



Rethinking ATF's Budget To Prioritize Effective Gun Violence Prevention

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The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) occupies a unique place in the federal government. It is a law enforcement agency with the same authority to enforce federal criminal laws as other U.S. Department of Justice (DOJ) component agencies, such as the FBI and the Drug Enforcement Agency. But its mission also includes a critical regulatory function: ATF is the only federal agency with jurisdiction to conduct regulatory oversight of the gun industry. For years, ATF—which is smaller than some municipal police departments—has struggled to perform both parts of its mission with relatively limited resources. In 2019, it employed only 770 investigative staff to conduct compliance inspections of the nearly 78,000 licensed gun dealers and manufacturers in business that year as well as the 9,500 explosives licensees.¹

In recent years, many gun violence prevention advocates have pushed to increase ATF's budget in order to improve its capacity to perform this crucial work. As discussed in a recent Center for American Progress report, the absence of robust regulatory oversight of the gun industry has left it effectively unregulated, which leaves U.S. communities vulnerable to illegal gun trafficking and gun violence.² But simply increasing the budget for ATF would not necessarily solve this problem: A review of the agency's budget over the past decade reveals that ATF has devoted a disproportionate share of its resources to reactive law enforcement efforts that are largely duplicative of the work of other federal and local police agencies, and too often, it focuses on criminal activity that is best addressed at the local level. Through investigating interstate gun trafficking, detecting and interrupting the diversion of guns from lawful to unlawful streams of commerce, and providing investigative support to local law enforcement to help solve shootings, ATF plays a unique role in proactive efforts to reduce gun violence. However, the agency has too frequently chosen not to prioritize that work when deciding how to spend its money.

This issue brief analyzes ATF's budget and identifies areas where the agency should reconsider its spending decisions. ATF has a vital role to play in efforts to reduce gun violence, and the agency should rethink its budget priorities to focus on the functions that will have the biggest impact on that mission.

ATF's history and current budget

As detailed in a 2015 Center for American Progress report, ATF's history dates back to the 1860s, with the civil agency created to collect taxes on alcohol and spirits—the Department of the Treasury's Office of Internal Revenue.³ In the ensuing 160 years, this agency evolved to acquire both criminal and civil regulatory jurisdiction over a handful of consumer products that are now represented in the agency's current title: alcohol, tobacco, firearms, and explosives.⁴ For much of modern history, ATF existed as a component agency of the Treasury Department because of its origin as a tax-collection agency. However, in 2002, as part of the larger reorganization of federal government created by the Homeland Security Act,⁵ most of ATF was moved to the DOJ with only a tax collection function for alcohol and tobacco remaining in the Tax and Trade Bureau within the Treasury Department.⁶

ATF currently has two mission responsibilities with respect to firearms. First, it is a law enforcement agency responsible for enforcing federal gun laws. ATF special agents work with their counterparts at other federal, state, and local law enforcement agencies to identify, investigate, and refer for prosecution individuals who are violating federal gun laws by illegally possessing firearms, participating in violent gun crimes, or illegally trafficking firearms. ATF also provides unique law enforcement resources to assist in criminal investigations, including gun tracing, which allows law enforcement to determine the origin of a gun used in a crime, and sophisticated ballistics matching technology, which enables law enforcement to link shooting scenes together and to a particular gun.⁷

