

ATF Resources to Combat Violent Crime

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I. Introduction

The primary criminal enforcement mission of the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) is to protect the public from violent crime. In partnership with AUSAs and state prosecutors, ATF agents disrupt and dismantle the criminal organizations plaguing communities. Whether the target is a gang member committing murders and armed robberies, a firearms trafficker, or an arsonist or bomb maker trying to strike fear through fire and destruction, ATF has dedicated assets and expertise to identify those criminals and facilitate a successful prosecution. This article provides a brief overview of those resources, focusing on three key areas: investigation and evidence collection, expert information and testimony, and public information and assistance.

II. Investigation and Evidence Collection

Before an ATF special agent presents a “blue cover” for prosecution, ATF has likely employed a wide variety of resources to further the investigation and collect evidence. This section aims to provide a basic familiarization with some of the tools that provide the biggest return on investment and yield the best evidence.

A. NIBIN and Mobile NIBIN

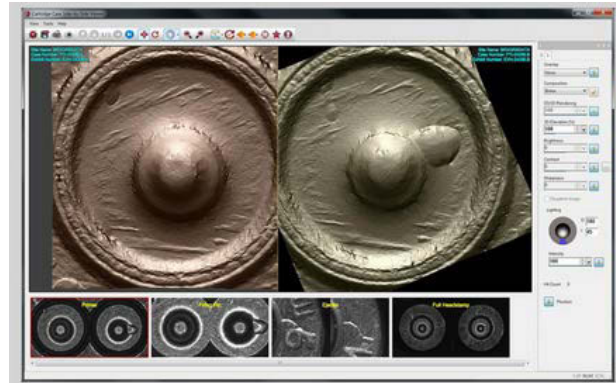
In 1999, ATF established the National Integrated Ballistic Information Network (NIBIN) to provide federal, state, and local partner agencies with an automated ballistic imaging network. NIBIN is the only national network that allows for the capture and comparison of ballistic evidence to aid in solving and preventing violent crimes involving firearms. NIBIN is vital to any violent crime reduction strategy because it provides investigators the ability to compare their ballistic evidence against evidence from other violent crimes on a national, regional, and local level, thus generating investigative links that would rarely be revealed absent the technology.

NIBIN is most effective when agents can engage in comprehensive collection, timely analytical turnaround, and investigative follow up. For purposes of comprehensive data collection, the priority level for all firearms ballistic evidence must be equal. Agents must collect and submit into NIBIN all firearms ballistic evidence meeting NIBIN entry requirements, regardless of the crime. Evidence includes recovered cartridge cases and test fires from seized crime guns.

Turnaround involves entry into the NIBIN system, correlation review, and “lead” notification to investigators. The goal for NIBIN sites is to provide “leads” to investigators within forty-eight hours of shooting incidents.

A NIBIN *lead* is an unconfirmed, potential link between at least two pieces of firearms ballistic evidence based on a correlation review of the digital images. This is a determination by either a firearms examiner or a trained NIBIN technician that two cartridge casings *may* have been fired from the same firearm. Prosecutors must use this information for intelligence purposes only. A prosecutor cannot use a NIBIN lead in support of a search warrant or as evidence in court.

Instead, a NIBIN *hit* is appropriate for search warrants and is admissible evidence. A NIBIN hit is based on a correlation review of the digital images of the casings and a microscopic confirmation by a firearms examiner.



Example of NIBIN review of cartridge casings

Each week a new NIBIN success story seems to arise. A YouTube search for “ATF” and “NIBIN” produces numerous news videos recounting cases where officials solved murders and other shootings because of connections made through NIBIN. Does a prosecutor have a “community gun” in a RICO or VCAR case? NIBIN can connect shootings that may have occurred in areas outside that prosecutor’s jurisdiction.

NIBIN programs can be expensive, however, and not every district has a NIBIN site. An interactive map of locations is available at <https://www.atf.gov/firearms/nibin-interactive-map>.⁶⁷ To make



Mobile NIBIN

NIBIN more accessible, in March 2017, ATF rolled out the first NIBIN van, known as Mobile NIBIN. Mobile NIBIN is a state-of-the-art forensic lab where agents can perform NIBIN correlations and microscopic comparisons. It also travels with a trailer where investigators can test fire confiscated weapons to compare the markings on casings with others entered in the ATF database. Mobile NIBIN first visited Harrisburg and York, Pennsylvania, then Baltimore, Maryland, and Chicago, Illinois.

NIBIN acquisitions are expressly limited to ballistic information from recovered firearms and fired ammunition components pursuant to a criminal investigation. Therefore, NIBIN cannot capture or store ballistic information acquired at the point of manufacture, importation, or sale, nor can it

ascertain the purchaser, the date of manufacture, or other sale information. More information about NIBIN is available at <https://www.atf.gov/firearms/national-integrated-ballistic-information-network-nibin>.⁶⁸

B. Crime Gun Intelligence Centers

ATF runs twenty-six Crime Gun Intelligence Centers (CGICs). A CGIC is an interagency collaborative body that focuses on the collection, management, and analysis of crime gun data. The goal of a CGIC is to identify the most violent offenders, groups, violent gun crime areas, and sources of crime guns. The CGIC then provides this consolidated and coordinated intelligence to enforcement groups.

