PART IX:
Final Recommendations

Recommendation 1: Law Enforcement Agencies (LEA) Should Further Evaluate the Discretionary Resale of Firearms

Between 2019 and 2023, there were 25,414 firearms recovered in crimes and traced that had previously been in the possession of law enforcement as either an issued service firearm or seized as evidence in a crime. These firearms were recovered in crimes ranging from illegal possession to homicide. More than 14% (3,625 of 25,414) of all LEA firearms recovered and traced between 2019 and 2023 were associated with either a homicide (1,076) or other violent crime (2,549).

A 1998 International Association of Chiefs of Police policy resolution recommended the mandatory destruction of all firearms no longer needed by an LEA. While some state laws require LEAs to resell firearms, other states leave the decision to resell firearms to the discretion of the LEA. In those states that allow for discretionary sale of LEA firearms, LEAs should consider the data showing the frequency with which resold LEA firearms are used in violent crimes to inform these decisions. In conducting this evaluation, LEAs should consider distinguishing policies that allow law enforcement officers to purchase their issued service weapon for their private use from policies that require or allow the resale of seized crime guns or retired service weapons to the general public.

Recommendation 2: Expand eTrace and National Integrated Ballistic Information Network (NIBIN) use to all LEAs

Expansion of eTrace

Crime gun tracing is the systematic process of tracking the movement of a firearm from its point of U.S. manufacture or importation through the distribution chain (wholesalers and retailers) to identify the last known purchaser from an FFL. If the last known purchaser is not also identified as the possessor, that purchaser identification information can provide essential leads to law enforcement in the determination of how the possessor obtained the crime gun. The analysis of aggregate trace data is critical to understanding firearm diversion trends and developing strategies to combat illegal firearms trafficking.

State and local governments operate approximately 17,500 full-time LEAs within the U.S.[1] There are also more than 90 federal LEAs[2] in the U.S., and approximately 250 tribal LEAs.[3] In total, there are almost 18,000 LEAs in the U.S. As of August 21, 2024, 9,996 U.S. LEAs had Memorandums of Understanding (MOU) with ATF to participate in eTrace, representing more than 55% of all LEAs.

Between 2000 and 2023, the ATF NTC received more than 8.7 million crime gun trace requests[4] from law enforcement agencies. From 2017 to 2021, more than 17% (1,705 of 9,708) of all firearm trafficking investigations conducted by ATF were initiated as a direct result of reviewing crime gun trace information, while more than 22% (2,210) resulted from a CGIC referral, and more than 4% (431) resulted from the review of crime gun intelligence.[5] In each of these circumstances, eTrace was a key data source identifying potential traffickers for investigation.

Twelve states and the District of Columbia (DC) currently have laws requiring LEAs to trace all recovered crime guns.[6] LEAs that have comprehensive tracing policies tend to be larger agencies that recover a substantial volume of crime guns. However, many smaller LEAs do not have comprehensive tracing policies. In aggregate, the un-traced crime guns recovered by these agencies may represent a substantial untapped source of vital information. Crime guns held in LEA evidence vaults may hold critical information to solving the underlying gun crime, or other gun crimes including illegal firearms trafficking. In addition to un-traced crime guns, submissions of traces with inaccurate or incomplete firearm descriptors, recovery address location, or possessor information results in the loss of evidence critical to investigations. Crime gun tracing should be expanded in the following ways:

1. Universal crime gun tracing should be implemented by all LEAs using an eTrace account so that traces are electronically transmitted to ATF's NTC.

2. Tracing at each LEA should be comprehensive and timely, with each recovered crime gun being traced, ideally within two-business days of recovery.

3. Each trace request should include complete and accurate information related to the crime gun description, recovery location, and possessor.

