
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Steven Bradford, Chair
2021 - 2022 Regular

Bill No: AB 1191 **Hearing Date:** July 13, 2021
Author: McCarty
Version: April 8, 2021
Urgency: No **Fiscal:** Yes
Consultant: KW

Subject: *Firearms: tracing*

HISTORY

Source: Brady United Against Gun Violence

Prior Legislation: AB 2714 (Gloria) Died in Senate Public Safety Committee
AB 2222 (Quirk) Ch. 864, Stats. 2018
AB 1060 (Liu) Ch. 715, Stats. 2005

Support: Alameda County District Attorney's Office; Friends Committee of Legislation of California; San Diegans for Gun Violence Prevention; Women Against Gun Violence; Youth Alive!; California Federation of Teachers AFL-CIO; Courage California

Opposition: None known

Assembly Floor Vote: 69 - 0

PURPOSE

The purpose of this bill is to require the Department of Justice (DOJ) to analyze crime gun data to recognize patterns related to trafficking and provide their findings in a report to the Legislature.

Existing law requires a law enforcement agency to enter into the Department of Justice Automated Firearms System each firearm that has been reported stolen, lost, found, recovered, held for safekeeping, or under observation, within seven calendar days after being notified of the precipitating event. (Pen. Code, § 11108.2, subd. (a).)

Existing law states that information about a firearm entered into the automated system for firearms shall remain in the system until the reported firearm has been found, recovered, is no longer under observation, or the record is determined to have been entered in error. (Pen. Code, § 11108.2, subd. (b).)

Existing law states a law enforcement agency, as specified in the code section, shall report to the Department of Justice in a manner determined by the Attorney General in consultation with the Bureau of Alcohol, Tobacco, Firearms and Explosives all available information necessary to identify and trace the history of all recovered firearms that are illegally possessed, have been

used in a crime, or are suspected of having been used in a crime, within seven calendar days of obtaining the information. (Pen. Code, § 11108.3, subd. (a).)

Existing law provides when the Department of Justice receives information from a law enforcement agency, it shall promptly forward this information to the National Tracing Center of the federal Bureau of Alcohol, Tobacco, Firearms and Explosives to the extent practicable. (Pen. Code, § 11108.3, subd. (b).)

Existing law requires the Attorney General to ensure the maximum extent practicable by applying both of the following:

- 1) The information he or she provides to the federal Bureau of Alcohol, Tobacco, Firearms and Explosives enables that agency to trace the ownership of the firearm;
- 2) Law enforcement agencies can report all relevant information without being unduly burdened by this reporting function. (Pen. Code, § 11108.3, subd. (c).)

Existing law states the information collected shall be maintained by the Department of Justice for a period of not less than 10 years, and shall be available, under guidelines set forth by the Attorney General, for academic and policy research purposes. (Pen. Code, § 11108.3, subd. (d).)

This bill requires DOJ to analyze existing data collected by law enforcement agencies to identify and evaluate patterns and trends regarding firearm tracing.

This bill requires DOJ to submit their findings to the Legislature on or before July 1, 2023.

This bill requires DOJ to make the report available to the public.

COMMENTS

1. Need for This Bill

According to the author:

The problem is two-fold:

- Communities of color are disproportionately impacted by gun violence in California; and
- currently there is no coordinated analysis to trace where these guns are being sold.

Most of the cities chronically impacted by gun violence do not have many, if any, licensed gun dealers within their city limits. For example, Oakland, a city that has, for decades, been an epicenter of gun violence, has no brick and mortar gun stores. Instead, gun dealers typically sit outside these communities, frequently less diverse and more affluent suburbs, and profit off of irresponsible or illegal sales that drive guns into cities like Oakland that later turn up at a crime scene. Through the identification of these gun dealers, we can stem the flow of crime guns and reduce gun violence that disproportionately affects these impacted communities.

The Bureau of Alcohol, Tobacco, Firearms and Explosives' (ATF) annual crime gun tracing reports have identified that approximately 75% of all California crime guns originate from

within the state, however ATF's reports do not identify the individual dealers. The vast majority of gun dealers in this country and in California sell guns responsibly and make every effort to comply with federal, state, and local law. However, a small minority of gun dealers supply the criminal market. Prior to 2003, ATF conducted a nationwide analysis on crime gun tracing and made that analysis public. In fact, early ATF reports show that about 5% of gun dealers are responsible for about 90% of recovered crime guns. In 2003, the Tiahrt Amendment was added to the 2003 federal appropriations bill and because of ATF's interpretation of the rider, policymakers and the general public no longer have any visibility into how crime guns flood into their communities and which irresponsible gun dealers supply them.