⁶⁷ NIBIN INTERACTIVE MAP, ATF (last updated Dec. 5, 2016).

⁶⁸ NATIONAL INTEGRATED BALLISTIC INFORMATION NETWORK (NIBIN), ATF (last updated Sept. 22, 2016).

These focused efforts allow federal, state, and local law enforcement to direct limited resources to the prosecution of the most violent offenders in a particular jurisdiction.

CGICs also analyze trends pertaining to firearms trafficking and detect potential high-risk federal firearms licensees (FFLs) who may be violating the Gun Control Act (GCA),⁶⁹ the National Firearms Act (NFA),⁷⁰ and other federal laws.

CGIC staff can help AUSAs by doing the following: identifying electronic evidence on social media and email accounts; creating packages of information for detention hearings; developing maps and demonstrative exhibits based on cell-site and geolocation data information; and monitoring online firearms classifieds and forums for particular stolen weapons, sellers, or purchasers.

CGICs were the subject of a November 2015 USA Bulletin article.⁷¹

C. Division Counsel and Field Attorneys

What is a “POC state”? Can a California “wobbler” be the basis for a firearms prohibition? If evidence is inadequate to prosecute individual straw purchasers buying firearms from a particular FFL, does a regulatory remedy exist? Does a particular Alabama statute qualify as a misdemeanor crime of domestic violence?

ATF attorneys are an underutilized resource for AUSAs. Each ATF field division has a division counsel, and larger offices have an additional staff attorney. These lawyers, some of whom are former AUSAs and SAUSAs, are well-versed in the intersection of state laws with federal firearms laws. The legal questions regarding GCA and NFA prohibitions and elements of proof can seem simple at first, but application of the facts can uncover complicated questions of law that vary from state to state. Gangs are now trafficking cigarettes. Is the prosecutor comfortable charging violations of the Contraband Cigarette Trafficking Act, or would the prosecutor rather have the assistance of an ATF attorney who has worked in this area for twenty-five years? ATF field and Headquarters attorneys are always available to answer questions and discuss issues.

D. Financial Investigative Services Division

The Financial Investigative Services Division (FISD) provides comprehensive financial investigative services to ATF in the target areas of arson, explosives, alcohol, tobacco, and firearms. These investigations can be large and complex, involving money laundering, asset identification, and forfeiture. FISD supports all ATF programs, including Organized Crime Drug Enforcement Task Force, High Intensity Drug Trafficking Area, Violent Crime Impact Team, Project Safe Neighborhood, and other multi-agency task forces.

FISD personnel are experts in the field of forensic accounting. Almost every investigation involves a reconstruction of the entity’s or suspect’s financial condition, typically with no physical financial support documents. As such, FISD employees have forensic audit experience unique in the area of forensic accounting. FISD employees routinely testify about the results of their investigations in court. The results of FISD’s financial investigations provide the financial condition that a jury may rely on to establish motive in an investigation. Additionally, FISD identifies and establishes other ancillary crimes, such as bank fraud, wire fraud, mail fraud, money laundering, theft, and embezzlement. FISD plays an integral role in identifying assets while conducting its financial investigation.

AUSAs can rely on FISD for financial investigations linked to violent crime. FISD’s experts reduce pressure on limited USAO financial analyst resources.

⁶⁹ See 18 U.S.C. §§ 921-931 (2012).

⁷⁰ See 26 U.S.C. §§ 5801-5872 (2012).

⁷¹ John F. Walsh & Luke Franey, *ATF Crime Gun Intelligence Centers*, 63 U.S. ATTORNEYS’ BULL. 49 (2015)

E. National Canine Division

ATF canine officers may be the cutest members of a prosecution team, and they certainly will work tirelessly to help locate the gun, shell casing, explosive device, accelerant, or fleeing suspect pertinent to a case.



Abby is an explosive detection/SEEK K-9 working in the ATF Los Angeles Field Division.

The National Canine Division (NCD) trains explosives and accelerant detection canines for federal, state, local, and international law enforcement and fire investigation agencies. Since 1990, ATF has trained approximately 919 explosives detection canines and 253 accelerant detection canine teams. From March 2009 through March 2017, the NCD has successfully imprinted 3,791 Department of Defense military working dogs on homemade explosives.

NCD initiated the ATF Search Enhanced Evidence K-9 (SEEK) Program in 2013, and currently, thirteen teams work throughout the United States. The SEEK Program trains explosives detection canine handlers to work their canines off-leash. This type of handling allows the canines to work independently, more quickly, and at a greater distance, abilities that can be invaluable in a variety of circumstances, including the recovery of firearms, explosive, and post-blast evidence.