Expansion of NIBIN

NIBIN is the only nationwide automated ballistic imaging network in the United States. Federal, state, local, territorial, and tribal LEAs submit cartridge casings recovered from shootings and test-fires from recovered crime guns for NIBIN imaging. NIBIN is a national resource containing more than 25 years of crime gun data. As of December 2023, approximately 6.5 million pieces of ballistic evidence were entered into NIBIN, generating approximately 1,060,000 shooting investigation leads nationwide. Approximately 150,000 NIBIN hits have been confirmed, with some of these results used as evidence in trials or to secure guilty pleas from violent criminal offenders-shooters. In addition to NIBIN, ATF operates the NIBIN National Correlation and Training Center (NNCTC). From its opening in 2016 through September 2022, the NNCTC has conducted more than 954,000 correlation reviews resulting in the dissemination of more than 276,00 leads to partner sites.[7] There are currently 381 NIBIN sites (facilities with NIBIN stations) in 300 cities across the country. As of June 2024, there were approximately 12,000 individual LEAs[8] that had submitted evidence into NIBIN, representing 67% of all LEAs (17,892).

Academic studies have confirmed the importance of ballistic imaging technology in improving crime gun enforcement operations. This technology increases investigative leads on violent gun crimes, enhances strategic intelligence on violent gangs and other criminally active groups, and improves the apprehension and prosecution of violent gun criminals.[9] NIBIN leads also guide violence prevention efforts by establishing patterns of violence across areas and among specific individuals. When NIBIN leads are organized as a network analysis, investigators can identify and target the key nodes in a violent criminal network.[10] NIBIN is an important crime fighting tool that generates considerable gun violence reduction value for partnering federal, states, and local LEAs.

Eight states and DC currently have laws requiring LEAs to submit all recovered fired cartridge casings and crime gun test fire into NIBIN[11]. Recovered crime guns and ballistic evidence that are not submitted to NIBIN may hold information critical to solving a shooting(s). Increasing the number of LEAs utilizing

NIBIN improves their ability to investigate shootings, apprehend violent criminals, and prevent future shootings more effectively. NIBIN use should be expanded in the following ways:

1. All LEAs should utilize NIBIN.

2. Consistent with the guidance in ATFs Minimum Required Operating Standards (MROS),[12] LEAs should adopt policies requiring comprehensive collection of ballistic evidence and timely submission of that evidence into the NIBIN system. The MROS provides that NIBIN evidence should be entered within two business days of receipt. The MROS further provides that NIBIN review shall occur within 48-hours. If a correlation is made, the lead from that correlation shall be disseminated within 24-hours to the submitting LEA.

3. Funding should be provided to ATF for additional correlation review and training specialists. These additional resources would primarily be located at the NNCTC II in Wichita, Kansas. The NNCTC has proven exceptionally effective and efficient at processing and correlating large amounts of ballistic evidence as a service to LEAs nationwide. Personnel at the NNCTC specialize exclusively in NIBIN correlation work and therefore become highly efficient at this process. Conducting correlations is one of the most time-consuming and labor-intensive aspects of the NIBIN process. Most LEAs do not have the resources to dedicate personnel exclusively to conducting correlations. LEAs could benefit from both costs savings as well as a more expeditious turn- around time on correlations with expanded access to NNCTC resources.

Integration and Enhancement of Tracing and NIBIN Systems

Consistent with recommendations from NFCTA Volumes I, II, and IV, Part VIII, DOJ should continue efforts to increase the number of LEAs using eTrace and NIBIN. These efforts must also focus on further integrating trace and NIBIN data into a single platform readily accessible to LEAs throughout the U.S. To accomplish this, the following efforts are recommended that:

1. DOJ conduct a national assessment of firearm tracing and ballistic imaging of crime gun evidence that identifies the staffing, processes, and technology needed to ensure comprehensive crime gun data collection and analysis in varied state, local, territorial, and tribal jurisdictional settings. This nationwide effort should be completed in collaboration with academic researchers and supported as appropriate by local research partners involved in the implementation of Crime Gun Intelligence Centers (CGICs).

2. DOJ provide grant funding (*e.g.,* Edward Byrne Memorial Justice Assistance Grants, COPS Grants) to state, local, territorial and tribal LEAs to hire LEA employees complete comprehensive tracing and NIBIN submissions. These persons should be trained to understand the need to submit timely trace requests and NIBIN entries for all recovered crime guns, properly identify firearms, and include all available information.