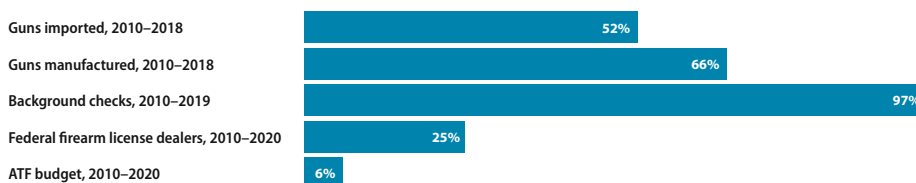
Second, ATF is responsible for providing regulatory oversight of the gun industry, which includes gun manufacturers, importers, and dealers. While much of ATF's criminal enforcement work dovetails and often overlaps with similar work led by other law enforcement agencies, ATF is the only federal agency with jurisdiction to regulate the gun industry. In this role, ATF issues licenses to new businesses and conducts inspections to ensure compliance with all applicable laws and regulations and identify potential illegal gun trafficking activity.⁸ ATF also reviews new firearms and firearm accessories developed by manufacturers to determine whether they require heightened regulation under the National Firearms Act (NFA) and processes applications to manufacture, possess, and transfer NFA weapons, including silencers.⁹ While the bulk of ATF's work relates to firearms enforcement and regulation, the agency also has substantial responsibility over enforcement and regulation of the explosives industry and arson investigations, as well as minimal work related to alcohol and tobacco.¹⁰

Despite the importance of its mission, ATF has been consistently underfunded. From 2010 to 2020, ATF's enacted budget remained essentially stagnant, increasing by only 6 percent when adjusted for inflation.¹¹ In contrast, the size of the gun industry that the agency is charged with regulating grew considerably over

the same period. From 2010 to 2020, the number of federal firearms licensees (FFLs)—gun and ammunition manufacturers and dealers—grew by 25 percent, with the category of retail gun dealers growing by 12 percent.¹² The volume of guns managed by these licensed manufacturers and dealers has also grown substantially. Gun manufacturing increased by 66 percent from 2010 to 2018, and gun importation increased by 52 percent during this period.¹³ Similarly, data from the National Instant Criminal Background Check System suggest that gun sales have also increased substantially, nearly doubling from 2010 to 2019.¹⁴ (see Figure 1)

FIGURE 1
The increase in the Bureau of Alcohol, Tobacco, Firearms and Explosives' (ATF) budget was smaller than increases in gun manufacturing, imports, sales, and federal firearm license dealers

Percentage increase in the ATF budget compared with gun industry indicators from 2010 to the year with the latest available data



Note: The data for federal firearm license dealers do not include collectors.

Source: Center for American Progress analysis of Federal Bureau of Investigations, "NICS Firearms Background Checks: Month/Year," available at https://www.fbi.gov/file-repository/nics_firearm_checks_-_month_year.pdf/view (last accessed September 2020); Bureau of Alcohol, Tobacco, Firearms and Explosives, "Annual Firearms and Manufacturing and Export Report," available at <https://www.atf.gov/file/142946/download> (last accessed September 2020); Bureau of Alcohol, Tobacco, Firearms and Explosives, "Firearms Commerce in the United States, Annual Statistical Update 2019," available at <https://www.atf.gov/firearms/docs/report/2019-firearms-commerce-report/download> (last accessed September 2020); Bureau of Alcohol, Tobacco, Firearms and Explosives, "Complete Firearms Firearms Listings," available at https://www.atf.gov/firearms/listing-federal-firearms-licensees/complete?field_ffl_date_value%5Bvalue%5D%5Byear%5D=2020&ffl_date_month%5Bvalue%5D%5Bmonth%5D=1 (last accessed September 2020); Consolidated Appropriations Act of 2010, Public Law 111-117, 111th Cong., 1st sess. (December 16, 2009), available at <https://www.govinfo.gov/content/pkg/PLAW-111publ117/pdf/PLAW-111publ117.pdf>; H.R.1158 Consolidated Appropriations Act of 2020, Public Law 116-94, 116th Cong., 1st sess. (December 20, 2019), available at <https://www.congress.gov/bills/116th-congress/house-bill/1865/text>. The data for 2020 federal firearm license dealers are current as of January 2020. To estimate real budget figures, the authors used the consumer price index from U.S. Bureau of Labor Statistics, "Consumer Price Index," available at <https://fred.stlouisfed.org/graph/?g=qUZD> (last accessed July 2020).