The California DOJ's Automated Firearms System (AFS) contains records of all assault weapons registered in California since 1989, all handguns purchased in California since 1996, all long-guns purchased in the state since 2014, and some other firearm related acquisition information dating back to 1917. The AFS also contains a database with information on all crime guns recovered in California. Because of California's unique firearms databases and systems, California can easily establish its own crime gun tracing program, independent and outside the restrictions set by ATF and the Tiahrt Amendment, allowing California to take meaningful and immediate action in reducing the effects of crime guns in its communities. However, there is currently no coordinated analysis on this available state level data, leaving an abundance of invaluable information unavailable and unanalyzed.

This bill will simply require the CA DOJ to analyze the information and data it already has on crime guns to determine and evaluate patterns and trends, and to create an annual firearms tracing report detailing which California licensed firearms dealers are responsible for selling crime guns. The mandate in this bill is small, but the impact will be life-saving.

2. National Tracing Center (NTC)

The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) National Tracing Center (NTC) is the United States' only crime gun tracing facility. NTC's mission is to conduct firearms tracing to provide investigative leads for federal, state, local and foreign law enforcement agencies.

Firearm tracing provides critical information to assist domestic and international law enforcement agencies investigate and solve firearms crimes; detect firearms trafficking; and track the intrastate, interstate and international movement of crime guns. All firearms traced must have been used, or suspected to have been used, in a crime.

The Tracing Process

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 in order to develop investigative leads.

Tracing is a systematic process of tracking the movement of a firearm from its manufacture or from its introduction into U.S. commerce by the importer through the distribution chain (wholesalers and retailers), 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 in-state, 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.

Traces classified as “Routine” are completed within seven to ten days on average. The law enforcement agency submitting the trace request determines the trace classification.¹

3. Firearms Trace Data 2019

A key component of the Bureau of Alcohol, Tobacco, Firearms and Explosives’ (ATF) enforcement mission is the tracing of firearms on behalf of thousands of federal, state, local and foreign law enforcement agencies. Firearms trace data is critically important information developed by ATF. ATF has prepared the following state-by-state reports utilizing trace data which is intended to provide the public with insight into firearms recoveries.

Firearms tracing is designed to provide investigative leads to law enforcement to linking a suspect to a firearm in a criminal investigation, to identify illegal firearms traffickers, and to identify trends and patterns in the flow of illegal firearms. Firearms tracing is only conducted at the request of a law enforcement agency engaged in a bona fide criminal investigation where a firearm has been used or is suspected to have been used in a crime. Although not all firearms used in crimes that are recovered by law enforcement are traced, ATF encourages every agency to comprehensively trace each of those firearms.

The firearms selected for tracing are not chosen for purposes of determining which types, makes or models of firearms are used for illicit purposes. The firearms selected do not constitute a random sample and should not be considered representative of the larger universe of all firearms used by criminals, or any subset of that universe. Firearms are normally traced to the first retail seller, and sources reported for firearms traced do not necessarily represent the sources or methods by which firearms in general are acquired for use in crime.²

In the individual state report, ATF data shows, the total number of firearms recovered and traced in California in the 2019 Calendar Year was: 41,883.

The data also shows the firearm types within the California Recovery, this includes:

- 23,163 pistols
- 7,655 rifles
- 5,965 revolvers
- 3,952 shotguns
- 294 machine guns, and
- 294 unknown types. (<https://www.atf.gov/file/146966/download>)

4. Argument in Support

According to the bill’s sponsor, the Brady Campaign:

AB 1191 will mandate that California’s Department of Justice (CA DOJ) analyze crime gun data it already has, to determine trends and patterns related to how crime guns are sold and

¹ <https://www.atf.gov/firearms/national-tracing-center>

² <https://www.atf.gov/resource-center/firearms-trace-data-2019>

trafficked, and to provide annual firearms tracing reports to the California State Legislature. Currently, the state does not conduct a comprehensive and coordinated analysis of available California data on seized crime guns, leaving an abundance of invaluable information that could identify trafficking patterns and illegal or irresponsible transfers from gun dealers ignored.

In order to reduce gun violence in California, it is critical to identify the small number of irresponsible dealers that are profiting off of and enabling the proliferation of crime guns at the expense of communities throughout the state, and in particular, in communities of color suffering from chronic gun violence. The processes mandated in this bill will provide invaluable information and a better understanding about how firearms are being diverted into the criminal market and will allow California to properly address a root cause of gun violence by identifying the minority of irresponsible or negligent firearms dealers that prioritize profit over public safety.

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