3. Congress provides funding to ATF to merge crime gun data from the tracing and NIBIN systems. This funding will allow ATF to:

    a) Incorporate a trace request capacity into NIBIN so that when test-fires from firearms are submitted to NIBIN, the information describing the crime gun, recovery location, and possessor are used to automatically trace the firearm.

b) Merge eTrace and NIBIN information in a unified platform that would allow LEAs to search for all aspects of crime gun information and intelligence.

c) More comprehensively study where new NIBIN systems should be located to maximize NIBIN use by all LEAs.

Recommendation 3: Prevent Firearm Trafficking to Persons Prohibited from Purchasing and Possessing Firearms

Title 18 U.S.C. § 922(g) makes it unlawful for nine categories of persons to ship, transport, or receive firearms or ammunition, and Title 18 U.S.C. § 922(n) makes it unlawful for any person under indictment for a crime punishable by imprisonment for a term exceeding one year to ship, transport, or receive firearms or ammunition. Prohibited persons are precluded under the law from acquiring a firearm from an FFL or private person. The National Instant Criminal Background Check System (NICS) is mandated by Congress and designed to ensure that a background check will identify a prohibited person attempting to purchase a firearm from an FFL, thereby preventing the transaction. When background checks are conducted, NICS and state equivalent systems have proven to be an effective tool in limiting transfer of firearms to prohibited persons.[13] Under federal law, however, a private transfer of a firearm from a non-FFL does not require completion of an ATF Form 4473 Firearms Transaction Record and is not subject to a NICS background check.

Almost 79% of all crime guns recovered and traced from 2019 through 2023 were traced to a purchaser. Approximately half of those crime guns were recovered within three years of purchase and about a quarter were recovered within one year. Only about 12% of traced crime guns during this period were recovered in the possession of the last known purchaser. These data suggest that a significant number of crime guns were rapidly diverted to criminal use following the last known purchase from an FFL involving a criminal background check.

Unlike lawful sales by FFLs, firearms illegally trafficked by unlicensed firearm dealers circumvent criminal background check systems. NFCTA Volume III, Firearm Trafficking Investigations, documented that the most frequently identified violation of federal law was dealing in firearms without a license (35% of cases).[14] Similarly, the most frequent trafficking channel identified was dealing in firearms without a license (41% of cases).[15] Further, in 16% of these cases trafficked firearms were used in shootings.[16] Unlicensed dealers were associated with the largest number of trafficked firearms (68,388) and averaged 20 trafficked firearms per investigation.[17] These data reinforce the serious public safety consequences of firearm transfers made without background checks.

For instance, in 27% of firearm trafficking investigations at least one firearm trafficker was a convicted felon.[18] In 60% of firearm trafficking investigations at least one end-user of trafficked firearms was a convicted felon.[19] More than 40% of all firearm trafficking defendants referred for prosecution had at least one prior felony conviction.[20] In trafficking cases where additional crimes were identified, more than 40% involved a convicted felon in possession of a firearm.[21] Collectively, these data indicate that unregulated private sales (without background checks) facilitate the movement of a significant volume of firearms from the legal marketplace to prohibited persons.

The findings cited above are consistent with the findings of prior ATF reports and academic research on the illicit acquisition of firearms by prohibited persons.[22] Historically, the vast majority of firearms in the

U.S. start out as a legal commodity manufactured or imported by an FFL, transferred to a licensed gun store, and initially sold to a person who clears a background check. Crime guns may change hands several times after that first retail sale. Diversion to criminal use occurs in a number of ways, including theft, direct transfer to a prohibited person, straw purchasing, or other firearm trafficking offense.[23] Individuals who are prohibited due to their criminal records or other conditions are unlikely to purchase a firearm directly from an FFL or in a private transaction that is subject to a state law mandated background check.[24] Instead, prohibited persons determined to get crime guns acquire them through underground crime gun markets that involve unregulated transactions with acquaintances and illicit "street" sources.[25] Many ATF crime gun trafficking investigations involve close-to-retail diversions from legal firearm commerce.[26]

The evidence indicates that convicted felons and other prohibited persons often obtain crime guns through unregulated transactions, specifically transactions that avoid background checks. Consequently, expanding background checks could further limit opportunities for prohibited persons to legally acquire firearms. There are several means by which this can be accomplished:

1. Increasing the funding of ATF to enhance the identification and ensuing investigation of illegal gun traffickers, especially those who are dealing without a license and not completing legally required background checks.