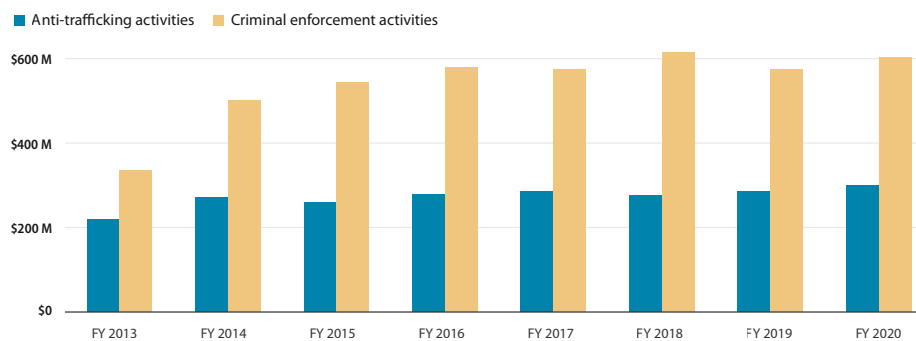
ATF spends significant resources on redundant law enforcement efforts

Because ATF has been forced to operate with a threadbare budget for more than a decade, the agency has had to make decisions about where to focus its meager resources. A review of ATF's annual budget requests to Congress from FY 2013 through FY 2020 provides a breakdown of the agency's budget by decision unit and program activities.¹⁵ Broadly speaking, ATF's budget during this period is broken into two primary decision units: law enforcement operations and investigative support services.¹⁶ ATF describes law enforcement operations work as the "investigation and prevention of violent crime" involving firearms, explosives, and arson.¹⁷ When related to firearms, this work includes investigations related to illegal gun trafficking, criminal use and possession of guns, the diversion of guns from legal to illegal streams of commerce, and a general focus on "criminal organizations." It also includes "safeguarding the legal firearms industry through risk-based regulation."¹⁸ The investigative support services category includes

“resources and activities that support ATF’s law enforcement operations,” such as work related to issuing licenses to firearms and explosives industry actors, and operating the firearms tracing and ballistics systems.¹⁹

Since 2013, law enforcement operations have comprised more than 80 percent of ATF’s total budget. However, that funding has not necessarily been focused on the type of law enforcement efforts that represent the agency’s unique value-add to gun crime investigations.²⁰ An analysis of ATF’s budget from 2013 through 2020 reveals that the agency dedicated disproportionate resources to law enforcement activities focused on “firearms criminal use and possession” and “combatting criminal organizations.” During this period, funding for these categories grew from 36 percent of the overall budget for law enforcement operations in 2013 to 54 percent in 2020.²¹ At the same time, funding for program activities focused on “detering illegal firearms trafficking/violent gun crime” and “diversion of firearms from legal commerce” remained stagnant and only represented between 24 percent and 27 percent of the total budget for law enforcement operations.²² (see Figure 2)

FIGURE 2
Bureau of Alcohol, Tobacco, Firearms and Explosives spending for criminal enforcement activities compared with spending for anti-trafficking activities, fiscal years (FY) 2013–2020



Note: The data for FY 2020 are based on the requested budget. FY 2017 and FY 2019 data are based on projected budgets. For all other years, the data are based on actual budgets.

Source: Center for American Progress analysis of Bureau of Alcohol, Tobacco, Firearms and Explosives, “Congressional Budget Submission: Fiscal Year 2015” (Washington: 2014), available at <https://www.justice.gov/sites/default/files/jmd/legacy/2013/09/05/atf-justification.pdf>; Bureau of Alcohol, Tobacco, Firearms and Explosives, “Congressional Budget Submission: Fiscal Year 2016” (Washington: 2015), available at https://www.justice.gov/sites/default/files/jmd/pages/attachments/2015/02/02/26_bureau_of_alcohol_tobacco_firearms_and_explosives_atf.pdf; Bureau of Alcohol, Tobacco, Firearms and Explosives, “Congressional Budget Submission: Fiscal Year 2017” (Washington: 2016), available at <https://www.justice.gov/jmd/file/821361/download>; Bureau of Alcohol, Tobacco, Firearms and Explosives, “Congressional Budget Submission: Fiscal Year 2018” (Washington: 2017), available at <https://www.justice.gov/file/968946/download>; Bureau of Alcohol, Tobacco, Firearms and Explosives, “Congressional Budget Submission: Fiscal Year 2020” (Washington: 2019), available at <https://www.justice.gov/file/968946/download>.

