

FIREARMS ENFORCEMENT PROGRAM

FOREWORD

To: All Law Enforcement Personnel

1. PURPOSE. This order provides guidelines for the implementation of the Bureau's Firearms Enforcement Program under the Gun Control Act of 1968 (GCA), as amended, and the National Firearms Act (NFA), as amended
2. CANCELLATION. ATF O 3310.4A, Firearms Enforcement Program, dated March 25, 1981; ATF O 7520.1, Procedures for Tracing Firearms, dated August 2, 1976; ATF O 3310.5B, Guidelines Regarding Federal Firearms Licensee Investigations and Investigations at Gun Shows and Flea Markets, dated July 18, 1985; ATF O 7500.1, Firearms Technology Branch Procedures, dated May 16, 1977; ATF O 7540.2, Classification of Belgian FN Light Automatic Carbine (CAL), Caliber 5.56mm (.223), dated June 24, 1982; and ATF O 7540.1A, Classification of Belgian FN Light Semiautomatic Rifle (FAL), Caliber 7.62mm, dated October 29, 1979, are canceled.

Stephen E. Higgins  
Director

referral of information to the Chief, Firearms Enforcement Division who will subsequently disseminate this information to the Chief, Firearms and Explosives Regulatory Division.

146. PROJECT LEAD SECURITY. Project LEAD is the exclusive property of ATF. Distribution of Project E-LEAD software outside of ATF is strictly prohibited. All offices are re encouraged to work with and share information/investigative leads with other Federal, State, and local law enforcement agencies; however, Project LEAD software and data extract disks are the property of ATF and cannot be released outside the agency. When Project LEAD disks are not in use, the RAC/GS or Project LEAD coordinator shall ensure all disks are stored in a locked file. Computers with Project LEAD information shall not be left on while unattended for any period of time. Information concerning private individuals is contained in Project LEAD, and this information must be protected against unwarranted dissemination.
147. COORDINATION OF PROJECT LEAD INFORMATION WITH REGULATORY ENFORCEMENT. Project LEAD primarily focuses on recurring trends and patterns that may indicate illegal firearms trafficking activity by unlicensed individuals, however, should any CE operator of Project LEAD discover information concerning licensed firearms dealers that may have value to RE's inspection efforts, this information should be forwarded to the area RE FTC via ATF F 5000.21 as soon as possible. This information may be useful to RE when used in conjunction with more detailed FFL information available through a QMF run.
148. "WEAPONS TRANSFERS".
- a. Considerations. During the course of illegal firearms trafficking investigations, special agents may become aware of, observe, or encounter situations where an individual(s) will take delivery of firearms, or transfer firearm(s) to others. In these instances, the special agent may exercise the following options:
- (1) In cases where probable cause exists to believe a violation of law has occurred and the special agent determines there is a need to intervene in the weapons transfer (e.g., the recipient of the firearms is a known felon; it is known the firearms will be used in crime of violence), the special agent shall do so but should place concerns for public safety and the safety of the involved special agents as the primary determining factor in exercising this option.
  - (2) In other cases, immediate intervention may not be needed or desirable, and the special agent may choose to allow the transfer of firearms to take place in order to further an investigation and allow for the identification of additional coconspirators who would have continued to operate and

illegally traffic firearms in the future, potentially producing more armed crime.

b. Alternative Intervention Methods. In the event it is determined by the special agent that a weapons transfer should not take place, the special agent may consider alternative methods of intervention other than arrest and/or search warrants that will prevent the culmination of the weapons transfer but allow the investigation to continue undetected. These alternative methods are considered to be a course of action that must be approved by the RAC/GS or SAC as previously noted. These alternative interventions may include, but are not limited to:

- (1) A traffic stop (supported by probable cause to search or supported by a traffic violation allowing for plain view observations) by a State or local marked law enforcement vehicle that would culminate in the discovery and retention of the firearms. This would prevent the weapons transfer from fully occurring and may in turn produce new investigative leads. Should the occupants of the vehicle be new/unknown participants in the organization under investigation, they may be fully identified which in turn will yield additional information for followup investigation. Should the occupants of the vehicle be known participants in the investigation, requesting telephone tolls for these individuals (or if a Penn Register/T-III interception order is in use) for the period shortly after the traffic stop may show calls and yield identifying information relating to the intended receivers of the firearms.
- (2) If the firearms are being shipped out of the United States via a common carrier via checked luggage or freight, the firearms may be seized/or recovered by the special agents, in coordination with the U.S. Customs Service under border search authority, without detection by the traffickers. This would prevent the weapons transfer from fully occurring and may in turn produce new investigative leads. The investigation may then continue with the traffickers led to believe the shipment of firearms was stolen in transit. Requesting telephone tolls for these individuals (or if a Pen Register/T-III interception order is in use) for the period shortly after the recovery of the firearms may show calls and yield identifying information relating to the intended receivers of the firearms.
- (3) If the firearms are being shipped via the U.S. mail, coordination with the U.S. postal inspectors will assist the special agents in recovery of the firearms without detection

