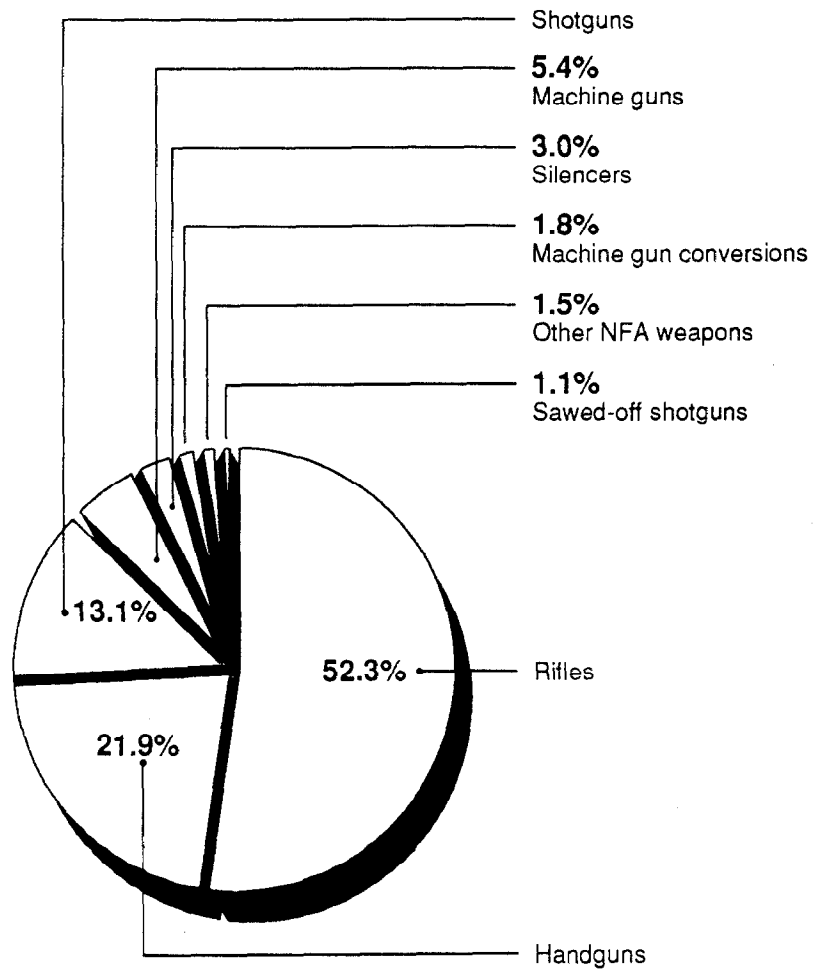
Source: ATF data.

EXPLOSIVES PROPERTY ATF TOOK INTO CUSTODY

ATF takes various types of explosives into custody. During fiscal year 1991, ATF took into custody about 21,776 pounds of explosive materials, of which about 58 percent were high, low, and military explosives, such as dynamite, black powder, safety fuses, and "special fireworks." The remaining 42 percent included materials used for detonating explosives, such as detonating cords and blasting agents. (See table VIII.1.)

Figure VIII.2:

GAO Firearms Property Seized by ATF (FY 91)



Source: ATF data.

FIREARMS PROPERTY SEIZED BY ATF

During fiscal year 1991, about 77 percent of the firearms ATF took into custody were seized by special agents because they were used, involved, or intended to be used in violating a federal law. Of the 22,438 firearms seized by ATF, about 52 percent were rifles, about 22 percent were handguns, and about 13 percent were shotguns. (See fig. VIII.2.) ATF also seized 210,293 rounds of ammunition.

GAO How ATF Disposes of Property
in Its Custody

- Destroys it.
 - Transfers it to another federal agency.
 - Retains and places it into official use.
 - Returns it to the rightful owner.
 - Sells it.
-

HOW ATF DISPOSES OF PROPERTY IN ITS CUSTODY

Property that is retained, purchased, or abandoned can be disposed of in several ways. It may be returned to the rightful owner or destroyed if the owner cannot be found. It may also be placed into official use or referred to the General Services Administration (GSA) for disposition.

Seized property can be destroyed, referred to GSA for disposition, placed into official use by ATF, returned to the rightful owner, or sold. Seized property cannot be disposed of until the forfeiture process is completed and the property is no longer needed as evidence in a criminal proceeding.

ATF has specific requirements for the disposal of different types of seized property.

- Firearms must be destroyed, placed into official use, or transferred to another federal agency via GSA.
- Explosives, ammunition,¹ and destructive devices must be destroyed or placed into official use by ATF.
- Conveyances (e.g., vehicles, vessels) are placed into official use or transferred to GSA for disposition.
- Money is converted into a certified cashier's check or money order and deposited into the General Fund of the U.S. Treasury.
- Alcohol is referred to GSA for disposition unless it is unsafe for consumption, in which case it is destroyed.
- Tobacco may be sold as perishable goods and the proceeds delivered to the court.