ATF’s disproportionate focus on individual acts of gun violence is also represented in data on federal prosecutions for gun-related crimes. An analysis of DOJ data by the Transactional Records Access Clearinghouse (TRAC) found that there were 6,526 new weapons-related prosecutions from October 2018 through April 2019, 63 percent of which were led by ATF. Sixty-seven percent of these prosecutions were “felon in possession” cases, which charge an individual with possessing a firearm who was prohibited from buying or possessing guns because of a previous felony conviction.²³ Many of these cases involve individuals charged only with illegally possessing a gun or ammunition, not with any additional acts of violence.²⁴

ATF has also devoted substantial agency resources to enforcing federal drug laws, regardless of whether the cases have a nexus to gun-related crimes: According to DOJ data obtained by TRAC, 11 percent of new prosecutions referred by ATF in June 2020 were for drug or drug trafficking offenses.²⁵

This allocation of ATF resources has resulted in the agency focusing on cases that, while vital to addressing gun-related crime and community safety issues, are already addressed by state and local law enforcement agencies and the FBI. Both the FBI and ATF have programs targeting criminal organizations, and both participate in interagency task forces with state and local law enforcement to focus on local violent crime hotspots.²⁶ ATF and the FBI are both part of the most recent federal program focused on responding to surges in violent crime, Operation Legend.²⁷

ATF's participation in this type of federal enforcement effort is not only duplicative of the work being done by other federal agencies that have more resources—and therefore not an efficient use of its own limited resources—but research suggests that using federal resources to investigate and prosecute illegal gun possession cases in order to obtain longer sentences is not necessarily the most effective approach to deter violent crime.²⁸ More importantly, the approach of federalizing these crimes has contributed to the mass incarceration of people of color, as the defendants are subject to longer mandatory minimum sentences than are generally found in state courts.²⁹

ATF should shift resources to focus on illegal gun trafficking and its unique investigatory tools

To be sure, ATF has a crucial role to play in responding to certain types of gun-related crime that are better addressed federally than at the local level. ATF's mandate situates the agency as a critical player in law enforcement efforts to disrupt illegal gun trafficking. As former ATF Director Bradley Buckles noted in his foreword to the agency's 2000 report on firearms trafficking, nearly every gun used in a crime was first a legal gun sold through legitimate channels.³⁰ Following the first legal purchase, there are many opportunities for individuals to divert guns from the legal market into secondary, illegal gun markets where they are often destined for use in violent crime. Gun trafficking is facilitated by a variety of tactics including straw purchasing, complicity from corrupt dealers, theft from gun stores, and sales through unlicensed private sellers that are not required to conduct background checks under federal law.³¹

The cross-jurisdictional nature of illegal gun trafficking makes it particularly important for federal law enforcement to take the lead. Gun trafficking is generally an interstate crime, with guns being moved across state lines from states with weaker gun laws to states with stronger laws.³² There are well-known gun traffick-

ing corridors across the country, the most famous of which is known as the “Iron Pipeline” along Interstate 95 on the east coast, through which guns are trafficked north.³³ According to ATF trace data from 2010 to 2019, 29 percent of all crime guns submitted for tracing crossed state lines before being used in a crime. In some states, this problem is particularly acute. A recent analysis by the New York State Office of the Attorney General found that from 2010 to 2015, 74 percent of handguns recovered in connection with crimes in New York, through which I-95 runs, were originally purchased from out-of-state gun dealers.³⁴ The cross-jurisdictional nature of this crime makes it more difficult for local law enforcement to be able to effectively identify gun trafficking patterns, execute search warrants, and use other investigative tools outside of their jurisdiction.

