

PART VIII:

Investigation, Interdiction, and Deterrence Techniques

Overview

Investigative techniques and procedures are the methods, tools, and actions used in an investigation to gather evidence and information to determine whether violations of law have been or are being committed. ATF SAs employ a wide variety of investigative techniques to secure evidence while conducting a firearm trafficking investigation. In addition, ATF uses deterrence and interdiction techniques to disrupt firearm trafficking and prevent the movement of firearms into criminal use and possession.

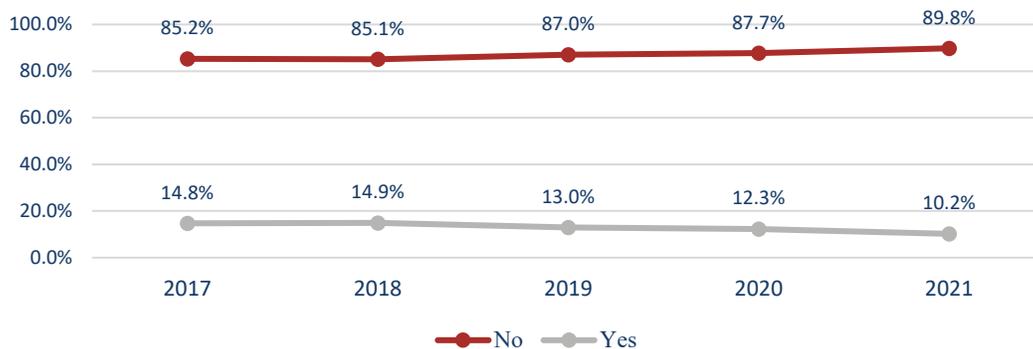
The information contained within this Part was derived from survey responses provided by SAs, except for the volume of firearms in law enforcement custody, which was obtained from ATF's case management system.

Subpoenas

Subpoenas are an important investigative tool used by all federal law enforcement agencies in criminal investigations. Subpoenas are court directives that compel the recipient to take certain actions. Testimonial subpoenas (*ad testificandum*) compel a person to appear before a court for purposes of testifying as a witness under penalty of perjury. Records subpoenas (*duces tecum*) require a person or entity to produce records, documents, and other types of information.

The vast majority of firearm trafficking cases, 87% (8,425 of 9,708), did not involve subpoenas. Figure IT-01 shows yearly trends in the percentage of firearm trafficking cases that did and did not involve subpoenas. The percentage of cases that did involve subpoenas decreased by 4.6 percentage points from 14.8% in 2017 to 10.2% in 2021 (a 31.1% decrease in the population share of cases). In comparison, the percentage of cases that did not involve subpoenas increased by 4.6 percentage points from 85.2% in 2017 to 89.8% in 2021 (a 5.4% increase in the population share of cases).

Figure IT-01: Trends in Subpoenas (N = 9,708)



Subpoenas by Source

ATF primarily utilizes federal grand jury subpoenas in its firearm trafficking investigations. A federal grand jury subpoena is issued in accordance with Rule 17 of the [Federal Rules of Criminal Procedure](#). SAs request issuance of a grand jury subpoena through an Assistant United States Attorney who brings the matter before a grand jury to determine if they will issue the subpoena. Grand jury subpoenas are signed by a federal judge before final issuance. Subpoenas may be used to compel persons to appear as a witness or to produce records, documents, and other types of information germane to an investigation before the grand jury.

In addition to grand jury subpoenas, ATF firearm trafficking investigations may also involve information obtained by other federal agencies through the federal administrative subpoena process. Federal administrative subpoenas may only be issued by an Executive Branch federal law enforcement agency that has been granted such authority by Congress; the scope and exercise of this authority is limited by the authorizing statute. As such, administrative subpoena authority varies across agencies in the types of information collected via issuance of administrative subpoenas. Furthermore, administrative subpoenas must only be used by agencies for matters that are within their jurisdiction. ATF does not have administrative subpoena authority and cannot use information obtained from an administrative subpoena issued by another federal law enforcement agency unless that information has been obtained for a purpose within that agency's statutory authority.¹ Federal law enforcement agencies that have this authority include [U.S. Customs and Border Protection](#), the [Drug Enforcement Administration](#), the [Federal Bureau of Investigation](#), [Homeland Security Investigations](#), the [Internal Revenue Service Criminal Investigation Division](#), the [U.S. Marshalls Service](#), the [U.S. Postal Service Inspection Service](#), and the [United States Secret Service](#).