The SEEK Program is a thirteen-week training course during which the canines learn to search in open areas, fields, schools, vehicles, bus lots, warehouses, retail stores, and other facilities, often off-leash. Prior to the program, the canines underwent a separate twelve-week training session where they learned to recognize more than 19,000 explosives compounds and to detect firearms and spent ammunition. They also learned to detect trace amounts of all types of low explosives, such as smokeless and black powders, and high explosives, such as TNT. In addition, they learned to detect traces of residue from firearms and spent shell casings.

The Special Response Team (SRT) K-9 Program utilizes handpicked canines and handlers trained in areas that support the SRT mission to reduce violent crime and protect the public. The eleven SRT canine teams are trained and certified in six areas:

- Obedience
- Building Search
- Area Search
- Tracking
- Evidence Search, and
- Aggression Control

One tactical canine (Ike, pictured right) is also trained and certified in explosives detection.



Ike, a tactical canine, can detect explosives.

F. Violent Crime Analysis Branch

The mission of the Violent Crime Analysis Branch (VCAB) is to provide ATF and other federal, state, local, and international law enforcement agencies with useful and accurate crime gun, explosives, arson, and tobacco trafficking intelligence information in statistical and visual formats. VCAB serves to

collect, analyze, and disseminate criminal intelligence information derived from various sources for the purpose of reducing violent crime and protecting the public.

VCAB regularly produces reports, maps, and studies on the following:

- Crime Gun Trace Studies—used to determine any trends and patterns relative to firearms trafficking schemes.
- Explosive and Arson Studies—used to analyze trends and patterns of explosive and arson incidents.
- Tobacco Studies—used to analyze trends and patterns of tobacco trafficking.
- Mapping Studies—Geographic Information System or other visual representation of geographic information extracted from various ATF databases, including licensee populations, firearms tracing, violent crime data, explosives and arson incidents, theft of firearms from federal firearms licensees, etc.
- Data Extracts—extracts of firearms, explosives, arson, and tobacco data in spreadsheet form instead of the graphic formats described above.

This data and the graphics are useful in sentencing memoranda because they can give the court a larger picture of the trends in, and effects of, firearms or tobacco trafficking, FFL thefts, and violent crime. Specialized data extracts and graphics may be available, upon request, for use in a particular prosecution. For more information and to view VCAB statistical and mapping products that are posted annually to ATF's website, visit: <https://www.atf.gov/resource-center/data-statistics>.⁷²

G. National Tracing Center

Located in Martinsburg, West Virginia, ATF's National Tracing Center (NTC) is the country's only crime gun tracing facility. The NTC's mission is to conduct firearms tracing to provide investigative leads for federal, state, local, and foreign law enforcement agencies.

The GCA authorizes the U.S. Attorney General to administer firearms tracing, a task that the Attorney General has delegated solely to ATF. The NTC may only trace a firearm for a law enforcement agency involved in a bona fide criminal investigation, and the firearm must have been used or suspected to have been used in a crime. Several programs within the NTC receive, manage, and disseminate firearms information, in conjunction with firearms tracing, to support the law enforcement community in the effort to combat violent crime and firearms trafficking.

Firearms tracing begins when a law enforcement agency discovers a firearm at a crime scene and seeks to learn the origin or background of that firearm to develop investigative leads. Tracing is a systematic process of tracking the movement of a firearm, beginning at its manufacture or its introduction into U.S. commerce by the importer, and continuing through the distribution chain (i.e., wholesaler or retailer), to identify an unlicensed purchaser. That information can help to link a suspect to a firearm in a criminal investigation and identify potential traffickers. Firearms tracing can detect intrastate, interstate and international patterns in the sources and types of crime guns. ATF processes crime gun trace requests for thousands of domestic and international law enforcement agencies each year. It also traces U.S.-sourced firearms recovered in foreign countries for law enforcement agencies in those countries.

The NTC processed 386,999 trace requests in fiscal year 2016. The goal of the NTC is to complete traces classified as "urgent" in less than twenty-four hours. The NTC completes traces classified as "routine" within five days, on average. The law enforcement agency submitting the trace request

⁷² See [DATA & STATISTICS, ATF \(last updated May 23, 2017\)](#).

determines the trace classification.

The NTC manages a number of other programs, including eTrace, FFL Theft/Loss, Multiple Sales, Out of Business Records, Interstate Theft, Obliterated Serial Number, and Demand Letters for FFLs. In August 2016, *GQ* magazine published an interesting article about the NTC, its dedicated employees, and the challenges it faces under congressional constraints.⁷³

H. Fire and Arson Investigation Branch

The Fire and Arson Investigation Branch manages ATF's National Response Team (NRT) and the Arson and Explosives Criminal Investigative Analysis (Profiler) Program. ATF developed the NRT and Profiler Programs to meet the challenges, in partnership with federal, state, and local investigators, faced at the scenes and investigations of significant or complex fire and explosion incidents. The primary mission of the NRT and Profiler Programs is to reduce the risk to public safety caused by arson or bombings, and provide the highest level of investigative response and expertise.

