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# CONTROL OF EXPLOSIVES

Administration and Execution of the Laws Pertaining to  
the Control of Explosives

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## HEARINGS

BEFORE THE

SUBCOMMITTEE TO INVESTIGATE THE  
ADMINISTRATION OF THE INTERNAL SECURITY  
ACT AND OTHER INTERNAL SECURITY LAWS

OF THE

COMMITTEE ON THE JUDICIARY

UNITED STATES SENATE

NINETY-FOURTH CONGRESS

SECOND SESSION

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### PART 1

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

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APRIL 8 AND 9, 1976

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Printed for the use of the Committee on the Judiciary



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## CONTROL OF EXPLOSIVES

### Administration and Execution of the Laws Pertaining to the Control of Explosives

THURSDAY, APRIL 8, 1976

U.S. SENATE,  
SUBCOMMITTEE TO INVESTIGATE THE  
ADMINISTRATION OF THE INTERNAL SECURITY ACT  
AND OTHER INTERNAL SECURITY LAWS  
OF THE COMMITTEE ON THE JUDICIARY,  
*Washington, D.C.*

The subcommittee met, pursuant to notice, at 3:45 p.m., in room 357, Russell Senate Office Building, Senator William L. Scott of Virginia, presiding.

Also present: Richard L. Schultz, chief counsel; Robert J. Short, senior investigator; and David Martin, senior analyst.

Senator SCOTT. The subcommittee will come to order. Chairman Eastland has asked me to preside on his behalf this afternoon and the Senate, as you know, is in session, and I believe that we will have a number of roll calls. So I ask that the witnesses be as concise as they can, not leaving out anything that they would want to come before the subcommittee.

You will, I hope, understand if I have to leave and go vote because we are considering food stamp legislation and there are a number of amendments and one half an hour limitation on the amendments, so, it is likely that within the 20 minutes next that we will have a recess for a roll call.

The Subcommittee on Internal Security meets today for the purpose of receiving testimony and evidence relevant to the adequacy of the laws and regulations pertaining to the control of explosives and the administration thereof.

This oversight inquiry is conducted pursuant to a resolution adopted by action of the subcommittee on March 9, 1976. In considering the adoption of this resolution, the subcommittee was not unmindful of the plethora of materials and statistical data which is compiled periodically for the purpose of cataloging the occurrence and extent of personal injury, property damage, and loss of productive man hours which result from the criminal use of explosives.

Though meaningful and relevant for the purposes of assessing the magnitude of the criminal use of explosives, these statistics fail to provide us with answers to questions concerning how explosives are acquired by those bent on criminal endeavor. The focus of our inquiry then will be on the illegal acquisition of explosives. The subcommittee will not concern itself with labels or characterizations, whether self-

proclaimed or publicly assigned, by which individuals or groups may attempt to cloud the true criminal nature of their activities.

Surely no one would argue that there is comfort to be taken from knowing that a loved one was killed by a political activist, or argue that the absence of a terrorist label, or the absence of a characterization as a political activist, that the use of explosives which result in human suffering, do not impinge directly on the internal security of our country.

Today's hearing is the first of a series of hearings which we hope to complete within the coming months. We are pleased to have as our initial witness, the distinguished director of the Bureau of Alcohol, Tobacco and Firearms, Mr. Rex D. Davis.

Mr. Davis has provided the subcommittee with a prepared statement by which he presents an overview of the issues relating to the control and handling of explosives.

Mr. Davis, I want to thank you, on behalf of the subcommittee, for coming here today. We are looking forward to your testimony.

Would you please stand and be sworn?

Mr. SCHULTZ. Mr. Chairman, Mr. Davis may call upon the gentlemen with him and I was wondering if they could be sworn also?

[Whereupon, the witnesses were sworn by Senator Scott.]

Before you commence, I do have a statement that Senator Thurmond has asked me to submit for the record and it will be inserted in the record at this point.

[The statement referred to follows:]

#### STATEMENT BY SENATOR STROM THURMOND

If I may be permitted to add a few words to the Chairman's remarks, I would like to say that I have a major personal interest in this entire problem because I have chaired some 5 or 6 hearings on the subject of terrorism conducted by the Senate Internal Security Subcommittee. The impression I have from these hearings is that it is really incredibly easy for terrorists to acquire large quantities of explosives. This is an alarming situation.

The question naturally arises: Are we doing everything that can be done to control and monitor the production and distribution of explosives of all kinds, so that anti-social elements will find it more difficult to acquire them for criminal and terrorist use? Although I don't want to anticipate the testimony of our distinguished witness, my impression is that the machinery of control can be improved in a number of ways and I welcome the opportunity to explore this problem with someone as knowledgeable as the Director of the Bureau of Alcohol, Tobacco and Firearms, Mr. Rex D. Davis.

**TESTIMONY OF REX D. DAVIS, DIRECTOR, BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS, ACCOMPANIED BY STEPHEN E. HIGGINS, ACTING DEPUTY DIRECTOR; JOHN F. CORBIN, JR., ASSISTANT DIRECTOR FOR CRIMINAL ENFORCEMENT; A. ATLEY PETERSON, ACTING ASSISTANT DIRECTOR FOR TECHNICAL AND SCIENTIFIC SERVICES; AND MARVIN J. DESSLER, CHIEF COUNSEL**

Mr. DAVIS. Thank you, Mr. Chairman, it is a pleasure to appear before this distinguished committee to report on our administration of the Federal laws that relate to explosive materials and the bombs that are sometimes made from them.

I would like to introduce those members of my staff who are here with me today: Mr. Stephen E. Higgins, Acting Deputy Director;

Mr. John F. Corbin, Jr., Assistant Director for Criminal Enforcement; Mr. A. Atley Peterson, Acting Assistant Director for Technical and Scientific Services; and Mr. Marvin J. Dessler, our Chief Counsel.

My prepared testimony is rather lengthy, and with your permission, I will simply highlight it and then answer any questions which the subcommittee may have.

Mr. Scott. The entire statement will be received for the record and I think that that is very kind of you to give us the highlights.

[The prepared statement of Mr. Davis follows.]

#### PREPARED STATEMENT OF REX D. DAVIS, DIRECTOR

Mr. Chairman, and members of the subcommittee, I am Rex D. Davis, Director, Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury. I am here in response to your request to provide information on the Bureau's administration and enforcement of Title XI, Regulation of Explosives, as contained in the Organized Crime Control Act of 1970, as well as our enforcement of the National Firearms Act as it relates to destructive devices.

It is a pleasure to appear before this distinguished subcommittee to report on our administration of the Federal laws that relate to explosive materials and the bombs that are sometimes made from them. With the subcommittee's permission, I would like to first summarize the events leading to our appearance here today. Following that, I will present to the subcommittee our efforts to regulate the explosives industry in conjunction with other Government agencies, as well as showing the current trend in bombings and the difficulty which our agents encounter when trying to investigate a bombing, which includes determining how the bomber acquired the explosives used.

In 1968, Congress enacted the Gun Control Act of 1968. Title II of the Act amended the National Firearms Act and required that destructive devices must be registered with our Bureau in order to be legally possessed. The term "destructive device" included both explosive and incendiary bombs. The amended National Firearms Act provided for a 30-day amnesty period in November 1968, during which time destructive devices, as well as unregistered firearms, could be registered with immunity. However, there were no "bombs," as you and I think of them in terms of today's misuse of explosives, registered and as a result, each such bomb made and used since December 1968, is a violation of the National Firearms Act. It was at this point in time that we became involved in the investigation of bombings of all types in the United States.