Table IT-01 shows the percentage of firearm trafficking cases that involved subpoenas by subpoena source. A case could have more than one subpoena source. Accounting for nearly 76% (969 of 1,283) of cases, ATF via the grand jury was the primary source of subpoenas, while approximately a third (434 of 1,283) of cases involved an administrative subpoena issued by a co-investigative agency. Only 9% (120 of 1,283) of cases involved both subpoena sources.

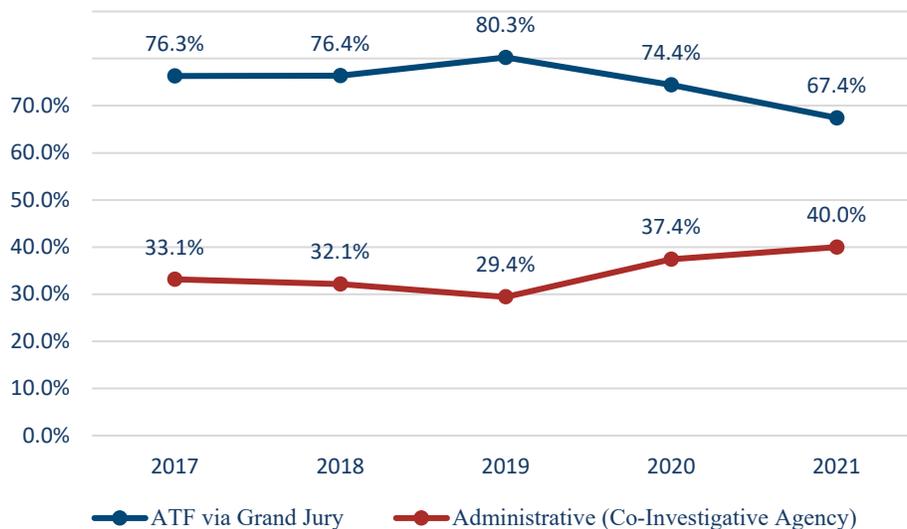
Table IT-01: Subpoena Source, 2017 – 2021 *(N = 1,283)*

Subpoena Source	Number of	
	Cases	% of Cases
ATF via Grand Jury	969	75.5%
Administrative (Co-investigative Agency)	434	33.8%

Note: Categories are not mutually exclusive.

Figure IT-02 shows yearly trends in the percentage of firearm trafficking cases by subpoena source. Despite representing the majority of firearm trafficking cases with subpoenas, the percentage of cases involving subpoenas by ATF via the grand jury decreased by 8.9 percentage points from 76.3% in 2017 to 67.4% in 2021 (an 11.7% decrease in the population share of cases). In comparison, the percentage of cases involving an administrative subpoena by a co-investigating agency increased by 6.9 percentage points from 33.1% in 2017 to 40.0% in 2021 (a 20.8% increase in the population share of cases).

Figure IT-02: Trends in Subpoena Source (N = 1,283)



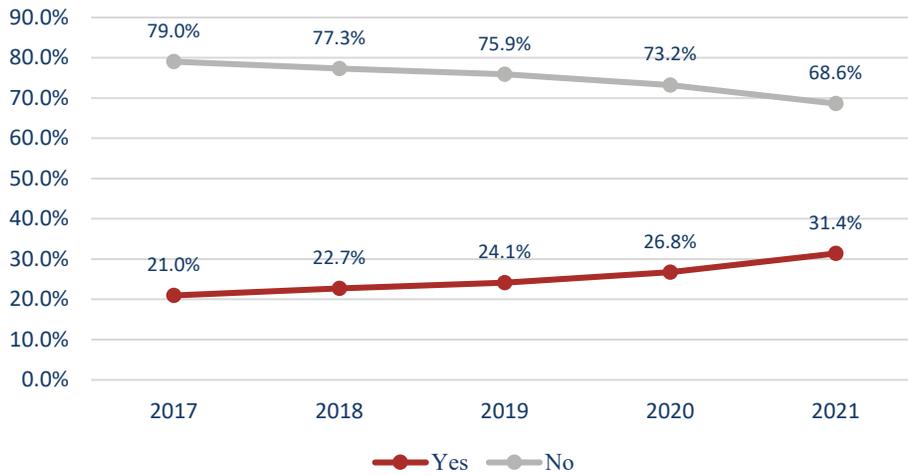
Note: Categories are not mutually exclusive.