2. Deterring prospective unlicensed sellers by ensuring the prosecution and appropriately serious punishment of those engaged in this unlawful activity.

3. Examining laws in states that have expanded background checks beyond those required by federal law to assess their effectiveness. For example, these laws have taken the approach of further defining the types of firearm transfers that require criminal background checks.

Whether background check requirements should be expanded by statute is an issue for resolution by legislators. The analysis presented in NFCTA reports provides information, including data on the public safety consequences of transactions conducted without such checks, that can inform any such decision.

ENDNOTES

[1] Gardner, A. and Scott, K., Bureau of Justice Assistance, Census of Law Enforcement Agencies, 2018, October 2022, NCJ 302187, Census of State and Local Law Enforcement Agencies, 2018 – Statistical Tables (ojp.gov)
[2] Brooks, C., Bureau of Justice Statistics, Federal Law Enforcement Officers, 2020 – Statistical Tables, September 2022, NCJ 304752, Federal Law Enforcement Officers, 2020 – Statistical Tables (ojp.gov)
[3] Field, M., Perry, S., Bureau of Justice Statistics, Tribal Law Enforcement in the United States, 2018, July 2023, NCJ 306022, Tribal Law Enforcement in the United States, 2018 (ojp.gov)
[4] National Firearms Commerce and Trafficking Assessment, Vol II – Crime Gun Intelligence, January 2023, https://www.atf.gov/firearms/docs/report/nfcta-volume-ii-part-ii-ntc-overview/download and Volume IV, Part III.
[5] National Firearms Commerce and Trafficking Assessment, Vol III – Firearm Trafficking Investigations, April 2024, https://www.atf.gov/firearms/docs/report/nfcta-volume-iii-part-ii/download
[6] CA - California Code, Penal Code - PEN § §§ 11108.3, 11108.10; CT - Conn. Gen. Stat. § 54-36n; DC - D.C. Code § 7-2510.16; DE - Del. Code Ann. tit. 11. §§ 8101-8102; IL - 720 ILCS 5/24-8; MA - Mass. General Laws c.140 § 131Q; NJ - N.J. Stat. Ann. §§ 52:17B-9.18, 52:17B-5.3(c); NY - N.Y. Exec. Law § 230; NC - N.C. Gen. Stat. § 143B-902*; OR - Or. Executive Order No 16-12, signed July 15, 2016; PA - 18 Pa. Cons. Stat. § 6127; VA - Va. Code Ann. § 52-25.1
[7] National Firearms Commerce and Trafficking Assessment, Vol II – Crime Gun Intelligence, January 2023, https://www.atf.gov/firearms/docs/report/nfcta-volume-ii-part-i/download
[8] In NIBIN, agencies are identified by a unique agency code. According to the NIBIN vendor, 15,666 unique agency codes have submitted evidence to NIBIN (as of June 2024). LEAs may sometimes have more than one agency code. For example, a large police department may have unique agency codes for each precinct. After being grouped by apparent "parent agency", there are approximately 12,000 unique LEAs with NIBIN submissions.
[9] Anthony A. Braga and Glenn L. Pierce. 2004. "Linking Gun Crimes: The Impact of Ballistics Imaging Technology on the Productivity of the Boston Police Department's Ballistics Unit," Journal of Forensic Sciences, 49 (4): 701–706; Anthony A. Braga. 2008. "Gun Enforcement and Ballistics Imaging Technology in Boston," in Ballistics Imaging, eds. Daniel L. Cork, John E. Rolph, Eugene S. Meieran, and Carol V. Petrie, National Research Council and National Academy of Engineering. Washington, DC: National Academies Press; Anthony A. Braga and Glenn L. Pierce. 2011. "Reconsidering the Ballistic Imaging of Crime Bullets in Gun Law Enforcement Operations," Forensic Science Policy and Management 2, (3): 105–117
[10] William King, William Wells, Charles Katz, Edward Maguire, and James Frank. 2013. Opening the Black Box of NIBIN: A Descriptive Process and Outcome Evaluation of the Use of NIBIN and Its Effects on Criminal 38 of 38 1/11/2023 Investigations, Final Report. Washington, DC: U.S. Department of Justice, National Institute of Justice. https://www.ojp.gov/pdffiles1/nij/grants/243875.pdf
[11] CT - Conn. Gen. Stat. § 29-7h; DE - Del. Code Ann. tit. 11, §§ 8101, 1802(a), (b), (c); IL - 720 ILCS 5/24-8; IN - IC 36-8-25.5-6; MA - Mass. General Laws c.140 § 131Q; NV - Nev. Rev. Stat. § 202.25305; NJ - N.J. Stat. § 52:17B-9.19; NY - N.Y. S.4970-A/A.1023; N.Y. Exec. Law § 230(7)
[12] ATFs MROS established minimum operating and policy requirements in 2018 that are rooted in ATF's "Four Critical Steps for a Successful NIBIN Program" – comprehensive collection, timeliness, investigative follow-up, and feedback which lead to the identification of practices that best allow NIBIN to provide comprehensive and timely crime gun intelligence.
[13] Brooks, Connor, US Department of Justice, *Bureau of Justice Statistics, Background Checks for Firearms Transfers 2019-2020, NCJ Number 306971*, November 2023, Retrieved from https://bjs.ojp.gov/library/publications/background-checks-firearm-transfers-2019-20
[14] NFCTA Volume III, Part IX, Figure IO-02
[15] NFCTA Volume III, Part III, Table FTC-02
[16] NFCTA Volume III, Part IX, Table IO-06
[17] NFCTA Volume III, Part V, Table TVF-09
[18] NFCTA Volume III, Part VI Table CFT-14a
[19] NFCTA Volume III, Part VI, Table CFT-25a and CFT-25b
[20] NFCTA Volume III, Part VI, Table CFT-37
[21] NFCTA Volume III, Part IX, Figure IO-03