The growing misuse of explosives by those who chose bombs as their means of forcing their philosophy, life styles or politics on others caused Congress to enact Title XI of the Organized Crime Control Act of 1970. Title XI, patterned after Title I of the Gun Control Act of 1968, required a total licensing of the explosives industry, including distributors and dealers, and a complete recordkeeping system to cover all purchases and reports of thefts of explosive materials. It also called for strict storage facilities for those who deal in or use explosives. The statute carried with it a number of unlawful acts, including one covering bomb threats.

However, the statute did place joint responsibility for the enforcement of six of the violation sections upon both the FBI and our Bureau. We have, as a result, entered into an agreement with the FBI over which of those sections we will enforce and which are their responsibility.

With the enactment of Title XI came the pressing requirement of licensing of the manufacturers, importers and dealers of explosive materials, as well as determining the type of storage containers for explosive materials necessary to meet both the provisions of the law and the practical needs of the industry. To accomplish this, we asked the explosives industry to select a member of that profession who could serve as a consultant to us as we prepared the regulations which would implement the law. The Institute of Makers of Explosives, which we shall refer to as IME during our testimony, gave us full cooperation as we delved into the complex problem of storage and recordkeeping of an industry that had not been regulated other than as a wartime measure during World War II.

Because the law so closely paralleled the Gun Control Act of 1968, we called upon our special agents to handle the bulk of the work associated with the issuance of licenses and approval of storage facilities, which was a prerequisite to li-

censing. In Fiscal Year 1971, we used 191 man-years at a cost of \$3.3 million to get the program rolling. The following year, that figure rose to 397 man-years and a cost of \$7.7 million. It then decreased and our budget for Fiscal 1976 identifies this program at 219 man-years with a cost of \$6 million.

Today, there are 594 manufacturers, 76 importers and 1411 dealers of explosives licensed under Title XI. The licenses are issued on a yearly basis and are subject to non-renewal or revocation if we have reason to believe that the applicant for the license does not meet the requirements of the law. We also have, at this time, 2,618 users of explosives who have obtained a permit to use explosives on a full time basis. There were also 26 limited use permits issued as of March 9, 1976. The limited use permit is for a "one time" purchase of explosives.

Complete and accurate records on the disposition of explosives must be retained by those persons or firms licensed under Title XI, and these records are subject to our inspection at any time during the regular business hours of the licensee. In addition, those licensees who store explosives must also have proper storage facilities, and these are open to our inspection. However, because a large number of the dealers and users of explosives are connected with the mining industry, we have worked out an agreement with the Mining Enforcement and Safety Administration (MESA) of the Bureau of Mines for their personnel to perform inspections of the storage and use of explosives at the mines.

In Fiscal 1975, there were a total of 6,320 licenses and permits issued under Title XI. During that year, we made 813 investigations of applications for license or permit, and 2,141 compliance inspections to determine whether or not the licensee or permittee was complying with the provisions of the law. At the same time, MESA made approximately 7,200 inspections of explosive storage facilities. It is our understanding that they inspect all coal mines quarterly, while metal and non-metal quarry and mine operations are inspected at least annually.

Under the law, the licensee is prohibited from distributing explosive materials to any individual who (1) is under twenty-one years of age, (2) has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year, (3) is under indictment for a crime punishable by imprisonment for a term exceeding one year, (4) is a fugitive from justice, (5) is an unlawful user of narcotics, or (6) has been adjudicated a mental defective. In addition, the licensee cannot knowingly distribute explosive materials to any person except (1) a licensee, (2) a permittee, or (3) a resident of the State where distribution is made and in which the licensee is licensed to do business. Distribution can be made to the resident of a contiguous State if permitted by the law of the State of the purchaser's residence.

At the same time, it is unlawful for those persons who fall within any one of the above listed six categories to ship or transport any explosive in interstate or foreign commerce, or to receive any explosive which has been shipped or transported in interstate or foreign commerce.

There are many other unlawful acts concerning the sale or possession of explosives which I shall not try to enumerate here. These range from the furnishing of false information to the licensed dealer by the person buying explosives to the possession of explosives with the intent to kill, injure or intimidate an individual.

The procedure to buy explosives from a licensee depends upon whether or not the purchaser is the holder of a user permit. The user permit is issued to those persons or firms who constantly use explosives in their work, such as construction firms or a mining operation, and the purchase involves interstate commerce. The permit is issued annually and is presented to the dealer when buying explosives. It relieves the dealer from the responsibility of extensive recordkeeping since it is only necessary to enter the name of the permittee and the permit number in the dealer's disposition records.

However, if a non-licensee or non-permittee wants to buy explosives from a licensee within the State where the buyer resides, it is necessary that a Form 4710, Explosives Transaction Record, be completed by the buyer prior to the actual sales transaction. Basically, the form requires the buyer to give a physical description, show what use will be made of the explosive materials, where they will be stored, and a certification by the buyer that he is not in one of the categories of persons prohibited by law from obtaining or possessing explosive materials. The seller or licensee completes the rest of the form, indicating what type of identification was used by the buyer, what materials were purchased and where delivery was made. The buyer signs the form and it becomes a permanent part of the seller's records, and as such, open to our review and inspection. A heavy responsibility rests upon the dealer to make sure that the buyer presents proper identification, is qualified to buy the materials, and that the purchase,

possession or use of the explosive materials by the buyer would not be in violation of any State law or published ordinance applicable at the place of distribution.

The statute further requires that the purchaser of explosive materials have proper storage facilities for the materials, and that he may only receive the materials if the transportation, shipment or receipt is permitted by the law of the State in which the buyer resides.

In 1974, there were 2.7 billion pounds of explosive materials sold in the United States, with 2.2 billion pounds being used in the mining industry. Construction work used a little over 362 million pounds, while slightly over 196 million pounds went for all other purposes.

The preceding, in a nutshell, generally covers the regulation of the legitimate explosives industry, and we shall now turn our attention to what we feel is of greatest concern to this Committee, and that is the misuse of explosives.

The number of bombing incidents across the nation is of grave concern to all persons responsible for the public safety of life and property. We have a vital interest in preventing the illegal acquisition of explosives by terrorists and other criminal elements employing the bomb to intimidate society. I personally think that the term "terrorist" should apply to anyone who uses or attempts to use a bomb, but for the purpose of this hearing the term will be attached to those persons who have announced their intention of overthrowing our government or disrupting the day-by-day governmental operations.

Criminal intelligence indicates that terrorists plan to disrupt our Nation's Bicentennial celebration, and if the recent LaGuardia Airport bombing incident in New York City is indicative of what may lay ahead, it becomes increasingly imperative that we utilize all of our resources to deny terrorists, criminals and indiscriminate bombers access to explosive materials.