Interdiction and Deterrence

The goals of interdiction and deterrence efforts are three-fold: (1) preventing, deterring, and impeding the illegal trafficking of firearms, (2) promoting cooperative compliance with laws and regulations, and (3) securing evidence of knowledge and intent if the subject engages in future illegal activity.

According to SA responses to the study survey, interdiction or deterrence techniques were used in a quarter of cases (2,410 of 9,708) during the study period. Figure IT-03 shows yearly trends in the percentage of firearm trafficking cases that involved or did not involve interdiction or deterrence techniques. The percentage of cases that did not involve interdiction or deterrence decreased by 10.4 percentage points from 79.0% in 2017 to 68.6% in 2021 (a 13.2% decrease in the population share of cases). In comparison, the percentage of cases that did involve interdiction or deterrence increased by 10.4 percentage points from 21.0% in 2017 to 31.4% in 2021 (a 49.5% increase in the population share of cases).

Figure IT-03: Trends in The Use of Interdiction or Deterrence Techniques (N = 9,708)



Reasons for Interdiction or Deterrence

There are many reasons why ATF may use interdiction or deterrence during a firearm trafficking investigation. The survey asked SAs to identify their reasons for using interdiction or deterrence in firearm trafficking investigations. The survey was pre-populated with six reasons including an "other" category. After review, responses in the "other" category were grouped together, resulting in the designation of two additional categories. Depending on the facts of an investigation, interdiction or deterrence may be used for multiple reasons. Table IT-02 lists the reasons for using interdiction or deterrence among these cases.

Table IT-02: Description of Reasons for Interdiction or Deterrence

Term	Description
Required by ATF Policy	In 2012, ATF instituted a policy that requires SAs to take certain actions up to and including the lawful seizure of firearms to prevent the potential for use in additional crimes. In the survey appears as, "To disrupt firearms trafficking or transfer as required by ATF policy".
Gather Criminal Intelligence	SAs may use interdiction or deterrence techniques when more information is needed about suspects to establish that they have knowledge of the law and are committing willful violations.
In Lieu of an Arrest	When an investigation establishes that trafficking is occurring, but evidence is insufficient as to the criminal intent for one or more suspects or where applicable prosecution thresholds have not been met.
Waiting for Prosecutorial Decision	Where ATF has referred a case to the U.S. Attorney's Office for prosecution but a decision by the U.S. Attorney's Office is pending, the SA will employ interdiction or deterrence efforts to deter and impede the trafficker(s) to the extent possible without an arrest. In the survey appears as, "While waiting for a decision from the USAO regarding prosecution".
Following Prosecution Declination	Where prosecution has been declined, the SA will employ interdiction or deterrence efforts to deter and impede the trafficker(s) to the extent possible without an arrest. In the survey appears as, "Following a declination of prosecution by the USAO".
Interdiction by Another LEA	Interdiction conducted by another LEA using their statutory authority. This category was derived from SA responses in the "other" category.
Interdiction and Arrest	Firearms were interdicted while the subject was arrested. This category was derived from SA responses in the "other" category.

As shown in Table IT-03, SAs predominantly used interdiction or deterrence as a matter of ATF policy, representing nearly 89% (2,132 of 2,410) of cases. Approximately 48% (1,150 of 2,410) of cases involved SAs gathering criminal intelligence. In almost a quarter (24.7%; 596 of 2,410) of cases, SAs used interdiction or deterrence in lieu of an arrest, which was closely followed by waiting for a prosecution decision from a U.S. Attorney’s Office at nearly 23% (553 of 2,410) of cases. Furthermore, SAs used interdiction or deterrence following a prosecution declination in approximately 6% (152 of 2,410) of cases.

Table IT-03: Reasons for Interdiction/Deterrence, 2017 – 2021 (N = 2,410)

Reason	Number of Cases	% Cases
Required by ATF Policy	2,132	88.5%
Gather Criminal Intelligence	1,150	47.7%
In Lieu of an Arrest	596	24.7%
Waiting Prosecutorial Decision	553	22.9%
Following Prosecution Declination	152	6.3%

Note: Categories are not mutually exclusive.