[22] For e.g., Bureau of Alcohol, Tobacco and Firearms. 2002. Crime Gun Trace Analysis (2000): National Report. Washington, DC: Bureau of Alcohol, Tobacco and Firearms; Anthony A. Braga, Philip J. Cook, David M. Kennedy, and Mark H. Moore. 2002. "The Illegal Supply of Firearms." Crime and Justice: A Review of Research, 29: 319 – 352; Glenn L. Pierce, Anthony A. Braga, Raymond R. Hyatt, and Christopher S. Koper. 2004. "The Characteristics and Dynamics of Illegal Firearms Markets: Implications for a Supply-Side Enforcement Strategy." Justice Quarterly, 21 (2): 391 – 422; Philip J. Cook, Richard J. Harris, Jens Ludwig, and Harold A. Pollack. 2015. "Some Sources of Crime Guns in Chicago: Dirty Dealers, Straw Purchasers, and Traffickers," Journal of Criminal Law and Criminology, 104 (4): 717–759.

[23] Philip J. Cook. 2018. "Gun Markets," Annual Review of Criminology, 1: 359–377

[24] Philip J. Cook, Harold A. Pollack, and Kailey White. 2019. "The Last Link: From Gun Acquisition to Criminal Use," Journal of Urban Health, 96 (5): 784–791

[25] Philip J. Cook, Jens Ludwig, Sudhir Venkatesh, and Anthony A. Braga. 2007. "Underground Gun Markets." The Economic Journal, 117 (11): 558 – 588.

[26] Bureau of Alcohol, Tobacco and Firearms. 2000. Following the Gun: Enforcing Federal Laws Against Firearms Traffickers. Washington, DC: Bureau of Alcohol, Tobacco and Firearms.; Anthony A. Braga, Garen J. Wintemute, Glenn L. Pierce, Philip J. Cook, and Greg Ridgeway. 2012. "Interpreting the Empirical Evidence on Illegal Gun Market Dynamics." Journal of Urban Health, 89 (5): 779 – 793; Anthony A. Braga and Glenn L. Pierce. 2005. "Disrupting Illegal Firearms Markets in Boston: The Effects of Operation Ceasefire on the Supply of New Handguns to Criminals." Criminology & Public Policy, 4 (4): 717 – 748.