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Updated Evidence and Policy Developments on Reducing Gun Violence in America

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Adequate Oversight of Licensed Firearm Dealers Remains a Problem

Jon S. Vernick and Daniel W. Webster

Firearm dealers are important source of guns for criminals. A small proportion of dealers sell the majority of guns recovered by the police. Prior research has demonstrated that enhanced oversight and inspection of dealers reduces illegal gun trafficking. Yet regulation and oversight of gun dealers at the federal and state levels remains inadequate.

Federal law requires a person “engaged in the business” of selling firearms to be licensed (called an FFL) by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). ATF is also responsible for oversight of licensed dealers. In an April 2013 report, the U.S. Department of Justice’s Office of the Inspector General concluded that “ATF did not meet its goal of inspecting all FFLs on a cyclical basis, resulting in over 58 percent of FFLs not being inspected within 5 years.” The report attributed this deficiency to insufficient investigatory resources within ATF. In recent years, ATF has used a number of metrics to identify “high risk” FFLs that are more likely to be involved in gun trafficking. These high-risk FFLs are supposed to be targeted for more frequent discretionary inspections by ATF. But the Inspector General’s report noted that ATF lacked a system to track whether such inspections were occurring.¹

Recognizing the role of firearm dealers in reducing access to guns for criminals, President Barack Obama included several executive actions relevant to dealers in his January 2013 plan to reduce gun violence.² President Obama directed ATF to give FFLs guidance on how to facilitate voluntary background checks when private sellers wish to transfer their firearms. The president also committed to obtaining Senate confirmation for a director of ATF. On July 31, 2013, B. Todd Jones was confirmed as ATF director, marking the first time in six years that ATF had had a confirmed director. The president also ordered ATF to publish an annual report on lost and stolen firearms. FFLs are required to report to ATF any firearms lost or stolen from their inventory within 48 hours of discovery. Guns stolen from dealers are especially problematic because they directly enter the illegal market and tracing their source is particularly difficult. In a June 2013 report, ATF determined that 16,667 firearms were reported lost or stolen from an FFL in 2012. An additional 173,000 firearms were reported lost or stolen from persons who were not FFLs.³ Finally, the president ordered that all federal law enforcement agencies must submit recovered firearms for tracing to identify gun traffickers, including problem gun dealers.

In the absence of effective federal oversight of gun dealers, the role of states is even more important. In the year since the shooting at Sandy Hook Elementary School, however, just one state—Maryland—enacted new legislation to improve gun dealer regulation. With the enactment of the Firearm Safety Act of 2013, Maryland made a number of changes to its gun dealer legislation. Applications for a state gun dealer license may no longer be approved if a person who is not eligible for a license, or whose license has previously been revoked or suspended, will participate in the management of the gun business or hold a legal or equitable interest in the business. This change was intended to address the notorious case of a gun dealer in Maryland who sought to transfer his business to his mother's name after his license was revoked. The new law also allows a gun dealer's state license to be revoked for failure to maintain appropriate records of gun sales. Gun sales records allow law enforcement to determine if the dealer can account for his or her inventory or is selling guns "off the books." In addition, the Maryland state police are now required to inspect the inventory and records of gun dealers at least once every two years, making Maryland one of just three states mandating regular dealer inspections. Finally, dealers must notify all gun buyers that a lost or stolen firearm must be reported to local law enforcement within 72 hours.⁴

With more than 50,000 FFLs in the United States, oversight and enforcement of gun dealers remains a challenge. However, because only a small number of these dealers are intentionally diverting guns to criminals, identifying problem dealers and focusing scarce law enforcement resources on high-risk dealers can pay big rewards in the reduction of illegal gun trafficking and access to guns by criminals.

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