Table IT-04 shows the yearly trends in the percentage of the top five reasons identified by SAs in interdiction or deterrence cases. The use of interdiction or deterrence in lieu of an arrest as well as following a prosecution declination remained relatively unchanged during the study period. The use of interdiction or deterrence as a requirement of ATF policy increased by 7.2 percentage points from 85.0% in 2017 to 92.2% in 2021 (an 8.5% increase in the population share of cases). Notable reductions during the study period involved the use of interdiction or deterrence while waiting for a prosecution decision from a U.S. Attorney’s Office and to gather criminal intelligence. The use of interdiction or deterrence while waiting for a prosecution decision from a U.S. Attorney’s Office decreased by 13.1 percentage points from 29.1% in 2017 to 16.0% in 2021 (a 45% decrease in the population share of cases). The use of interdiction or deterrence to gather criminal intelligence decreased by 8.1% from 50.1% in 2017 to 42.0% in 2021 (a 16.2% decrease in the population share of cases).

Table IT-04: Trends in the Top Five Reasons for Interdiction or Deterrence (N = 2,410)

Reason	2017	2018	2019	2020	2021	% Difference
Required by ATF Policy	85.0%	87.5%	88.3%	88.9%	92.2%	7.2%
Gather Criminal Intelligence	50.1%	54.0%	47.9%	45.0%	42.0%	-8.1%
In Lieu of an Arrest	24.6%	21.3%	27.5%	27.0%	23.8%	-0.8%
Waiting Prosecutorial Decision	29.1%	27.9%	24.4%	18.0%	16.0%	-13.1%
Following Prosecution Declination	5.8%	5.0%	5.6%	8.3%	6.9%	1.1%
Total Cases	467	502	443	460	538	

Note: Categories are not mutually exclusive.

Types of Interdiction or Deterrence Techniques

The survey asked SAs to identify the types of interdiction or deterrence techniques they used in firearm trafficking investigations. The survey was pre-populated with eight techniques including an "other" category. After review, responses in the "other" category were grouped together, resulting in the designation of three additional categories. Table IT-05 02 lists the types of interdiction or deterrence techniques used in these cases.

Table IT-05: Description of Types Interdiction or Deterrence

Term	Description
Interview with Verbal or Written Warning	Verbal warnings or the service of either an unlicensed dealing or straw purchase warning letters to persons suspected to be engaged in those activities is a deterrence technique most often used with individuals who lack criminal intent or appropriate knowledge of the law they are violating. In those situations, an interview with a verbal warning or service of a written warning may be enough for that person to understand the law, that their activities are known to federal law enforcement, and that they should comply with the law by either halting their activity or securing a federal firearms license (FFL) to continue lawfully. Should a warned person halt their illegal firearm trafficking, the warning letter achieved the primary goal and prevented the expenditure of additional federal resources needed to complete a full investigation, secure an arrest, complete the judicial processing of the defendant, and the time spent incarcerated. Should a warned person not heed the warning and continue their illegal firearm trafficking activities, the warning established the willful and knowing elements of proof required for the successful prosecution of many federal firearm trafficking violations and results in a stronger case. In survey, appears as either “Interview with verbal warning,” “Warning letter for unlawful straw purchase activity served to disrupt and deter activity and establish elements of knowing and willfulness if further investigation becomes necessary,” or “Warning letter for dealing without a license served to disrupt and deter activity and establish elements of knowing and willfulness if further investigation becomes necessary.”
Seizure, Forfeiture, or Abandonment	In some instances where firearms are moving in commerce in violation of the law, the firearms may be seized for forfeiture even where criminal charges against a suspect are not pursued. The goal of this interdiction is to prevent the unlawful trafficking of firearms that may be subsequently used in additional crimes. Firearms being illegally trafficked across an international border, handguns being illegally trafficked across state lines, and illegal NFA weapons being trafficked are subject to seizure and forfeiture. Stolen firearm being trafficked are subject to seizure and forfeiture and/or return to their lawful owners. Straw purchased firearms transferred to other suspects in a trafficking investigation may be subject to seizure and forfeiture. Any seizure is accompanied by <u>forfeiture process</u> that includes either a signed abandonment and consent to forfeiture by the suspect, an administrative forfeiture, or a judicial forfeiture. This category is referred to as “Seizure, Forfeiture, and/or Abandonment” and is a combination of three survey items: “Interdiction of firearms through abandonment or administrative forfeiture to disrupt and deter activity,” “Interdiction of firearms with a seizure warrant issued by the U.S. Attorney’s Office to disrupt and deter activity,” and “Seizure warrant for seizure/forfeiture,” created from the “other” category.
Other Agency Request of ATF	During an investigation by another law enforcement agency in which it is determined that firearms are being illegally trafficked, that agency may request that ATF conduct an interdiction or deterrence action. In survey, appears as “Interdiction of firearm through federal, local, state, territorial, or tribal law enforcement at request of ATF.”
Inbound/Outbound Border Search	During investigations that involve firearms illegally moving across international borders into or out of the U.S., ATF may alert CBP or HSI of the illegal firearms to have them seized for forfeiture. In survey, appears as “Search and/or seizure during any inbound or outbound border crossing.”
Undercover Purchase of Firearms	Special Agents may conduct undercover purchases of firearms to prevent unlawful trafficking. This may or may not result in the arrest of the trafficker later. This category was derived from SA responses in the “other” category.

