

MISSING GUNS



TENS OF THOUSANDS OF GUNS
LEAVE GUN SHOPS WITHOUT
BACKGROUND CHECKS OR RECORDS
OF SALE

BRADY CENTER TO PREVENT GUN VIOLENCE
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The Brady Center to Prevent Gun Violence is a national non-profit organization working to reduce the tragic toll of gun violence in America through education, research, and legal advocacy. Through its project *Gun Industry Watch*, the Brady Center works to monitor and publicly expose practices that contribute to gun violence, with the goal of bringing about life-saving industry reform. The programs of the Brady Center complement the legislative and grassroots mobilization efforts of its sister organization, the Brady Campaign to Prevent Gun Violence and its network of Million Mom March Chapters.

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TABLE OF CONTENTS

Missing Guns: Tens of Thousands of Guns Leave Gun Shops Without Background Checks or Records of Sale	1
The Tiarht Amendment Blocks ATF From Requiring Gun Dealer Inventories and Blocks Public Requests for Missing Gun Data	2
The Gun Lobby Is Working to Further Weaken ATF and Protect Dealers Who Have Hundreds of Firearms “Missing” From Inventory	3
Gun Dealers Who Supply Criminals With Firearms Have Frequently Claimed Large Numbers of “Missing” Guns	4
Guns Missing From Select U.S. Gun Shops, 2008-2010	5
Conclusion	6

MISSING GUNS: TENS OF THOUSANDS OF GUNS LEAVE GUN SHOPS WITHOUT BACKGROUND CHECKS OR RECORDS OF SALE

Licensed gun dealers nationwide “lost” an average of at least 56 firearms every day over the last three years, according to a Brady Center to Prevent Gun Violence analysis of data released by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) at a gun industry trade show on January 19, 2011. ¹ **From 2008 to 2010, at least 62,134 firearms left gun dealers’ inventory without a record of being legally sold.**

The 62,134 guns “missing” from gun shops in last three years likely represent a **vast undercount of the total number of guns that disappeared from gun shops** nationwide. The missing guns are noted at ATF compliance inspections of licensed gun dealers, but **ATF has conducted compliance inspections each year at less than one-fifth of the nation’s gun shops.** ATF has had limited funding to conduct compliance inspections and is hamstrung by weak federal gun laws that prohibit ATF from conducting surprise inspections without a warrant more than once per year.²

From 2008 to 2010, at least 62,134 firearms left gun dealers’ inventory without a record of being legally sold, an average of 56 guns “missing” from gun shops every day of the year.

Gun dealers who engage in illegal, off-the-book gun sales frequently claim that those guns have been lost or stolen when ATF discovers that the guns are not accounted for in gun dealer inventories.

Firearms that leave gun shops without records of sale are frequently trafficked by gun traffickers and **prized by criminals because the guns are virtually untraceable.** Every gun that leaves a gun shop without a background check is one that fuels the illegal gun market and endangers our communities. **Corrupt gun dealers also attempt to disguise illegal off-the-book sales by claiming that the firearms were lost or stolen.**

From 2008 to 2010, ATF compliance inspections at gun shops initially uncovered 305,253 guns that were listed as being in inventory but had no matching record of sale or background check. Guns that do not have matching records of sale make it difficult for ATF to trace these guns. If ATF contacted a gun shop to find out about one of the 305,253 guns that ATF initially found were “missing” from dealer inventory, the dealer may have been unable to locate the record and a crime gun trace could not be completed.

¹ ATF, *SHOT Show – January 2011 – Inspection Findings*, Jan. 19, 2011, available at <http://atf.gov/publications/firearms/SHOT%20Show%202011/SHOT%20Show%202011%20Inspection%20Findings%20PDF.pdf>.

² 18 U.S.C. § 923(g)(1)(B).

As a result of ATF inspections, gun dealers are forced to search their records and inventory either to find the “missing” guns in the store or find records of sale for the guns. From 2008-2010, gun dealers were notified as a result of ATF compliance inspections that 305,253 guns were unaccounted for in their inventories. After searching their inventories and records, gun dealers still could not account for 62,134 guns, meaning that these guns left the gun dealers' inventory without a record of sale or background check. Criminals prefer off-the-book sales like these because the guns are untraceable to a retail purchaser. Dealers also engage in these sales because there is no record of sale tracing back to them, and they can simply report the tens of thousands of guns as lost or stolen. Gun dealers inspected by ATF ultimately could not account for 22,770 guns in 2008, 18,323 guns in 2009, and 21,041 in 2010.