Formed in February 1978, the NRT investigates significant fire and explosion incidents. Federal, state, and local investigators can request the activation of the NRT, and the International Response Team, part of the NRT program, can be deployed worldwide to investigate fires and explosions at the request of the U.S. Department of State.



ATF's National Response Team (NRT)

The NRT's primary mission is to concentrate ATF explosives and fire investigative resources and expertise on large-scale incidents or on more complex investigations. The NRT provides an immediate and sustained nationwide response capability that typically deploys within twenty-four hours of notification and utilizes state-of-the-art equipment and the most qualified ATF personnel.

III. Expert Information and Testimony

ATF experts, particularly in the areas of firearms, explosives, and fire science, are vital to effective prosecutions. The extensive knowledge and technical skill these men and women possess are valuable at all stages of a case—from identifying evidence at search warrant locations or crime scenes, to testifying before a grand jury, petit jury, or the sentencing court. The resources described below demonstrate the unique expertise ATF brings to the fight against violent crime.

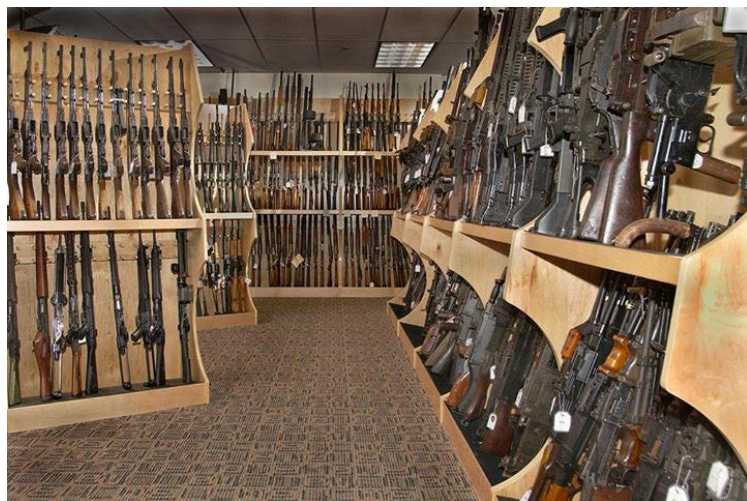
⁷³ Jeanne Marie Laskas, *Inside the Federal Bureau of Way Too Many Guns*, *GQ* (Aug. 30, 2016).

A. Firearms and Ammunition Technology Division

In many ATF cases, one must first ask this basic question: “Is it a firearm?” ATF’s Firearms and Ammunition Technology Division (FATD) personnel are the experts who supply the answer.

FATD provides expert technical support on firearms and ammunition to the Bureau, the industry, the general public, and other federal, state, local, and foreign law enforcement agencies. The Division is the federal technical authority regarding firearms and ammunition and their classification under federal laws and regulations. FATD possesses subject matter experts who focus on new and emerging firearm and ammunition technologies and resources. The Division contributes to the operation of the Bureau by providing technical guidance concerning the GCA, NFA, Arms Export Control Act, and other related federal statutes and regulations.

FATD also maintains ATF’s extensive reference collection of more than seventeen thousand firearms. The Division, located in the ATF Martinsburg facility, also houses a technical reference library



Part of ATF’s reference collection

containing over two thousand publications, technical reference files on firearms, specialized testing equipment, specialized gunsmithing tools, and a test-firing facility.



Part of ATF’s reference library

Within FATD, the Firearms Technology Criminal Branch (FTCB) responds to law enforcement requests to test, evaluate, classify, and provide training regarding firearms and ammunition. FTCB personnel also assist in enforcement operations, particularly during the execution of search warrants. FTCB provides technical reports for use in criminal prosecutions and expert witness testimony in federal, state, and military courts. Testimony includes the identification and origin of firearms, interpretation of federal firearm regulations, and technical opinions concerning criminal diversion of firearms.

One area in which AUSAs will need FTCB experts is the identification of machineguns. As defined in 26 U.S.C. § 5845(b), a machinegun is “any weapon [that] . . . is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger.”⁷⁴ A “machinegun” is also “the frame or receiver of any such weapon, any part . . . or combination of parts designed and intended [to convert] a weapon into a machinegun, and any combination of parts from which a machinegun can be assembled”⁷⁵ Except under certain very limited circumstances, a person must not “transfer or possess a machinegun.”⁷⁶

⁷⁴ 26 U.S.C. § 5845(b) (2012).