Our special agents have four law enforcement areas of responsibility: bombings, firearms, illicit liquor and wagering. We have, at the present time, approximately 1800 special agents stationed throughout the United States. All of our agents are trained to handle any type of an investigation. In other words, we do not have specialists that concentrate their efforts on one particular type of crime. The agent may work a bomb case today, an undercover sale of guns tonight, and raid a moonshine still tomorrow. However, explosives investigations have first priority in applying resources because of the obvious potential explosives have for endangering the public safety. Bombings, actual or attempted, are given primary emphasis. Other mandatory investigations relating to explosives are (1) theft of explosives, (2) threats against Treasury facilities or property, (3) bomb factories and (4) accidental explosions where explosive materials were involved or suspected of being involved.

During the period of April 1, 1975, through March 31, 1976, our agents were involved in the investigation of 1,587 incidents involving explosives. Of this number, 654 were bombings using explosives, 38 were bomb threats against Treasury facilities, 129 were incendiary bombings, 185 were where the bomb did not go off, 276 covered the theft of explosives, 242 involved the recovery of explosives, and 12 were considered as a hoax where there was neither a bomb nor a threat.

Because of a lag in our statistical reporting, we cannot correlate the above figures with those concerning our manpower application on investigation of explosive materials in terms of the exact reporting period. But to give you an idea of the time spent by special agents on this phase of their work, a total of 18,437 mandays were expended on explosives investigations during the period of February 1, 1975, through January 31, 1976. There were 1,734 explosives investigations made during this time, and we perfected 190 cases where we recommended the prosecution of one or more persons for violation of the provisions of Title XI, Regulation of Explosives. There was an average of 10.6 mandays spent on each investigation.

Focusing our attention on the 654 bombings where explosive materials were used, we find that 32 persons were killed and 158 persons injured as a result of those bombings. Ninety-eight of these bombings occurred in California, followed by 65 in Ohio. Missouri is next with 33 bombings, followed by New York and Pennsylvania with 31 each. Tennessee had 29 bombings, as did New Jersey and Kentucky. The Chairman will be interested to know that only 4 bombings took place in Mississippi.

The 129 incendiary bombs, which can be as simple as a soft-drink bottle filled with gasoline and ignited by a cloth wick or as complex as a combination of

chemicals which ignite when mixed, caused one death and fortunately no injuries. Again, the State of California suffered the highest number of such bombings with 32, followed by Ohio with 13. North Carolina had 9 incendiary bombings while Alabama had 8.

I would like to point out at this time that the statistics which I have provided the subcommittee this morning may, or may not, correspond with those of the National Bomb Data Center of the Federal Bureau of Investigation. Our agents are required to file reports with us of those incidents involving explosive materials of which they are aware, and it is from these reports that our statistics are gleaned.

Installations subjected to bombing range from banks and business premises to Federal buildings. The Federal Protective Service, which is a part of the General Services Administration, has advised us that in Fiscal 1975, there were 11 reported bombings of GSA managed buildings. There were also 614 bomb threats against GSA managed facilities which disrupted the work of 86,917 Federal employees at an estimated cost of \$825,000.00. While GSA does not have the exact value of the Federal property destroyed as a result of the 11 bombings, it is estimated to be in excess of \$2,000,000.00.

Figures provided by the National Bomb Data Center indicate that while there has been a slight increase in total bombings in Calendar Year 1975 over 1974, there has been a large increase in explosives bombings in 1975. According to their figures, there were 893 explosive bombings in 1974 as compared to 1,313 such bombings in 1975. The death and injury rate has also risen. In 1975, there were 69 deaths and 326 injuries as compared to 24 deaths and 207 injuries in 1974. Their initial report on property damage for 1975 is approximately \$27 million dollars as compared to \$10 million in 1974.

There is little doubt that bombings constitute a serious threat to our communities. The question that arises is how are the terrorists and criminals acquiring the needed explosive materials when we have Federal laws that restrict and regulate the sale of explosive materials as well as State laws along the same lines in many instances. The answer, of course, is not always attainable. The explosion of the bomb usually destroys most of the components of which it was made and thus presents the investigating officer with one of the most difficult of tasks—that of determining first of all what type of explosive material was used and then where did it come from? Sometimes the officers are successful in gathering enough minute pieces of debris to enable them to identify that the explosive was dynamite, or some other type, made by a certain manufacturer. Other times they are not.

Some explosive materials are traceable by means of lot numbers of similar markings, but others do not carry such identification. Even when we can identify the manufacturer, we find that thousands of pounds of that particular explosive was made under that lot number, and distributed to a number of dealers. Sometimes the dealer's records will indicate the same lot number on the sales records, but more often than not, this information is not recorded by the dealer.

I would like, at this time, to cite six out of the hundreds of bombings which we have investigated to illustrate the type of explosive material used, how it was acquired, and that the bulk of the bombings are not committed by "terrorist groups."

The first is a bombing that occurred on Thanksgiving Day, November 28, 1974, at about 5:00 A.M. at the residence of William Banks in McLean, Virginia. The initial investigation disclosed that a powerful explosive had been detonated on the concrete floor of the rear porch, resulting in approximately \$100,000 damage to the residence. At the time of the explosion, Mr. and Mrs. Banks and their three children were sleeping in rooms located on the second floor of the residence. Miraculously, no personal injuries were sustained. Following three days of on-the-scene investigation, during which time ATF agents and local police sorted through piles of debris caused by the bombing, the explosive was identified as dynamite and the investigating officers, working with our explosives technicians and scientists from our laboratory, were able to reconstruct the bomb and show that it had been contained in an attaché case. Eventually, the investigating officers were able to determine that the dynamite used in this bombing had been smuggled in from Canada. The motivation was extortion, and the persons responsible for the bombing were convicted in Federal Court and given long prison sentences.

The second incident took place in Connecticut and involves the placing of a dynamite bomb on a car by a young man who had a grudge against the car's

owner who happened to be the father of the young man's girl friend. Investigation revealed that the man had an acquaintance who was a blaster's helper with a drilling company. While visiting this acquaintance, he took four sticks of dynamite from the job site just before it was to be placed in bore holes. The drilling firm assumed that the dynamite had been detonated and did not notice the theft. This firm, which has a user's permit, had proper storage for explosives on the job site.

The third incident involving dynamite took place in Illinois where a 48 year old man was killed when he stepped on a dynamite-loaded booby trap during a hunting trip. Our investigation disclosed that the bomb was made up of seven sticks of dynamite, and two unexploded bombs were found nearby. The man's son became a suspect when it was learned there was a love triangle between father, step-mother and the son. The son was employed at a coal company and had access to explosives. A search of the dead man's premises, where the son also lived, revealed 96 sticks of dynamite, blasting caps and materials of the same type used in the bombs. The son admitted stealing the explosives from the coal company. The coal company did not know of the loss, even though they make a weekly inventory of their explosives. They assumed that the missing explosives had been used during the week. The company's storage facilities met the required standards.

I would like to turn next to a bombing that gets close to home. Our regional offices in San Francisco, California, were subjected to a bombing on July 21, 1975, at about 10:00 P.M. Our offices were on the 34th floor of the building, and the bomb was of such force that it did well in excess of \$100,000 damage to that floor, as well as fringe damage to other floors in the building. Apparently the bomb was secreted into the building and placed in the container for waste paper towels in the ladies rest room. The package containing the bomb was discovered by a janitor cleaning the room, and it had a note on it identifying it as a bomb and stating, "Put it down immediately, call the police, clear the building." The janitor did this, and the GSA guard called the San Francisco police. The bomb went off before the police arrived, but fortunately, no one was seriously injured. An analysis of the bomb debris by our laboratory showed that a plastic high explosive had been used. In all likelihood, the explosive was C-4 which is made expressly for use by the military. Our investigation is continuing, and we are working closely with the San Francisco police and the Federal Bureau of Investigation in an effort to identify the bombers.

