

ATF

“We don’t get traction with the U.S. Attorney’s office, they don’t follow through, they don’t want to prosecute cases. ... They are not helping the situation.”¹

ATF

COUNSEL: What about a trafficking statute?

ATF

A trafficking statute would be helpful, too. You know, our agency is, I don’t know what the word is, misunderstood, you know. We don’t want to impede in the legal commerce of firearms. Firearms are a legal commodity in the United States, and people have a constitutional right to own guns, you know, and I agree with that. And most ATF agents do, you know.

What we want to do is we want to stop otherwise legal guns from getting into an illegal secondary market. You know, we want to stop these guys, violent criminals, from hurting people, that’s all.²

ATF

The guys who jump out at you as a trafficker are the guys that you look at the multiple sales reports, and this guy bought nine Berettas, you know, he’s bought nine Berettas here, and he’s a one shot at a time, or he’s bought nine Berettas in a month and a half, you know. What’s one guy going to do with nine Berettas? He only has two hands.

COUNSEL: So are the multiple sales reports, are those useful as an investigative technique?

ATF

Yes, absolutely.

COUNSEL: But a Beretta is a handgun?

ATF

Right.

COUNSEL: Because the multiple sales reports only apply to handguns?

ATF

Right.

¹ House Committee on Oversight and Government Reform, Transcribed Interview of **ATF** at 89 (Apr. 27, 2011).

² House Committee on Oversight and Government Reform, Transcribed Interview of **ATF** at 59-60 (June 16, 2011).

COUNSEL: If it did apply to long guns, would that also be useful?

ATF

Oh, absolutely, that would be very useful, yeah, because now you're onto the guy before—you know, right now the problem we're having is the long rifles. A guy goes out and buys X number of 7.62 rifles, whatever, 8, 10, 12, 100. You don't know that that guy—unless an FFL calls you and says, hey, this guy just bought this quantity, you're not going to know until one of those guns ends up at a crime scene, and then you go backtrack and you say, holy cow, this guy bought—you know, look at all these rifles this guy bought. So now you're playing—you're trying to play catch-up. Do you follow what I'm saying?

COUNSEL: But if you had a multiple gun sales report ...

ATF

Yeah. Because right in 2 days—you know, in 2 days, I think it is in, what, in 48 hours or something that the FFL has got to notify ATF of a multiple purchase. So, I mean, you would know. You know, you would be looking for it. Oh, this guy bought 10; let's go out and talk to him. You know, who is he; let's find out something about him, what's he doing, you know; let's follow him for a while.

COUNSEL: And the weapon of choice now for the cartels is the long guns; is that right?

ATF

Yes.³

“[I]n my 2 years there, and in seeing seizure reports and going to seizures and inspecting these weapons, you know, the overwhelming majority of the guns being recovered in Mexico are U.S.-sourced, either manufactured or imported through the United States, which makes sense. We share a common border.

There is, I don't know, 5,000, 6,000, I don't know how many FFLs are along within 100 miles of the border, legitimate gun dealers, you know, in the business of selling guns legally. Some of those guns, unfortunately, a lot of those guns are ending up in the black market.”⁴

³ House Committee on Oversight and Government Reform, Transcribed Interview of **ATF** at 61-62 (June 16, 2011).

⁴ House Committee on Oversight and Government Reform, Transcribed Interview of **ATF** at 72, 75 (June 16, 2011).

ATF

“I would say generally speaking there is not a lot of bite in the 924(a)(1)(A) statute as far as penalties and time, time that would be served.”⁵

“There is really no trafficking, firearms trafficking statute, per se. It would be nice to have a trafficking statute per se or to enhance some of the penalties on even, on the straw purchasers, just to be a deterrent effect. ... At the same time it would be nice to have a statute, a statute that’s applicable to what is going on down here, or having some enhancements so we can really hammer these people and just put them in jail and make the deterrent effect so other people don’t do it.”⁶

ATF

COUNSEL: In your experience with the ATF in Phoenix, for a typical straw purchaser where there is a prosecution and there is a conviction, you said there is very low, the punishment is pretty weak. What is the typical punishment?

ATF

Probation.

COUNSEL: What is the sentence?

ATF

Probation, generally. And again, to get somebody to cooperate against the cartel member when the option is be free and see you guys once a month, generally speaking they are going to take the see-a-guy-once-a-month. I think if the option were to doing some jail time, you might get some cooperation, so the guy would come in and proffer and [we would] be able to develop intelligence to build a case.⁷

“I would say, if anything, we have gone from a ‘D-minus’ to maybe a ‘D.’ It is still far from, again, effective or from what, you know, the taxpayers deserve. But it is still very bad. I mean I wouldn’t say it is effective. ... Guns in the hands of gang members or cartel traffickers, that’s pretty concerning.”⁸

⁵ House Committee on Oversight and Government Reform, Transcribed Interview of **ATF** at 68 (Apr. 28, 2011).

⁶ House Committee on Oversight and Government Reform, Transcribed Interview of **ATF** at 81-82 (Apr. 28, 2011).

⁷ House Committee on Oversight and Government Reform, Transcribed Interview of **ATF** at 97-98 (Apr. 28, 2011).

⁸ House Committee on Oversight and Government Reform, Transcribed Interview of **ATF** at 151 (Apr. 28, 2011).

Darren Gil

“The majority of the weapons that were recovered from crime scenes are U.S.-sourced.”⁹

“[W]ithout a doubt, the majority of weapons that we’re recovering—authorized by the Government of Mexico—come from the U.S., there’s no doubt all right.”¹⁰

William Newell

“So when you have a firearm that’s taken from lawful commerce into unlawful commerce, that technically is the definition of firearms trafficking, by my understanding or under our definition. So, not having a statute that would address a pattern of activity by a group of individuals that are engaged in some form of diversion of firearms from legal to illegal creates a situation for us where we have to go and look at each individual transaction by a particular purchaser.”¹¹

“What I went in the context of the reporting -- what I was talking about was in the context of an administrative requirement that, you know, like in handguns, 2 or more handguns within 5 business days gets reported. That does not exist for long guns. So that -- you're right. I'm glad you allowed me to clarify that. What I meant by that is there is no way -- there is no similar requirement for long gun, therefore there is through a normal administrative process there is no way for us to know if that occurs, unless we have information that we receive from a cooperating dealer or from some other way.”¹²

⁹ House Committee on Oversight and Government Reform, Transcribed Interview of Darren Gil, at 90 (May 12, 2011).

¹⁰ House Committee on Oversight and Government Reform, Transcribed Interview of Darren Gil, at 95 (May 12, 2011).

¹¹ House Committee on Oversight and Government Reform, Transcribed Interview of William Newell, at 52 (June 8, 2011).

¹² House Committee on Oversight and Government Reform, Transcribed Interview of William Newell, at 121 (June 8, 2011).