⁷⁵ *Id.*

⁷⁶ 18 U.S.C. § 922(o) (2012).

There are items for sale, especially online, that, at first glance, look like small pieces of metal. However, these parts readily convert semiautomatic firearms into machineguns. Drop-in auto sears, lightning links, and trigger control group travel reducers can all be machineguns.

B. Advanced Firearms and Interstate Nexus Branch

Certain violations of the GCA, including 18 U.S.C. § 922(g), require a nexus to interstate commerce.⁷⁷ Approximately three hundred ATF special agents are nexus examiners with the responsibility of providing an interstate nexus determination and report for firearms and ammunition. Examiners have completed basic and advanced training courses and have made factory visits to many firearms and ammunition manufacturers. ATF examiners often testify in court as expert witnesses.



Example of a part that converts a semiautomatic firearm into a machinegun.

Although other federal law enforcement agencies have made interstate nexus determinations, such determinations are risky. No other agency has the same nexus resources as ATF. ATF examiners have access to licensing and manufacturing records and, more importantly, marking variances. Whether a manufacturer received a variance to produce firearms or ammunition from a different location for a certain period of time is a crucial fact directly affecting an element of the alleged crime. Defense attorneys know that other law enforcement agencies do not have this information, a fact that can make for an uncomfortable cross-examination. It is always safer to use ATF nexus experts.

C. Forensic Science Laboratories and the Fire Research Laboratory

AUSAs are familiar with the unfortunate “CSI effect,” where jurors have unrealistic expectations of forensic science and incorrectly assume that the cutting-edge scientific analysis dramatized in television crime shows, which is wholly fictional at times, should be run on every piece of evidence. ATF Laboratory Services Division may not have the holographic screens that provide instantaneous, multidimensional imagery of the DNA recovered on nanotechnology (ridiculous), but their experts provide outstanding analysis and testimony, even if the testimony simply communicates the lack of fingerprints on a firearm (reality).

The ATF Laboratory Services Division provides analytical and advisory services on scientific matters. This Division has three Forensic Science Laboratories (FSLs), with facilities in Atlanta, Georgia, Walnut Creek, California, and Ammendale, Maryland, and one Fire Research Laboratory (FRL), also located in Ammendale.

ATF laboratories employ chemists, scientists, forensic biologists, engineers, fingerprint specialists, firearm and tool mark examiners, document examiners, and administrative personnel. ATF laboratory personnel hold leadership positions in numerous professional scientific organizations and are among the most highly qualified specialists in their fields. ATF actively supports and encourages professional certification of its scientists and engineers. Laboratory staff consists of highly trained individuals specializing in the examination of evidence typically seen in fire-, explosive-, and firearm-related crimes. These individuals perform forensic exams and provide technical support, expert witness testimony, and advanced training to a wide range of national and international law enforcement personnel.

⁷⁷ See *id.* § 922(g).

In fiscal year 2015, ATF's laboratories accomplished the following:

- Received 2,457 requests for analysis and testing;
- Completed analysis on 1,975 forensic cases (FSL);
- Performed 190 laboratory case testing experiments (FRL);
- Performed 152 laboratory research testing experiments (FRL);
- Provided 87 days of expert testimony in the courts;
- Worked 177 days at crime scenes; and
- Provided 834 days of instruction for federal, state, and local investigators and examiners.

Information about ATF Laboratory Services Division's significant accreditation is available at <https://www.atf.gov/resource-center/fact-sheet/fact-sheet-atf-laboratory-services>.⁷⁸

ATF's Fire Research Laboratory opened in 2003. It is the world's only large-scale research laboratory dedicated to fire-scene investigations. FRL scientists use its unique structure and sophisticated instrumentation to investigate fire-scene phenomena, conduct forensic fire science and engineering tests, and analyze fire growth and dynamics questions.



ATF's Research Laboratory

The FRL is a one-of-a kind facility that includes state-of-the-art hood and exhaust systems, data acquisition systems, and instrumentation that allows researchers to measure data, such as the heat release rate, burning rate, heat flux, and temperature of burning materials. The facility offers a range of capabilities for fire scientists, from bench-scale fire measurement instruments to a 16,900-square-foot burn room that can accommodate a three-story structure. Its reconfigurable small-scale test areas and bench-scale test equipment allow investigators to predict large-scale fire behavior and perform computer fire modeling for use during fire-scene reconstruction and test validation. The FRL facility provides a controlled environment in which to test fire investigation theories, reconstruct and test key

aspects of fire scenarios, and evaluate the potential cause of fires that fire investigators encounter in the field.

⁷⁸ FACT SHEET—ATF LABORATORY SERVICES, ATF (Mar. 2016).

As the premier fire science research facility, the FRL serves as a national and international model for forensic fire research and for the development of research protocols. The laboratory is an internationally recognized research and education center for fire cause investigations and fire scene reconstructions. The American Society of Crime Lab Directors—Laboratory Accreditation Board has accredited the FRL to conduct investigations related to fire scene reconstructions.