Regulatory Compliance Process	In investigations where the evidence indicates knowing involvement of an FFL, ATF may opt to pursue regulatory action with respect to the FFL, depending on a variety of factors. Regulatory action is generally used when doing so provides a more immediate means of disrupting or terminating the FFL's illegal conduct. This category was derived from SA responses in the "other" category.
Third Party Transfer	In investigations where willful criminal intent is not established and the firearm itself is not contraband, the suspect may be afforded the opportunity to designate a non-prohibited third party to receive the firearm. This category was derived from SA responses in the "other" category.
Internet Service Provider (ISP) Coordination	During investigations where, illegal online firearms trafficking is taking place, if the social media platform or website being used has rules against firearm sales, agents may contact that platform or website to alert them to the rules violation and the ISP can then choose to remove the item(s) from their site. This category was derived from SA responses in the "other" category.

Over the study period, SAs used a total of 11 types of interdiction or deterrence techniques. Firearm trafficking investigations may involve more than one interdiction or deterrence technique. SAs used one to five interdiction or deterrence techniques, with an average of 1.7 per case.

Table IT-06 shows the percentage of firearm trafficking cases involving these techniques among interdiction or deterrence cases. The most common interdiction or deterrence technique used by SAs was an interview with a verbal warning, accounting for approximately 65% (1,576 of 2,410) of cases. Seizure, forfeiture, and/or abandonment was the second most common technique used by SAs, which occurred in nearly 30% (710 of 2,410) of cases. The top two interdiction techniques were jointly used by SAs in 45% (1,087 of 2,410) of cases. Furthermore, SAs used warning letters for unlawful straw purchasing or dealing without a license in approximately 28% (680 of 2,410) and 24% (584 of 2,410) of cases, respectively.

Table IT-06: Interdiction/Deterrence Techniques, 2017 – 2021 (*N* = 2,410)

Interdiction/Deterrence Technique	Number of Cases	% Cases
Interview with Verbal Warning	1,576	65.4%
Seizure, Forfeiture, and/or Abandonment	710	29.5%
Warning Letter Unlawful Straw Purchase	680	28.2%
Warning Letter Dealing Without a License	584	24.2%
Other Agency Request of ATF	243	10.1%
Inbound/Outbound Border	88	3.7%
Undercover Purchase of Firearms	81	3.4%
Regulatory Compliance Process	9	0.4%
Third Party Transfer	5	0.2%
ISP Coordination	4	0.2%
Other	2	0.1%

Note: Categories are not mutually exclusive.

Interdiction and Deterrence Techniques by Region

Table IT-07 shows the percentage of interdiction or deterrence cases by geographic region and top five interdiction or deterrence techniques used during the study period. Excluding ATF headquarters, most cases involved an interview with a verbal warning, which ranged from approximately 73% (313 of 428) of Northeast region cases to 56% (239 of 429) of Southeast region cases. Of all geographic regions, the

Northwest region had the largest percentage of cases that involved seizure, forfeiture, and/or abandonment and warning letter for dealing without a license, which accounted for approximately 56% (81 of 146) and 41% (60 of 146) of cases, respectively. Furthermore, cases from the Southwest and Northwest regions were about equally likely to involve a warning letter for unlawful straw purchasing accounting for approximately 35% (335 of 950) and 34% (50 of 146) of cases, respectively.

