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WHERE DO THEY COME FROM?

Most guns used in crime aren't stolen; neither did they fall from the sky



By Julius (Jay) Wachtel. Of the many distortions propounded by the gun lobby perhaps none is more insidious than the fiction that most firearms seized by police are stolen. Although firm data is lacking, studies suggest that no more than twenty-five percent of recovered guns (and possibly far fewer) find their way to the street through theft and burglary. Sure, some gun thefts go unreported. On the other hand, many reported gun thefts never really took place. Gun buyers to whom recovered guns are traced frequently cry “stolen” to cover up the fact that they really bought the weapon for someone else. Corrupt dealers who sell guns out the back door often do the same.

In October 2002 [Beltway snipers](#) John Muhammad and Lee Malvo terrorized the nation’s capital, killing ten innocent citizens and wounding three. Their weapon, a Bushmaster rifle (an AR-15 knock-off) was traced to [Bull’s Eye](#), a Tacoma gun store and indoor range where Muhammad practiced his shooting skills. Problem is, Bull’s Eye had [no record](#) of ever selling this gun or more than two-hundred others also missing from inventory. How was the dilemma resolved? Its owner, Brian Bogelt, declared the guns stolen.

ATF ultimately revoked Bogelt’s Federal Firearms license. He and Bushmaster settled a [negligence suit](#) filed by relatives of the shooters’ victims; Bogelt, for \$2 million and Bushmaster for \$500,000. Of course, Bogelt can’t be considered a corrupt dealer as he was never charged with a crime. As far as the rifle and other guns go, they were supposedly shoplifted while he wasn’t looking.

In a [study](#) of gun trafficking investigations conducted between 1996-98 ATF concluded that corrupt dealers were by far the largest source of trafficked guns. That

was old news to agents in Los Angeles, where fifteen of 28 prosecuted [gun trafficking cases](#) between 1992-95 involved crooked dealers who diverted from ninety to three-thousand guns each. (In a later case, corrupt dealers in Cypress and Lake Forest, California were prosecuted for jointly selling as many as ten-thousand guns out the back door.)

Considering the damage that a bad dealer can cause one would think that ATF strictly supervises licensees. One would be wrong. Most of the agency's energy is expended going after felons with guns and, to a lesser extent, straw buyers, these being far more politically correct targets than "honest businessmen."

When the crack epidemic of the seventies sent violence skyrocketing New York and Chicago banned handguns. While no community in the West went that far, California began tightening the screws on the gun marketplace. Its laws, now considered the toughest in the nation, prohibit gun transfers between private persons, limit handgun purchases to one per month, impose a ten-day waiting period on all gun deliveries and require that handgun buyers pass a safety test.

Sad to say, other States lag far behind. A majority [don't regulate guns](#) at all. According to [ATF](#) nearly half (44 percent) of trafficked guns travel down one of several well-worn interstate corridors. It's not a pretty picture. "Weak law" States such as Georgia and Florida (neither has a waiting period, testing requirements or limits on the number of guns one can buy) have for decades supplied the crime-ridden inner cities of the Northeast, with Texas, Arizona and Nevada providing a comparable service for the gangsters of L.A.

Accumulating quantities of desirable new guns through theft is difficult and risky. There's really no need. All that's necessary is to have a [straw purchaser](#) visit a gun store, display an in-State driver license and plunk down their money. Once the Insta-Check comes through they can leave with a carload of guns in minutes. Incidentally, that's exactly how assault rifles purchased in Texas regularly wind up in the hands of [Mexican drug cartels](#).

Shouldn't the mere fact that a private person wants to buy a dozen guns raise suspicion? Alas, as long as dealers do no more than wink and nod, they're free to aid and abet straw buyers at will. No U.S. Attorney will prosecute a dealer and no ATF Regional Counsel will go after their license simply because they handed over a stack of guns to a stranger. Bending over backwards to let the gun industry maximize its profits has always been the American way. Your humble blogger will never forget the ATF memorandum sent during the height of Vice President Al Gore's reinventing government campaign directing that field offices officially refer to corrupt dealers as "conflicted clients."

How can we remove dealers from the trafficking equation?

Discourage straw purchase. Expand one-gun-a-month throughout the U.S., and not just for handguns. Presently only three States -- California, Maryland and Virginia -- have enacted that limit. [New Jersey](#), which is trying to become the fourth, has met concerted resistance from the gun lobby. Until all States are on board traffickers will continue taking advantage of regulatory disparities to buy guns wherever doing so is easy.

Reform investigative practices. Instead of looking on straw buyers and traffickers as the ultimate target, investigators should use them to go after the real source of the misery: corrupt dealers. As the writer and his former colleagues know, sending informers and undercover agents into gun stores to make purchases and elicit incriminating statements can work wonders. Quite frequently this approach has revealed other serious misconduct. In one case, which led to the felony conviction of a retailer in Carson (Calif.), undercover agents investigating straw buying unearthed a machine gun conspiracy.

Reform regulatory practices. Thanks to [Bernie Madoff](#) and his Wall Street friends regulation is no longer a dirty word. Political change has created a window of opportunity to enhance oversight of the firearms industry. To prevent gun diversions and discourage straw sales ATF should perform intensive, quality audits of dealer records. Corrupt dealers have created pools of "clean" guns by simply not recording them when they come in. *To prevent diversions inspectors should not take dealer records at face value but compare them with distributor invoices.* What goes out must also be audited. Knowing what we do about gun trafficking, there is no place for superficial inspections that only provide an illusion of control.

"Voluntary compliance" has been the touchstone of American regulatory practice, and not only in gun enforcement. But as every parent knows, absent a credible threat of punishment, promoting self-control is a loser's game. It's a lesson that America's gun enforcers should finally heed.