¹Ammunition put into official use by ATF is generally used for testing firearms held for evidence.

Table VIII.2: Disposition of Property Seized by ATF (FY 91)

	Amount disposed of	Amount not disposed of	Total
Firearms			
Rifles	250 (2%)	11,523 (98%)	11,773
Handguns	639 (13%)	4,297 (87%)	4,936
Shotguns	430 (15%)	2,509 (85%)	2,939
Machine guns	28 (2%)	1,180 (98%)	1,208
Silencers	18 (3%)	656 (97%)	674
Machine gun conversions	13 (3%)	382 (97%)	395
Other NFA weapons	1 (0%)	344 (100%)	345
Sawed-off shotguns	63 (26%)	178 (74%)	241
Total	1,442 (6%)	21,069 (94%)	22,511
Explosives			
Detonating cords (lbs.)	7,403 (82%)	1,600 (18%)	9,003
High explosives (lbs.)	3,312 (77%)	971 (23%)	4,283
Low explosives (lbs.)	15 (2%)	972 (98%)	987
Military explosives (lbs.)	33 (10%)	297 (90%)	330
Blasting agents (lbs.)	1 (8%)	12 (92%)	13
Destructive devices	3,336 (94%)	216 (6%)	3,552
Blasting caps	601 (48%)	659 (52%)	1,260
Other property			
Ammunition (rounds)	47,484 (23%)	163,209 (77%)	210,693
Cash (dollars)	17,373 (53%)	15,494 (47%)	32,867
Marijuana (grams)	0 (0%)	9,200 (100%)	9,200
Cocaine (grams)	4,041 (45%)	5,020 (55%)	9,061
Methamphetamines (grams)	1,293 (74%)	459 (26%)	1,752
Other narcotics (grams)	4 (1%)	509 (99%)	513
Heroin (grams)	14 (42%)	19 (58%)	33
Cigarettes (cases)	0 (0%)	5 (100%)	5
Illegal liquor (gallons)	0 (0%)	20 (100%)	20
Vehicles (numbers)	4 (20%)	16 (80%)	20

Source: ATF data.

DISPOSITION OF SEIZED FIREARMS, EXPLOSIVES, AND OTHER PROPERTY

During fiscal year 1991, ATF disposed of 1,442 (about 6 percent) of the seized firearms, most of which were handguns, shotguns, and rifles. The remaining 21,069 seized firearms had not been disposed of because they were needed for criminal proceedings. ATF disposed of most of the high explosives, detonating cords, and destructive devices and about half of the blasting caps in its custody. About 90 percent or more of the low explosives, military explosives, and blasting agents were awaiting final disposition at the end of fiscal year 1991. In addition, ATF disposed of over half of the cash and about 26 percent of the drugs (marijuana, cocaine, methamphetamines, heroin, and other narcotics) in its custody. (See table VIII.2.)

GAO ATF's Property Controls

- ATF has controls for handling property in its custody.
 - ATF conducts scheduled internal reviews of its property controls.
 - However, ATF does not summarize property disposal information for management purposes.
-

ATF'S PROPERTY CONTROLS

ATF has detailed controls for handling property that special agents take into custody. These controls establish basic procedures for handling property from initial acquisition to final disposition. Under ATF's property controls, special agents are required to record information in individual criminal case files on the acquisition, forfeiture, storage, appraisal, movement and transport, and disposition of property taken into custody. ATF also requires special agents to record in LEMIS the types and quantities of property taken into custody and whether it was seized, purchased, retained, or abandoned by the owner.

ATF conducts scheduled internal reviews of its property controls, which generally are limited to accounting for property from acquisition to final disposition. The limited scope of these reviews did not permit us to comment on the overall adequacy of ATF's property controls.

ATF reviewed property controls at 8 of its 206 field offices in fiscal year 1991 and scheduled operational reviews at another 8 field offices in fiscal year 1992. These reviews included a complete inventory of each field division office's evidence vault and an examination of all completed property forms, including the ATF Property Inventory/Forfeited Property Appraisal Report. The reviews identified such problems as failure to follow certain ATF procedures for handling property. The problems generally involved administrative matters, such as recording errors and omissions and several safety, storage, and security discrepancies. For example, in one field office, two items had incorrect serial numbers listed on the evidence tags and/or on the ATF property reports.

Our review of ATF's property controls and discussions with law enforcement officials noted that ATF does not summarize information on the final disposition of property taken into custody. While LEMIS records information on the types and quantities of property taken into custody and how the property was acquired (i.e., seized, purchased, retained, or abandoned), it does not record property disposal information. ATF headquarters' Seized Property Section (SPS) collects computerized data on the value of seized property and the specific method of disposition. However, SPS does not summarize or report such data for management purposes.

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