A demonstration cell burns to test a newer, thinner drywall at the ATF Fire Research Laboratory.

FRL scientists specialize in fire protection; mechanical, structural, chemical, electrical and materials engineering; physics; and metallurgy. FRL scientists are able to test industrial electrical components, determine their potential role in the cause of fires, analyze timelines, assess witness statements, and correlate fire scene damage to fuel loads and ventilation that are present at the time of a fire. They work with ATF certified fire investigators, prosecutors, and the fire investigation community conducting research and providing case support. FRL engineers conduct scientific research that validates fire scene indicators and improves fire scene reconstruction and fire evidence analysis. This information can improve investigative and prosecutorial procedures, advance fire investigation expertise, and serve as a central repository for fire investigative research data. The FRL staff also provides specialized training in fire investigation and analysis to the fire science community and authors many highly regarded publications.

In 2012, *Washingtonian* magazine published an article about the FRL and some of its cases.⁷⁹ If the prosecution involves a complex fire scene, these are fitting experts.

D. National Center for Explosives Training and Research

ATF is responsible for investigating non-terrorist criminal acts involving explosives, bombings, and explosive threats; these non-terrorist acts comprise more than 90 percent of all such nationwide incidents. Additionally, ATF investigates the cause and origin of accidental explosions.

The National Center for Explosives Training and Research (NCETR), located in Huntsville,

⁷⁹ Michael J. Gaynor, *Playing With Fire: Inside the World's Largest Fire-Science Laboratory*, WASHINGTONIAN (Nov. 6, 2012).

Alabama, consolidates and coordinates ATF's explosives, fire, canine, and response operations. At the NCETR, ATF provides outstanding training facilities and the unmatched expertise of its staff in delivering life-saving advanced explosives and arson training for our nation's explosives handlers, bomb technicians, criminal investigators, and our military's explosives ordnance disposal operators.

1. Certified Explosives Specialist Program

ATF's Certified Explosives Specialist (CES) program is comprised of experienced special agents, who investigate violations of the federal explosives laws, and explosives enforcement officers (EEOs), who provide support for investigations involving explosives and destructive devices. The CES serves as ATF's primary resource to provide technical expertise and analysis in support of ATF's explosives enforcement mission in the areas of explosives identification, handling, use and disposal, post-blast investigation, and support to state and local authorities.

The special agent CES, certified after a two-year training program, specializes in investigating violations of federal explosives and firearms laws. These violations include bombings, explosives thefts, and other explosives-related matters relevant to the unlawful use, storage, manufacture, and distribution of explosives. The special agent CES also enforces the federal explosives laws and protects the public from criminal acts involving the illegal manufacture and use of explosives, as well as the unsafe storage of explosives. EEO CES personnel are experienced bomb technicians who render destructive devices safe, conduct advanced disassembly procedures to preserve and exploit evidence, and provide destructive device determinations for expert evidence testimony in criminal prosecutions. The efforts of both the special agent CES and the EEO CES support ATF's and the Department of Justice's strategic goals of preventing terrorism and violent crime and safeguarding the nation's security.

A CES must maintain a working knowledge of commercial, military, and homemade explosives (HMEs) as well as improvised explosive devices (IEDs). As ATF's primary investigative resource for explosives matters, a CES responds to all explosions, conducts explosives recoveries and large-scale seizures, conducts disposal operations, provides technical assistance to other public safety entities, and delivers expert courtroom testimony. The CES also supports ATF industry operations investigators in matters relating to explosives regulations and provides training to ATF personnel, private sector and public safety entities, other law enforcement, military personnel, and international partners.

An ATF EEO has unique technical capabilities in explosives and bomb disposal. EEOs render bombs and other destructive devices safe, conduct advanced disassembly procedures in order to preserve and exploit evidence, provide explosive device determinations for criminal prosecutions, and routinely conduct explosives threat assessments of vulnerable buildings, airports, and national monuments. EEOs assist ATF special agents, CESs, and local, state, and other federal law enforcement agencies in explosives-related investigations and provide expert courtroom testimony in support of these investigations. EEOs are ATF's primary point of technical assistance and support in matters involving IEDs and destructive devices. Their duties range from conducting explosive product testing and evaluation to assisting the Department of State's Antiterrorism Assistance Program in conducting antiterrorism capability assessments outside the United States. Many EEOs previously



Demonstration of technical explosive capabilities

served as explosive ordnance disposal technicians in the U.S. military. On average, EEOs have sixteen years of experience in the explosives field prior to their employment with ATF.