by the traffickers. This would prevent the weapons transfer from fully occurring and may in turn produce new investigative leads. The investigation may then continue with the traffickers led to believe the shipment of firearms was stolen in transit. Requesting telephone tolls for these individuals (or if a Penn Register/T-III interception order is in use) for the period shortly after the recovery of the firearms may show calls and yield identifying information relating to the intended receivers of the firearms.

- (4) If the special agent chooses to arrest the individual(s) with the firearm(s), the possibility exists that a debriefing of this individual will yield other members of the organization, or the individual(s) will agree to participate in a controlled delivery of the firearm(s) to the original intended receivers.

149. FEDERAL FIREARMS LICENSEES (FFLS). This paragraph sets forth policy and procedures for obtaining licensee warrants and conducting criminal investigations of licensed persons, their agents or employees, and business entities engaged in the firearms business.

- a. In passing the GCA, as amended, Congress declared that the purpose of the act was to provide support to Federal, State, and local law enforcement officials in their fight against crime and violence while not placing undue Federal restrictions or burdens on law-abiding citizens with respect to the acquisition, possession, or use of firearms for lawful activity.
- b. Most persons licensed to engage in the firearms business are pursuing their interests for lawful purposes. It is the policy of ATF to initiate criminal investigations of licensees only when there is reason to believe that they are engaged in criminal activity such as dealing in stolen/contraband firearms or ammunition, knowingly supplying firearms to criminals, terrorists, gang offenders, or juveniles, or engaged in such willful and flagrant violations that it can be reasonably assumed that the firearms will find their way into the hands of criminals, terrorists, gang offenders, or juveniles.

- (1) The GCA provides misdemeanor penalties for licensees who make false statements or representations with respect to information required in their records (18 U.S.C. § 922(m)). The successful use of misdemeanor charges enhances licensee denials or revocations. In cases of flagrant and willful violations of recordkeeping requirements that can be shown to pose a genuine threat to the public safety, the licensee should be recommended for felony prosecution under 18 U.S.C. § 922(b)(5) and/or 18 U.S.C. § 1001.

- (2) Where evidence supporting prosecution does not meet established prosecutorial thresholds or the violations are minor or technical in nature, the information shall be referred, through the SAC, to the appropriate RE DD for administrative action.
  - (3) Where CE is notified by RE that it has attempted to acquire the records of an FFL who has terminated his/her business, failed to renew his/her license, or failed to respond to official correspondence for license renewal, CE efforts should be made and coordinated with RE to obtain the FFL's records and forward them to the NTC Out-of-Business Records Center in Falling Waters, West Virginia.
- c. Most licensees cooperate with ATF in exercising lawful inspection access to their premises. When a licensee refuses voluntary inspection and requires a warrant, the special agent shall obtain one in conformance with this chapter. If, after the warrant is obtained, the licensee continues to refuse ATF access to records and inventory, the special agent shall advise the licensee of the following statutes:
- (1) 18 U.S.C. § 1509 Obstruction of court orders (misdemeanor).
  - (2) 18 U.S.C. § 111 Obstruction of a Federal agent (felony).
  - (3) 18 U.S.C. §§ 923(g)(1)(B) and 924(a)(1)(D) Obstructing the examination of inventory and records (felony).
- d. Where the licensee continues to refuse admittance to the business premises, the special agent is precluded from using force to gain entrance under an Inspection or Reasonable Cause Warrant. However, the special agent may summarily arrest the licensee or choose to initiate contempt proceedings and/or coordinate a licensee revocation with RE at a later date. The possibility of summary arrest must be discussed with the SAC prior to execution of an Inspection or Reasonable Cause Warrant.

150. WARRANTLESS INSPECTIONS.

- a. The GCA places certain restrictions on ATF's ability to inspect the inventory and records of a licensee, whether at the licensed premises or authorized gun shows. A warrant is required to conduct an inspection EXCEPT under the following conditions:
- (1) Inspection to Ensure Compliance With the Recordkeeping Requirement. This inspection may be conducted without prior notice, but ATF is limited to only ONE INSPECTION FOR ANY 12-MONTH PERIOD DURING BUSINESS HOURS.