On August 13, 1975, the Emiliano Zapata Unit of the New World Liberation Front printed and distributed a "communiqué" in which they stated that they would be focusing their attention first on the Treasury agents stationed in the San Francisco area. We have provided the subcommittee with copies of this communiqué as well as one that appeared after the bombing of our office in which a group, who identify themselves as the Red Guerrilla Family, claim responsibility for the bombing.

Bombings are also caused by explosives other than dynamite, which is probably the most popular. We are all familiar with the pipe bombings which have plagued the country. Usually, the material used is black powder which is available in sporting goods stores because of its use by those persons who have an interest in the muzzle-loading firearms used in the early settlement of this country.

However, pipe bombs can be made using other than black powder. On May 31, 1975, at about 1:30 A.M., a bomb exploded on the second floor of the Capital Center Building in Olympia, Wash., in an office area occupied by the Washington State Department of Social and Health Services. The local police requested our assistance in the blast scene search and the follow-up investigation. The search of the blast area uncovered enough fragments to reconstruct the type bomb used—a galvanized pipe bomb 6 inches in diameter, 14 inches long and capped on both ends. The bomb was charged by doubled-base smokeless powder, which is also available in sporting goods stores or at stores dealing in firearms since it is primarily used by individuals to re-load their own ammunition. This powder is not covered by Title XI, Regulation of Explosives, and can be sold without restrictions of any type. As a matter of interest, this particular bombing was claimed by a group calling themselves the "George Jackson Brigade," and which has been identified as an extremist group. For the subcommittee's information, George Jackson is one of the persons involved with Angela Davis in the Marin County, Calif., courtroom shoot-out in 1970.

Another incident involving smokeless powder took place in New Jersey where a group of juveniles were responsible for three bombings in a community in

Bergen County, N.J. The bombings destroyed a high school press box minutes after 300 students had left the playing field, two automobiles in the driveway of a private home, and a liquor store situated under upstairs living quarters where two small children were asleep at the time the bomb went off. Fortunately they were not injured although the blast did throw them from their beds. These were all pipe bombs made from smokeless powder. Our agents were able to determine during their investigation that on one occasion, the prime suspect bought smokeless powder from a Federally licensed firearms dealer in New York State. Eventually, the investigating officers were able to identify five youths as being responsible for the bombings. All five were convicted, with the leader receiving 15 years imprisonment in a Federal prison. We also discovered that these youths learned how to make these bombs by reading a book entitled, "Steal this Book," which was written by activist Abbey Hoffman, and that the motivation behind the bombings was retaliation for alleged wrongs against juvenile gang members.

Of course, the bombing that comes to everyone's mind when the subject is brought up is the one at LaGuardia Airport on December 29, 1975, where 11 persons were killed by the blast. I wish to advise the subcommittee that our agents are actively engaged along with New York City police and the FBI in that investigation, although we still have not been able to identify the explosive material used and there are very few leads to follow.

Although we have been unable in approximately 50% of the bombings we investigate to determine the type of explosive used, we are finding that dynamite is the primary explosive used and we are, at this point, convinced that the bulk of explosives used in bombings, other than black or smokeless powder, is stolen. There have been isolated instances where an individual, on a one-time basis, purchased explosives from a licensed dealer under the guise of legitimate use only to turn around and sell it to those who wanted it for the making of bombs.

Because Title XI makes it mandatory that thefts of explosives be reported to us within 24 hours of the time of the theft, we have from the very beginning been aware of this problem. Toward this end, we designed a poster for distribution to the explosives licensees and users for display on their premises, and which reminded them to report all thefts immediately. In addition, we remind them of this provision of the law when we make an inspection of their premises and review their compliance with the law. However, industry members have not always complied with this requirement and we are instructing them to observe all requirements of law which attach to the privilege conferred by an explosives license.

We have already initiated action which should, when fully implemented, have an impact on the theft of explosives. We found that we did not have as firm a grip on the handle of this problem as we should have, and a new procedure has been developed which will require the immediate and thorough investigation of all thefts of explosive materials from any source, with a reporting system which will provide for instantaneous retrieval. We will identify licensees, permittees and/or individuals whose actions endanger public safety, either through participation in a theft of explosive materials or through improper or unsafe storage of such materials. We will actively assist other Federal, State, local or foreign enforcement officials in the investigations of thefts and/or recoveries of explosive materials. These and attendant actions will, we hope, establish ATF as the central clearing house for all information regarding thefts and recoveries of explosive materials.

We are developing plans for a series of seminars on explosive materials, stressing safety and storage, for representatives from State governments, industry, other Federal agencies, trade associations and the public. We are hopeful that funds for this purpose may be forthcoming from the Law Enforcement Assistance Administration.

We are requiring our field personnel to step up their visitations to licensed dealers in explosive materials, and to devote more of their time to the problem of theft. Many of the thefts of explosives from approved storage facilities are by means of forced entry. A recent report submitted to us by IME covering 157 incidents where explosives had been stolen from IME members showed that 84% of the illegal entries were through the door of the storage vault. The locks on these doors have to be of a certain type and strong enough to resist the usual assault given a lock when someone wants to bypass it. Yet, we find them being cut by blow torch or broken by sledge hammer in spite of claims by the lock manufacturer of resistance to such efforts. The location of the majority of

storage facilities in isolated areas for safety reasons lends itself to uninterrupted attempts to break-in. We have this problem under study to determine the feasibility of alternate security measures, such as burglar alarms or electronic devices.

One of the weaknesses in the Federal law is the accountability for explosives on the part of the "users." While the law requires them to obtain a permit and have proper storage facilities, it does not require them to maintain a daily accounting of these explosives. We are currently working closely with State governments, both those who have laws governing explosive materials and those who do not, to assume this part of the overall task of keeping explosives out of the hands of those who would misuse them. The State Fire Marshal has enforcement responsibility over explosive materials in 26 of the States. In the other States, the responsibility is spread through police departments, Public Safety offices, or in some instances, totally within the Federal government, as in Wyoming where it is the responsibility of the Bureau of Mines and the Department of Labor. Some of the States, like Massachusetts, have very stringent laws on the sale and distribution of explosive materials, with inspection of the premises by State employees. But without State help, we cannot hope to stretch our resources to the point where we can check on the users of explosives. We have prepared for the Committee a listing of the States and their explosives control measures.

While on the subject of State involvement in the problem of misuse of explosives, I cannot praise highly enough the law enforcement efforts of the State and local police departments, as well as the offices of the Fire Marshals, where involved, in the investigation of bombings. We work very closely with them, and depend entirely upon them or the military for "render safe" capabilities where a bomb is found before it goes off. They are extremely professional in their investigative procedures and a valued member of the law enforcement team.