The Tiahrt Amendment Blocks ATF From Requiring Gun Dealer Inventories and Blocks Public Requests for Missing Gun Data

Weak federal gun laws allow gun dealers to operate without security or inventory controls. Under federal law, a gun dealer is not required to secure its inventory from loss or theft or take an inventory of its firearms to account for any that are lost or stolen. This lack of a security or inventory requirement makes it easy for gun dealers to claim falsely that firearms they have sold illegally, “off-the-books,” were lost or stolen. Federal law requires that gun dealers report guns that are lost or stolen, but does not require them to undertake any effort to determine whether guns are missing from their inventory.

In 2000, ATF proposed that gun dealers be required to take one physical inventory of their firearms each year to ensure that all firearms were accounted for in their shops. At the behest of the gun lobby, however, Congress in 2004 approved an appropriations provision proposed by then-Rep. Todd Tiahrt (R-KS), known as **the “Tiahrt Amendment,” blocking ATF from requiring that gun dealers track their inventory** - and that prohibition remains the law today.

The Tiahrt Amendment also contains a secrecy provision that blocks public and media requests for data about guns missing from gun shops, including which gun dealers are the source of the most “lost” guns. The Brady Center obtained the data for 2008 to 2010 from an ATF report presented to the gun industry last week at the SHOT Show, a gun industry trade show.

Data have previously shown that a small number of gun dealers are responsible for most missing guns. In 2005, ATF found that 12,274 firearms disappeared from gun shops without background checks or records of sale in fiscal year 2005, and **11,640 of those guns were from just 97 gun shops**.

President Obama promised during his 2008 campaign to “repeal the Tiahrt Amendment,” but instead has kept the Tiahrt Amendment’s prohibition on ATF requiring gun dealer inventory audits and the gun dealer data secrecy provision in his budget proposals.



The Gun Lobby Is Working to Further Weaken ATF and Protect Dealers Who Have Hundreds of Firearms “Missing” From Inventory

One of the most threatening pieces of legislation aimed at weakening ATF is the so-called ATF “Reform and Firearms Modernization” Act (S. 941/ H.R. 2296, 111th Congress). This law would cripple ATF’s ability to shut down corrupt gun dealers who have hundreds of firearms leave their shop with no background check or record of sale. It would amount to the largest rollback in federal gun law enforcement authority in decades. It is supported by the National Rifle Association and vigorously opposed by the nation’s leading law enforcement organizations.

The “Reform and Firearms Modernization” Act would:

- Severely hinder ATF’s ability to shut down corrupt gun dealers by requiring ATF to show that the dealer not only violated the law, but also that the dealer had the specific **intent** to break the law, before revoking the dealer’s license.
- **Prohibit ATF from revoking licenses of gun dealers who commit many dangerous crimes, such as when a dealer allows hundreds of guns to “disappear” from its inventory with no record of sale.**
- Cap fines at extremely low levels for violations found during an inspection of a gun dealer. For example, a dealer with 900 federal gun law violations would face a maximum fine of less than \$8.50 per violation.
- Allow most dealers who violate gun laws to continue selling guns for 60 days after their licenses are revoked, even if they committed willful violations of federal law.



The U.S. Department of Justice called Sandy Abrams’ Valley Gun an “irresponsible gun shop” that engaged in “dangerous operations” as a “serial violator” of gun laws. After nearly a decade and over 900 violations of federal law, ATF was finally able to revoke Abrams’ license.

According to ATF’s own crime gun data, one percent of gun dealers supply nearly 60% of all crime guns recovered in America. ATF must have the tools it needs to enforce the law and shut down corrupt gun dealers.

Senator Kirsten Gillibrand (D-NY) and Congresswoman Carolyn McCarthy (D-NY) introduced legislation (S. 2878/ H.R. 4298, 111th Congress) that would strengthen ATF’s enforcement ability by giving ATF important tools to crack down on the small percentage of gun dealers who arm criminals with deadly weapons. It would also give law enforcement important new tools needed to break the backs of the gun trafficking organizations that use weak Federal gun laws to enrich themselves at the expense of great pain and suffering to innocent gun violence victims.

Gun Dealers Who Supply Criminals With Firearms Have Frequently Claimed Large Numbers of “Missing” Guns

Criminals frequently obtain firearms from gun dealers who have large numbers of guns “disappear” from their inventory. When a firearm that was in a gun dealer's inventory is unaccounted for, there are a few possible explanations - none of them good. The gun could have been stolen by a customer, or by an employee; it could have been misplaced; or the gun dealer could have sold it illegally “off the books,” without completing the required Brady background check and paperwork. Thefts can be prevented by not leaving customers alone with guns, and locking up guns when unattended.

Given the economic realities of the gun business, “off the books” sales are most likely, as most businesses would not tolerate hundreds and thousands of dollars of inventory leaving their store, especially given how easy it is to prevent thefts. As law-abiding purchasers do not seek to avoid background checks or a paper trail, “off the books” sales are likely made to persons prohibited from buying guns, or with criminal purposes in mind.