Table IT-07: Top Five Interdiction or Deterrence Techniques by Region, 2017 – 2021

Interdiction/Deterrence Technique	Northwest (N = 146)		Southwest (N = 950)		Central (N = 450)		Northeast (N = 428)		Southeast (N = 429)	
	Number of Cases	% Cases	Number of Cases	% Cases	Number of Cases	% Cases	Number of Cases	% Cases	Number of Cases	% Cases
Interview with Verbal Warning	102	69.9%	620	65.3%	300	66.7%	313	73.1%	239	55.7%
Seizure, Forfeiture, and/or Abandonment	81	55.5%	306	32.2%	81	18.0%	85	19.9%	155	36.1%
Warning Letter Unlawful Straw Purchase	50	34.2%	335	35.3%	72	16.0%	100	23.4%	123	28.7%
Warning Letter Dealing Without a License	60	41.1%	282	29.7%	103	22.9%	41	9.6%	98	22.8%
Other Agency Request of ATF	11	7.5%	78	8.2%	55	12.2%	46	10.7%	51	11.9%

Note: Categories are not mutually exclusive.

Table IT-08 reflects the yearly trends in the percentage of interdiction or deterrence cases involving the top five interdiction or deterrence techniques used by SAs. The percentage of cases that involved a warning letter for unlawful straw purchasing increased by 22.8 percentage points from 20.6% in 2017 to 43.3% in 2021 (a 110.2% increase in the population share of cases), and the percentage of cases that involved a warning letter for dealing without a license increased by 21.6 percentage points from 16.3% in 2017 to 37.9% in 2021 (a 132.5% increase in the population share of cases). Furthermore, cases involving an interview with a verbal warning increased by 8.9 percentage from 59.1% in 2017 to 68.0% in 2021 (a 15.1% increase in the population share of cases).

The remaining two interdiction or deterrence techniques declined over the study period. The percentage of cases involving seizure, forfeiture, and/or abandonment decreased by 9.4 percentage points from 31.9% in 2017 to 22.5% in 2021 (a 29.5% decrease in the population share of cases). The percentage of cases involving another agency request of ATF decreased by 6.7 percentage points from 14.1% in 2017 to 7.4% in 2021 (a 47.5% decrease in the population share of cases).

Table IT-08: Trends in the Top Five Interdiction or Deterrence Techniques (N = 2,410)

Interdiction/Deterrence Technique	2017	2018	2019	2020	2021	% Difference
Interview with Verbal Warning	59.1%	63.5%	65.7%	70.4%	68.0%	8.9%
Warning Letter Unlawful Straw Purchase	20.6%	15.5%	26.4%	33.9%	43.3%	22.8%
Seizure, Forfeiture, and/or Abandonment	31.9%	31.7%	35.7%	26.7%	22.5%	-9.4%
Warning Letter Dealing Without a License	16.3%	17.5%	21.4%	26.3%	37.9%	21.6%
Other Agency Request of ATF	14.1%	10.6%	9.5%	9.1%	7.4%	-6.7%
Total Cases	467	502	443	460	538	

Note: Categories are not mutually exclusive.

Trafficking Channels

Tables IT-09 through IT-13 identify the top three trafficking channels for each of the top five interdiction or deterrence techniques used. Firearm trafficking cases may involve more than one firearm trafficking channel.

Of the 1,576 cases that involved an interview with a verbal warning, a little more than half (52%; 817 of 1,576) involved trafficking in firearms by a straw purchaser or straw purchasing ring. Trafficking in firearms by an unlicensed dealer was the second most frequent trafficking channel, representing approximately 47% (745 of 1,576) of cases. Furthermore, nearly 9% (138 of 1,576) of cases involved trafficking in firearms that were illegally exported from the U.S.

Table IT-09: Top Three Firearm Trafficking Channels when Conducting an Interview with a Verbal Warning, 2017 – 2021 (N = 1,576)

Trafficking Channels	Number of Cases	% Cases
Trafficking in firearms by a straw purchaser or straw purchasing ring	817	51.8%
Trafficking in firearms by an unlicensed dealer (private person)	745	47.3%
Trafficking in firearms illegally exported from the United States	138	8.8%

Note: Categories are not mutually exclusive.