Before I close my testimony, I want to brief the Committee on our Explosives Tagging program which I think will solve the problem of being unable to determine the type and source of explosives in 50% of the bomb cases. Approximately three years ago, we formed a Federal Advisory Committee made up of experts in the field of explosives from government agencies, the industry and the private segment of the community. This group, chaired by a member of the ATF Headquarters staff, undertook the task of developing a means by which explosive materials could be tagged through the addition of an ingredient at the time of manufacture that would enable a bomb to be detected before it went off, or if detonation did occur, enable the investigating officers to quickly identify the type of explosive and trace it from the manufacturer to the last known purchaser. Foreign governments also expressed an interest in the results being achieved by this group. At this point, the group has proven the feasibility of tagging explosives and shown that it will work. Private industry has developed a prototype machine for detecting the presence of a bomb, and ingredients which can be added to the manufacturing process at a minimal cost. The explosives industry has supported the project from its inception, and are willing to move ahead with it once it has been finalized. The only thing that remains to be done is the refinement of process and final identification of the ingredients. This will require an expenditure in the area of \$1.2 million and would take about another year. Once funds are approved, we will move toward the completion of this vital project which should provide our agents and police officers everywhere with information that could lead to the identification of those responsible for many of the bombings which today go unsolved.

In summation, it is my opinion that Title XI, Regulation of Explosives, does provide sufficient means by which to control the manufacture and disposition of explosive materials. The explosives industry, as well as the mining and construction industry, needs to give greater attention to the security of those explosive materials under their control. Swift and severe punishment for those convicted of a bombing or bomb threat is a must if our society has any hopes of ridding itself of those persons who, through their warped thinking, are inflicting death and injury without regard to their victims in terms of age or involvement.

Mr. Chairman, that concludes my prepared statement. I will be happy to answer any questions which the subcommittee may wish to ask.

Mr. DAVIS. In 1968 Congress enacted the Gun Control Act of 1968. Title II of the act amended the National Firearms Act and required that destructive devices must be registered with our Bureau in order to be legally possessed.

The term "destructive device" included both explosive and incendiary bombs. The amended National Firearms Act provided for a 30-day amnesty period in November 1968, during which time destructive devices, as well as unregistered firearms, could be registered with immunity.

However, there were no bombs, as you think of them in terms of today's misuse of explosives, registered and as a result, each such bomb made and used since December 1968, is a violation of the National Firearms Act. It was at this point in time that we became involved in the investigation of bombing of all types in the United States.

The growing misuse of explosives by those who chose bombs as their means of forcing their philosophy, life styles, or politics on others caused Congress to enact title I of the Organized Crime Control Act of 1970.

Title XI, patterned after title I of the Gun Control Act of 1968, required a total licensing of the explosives industry, including distributors and dealers, and a complete recordkeeping system to cover all purchases and reports of thefts of explosives materials. It also called for strict storage facilities for those who deal in or use explosives. The statute carried with it a number of unlawful acts, including one very definitely covering bomb threats.

However, the statute did place joint responsibility for the enforcement of six of the violation sections upon both the FBI and our Bureau.

We have as a result, entered into an agreement with the FBI over which of those sections we will enforce and which are their responsibility.

Because the law so closely paralleled the Gun Control Act of 1968, we called upon our special agents to handle the bulk of the work associated with the issuance of licenses and approval of storage facilities, which was a prerequisite to licensing.

In fiscal year 1971, we used 191 man-years at a cost of \$3.3 million to get the program rolling. The following year, that figure rose to 397 man-years and a cost of \$7.7 million. It then decreased and our budget for fiscal 1976 identifies this program at 219 man-years with a cost of \$6 million.

Today, there are 594 manufacturers, 76 importers, and 1,411 dealers of explosives licensed under title XI. The licenses are issued on a yearly basis and are subject to nonrenewal or revocation if we have reason to believe that the applicant for the license does not meet the requirements of the law.

We also have, at this time 2,618 users of explosives who have obtained a permit to use explosives on a full-time basis. There were also 26 limited-use permits issued as of March 9, 1976. The limited-use permit is for a "one time" purchase of explosives.

Complete and accurate records on the disposition of explosives must be retained by those persons or firms licensed under title XI, and these records are subject to our inspection at any time during the regular business hours of the licensee.

In addition, those licensees who store explosives must also have proper storage facilities, and these are open to our inspection.

However, because a large number of the dealers and users of explosives are connected with the mining industry, we have worked out an agreement with the Mining Enforcement and Safety Administra-

tion (MESA) of the Bureau of Mines for their personnel to perform inspections of the storage and use of explosive at the mines.

In fiscal 1975 there were a total of 6,320 licenses and permits issued under title XI. During that year, we made 813 investigations of applications for license or permit, and 2,141 compliance inspections to determine whether or not the licensee or permittee was complying with the provisions of the law. At the same time, MESA made approximately 7,200 inspections of explosive storage facilities. It is our understanding that they inspect all coal mines quarterly, while metal and nonmetal quarry and mine operations are inspected at least annually.

In 1974 there were 2.7 billion pounds of explosive materials sold in the United States, with 2.2 billion pounds being used in the mining industry, construction work used a little over 362 million pounds, while slightly over 196 million pounds went for all other purposes.

During the period of April 1, 1975, through March 31, 1976, our agents were involved in the investigation of 1,586 incidents involving explosives. Of this number, 654 were bombings using explosives, 38 were bomb threats against Treasury facilities, 129 were incendiary bombings, 185 were where the bomb did not go off, 276 covered the theft of explosives, 242 involved the recovery of explosives, and 12 were considered a hoax where there was neither a bomb nor a threat.

Because of a lag in our statistical reporting, we cannot correlate the above figures with those concerning our manpower application on investigation of explosive materials in terms of the exact reporting period.

But, to give you an idea of the time spent by special agents on this phase of our work, a total of 18,437 man-days were expended on explosives investigations during the period of February 1, 1975, through January 31, 1976.

There were 1,734 explosives investigations made during this time, and we perfected 190 cases where we recommended the prosecution of one or more for violation of the provisions of Title XI, regulation of Explosives. There was an average of 10.6 man-days spent on each investigation.

There is little doubt that bombings constitute a serious threat to our communities. The question that arises is how are the terrorist and criminals acquiring the needed explosive materials when we have Federal laws that restrict and regulate the sale of explosive materials as well as State laws along the same lines in many instances.

In my full testimony, I cite six cases of bombings, which illustrate to some degree how the bombers acquired the explosive. The first, in McLean, Va., involved dynamite which was smuggled in from Canada. In the second, the bomber went to a drilling site to visit a friend and stole the dynamite just before a charge was set off. The third case took place in Illinois and involved dynamite which the bomber stole from a coal company where he was employed. In the bombing of our office in San Francisco, we suspect the explosive was C-4, a plastic explosive made expressly for the Armed Forces. We cannot identify the source until we positively identify the explosive.

The other two cases involved pipe bombs made from smokeless powder which can be purchased over the counter without restrictions.

Although we have been unable in approximately 50 percent of the bombings we investigate to determine the type of explosive used we

are finding that dynamite is the primary explosive used and we are, at this point, convinced that the bulk of explosives used in bombings, other than black or smokeless powder, is stolen.

We have already initiated action which should, when fully implemented, have an impact on the theft of explosives. We found that we did not have as firm a grip on the handle of this problem as we should have and a new procedure has been developed which will require the immediate and thorough investigation of all thefts of explosives materials from any source, with a reporting system which will provide for instantaneous recovery.