Although ATF currently devotes fewer resources to gun trafficking work, it has successfully investigated and referred for prosecution many interstate gun trafficking cases. For example, in July 2019, ATF announced that eight individuals were convicted for an illegal gun trafficking operation that used straw purchasers to buy guns in Virginia to be sold in New York City.³⁵ In May 2020, ATF announced charges against a man accused of a conspiracy to traffic guns from Georgia to Jersey City, New Jersey, one of which was used in a shooting.³⁶ ATF also investigates international gun trafficking. In April 2020, ATF announced the arrests of six people who were accused of being involved in illegally trafficking guns to Mexico from the Houston area.³⁷

There are two key ways in which ATF contributes to anti-gun trafficking efforts. First, because it is the only federal agency with regulatory oversight of the gun industry, it has unique access to gun dealers to identify early signs of gun trafficking conspiracies. Second, ATF operates a number of proactive operations designed to generate actionable intelligence about possible trafficking activity, as well as to help identify potential suspects in cases of violent gun crime. Both of these aspects of ATF’s work should receive significant priority when it comes to allocation of resources.

Oversight of gun dealers

ATF has been candid about the fact that a lack of sufficient resources has hampered its ability to conduct anti-trafficking efforts. For one, ATF does not have the resources to conduct sufficient compliance inspections of FFLs. Federal law enables ATF to conduct an annual inspection of each gun dealer, which is important to ensure that they are conducting proper background checks, keeping accurate records of sales, and monitoring inventory. Problems with background checks, sales records, and inventory information can be indicative of a dealer being complicit in arms trafficking or being targeted by straw purchasers.³⁸ These compliance inspections are often a crucial first step in identifying potential sources of gun trafficking.

Despite this, ATF has struggled to inspect most dealers on anything resembling a regular basis. In 2019, ATF had 770 inspectors on staff capable of conducting inspections of FFLs. Those 770 investigators were tasked with overseeing more than 53,000 retail gun dealers and 13,000 firearms manufacturers. In 2019, ATF investigators conducted only 13,079 compliance inspections of firearms licensees, meaning that 83 percent of those licensed by ATF to manufacture or distribute guns did not receive an inspection that year.³⁹ Because of the limited resources available for gun dealer compliance inspections, ATF generally prioritizes inspections of dealers at risk for compliance issues, such as those that have had crime guns traced to them; have experienced theft; are located near the southern border, where international gun trafficking often occurs; or are located in communities that have high violent crime rates.⁴⁰

Proactive investigative tools

In addition to its regulatory work to identify potential evidence of gun trafficking, ATF offers proactive investigative tools designed to generate actionable intelligence that can identify trafficking and help solve gun-related violent crimes. In 2016, ATF launched a new initiative—Crime Gun Intelligence Centers (CGICs)—focused on harnessing resources to proactively identify the sources of crime guns in communities experiencing high rates of gun violence. CGICs are “interagency collaborations to collect, analyze and distribute intelligence data about crime guns, mass shootings, and major incidents across multiple jurisdictions,” as well as “provide investigative leads and support to crime gun intelligence initiatives across the United States and beyond.”⁴¹ There are currently 25 CGICs located around the country focused on proactive efforts to identify sources of illegal guns used in the commission of violent crime.⁴² The CGIC effort has two primary components: crime gun tracing and ballistics analysis.