One area, of many, in which the explosives experts at NCETR can assist AUSAs is “destructive device determination.” Under the GCA and the NFA, a “destructive device” is a firearm.⁸⁰ In 28 C.F.R. § 0.130, the U.S. Attorney General delegated specifically to ATF the authority to administer and enforce the NFA and the GCA.⁸¹ Thus, while both the FBI and ATF have authority to investigate violations of the NFA and GCA, ATF is the only federal agency delegated the responsibility for implementation of both the regulatory and the criminal enforcement of the NFA and the GCA. This distinction is important because destructive device classifications in criminal cases will have significant impact on regulatory matters, and vice versa.

By regulation, ATF has the sole authority to determine whether a particular item is excluded from the definition of “destructive device” under both the GCA and the NFA.⁸² An “excluded” determination will eliminate the need to register the item and will make unregistered possession lawful. As a result, these types of determinations will significantly impact charging decisions and evidence proffered in criminal cases. ATF EEOs conduct approximately 130-150 criminal case-specific destructive device determinations per year, far more than any other agency.

Finally, if an item is a destructive device, one must register it in the National Firearms Registration and Transfer Record (NFRTR), per 26 U.S.C. § 5841.⁸³ Only ATF may conduct a search of the NFRTR. The registration of a destructive device, or lack thereof, is a key element for any case brought under 26 U.S.C. § 5861(d).⁸⁴

2. The Fire Investigation and Arson Enforcement Division

The Fire Investigation and Arson Enforcement Division (FIAED) is also located at the NCETR. FIAED manages the Certified Fire Investigator (CFI) Program, the Fire and Arson Investigation Branch, the National Fire Academy partnership, and all other advanced fire and arson training programs, such as the Arson for Prosecutors, Advanced Arson Investigation, and Advanced Origin and Cause/Courtroom Testimony Training programs. FIAED structures these training programs so that federal, state, and local investigators and prosecutors receive instruction about how to determine the origin and cause of fires and, when a fire is determined to be arson, how to identify and successfully prosecute those responsible. The ATF CFI is a highly trained special agent who provides technical support, analysis, and assistance to ATF and its state and local partners in fire origin and cause determination and in arson investigation. The ATF CFI is a field division’s primary resource in fire- and arson-related investigations, and CFIs are the only federal agents trained both to make origin and cause determinations and to provide expert opinion testimony. All ATF CFIs complete a two-year training program that includes the following: fire origin and cause determination; fire dynamics; fire modeling; building construction; electricity and fire causation, health, and safety; scene reconstruction; and evidence collection. CFI candidates take fifteen credit hours of graduate level courses in a partnership with Oklahoma State University. The CFI program relies on rigorous training, education, and experience to provide agents with the knowledge, skills, and abilities necessary to obtain credentials to testify as expert witnesses in the field of fire origin and cause.

3. U.S. Bomb Data Center and National Explosives Tracing Center

ATF has been collecting, storing, and analyzing records on explosives and arson incidents since 1976. Under federal explosives laws, the U.S. Attorney General designated the U.S. Bomb Data Center (USBDC) to serve as the national repository for data related to explosives and arson. The mission of the USBDC is to collect, analyze, and disseminate data to increase regional and situational awareness and to

⁸⁰ See 26 U.S.C. § 5845(f) (2012).

⁸¹ See 28 C.F.R. § 0.130(a)(2) (2016).

⁸² See *id.*

⁸³ See 26 U.S.C. § 5841 (2012).

⁸⁴ See *id.* § 5861(d).

assist in the investigation of bombings, arson, and the criminal misuse of explosives. These intelligence products include statistical and technical information as well as analysis trends related to the criminal use of explosives and arson.

The USBDC also collects, monitors, and disseminates information related to the theft or loss of explosive materials, in coordination with other U.S. law enforcement agencies. Federal law establishes this responsibility by requiring that, if explosive licensees or permittees have knowledge of the theft or loss of any explosive materials from their stock, they report the theft or loss within twenty-four hours of discovery to ATF and local authorities.

Additionally, the USBDC maintains the National Explosives Tracing Center, which is responsible for the identification and tracing of domestic and foreign commercial and military explosives and ordnance as well as other munitions. Through its strong partnerships with the explosives industry and the Department of Defense, the USBDC can trace recovered explosives through their movement in interstate and international commerce to their point of origin for the purpose of aiding law enforcement officials in identifying criminal suspects, establishing stolen status, and proving ownership.

IV. Public Information and Assistance

The public is a valued partner in combatting violent crime. ATF uses citizen-supplied information to locate criminals, and Bureau personnel participate in community outreach events and programs designed to provide positive role models for young people and encourage them to turn away from gangs and violence.