We will identify licensees, permittees, and/or individuals whose actions endanger public safety, either through improper or unsafe storage of such materials. We will actively assist other Federal, State, local, or foreign enforcement officials in the investigation of thefts and/or recoveries of explosive materials. These and attendant actions will, we hope, establish ATF as the central clearing house for all information regarding thefts and recoveries of explosive materials.

In summation, it is my opinion that Title XI, Regulation of Explosives, does provide sufficient means by which to control the manufacture and disposition of explosive materials. The explosives industry, as well as the mining and construction industries, need to give greater attention to the security of those explosive materials under their control.

Swift and severe punishment for those convicted of a bombing or a bomb threat is a must if our society has any hopes of ridding itself of those persons who, through their warped thinking, are inflicting death and injury with no regard for their victims in terms of age or involvement.

Mr. Chairman, that concludes my testimony. I will be happy to answer any questions.

Senator SCOTT. We appreciate your testimony and, as indicated initially, we are going to have a number of votes and the bells have already rung and they tell me that I have got to go over and vote. Let's take about 5 minutes before having a recess to enable me to vote.

In looking at your testimony I noticed that the explosives, in many instances, are obtained other than by purchase; and this is by stealing from one place or another or even making something from powder that would not ordinarily be used for bombs. I notice that you are suggesting that security is most important and the conviction of the people that do—swift and severe punishment for those convicted of a bombing. Isn't this true of law enforcement generally, crimes generally? Is it different with regard to these terrorists, to these bombers, to the people who make these explosives? Or would you say that the general criminal element needs to be treated in the same manner as the terrorist?

Mr. DAVIS. Yes, sir, Mr. Chairman, certainly I think that it is true, generally, in law enforcement that the swiftness and the commensurate quality of punishment is quite important as a deterrent.

As you are aware, we enforce the Federal firearms laws and I would certainly say that the same thing is true where a person uses a firearm in the commission of a crime, certainly the swiftness and the severity of the penalties imposed would be a great deterrent. I think that the reason that I emphasized—perhaps overemphasized—this with respect to explosives, is the fact that, as you are well aware,

the use of a bomb is so indiscriminate in terms of the damage inflicted to persons and the property and the destruction involved that it becomes almost a mindless act of terrorism.

So, I think that certainly a particular emphasis should be placed in this area.

Senator SCOTT. I wasn't suggesting otherwise at all, Mr. Davis. I noticed that you work in conjunction with the FBI. Is that also true with the local and the State agencies that deal in the field of explosion? Do you have any problems working with the State and the local people?

Mr. DAVIS. No sir, Mr. Chairman, in fact, we have shared effort in terms of both the regulation of explosives where we work, for example, through the State fire marshal or other authorities that are charged with that responsibility. In the case of criminal violations, we work very closely with the State authorities. We place our laboratory facilities at their disposal, we conduct training in the techniques of bomb scene searches and generally cooperate in every way that we can.

Senator SCOTT. Does your Bureau have ongoing programs that are designed to prevent the illegal acquisition of explosives?

Mr. DAVIS. Yes, sir, Mr. Chairman. And we have most recently, if I can say, "beefed up" that program. Following the LaGuardia bombing in which we are involved along with the FBI and the police department, it became apparent that during the Bicentennial year that we could expect an increase of bombings and theft of explosives for the purpose of criminal misuse.

So, I have established a task force to study this problem and we are taking a number of actions which we hope will help impress the people who legitimately use explosives to be more careful in their security and in preventing them from being stolen. Of course there is a Federal requirement that the loss of explosives or their theft must be reported to ATF within 24 hours.

Senator SCOTT. But do they always know? How could they know just 24 hours after or is that after they become aware?

Mr. DAVIS. It must be reported within 24 hours of the discovery of the loss or the theft. We have posters that we have prepared and are in the process of distributing that we hope will reemphasize this responsibility to the users of the explosives.

Senator SCOTT. We will have to recess.

[A brief recess was taken.]

Senator SCOTT. The subcommittee will resume its session.

Mr. Davis, I am going to ask the counsel to go ahead and ask some of the questions while I catch my breath.

Mr. SCHULTZ. Thank you, Mr. Chairman, Mr. Davis, if I may, I would like to just go through your statement asking questions for the purpose of clarification.

Directing your attention to page 4, have there been many instances where you have found cause to revoke or to refuse the renewal of a license?

Mr. DAVIS. Well—

Mr. SCHULTZ. On page 4 in the last paragraph you talk about revocation of licenses.

Mr. DAVIS. To be responsive to your question, we have had very few instances where we have revoked a license because by and large we

may call the attention of the licensee to any discrepancies he may have in terms of storage facilities, recordkeeping. We may correct, and then generally when we do take action, it is the form of nonrenewal of the license when it comes up again. It is a process that is generally less time consuming and works to the advantage of the Government.

Mr. SCHULTZ. When nonrenewal comes into play, is it generally because they have not complied with the requirements? Can you give some basis for the nonrenewals that you are referring to?

Mr. DAVIS. Yes. For example, if we find a storage facility does not meet the general requirements, we would give them a reasonable period of time in which to bring those facilities into compliance. And, of course, if they fail to do so, then we would take the necessary action.

One, for example, would be to require them to bring all the explosive materials from the storage facilities and if they persist, obviously, we would not then renew their license on an annual basis.

Mr. SCHULTZ. Taking that one step further, could you tell us what would happen to the explosives? Are they confiscated by ATF?

Mr. DAVIS. If they are in the hands of a legitimate individual in terms of a licensee or a permit holder, we would give him an opportunity to return them to his supplier or make other disposition of them.

Again, if he did not take that course of action, then we would seize them. Then if the explosives are in the hands of a nonlicensee, a person who obviously should not have them, then we would seize them.

Mr. SCHULTZ. I would assume that ATF would make some disposition of them?

Mr. DAVIS. Yes, that is correct, we would make some sort of disposition of them.

Mr. SCHULTZ. On page 5, do you have to provide notice of your intention to conduct an investigation or do you conduct investigations without there being any advance notice?

Mr. DAVIS. Advance notice is not required as long as it is during regular business hours. As long as it is really within regular business hours we do not give any kind of notice and in most cases we would not.

Mr. SCHULTZ. Thank you. And, again on page 5, are all investigations conducted on a routine basis in the case of all applications for license?

Mr. DAVIS. Yes, that is correct. All applicants for a license are inspected to determine, for example, that their storage facilities are in compliance with Federal law and that they otherwise understand the requirements.

Senator SCOTT. Let me ask you, Mr. Davis, do you find the licensees generally cooperative with regard to reporting their losses and thefts and also wanting to comply with all laws and regulations?

Mr. DAVIS. Yes, sir. Generally we find them to be cooperative in this respect. And I am sure that those who fail to report a loss or a theft do it out of ignorance of the law rather than any willful intent to fail to report it.

Senator SCOTT. Now do you have a way that you can state with reasonable certainty the thefts and the losses or unexplained disappearances of explosives are reported?

How is that that you know whether a percentage—and I am not speaking of statistics—but how do you know if there is substantial compliance?

Mr. DAVIS. Yes, sir. Obviously it is a fairly difficult task to be certain because again, we are trying to establish some sort of a negative fact. Primarily our effort is directed toward informing these people of their responsibilities. Of course, occasionally we recover stolen explosives and we are able to trace them back to the licensee or the permittee from which they were stolen. In that case, of course, if they have not reported them, we would make sure that they would in the future.