As a key component of the CGICs, ATF operates the National Tracing Center (NTC), which is the only tracing facility in the United States capable of identifying the origin of a firearm recovered at a crime scene.⁴³ The NTC enables any law enforcement agency to track the path of a firearm from manufacture through the first point of retail sale, which is critical information to link a gun used in a violent crime to a potential suspect. In 2019, the NTC traced 450,000 crime guns to the first retail purchaser, generating crucial investigative leads for police officers around the country working to solve shootings.⁴⁴

The NTC is a critical component of anti-trafficking enforcement efforts because it has the ability to help law enforcement identify patterns of crime gun sources. This technical capability means it is possible to identify specific dealers that are repeatedly the source of guns used in gun crimes, which enables law enforcement to uncover a dealer that has been targeted by straw purchasers or is complicit in gun trafficking.⁴⁵ The NTC’s database also includes the Interstate Theft Program, which documents reported losses or thefts of firearms from interstate shipments.⁴⁶

Additionally, it uses the Obliterated Serial Number Program to identify firearms that have had their serial numbers removed from or altered on the firearm, which helps law enforcement officials identify crime guns that would otherwise be untraceable.⁴⁷

Another aspect of the CGICs is the National Integrated Ballistic Information Network (NIBIN), a national system for ballistic information.⁴⁸ NIBIN is a critical tool used by law enforcement agencies across local, state, tribal, and federal jurisdictions to conduct ballistic reports for violent crimes. The database matches bullets to the guns that shot them and matches shell casings left at different crime scenes to each other, relying on information etched into a firearm by the manufacturer that transfers corresponding marks to bullets fired from the gun—similar to a fingerprint on the bullet that matches the gun used to fire it.⁴⁹ This information is particularly important because it enables law enforcement investigations to link gun crimes that might otherwise appear unconnected. In 2019, NIBIN generated 67,000 investigative leads to help solve gun-related crimes around the country.⁵⁰

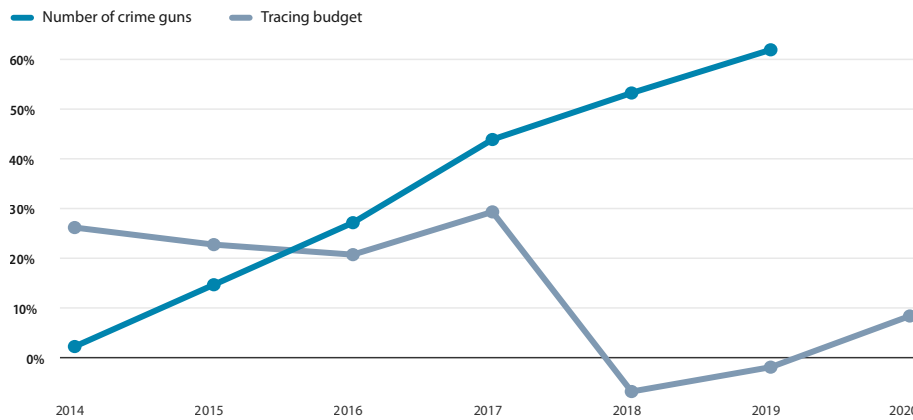
NIBIN has tremendous potential as a law enforcement tool. In November 2007, law enforcement officers in Raleigh, North Carolina, arrested a suspect who was fleeing a bank robbery and dropped a handgun at the scene. Using the NIBIN system, the handgun was connected to three murders and two nonfatal shootings in the area, and the suspect was ultimately convicted for his role in both the robbery and the shootings.⁵¹ In December 2017, police officers in Phoenix connected a suspect in one murder with seven other seemingly unrelated killings in the city and solved those open cases through the firearm used in each.⁵² Police in Colorado Springs, Colorado, used NIBIN to solve a string of five shootings that included a shooting at a mall.⁵³

ATF's investment in the components of the CGICs, however, has been inconsistent. The agency has invested substantially more resources in NIBIN in recent years, with the budget for this program having grown by 183 percent in real dollars since 2013.⁵⁴ In contrast, the budget for the crime gun tracing program dropped 28 percent between FY 2017 and FY 2018 before starting to rise again in FY 2019.⁵⁵ The funding for the tracing program has not kept pace with the volume of crime guns being submitted for tracing. During the program's period of budget instability, from 2013 to 2019—the most recent year for which crime gun trace data are available—the volume of guns being traced increased by more than 60 percent.⁵⁶ (see Figure 3)

