



## U.S. Department of Justice

Bureau of Alcohol, Tobacco,  
Firearms and Explosives

Washington, DC 20226

June 13, 2008

### **Open Letter to All Security Firms Federal Firearms Licensees**

The purpose of this open letter is to inform security firms and other persons who have Federal firearms licenses (FFLs), and who may temporarily assign firearms to their unlicensed employees in furtherance of legitimate business purposes, of the statutory and regulatory requirements that affect them. This letter reviews the background check and recordkeeping requirements under the Gun Control Act (GCA) that apply to these particular transactions. This letter also details some of the recommended best practices with respect to recordkeeping in which GCA requirements may not apply.

#### **Background Checks and Required Records**

##### **Temporary Assignments**

Security companies with Federal firearms licenses that temporarily assign firearms to unlicensed employees for bona fide business purposes generally are not required under the GCA to maintain records associated with the assignment of that firearm. For example, when a security firm assigns a firearm to an employee during a particular shift in furtherance of bona fide licensee business use, and the employee is responsible for returning the firearm to the licensee after the shift is completed, no ATF Form 4473 or National Instant Criminal Background Check System (NICS) check is required. This is because the temporary assignment of the firearm to the employee is not a transfer or disposition for purposes of the Gun Control Act. Businesses can only carry out their operations through their employees, and a temporary assignment of a firearm to an employee for bona fide business purposes is neither a transfer nor a disposition. Accordingly, the licensee is not required to log the firearm out of the Acquisition & Disposition (A&D) Record. Similarly, background checks and recordkeeping requirements typically do not apply if the firearms are issued to employees temporarily for legitimate business purposes.

Please note that a bona fide business purpose, in this context, is limited to the temporary assignment of a FFL's firearm(s) to an FFL employee for purposes integral to the licensee's business operations, such as temporary assignments by FFLs that have entered into valid contracts to provide protective services, training related to such services, or assignments to sales personnel for purposes of demonstrations or display. Bona fide business purposes would not include assignments of firearms that are merely incidental to the licensee's operations, such as when an FFL loans a firearm to an employee for personal use, or permanently assigns a firearm to a specific employee. These transactions are considered transfers or other dispositions that would trigger recordkeeping and NICS requirements. See below for additional information on GCA requirements applicable to FFL loans and other firearms transactions.

##### **Other Firearms Transactions**

As you know, in any case in which an FFL loans, rents, permanently assigns, or otherwise transfers or disposes of a firearm to any person, including an employee of the FFL, an ATF Form 4473 and NICS background check must be completed prior to the transfer. The licensee must also record the disposition of the firearm in the A&D Record.

Finally, in the case of all firearms transfers or dispositions, licensees or any other persons shall not knowingly transfer or otherwise dispose of a firearm to another person who they know or have reasonable cause to believe is prohibited. (See 18 U.S.C. §§ 922(d); 922(g).) In addition, in any instance in which a firearm temporarily assigned or issued to an employee is not returned to the FFL, the licensee must report the theft or loss of the firearm to ATF within 48 hours of discovery by filing an ATF Form 3310.11, Federal Licensee Inventory Theft/Loss Report, to the ATF National Tracing Center.

### **Inventory and Firearms Accountability**

Inventory and firearms accountability are among the key components of any Federal firearms licensee inspection. An FFL may be revoked for failing to properly account for the disposition of firearms. Therefore, in any case in which a firearm is recorded in a licensee's acquisition records and the firearm is not stored on the licensee's premises, or at a separate place of storage, the licensee will be asked to provide proper and sufficient documentation verifying the firearm's location. This documentation may include the daily logbook recommended below.

### **Recommended Practices**

In the limited circumstances described above where licensees temporarily assign firearms to employees for business purposes, ATF recommends a number of best practices to improve the traceability of firearms and protect the public. ATF strongly recommends recording the issuance of a firearm for legitimate business uses: (1) to an employee for any period of time; or (2) from a licensee's licensed premises to an appropriate responsible person or authorized employee at an alternate location. ATF recommends that licensees record this information in a daily logbook and/or maintain other documentation that records the temporary assignment of each firearm to a particular employee. The record should reflect the complete name of the individual temporarily assigned the firearm, the address where the firearm is assigned, annotate the date of assignment and return, and include identifying firearm information consistent with 27 C.F.R. § 478.125 (manufacturer/importer, model, serial number, type, caliber or gauge). Additionally, ATF suggests that records at the assigned alternate location should similarly reflect this information. ATF believes that these records will significantly improve the accountability of firearms by licensees and establish good internal controls.

If you have any questions on this matter, please contact your local ATF area office.



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