Senator SCOTT. How many reports do you receive annually or how many have you received over the past 3 years?

Mr. DAVIS. We can give you reports for the period covering the last 12 months, beginning April 1, 1975, through March 31, 1976.

During that period there were 276 instances involving the theft of explosives.

Senator SCOTT. Now there are these reports and are they made to you or to whom are the reports made?

Mr. DAVIS. Sir, the law requires that they be made to us and to the local police.

Senator SCOTT. Both?

Mr. DAVIS. Both.

Senator SCOTT. I understand that you have a demonstration? And that this is of the explosion that happened in McLean, Va. Are you prepared to show that to us at this time?

Mr. DAVIS. Yes, sir, we would be very happy to do that. I think I should maybe preface the demonstration by saying that coming into the building that the security guards were very alert. Since it is obviously a bomb, a simulated bomb, they took the precaution of calling one of the officers and having them accompany me.

In other words, I want to make it clear. I hope to anybody here who should see the demonstration, that it is not easy to bring such a device into this Senate office building.

Senator SCOTT. We certainly hope not and we appreciate your explanation.

Now, we have another vote. How long will it take you to perform this demonstration?

Mr. DAVIS. Sir, I have Robert Dexter, one of our explosive experts with us and I think to show the subcommittee the device will only take about 5 minutes.

Senator SCOTT. That is fine. You can take 7½.

Mr. DAVIS. Can we move closer to the Chair?

Senator SCOTT. Yes, sir; that would be fine. Or do you want us to have our seats kept here, or would you like us to come down there?

Mr. DAVIS. These are photographs, Mr. Chairman, of the damage that was done at the McLean bombing. As you know, I might advise you that the principals of the McLean bombings have been sentenced. I think it was 35 years.

Senator SCOTT. I wonder, Mr. Davis, counsel suggests that maybe if you came up here, not only would we be able to see you but those in the audience would be able to, too. So why don't you do that?

Mr. DEXTER. I will just remove the whole device. This device was placed on a board. It is a replica of the device that was used. We have the dynamite, the simulated blasting caps, and this is the power source and the delaying mechanism, an ordinary alarm clock—

Senator SCOTT. Did they in fact have a battery similar to this?

Mr. DEXTER. Yes, sir, this is the replica of the device that we used in the courtroom. This is a mercury trembler switch. This alarm clock is running and it is set to go off in about 2 minutes. Here we have a switch mechanism and these blasting caps were inserted into these sticks of dynamite and here we have two photo flashbulbs—

Senator SCOTT. You are sure that this is simulated?

Mr. DEXTER. Yes, sir, I wouldn't be holding it if it was not.

But, these flashbulbs, when they light off, they simulate the explosives going off. In the case here the alarm clock is a delay mechanism that permits the clock to wind down and the switch here causes the hand of the clock to reach the contact here and sets the explosives off.

Now, if anyone should try to remove this device before the time arrives on the clock, then it would set it off. However, if you did not and when this hand works down here, let us see if we can hurry it up a little bit by pushing it—there she went—and that would set the device off. And that is exactly how it works.

Senator SCOTT. Now is this something—does it take some expertise to do this? Could most anybody do this or do they have to be an expert in the field of explosives?

Mr. DEXTER. Generally we find that the manufacture of a device of this type or any type of device is limited by the imagination of the bomber. If he has a fundamental understanding of electricity, and a circuit, he can certainly use this type of mechanism. And as far as any relays or switching devices, he is only limited by his imagination.

Mr. DAVIS. Mr. Chairman, if I may interrupt, there are at least two publications that I know of that very explicitly explain how to construct these kinds of bombs that have been published for the general public.

Senator SCOTT. And this publication is not illegal, to tell how to do this sort of thing?

Mr. DAVIS. No, sir.

Senator SCOTT. Protected by the first amendment—

Mr. DAVIS. No, sir.

Senator SCOTT. Well, Mr. Davis, in your opinion, can the average citizen, if he wants to, perpetrate such a thing as this? Can he find a way to do it?

Mr. DAVIS. Yes, sir. I think that there is no question about it. In fact, one of the cases that I have included for the edification of the subcommittee, the perpetrators of the bombings actually used one of the books, one of the publications that I have mentioned in order to construct bombs for this purpose.

Senator SCOTT. We will have a temporary recess.

[A brief recess was taken.]

Senator SCOTT. The subcommittee will resume. I will ask counsel, if he will, to resume questions.

Mr. SCHULTZ. Again, Director Davis, referring to your statement submitted for the record, at page 6. Does MESA conduct its inspections without notification?

Mr. DAVIS. It is my understanding that they do conduct investigations without notice.

Mr. SCHULTZ. You mean by your statement that they conduct them quarterly but not on a regular schedule?

Mr. DAVIS. That is right, sir, and they are conducted quarterly and without regularity as far as previous notice. In the metal and non-metal mines, other than coal mines, they are conducted at least annually.

Mr. SCHULTZ. If I understand your statement on page 6, individuals do not have to have a permit to buy explosives from a licensee within his own State. Is that correct?

Mr. DAVIS. That is correct.

Mr. SCHULTZ. If he fills out one of the forms that you have described in your attending paragraphs?

Mr. DAVIS. That is correct.

Mr. SCHULTZ. Presumably, most of those who purchase explosives without permits are private individuals who need limited quantities for home needs out in the country.

Can a person who does not hold a permit buy any quantity of explosives if he fills out these forms, or is there a limitation of the amount?

Senator SCOTT. Let me supplement this question if I may. If you will, after responding to the counsel's question, Mr. Davis, tell us if you know if there is generally some supplemental State law that would require something other than the requirements of the Federal law. If you could, answer both.

Mr. DAVIS. Yes, sir. To the latter question, Mr. Chairman, there are State laws governing the acquisition and use of explosives, in many cases. We do have, for the subcommittee's benefit, if they would so desire, a summary of all the State laws and what the requirements are.

Senator SCOTT. I think that would be good. That will be received for the record, as well as these pictures that were there, I think, for the record.

[The material referred to was marked exhibits Nos. 1 and 2 and will be found in the appendix, pp. 67 and 72.]

Mr. DAVIS. Yes, thank you, Mr. Chairman. They do vary from State to State and locality to locality. We will provide the summary for the record.

With respect to the first question by counsel, there is no limit on the amount of the explosives that can be purchased on either the amount of the nonpermittee who should buy in his own State for example, or for that matter a permittee who purchases in his State or the one in which he resides.

Mr. SCHULTZ. Do you think that there should be?

Mr. DAVIS. I don't think so.

Mr. SCHULTZ. Let me tell you why I asked the question. Because I know your firearms jurisdiction requires notification of multiple purchases I was thinking the same requirement might apply to explosives: Could the individual go into several different hardware stores or wherever explosives are sold and make several purchases without violating the law?

Mr. DAVIS. Yes, that is certainly true. Again, here. I think we have to weigh the advantages to society in terms of the legitimate use of explosives and on the other hand, of course, the acquisition of explosives for criminal purposes. Certainly, we could, I think, by regulation impose some kind of a notice by the licensee when a purchase

was more than a certain amount of dynamite, if he bought, more, say than 100 pounds, or something of this kind.