FIGURE 3

The budget for crime gun tracing has decreased despite a growing number of crime guns traced

Percentage change since 2013 in Bureau of Alcohol, Tobacco, Firearms and Explosives budget for crime gun tracing and the number of crime guns traced, fiscal years 2014–2020



The number of crime guns traced reflects firearms that were recovered after crimes and successfully traced back to the state of origin. The data do not include crime guns recovered in Puerto Rico, Guam, or the U.S. Virgin Islands. Source: Center for American Progress analysis of Bureau of Alcohol, Tobacco, Firearms and Explosives, "Congressional Budget Submission: Fiscal Year 2015," available at <https://www.justice.gov/sites/default/files/jmd/legacy/2013/09/05/atf-justification.pdf> (last accessed September 2020); Bureau of Alcohol, Tobacco, Firearms and Explosives, "Congressional Budget Submission: Fiscal Year 2016," available at https://www.justice.gov/sites/default/files/jmd/pages/attachments/2015/02/02/26_bureau_of_alcohol_tobacco_firearms_and_explosives_atf.pdf (last accessed September 2020); Bureau of Alcohol, Tobacco, Firearms and Explosives, "Congressional Budget Submission: Fiscal Year 2017," available at <https://www.justice.gov/jmd/file/821361/download> (last accessed September 2020); Bureau of Alcohol, Tobacco, Firearms and Explosives, "Congressional Budget Submission: Fiscal Year 2018," available at <https://www.justice.gov/file/968946/download> (last accessed September 2020); Bureau of Alcohol, Tobacco, Firearms and Explosives, "Congressional Budget Submission: Fiscal Year 2020," available at <https://www.justice.gov/file/968946/download> (last accessed September 2020); Bureau of Alcohol, Tobacco, Firearms and Explosives, "Firearms Trace Data," available at <https://www.atf.gov/resource-center/data-statistics> (last accessed September 2020).

The work of the CGICs is precisely the type of unique value-add to criminal investigations on which ATF should focus its limited resources. Robust national systems of crime gun tracing and ballistics imaging and matching are crucial for providing the data and intelligence necessary to identify illegal gun trafficking networks and solve gun-related violent crimes. ATF is uniquely situated to perform this work and, in doing so, offers unique value to local, state, and federal investigations that cannot be replicated by any other law enforcement agency.

Conclusion

ATF has a critical function as the only federal agency with jurisdiction over the gun industry and is the agency best-suited to focus specifically on helping solve violent gun crimes and disrupt interstate gun trafficking networks. Rather than simply relying on advocates rallying to increase its budget, ATF should conduct an internal audit of its spending and reconsider where it places priority for resources. Instead of spending 54 percent of its law enforcement operations budget on operations targeting individual gun offenders—work that is largely the province of local police agencies—ATF should shift some of these resources to increase capacity for its anti-trafficking work. As the agency faces an impending staffing shortage in its special agent cadre—with more than 350 agents approaching mandatory retirement age⁵⁷—ATF should develop a plan to replace those agents with staff who are

focused on anti-trafficking efforts: special agents, industry operations investigators, attorneys, and forensic examiners.

Gun violence is a public health epidemic that devastates communities across this country every day. ATF has a core role to play in a comprehensive effort to intervene in and prevent gun violence and will likely be charged with continuing to fulfill this role with a limited budget. But even without additional resources, the agency has a substantial opportunity to rethink its role and its priorities, shifting more resources into the work that comprises its unique value-add to efforts to reduce gun violence.

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Endnotes

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- 14 FBI, "NICS Firearms Checks: Month/Year," available at https://www.fbi.gov/file-repository/nics_firearm_checks_-_month_year.pdf/view (last accessed September 2020).
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