Below are examples of gun dealers who have had large numbers of firearms “missing” from their inventories:

- The Brady Center report “Death Valley: Profile of a Rogue Gun Dealer” highlights the record of Sandy Abrams, a three-term NRA board member, and owner of Valley Gun shop in Baltimore, Maryland, who was cited for more than 900 violations of federal gun laws.³ Abrams failed to account for firearms in his gun shop, with **422 guns missing in a 2003 inspection, amounting to more than one-quarter of his store’s inventory**. Abrams’ shop had over 483 firearms traced to crimes including 41 assaults and 11 homicides. Despite Abrams’ record of violations, weak gun laws allowed Abrams to stay in business for nearly a decade before ATF could shut him down. Even after his license was revoked, Abrams continued selling guns.
- The Washington, D.C.-area snipers obtained their assault rifle from a gun dealer that had a long history of missing firearms. At least 238 guns, including the snipers’ assault rifle, “disappeared” from Bull’s Eye Shooter Supply of Tacoma, Washington during just three years. The snipers killed 10 people in the D.C. area in their 2002 shooting spree.
- At Franklin Gun Shop, in Athens, Georgia, ATF inspectors discovered 677 missing sales entries for guns no longer on the premises. A Federal court ruled, “[i]t is not acceptable for hundreds of firearms to be sold or transferred without proper documentation,” adding that “[i]nformation drawn from records kept by dealers is

³ Brady Center to Prevent Gun Violence, *Death Valley: Profile of a Rogue Gun Dealer: Valley Gun*, June 2006, available at <http://www.bradycenter.org/xshare/pdf/reports/death-valley.pdf>.

a 'prime guarantee of the [Gun Control] Act's effectiveness' in keeping guns out of the hands of criminals, juveniles, and other dangerous persons."⁴

- At Willingham Sports of Demopolis, Alabama, ATF found that Willingham Sports was failing to keep accurate records of its sales and inventory, and had other errors in its federally-required recordkeeping. At successive ATF compliance inspections, inspectors found that Willingham could not account for 27 firearms, the next inspection revealed 130 missing firearms, and in the next inspection 28 firearms were missing.⁵

Guns Missing From Select U.S. Gun Shops, 2008-2010

	2008	2009	2010	Total
Firearms Initially Missing From Inventory as Determined By ATF at Gun Dealer Compliance Inspections	At least 116,380	At least 101,648	At least 87,225	At least 305,253
Firearms Still Missing From Inventory After Search of Gun Dealer Inventory and Records	At least 22,770	At least 18,323	At least 21,041	At least 62,134

These numbers are likely a **vast undercount** of guns unaccounted for in gun dealer inventory, as they are based on ATF compliance inspections of less than one-fifth of gun dealers each year.

Source: ATF Compliance Inspection Data Released January 19, 2011.

⁴ *Franklin Gun Shop v. Gonzales*, No. 3:05-cv-87, 2006 WL 2263992, at *9 (M.D. Ga., Aug. 8, 2006).

⁵ *Willingham Sports, Inc. v. ATF*, 348 F. Supp. 2d 1299 (S.D. Ala. 2004); *Willingham Sports Inc. v. ATF*, 415 F.3d 1274 (11th Cir. 2005) (ATF's revocation of license upheld after de novo review by Federal courts).



CONCLUSION

Based on ATF compliance inspections of less than one-fifth of the nation's licensed gun sellers, data show that that U.S. gun shops failed to account for more than 62,000 guns missing from gun dealers' inventories from 2008-2010. Guns that disappear from gun shops without records of sale or background checks are frequently trafficked by gun traffickers and prized by criminals because the guns are virtually untraceable.

Every gun that leaves a gun shop without a background check is one that fuels the illegal gun market and endangers our communities. Corrupt gun dealers who sell guns in illegal, off-the-book sales frequently claim that those firearms were lost or stolen when ATF compliance inspections determine that the dealers' guns are unaccounted for in their inventories.

Congress should strengthen federal gun laws to allow ATF to conduct more than one surprise inspection of gun shops per year and give ATF the funding and tools it needs to shut down corrupt gun dealers who funnel guns to the criminal market. Congress should repeal the Tiahrt Amendment that blocks ATF from requiring that gun dealers conduct annual inventories and that shields data about missing guns from public information requests. Congress should confirm an ATF Director to ensure that the agency charged with enforcing federal gun laws has a confirmed leader.

Every day that goes by without basic controls on gun dealer inventories is another day that at least 56 guns on average flow out of gun shops without background checks or records of sale, endangering our families and our communities.