A. ATF Tips and ReportIt[®]

ATF takes to heart the adage, “See something, say something,” and provides numerous means for the public to contact ATF with information to report criminal or regulatory violations. The following are ATF Hotlines:

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| Criminal Activity 1-888-ATF-TIPS (1-888-283-8477) ATFTips@atf.gov | National Tracing Center 1-800-788-7133 (law enforcement only) |
| Illegal Firearms Activity 1-800-ATF-GUNS (1-800-283-4867) | Firearms Theft 1-888-930-9275 |
| Bombs and Explosives 1-888-ATF-BOMB (1-888-283-2662) | Explosives Theft 1-800-461-8841 |
| Arson 1-888-ATF-FIRE (1-888-283-3473) | Stolen, Hijacked or Seized Cigarettes 1-800-659-6242 |

Additionally, ATF and ReportIt[®] have developed a free mobile application to make submitting tips even easier. Users can submit tips anonymously and confidentially in seventeen languages. ATF does not collect any electronic device information through the service. The tip is only identifiable through a unique ID that has no connection to the device. An infographic is available about ATF Tips and can be provided at anti-violence community events.⁸⁵

ATF field offices may also offer a reward in certain circumstances to encourage the public to come forward with information that otherwise may not have been obtained without the reward. If a prosecutor believes an offer of a reward would benefit an investigation, the case agent can submit a request for approval by the special agent in charge of the particular field division.

⁸⁵ See [HAVE A TIP?, ATF](#) (last updated May 8, 2017).

B. ATF, Facebook, and Fugitives

Social media is a terrific tool for law enforcement. In addition to typical investigative uses, ATF takes advantage of Facebook's broad reach to notify the public of its hunt for fugitives. ATF posts fugitive notices to its page and can target dissemination of the notice to users based on location and age. If a prosecutor would like violent fugitive information posted, the prosecutor can ask an ATF agent directly or contact the ATF public information officer in the closest field division. The ATF website also lists fugitives and allows searches by location.⁸⁶



The image shows a screenshot of a Facebook post from the ATF (Bureau of Alcohol, Tobacco, Firearms and Explosives) page. The post is dated May 31 at 12:10pm. The text of the post reads: "WANTED: Erik Flores Elortegui, aka Eric Flores, is a wanted fugitive who was indicted on September 16, 2015 in the U.S. District Court for the District of Oregon for conspiracy regarding false statements in connection with the acquisition of firearms and smuggling goods from the United States. Elortegui, 34, is a 5'6" Hispanic male, approximately 210 lbs. and has brown hair and brown eyes. If you have any information as to the location of Elortegui, please contact ATF at 1-888-ATF-TIPS (1-888-283-8477). Find out more at <http://ow.ly/sRfz3092ssu>." Below the text is a large graphic titled "WANTED" in yellow letters. The graphic features the ATF logo on the left and a portrait of Erik Flores Elortegui on the right. To the right of the portrait, it lists "Wanted For" (Conspiracy: False statements in connection with the acquisition of firearms, and smuggling goods from the U.S.), "Physical Description" (Hispanic male, 34 years old | 210 lbs. | 5'6", Brown hair and brown eyes), and "Additional Information" (Alias: Erik Flores). At the bottom of the graphic, it says "REPORT CRIME: Call 1-888-ATF-TIPS or Download the ReportIt® app" and includes logos for the App Store, Google Play, ATF TIPS, and ReportIt, along with a QR code. The post has 60 reactions (likes, loves, etc.) and 29 shares.

Example of an ATF Facebook posting for a wanted fugitive

C. GREAT Anti-Gang Education Program

ATF participates in the Gang Resistance Education and Training (GREAT) Program. The GREAT Program's primary objective is awareness and prevention of delinquency, youth violence, and gang membership. The GREAT lessons, aimed at elementary and middle school students, focus on providing life skills to help students solve problems and avoid delinquent behavior and violence. GREAT seeks to help students avoid gang membership and teaches them how to resist gang pressure and develop

⁸⁶ See [LOCAL FUGITIVES, ATF](#) (last visited May 26, 2017).

positive attitudes concerning law enforcement.

There are four GREAT Program components: the six-week elementary school program; the thirteen-week middle school program; a summer program, which builds on the school-based curriculum and adds structure to the summer months; and a six-session family training program that engages parents and young people in cooperative lessons that facilitate communication and decision-making skills. Since its inception in 1991, GREAT has graduated more than seven million students.

V. Conclusion

ATF is committed to combatting violent crime and making our communities safer. In addition to the special agents at the frontline of criminal investigations, ATF has a wide variety of resources to support prosecutions, and they are always available to AUSAs through requests made to ATF field offices or headquarters. ATF values its relationships with U.S. Attorneys' Offices around the country. Together, we can do justice.

ABOUT THE AUTHOR

□ **Ellen V. Endrizzi** is Division Counsel for ATF's National Investigative Division and Acting Senior Counsel for Field Operations. Prior to joining ATF in 2015, she was an Assistant U.S. Attorney for ten years, working in the Eastern District of California and the Northern District of Georgia. She also twice served as the Department of Justice Attaché to the United States Embassy, Baghdad, Iraq. In 2016, she received an Attorney General's Award for her work with ATF's Internet Investigations Center.