Of the 710 cases that involved seizure, forfeiture, and/or abandonment, a little less than half (47%; 333 of 710) involved trafficking in firearms by a straw purchaser or straw purchasing ring. Trafficking in firearms by an unlicensed dealer was the second most frequent trafficking channel, representing approximately 43% (306 of 1, 710) of cases. Furthermore, nearly 10% (68 of 710) of cases involved trafficking in firearms illegally exported to the U.S.

Table IT-10: Top Three Firearm Trafficking Channels when Seizing, Forfeiting, and/or Abandoning Firearms, 2017 – 2021 (N = 710)

Trafficking Channels	Number of Cases	% Cases
Trafficking in firearms by a straw purchaser or straw purchasing ring	333	46.9%
Trafficking in firearms by an unlicensed dealer (private person)	306	43.1%
Trafficking in firearms illegally exported from the United States	68	9.6%

Note: Categories are not mutually exclusive.

Of the 680 cases that involved a warning letter for unlawful straw purchasing, nearly 67% (448 of 680) involved trafficking in firearms by a straw purchaser or straw purchasing ring. Trafficking in firearms by an unlicensed dealer was the second most frequent trafficking channel, representing approximately 43% (295 of 680) of cases. Furthermore, nearly 6% (39 of 680) of cases involved trafficking in firearms illegally exported from to the U.S.

Table IT-11: Top Three Firearm Trafficking Channels when Issuing a Warning Letter for Unlawful Straw Purchase, 2017 – 2021 (N = 680)

Trafficking Channels	Number of Cases	% Cases
Trafficking in firearms by a straw purchaser or straw purchasing ring	448	65.9%
Trafficking in firearms by an unlicensed dealer (private person)	295	43.4%
Trafficking in firearms illegally exported from the United States	39	5.7%

Note: Categories are not mutually exclusive.

Of the 584 cases that involved warning letters for dealing without a license, over three-quarters (77%; 446 of 584) involved trafficking in firearms by an unlicensed dealer. Trafficking in firearms by a straw purchaser or straw purchasing ring was the second most frequent trafficking channel, representing nearly 29% (169 of 584) of cases. Furthermore, approximately 10% (59 of 584) of cases involved trafficking in firearms through online marketplaces.

Table IT-12: Top Three Firearm Trafficking Channels when Issuing a Warning Letter for Dealing Without a License, 2017 – 2021 (N = 584)

Trafficking Channels	Number of Cases	% Cases
Trafficking in firearms by an unlicensed dealer (private person)	446	76.4%
Trafficking in firearms by a straw purchaser or straw purchasing ring	169	28.9%
Trafficking in firearms through online marketplaces	59	10.1%

Note: Categories are not mutually exclusive.

Of the 243 cases that involved other agency requests of ATF, approximately 37% involved trafficking in firearms by an unlicensed dealer (91 of 243) and straw purchaser or straw purchasing ring (89 of 243), and 17% (42 of 243) involved trafficking in firearms stolen from an FFL.

Table IT-13: Top Three Firearm Trafficking Channels when Another Agency Requested ATF Conduct Interdiction or Deterrence, 2017 – 2021 (N = 243)

Trafficking Channels	Number of Cases	% Cases
Trafficking in firearms by an unlicensed dealer (private person)	91	37.5%
Trafficking in firearms by a straw purchaser or straw purchasing ring	89	36.6%
Trafficking in firearms stolen from an FFL	42	17.3%

Note: Categories are not mutually exclusive.

Volume of Firearms in Law Enforcement Custody

Firearms in law enforcement custody are recovered through seizure, forfeiture, or abandonment. This is also one of the top five interdiction or deterrence techniques used by SAs, however, this activity can occur at any time during an investigation unrelated to an interdiction or deterrence technique. For example, a verbal or written warning may be issued to a subject at the onset of an investigation without an accompanying seizure. If, however, the subject continues engaging in trafficking activity, ATF will secure a warrant to seize firearms involved in the trafficking activity. In cases involving the use of interdiction or deterrence, 11,315 trafficked firearms were taken into law enforcement custody, which accounted for approximately 39% of the total (28,700) firearms taken into law enforcement custody during the study period.²

Table IT-14 presents the volume and percentage of trafficked firearms in law enforcement custody for the top five interdiction or deterrence techniques. These cases may involve more than one interdiction or deterrence technique. Nearly 67% (7,544 of 11,315) of recovered firearms were associated with cases involving the interdiction or deterrence technique of seizure, forfeiture, or abandonment. In addition, approximately 44% (4,962 of 11,315) of recovered firearms were associated with cases involving the use of an interview and verbal warning.

Table IT-14: Total and Percentage of Firearms in Law Enforcement Custody by the Top Five Interdiction or Deterrence Techniques, 2017 – 2021 (N=11,315)

Interdiction or Deterrence Technique	Number of Firearms in LE Custody	% Firearms in LE Custody
Seizure, Forfeiture, and/or Abandonment	7,544	66.7%
Interview with Verbal Warning	4,962	43.9%
Other Agency Request of ATF	1,539	13.6%
Warning Letter Dealing Without a License	1,316	11.6%
Warning Letter Unlawful Straw Purchase	1,182	10.4%

Note: Categories are not mutually exclusive.

Case Closure

SAs reported that use of one or more interdiction or deterrence techniques resulted in closing the investigation without a referral for prosecution in 65% (1,567 of 2,410) of cases. Table IT-15 presents the percentage of cases closed by the top five interdiction or deterrence techniques. The technique associated with the highest percentages of case closure was an interview with a verbal warning at nearly 68% (1,064 of 1,567) of cases.

Table IT-15: Cases Closed by Top Five Interdiction or Deterrence Technique, 2017 – 2021 *(N = 1,567)*

Interdiction or Deterrence Technique	Number of Cases	% Cases
Interview with Verbal Warning	1,064	67.9%
Warning Letter Unlawful Straw Purchase	540	34.5%
Warning Letter Dealing Without a License	491	31.3%
Seizure, Forfeiture, and/or Abandonment	393	25.1%
Other Agency Request of ATF	107	6.8%

Note: Categories are not mutually exclusive.

Summary

During the study period, the vast majority of firearm trafficking investigations did not involve subpoenas. In cases involving subpoena use, ATF-obtained grand jury subpoenas were the type of subpoena most frequently utilized. The percentage of cases involving these subpoenas decreased during the study period. However, the percentage of cases involving administrative subpoenas from a co-investigative agency increased.

A quarter of firearm trafficking cases in the study period involved the use of interdiction or deterrence techniques. Moreover, use of this technique steadily increased over the course of the study period. SAs identified ATF policy as the primary reason for the use of interdiction or deterrence in 89% of these cases.

The top five interdiction or deterrence techniques used by SAs in firearm trafficking investigations included an interview with a verbal warning; seizure, forfeiture, and/or abandonment; a warning letter for unlawful straw purchasing; a warning letter for dealing without a license; and another agency request of ATF. While an interview with a verbal warning was by far the most common technique used by SAs, the percentage of cases involving warning letters for unlawful straw purchasing and dealing without a license increased the most over the study period. The top five interdiction or deterrence techniques were most often used in cases involving straw purchasing and unlicensed dealing trafficking channels.

Cases involving the use of at least one interdiction or deterrence technique accounted for 11,315 of the trafficked firearms taken into law enforcement custody. This accounted for 39% of the total firearms in law enforcement custody during the study period.

SAs reported that their use of one or more interdiction or deterrence techniques resulted in the closing of an investigation without a prosecution referral in 65% of cases, the majority of which involved an interview with a verbal warning. This closure rate demonstrates that interdiction and deterrence are credible and effective strategies to prevent, deter, and impede firearm trafficking.

ENDNOTES

¹ATF does have limited summons authority in NFA investigations. The Internal Revenue Code's (IRC) summons authority is found in Title 26 U.S.C. §§ 7601-7609. Section 7602(a) permits the use of a summons to ascertain the correctness of any return, make a return where none has been made, determine the tax liability of any person, or collect a tax liability. To accomplish this, ATF is authorized to examine any relevant material and summon the person liable for the tax or any other person the Secretary deems proper. However, these sections also have limitations. For example, restrictions are imposed on the use of a summons to investigate a criminal violation of the IRC. No summons may be issued with respect to any person if a Justice Department referral is in effect. A Justice Department referral is a recommendation to the U.S. Attorney's Office that it conduct a grand jury investigation or criminal prosecution of that person for violations of the IRC. See 26 U.S.C. § 7602(d). Additionally, section 7609 provides restrictions on obtaining records kept by a third party, such as a telephone company or internet service provider.

² The count of firearms trafficked in law enforcement custody excludes silencer(/parts) from the outlier firearm trafficking cases.