These forms, 4710, once they are filled in I might add, are a record of the transaction and are forwarded to ATF. That means that we could determine if there were suspicious sales of explosives.

Mr. SCHULTZ. All right. Thank you. Do you know what the aggregate figure is about the amount of explosives sold to, say, last year's purchasers without permits?

Mr. DAVIS. Without permits?

Mr. SCHULTZ. Yes.

Mr. DAVIS. We do not have that figure available. I am sure, though, that we could collect it for the subcommittee and supply it for the record. Each of the sales that would be conducted without a permit would be recorded on a form 4710. These are maintained in our seven regional offices and we could give the subcommittee the amount of poundage of the explosives that are covered by those.

Mr. SCHULTZ. If the chairman directs, that might be helpful to our inquiry to have this submitted.

Senator SCOTT. Yes; I think we would like to have that.

[The information referred to follows:]

A review of ATF field operations following testimony before the subcommittee revealed that the forms 4710, referred to in the testimony, are not collected in the seven ATF regional offices but are, instead, sent directly to the special agents in the field for review and immediate action if they identify a suspicious sale. The forms 4710 are retained by the special agents only for such a period of time as they feel it is necessary to complete their analysis and any resultant investigation. After that, the forms 4710 are destroyed.

In an effort to provide the subcommittee with some perspective of the number of sales of explosives to non-permittees and the amount purchased by such non-permittees, three widely separated posts of duty were asked to compile these figures for the period of June 13-19, 1976. Those figures follow:

Location	Number of 4710's received	Number of non-permittee purchases	Pounds purchased by non-permittees
Peoria, Ill. ....	14	14	145,600
Lexington, Ky. ....	50	12	9,303
El Paso, Tex. ....	20	15	225

<sup>1</sup> Mining interests in Illinois as a matter of practice do not secure licenses or permits. They generally deal with "in State" dealers to avoid storage problems, thus the large amount of explosives shown. Approximately 100,000 pounds of that shown by the ATF office in Peoria, Ill., was purchased by 1 mining interest.

Mr. SCHULTZ. Just following up, you say it is maintained in the regional offices; do you now have to draw from them to get this information for us? Or is the information available in the national office?

Mr. DAVIS. We would in this case have to ask our regional offices to compile the information and submit it to us.

Senator SCOTT. Let me ask at this point how many of those reports we talked a few minutes about, the reports that you received—and I am just advised by staff that the number in series reaches a million here and each original form 4710 shall be retained in numerical order by transaction serial number and continuing in regular sequence. When the number of any sequence reaches a million, the licensee or permittee, they recommence the series.

Now, I believe that before we took this recess we asked to whom the reports were made. And did you give us the number. We were talking

about a period of 3 years I believe. What was your response about the number of reports? Is that the same kind of report?

Mr. DAVIS. No, sir. Mr. Chairman, the report that we referred to before the recess was report of theft or loss of explosives. The form that we are referring to now, the 4710, is the form that is filled out any time a nonpermittee purchases explosives.

Senator SCOTT. How many of those do you receive?

Mr. DAVIS. Of the 4710's? Again, we would have to—I am sure that it would be in the thousands. We could, however, when we were supplying the information as to the amount of explosives, we could, at the same time supply the number of 4710's.

Senator SCOTT. Well, now do you think this is valuable to you to have this form as it is prepared and forwarded?

Mr. DAVIS. Yes, sir, it is really the only investigative lead that we would have to determine, if an explosive which was recovered and used, who purchased it and this sort of thing. Also the form itself is a means whereby a person is advised that if he is a convicted felon, under indictment for a felony, or if he is an addict of narcotics or judged as mentally incompetent, he is not allowed to acquire explosives. This is the means by which they are prevented from doing it and they are informed that they cannot purchase and are prevented from doing so.

Senator SCOTT. Do you consider these classifications to be reasonable, or do you have any quarrel with the ones that Congress has designated, or would you want to recommend any changes or does this seem to be a reasonable thing?

Mr. DAVIS. No, sir, I think that this is reasonable. It seems to be reasonably connected with a likelihood that the individual might misuse the explosives. I might say also, Mr. Chairman, that those are the same standards that are applied to the purchase of firearms under Federal law and they appear to be reasonable.

Mr. SCHULTZ. Mr. Davis, is any central inventory maintained of the sales and purchasers that do not have licenses?

Mr. DAVIS. No; no central record is made of that.

Mr. SCHULTZ. Directing your attention now to page 8 of the statement. You say that 196 million pounds went for "other purposes." Would you identify the "other"—the more important of those "other" purposes.

Mr. DAVIS. Yes; I think that many of them are the kind of thing that counsel has probably already referred to: such things as clearing land. They are used for such things as constructing ski runs, a myriad of purposes that I would describe as primarily other than commercial or large-scale commercial. Examples are mining and roadbuilding and things such as this.

Mr. SCHULTZ. Thank you.

On page 10 you say that your agents through the year ending this last March 31 designated 276 cases that involved explosives.

Do you have a figure for the total quantity of explosives?

Mr. DAVIS. If counsel would desire we have the breakout of the reported thefts of explosives to us in the 12-month period beginning March 31. It is a computer printout and we do have it computerized and can supply it to the subcommittee. But to give you a quick example: ammonium dynamite in pounds, 40,368; electric blasting

caps, 110,811; detonation cord in feet, 56,665; ammonium nitrate in pounds, 26,000; safety fuse in feet, 8,541 feet. These, then, are some of the more outstanding lists.

We have a list here of about 15 items as reported to us in quantities. We would be happy to supply that to the subcommittee.

Mr. SCHULTZ. I would ask then, the chairman, that the computer printout referred to by Mr. Davis be accepted into the record.

Did you want to supply it to us later or do you have a copy which you can give us right now?

Mr. DAVIS. Yes; well, we can leave this complete printed computer printout with the subcommittee now, if you like. It also has in this the amount that was recovered.

Senator SCOTT. It will be received.

[The information referred to may be found in the files of the subcommittee.]

Mr. DAVIS. Mentioning the same items that I mentioned previously over the same 12-month period: Ammonium dynamite, 20,268 pounds were recovered. In the case of ammonium nitrate, 4,500 pounds were recovered. In the case of electric blasting caps, 38,500 were recovered. In the case of detonation cord, 53,584 feet were recovered. To relate to the other items I mentioned as being stolen.

Mr. SCHULTZ. The chairman raises an interesting point; you have talked about the total amount that has been reported to you and I take it that your computer print out means no more. You are not guaranteeing that there are no more thefts, but it is just all that has been reported.

Mr. DAVIS. That is very correct. In other words, these would represent, I would say, the minimum figures because I am sure that there are probably thefts that are not reported to us either by reason of the fact that they are not discovered or by reason of the fact that the person is not aware of his legal obligation to report it.

Mr. SCHULTZ. And then taking it one step further, in connection with recoveries or the investigations involved, could you give us some idea of the number of convictions that you obtained?

Mr. DAVIS. Relating only to stolen explosives, is that correct?

Mr. SCHULTZ. Yes.

Mr. DAVIS. That is the figure that we do not have, unfortunately, to provide to the record.

Senator SCOTT. But you are emphasizing in your summation—you referred to the deterrence of this terrorist explosion. And you also referred to convictions. People were convicted—they were and they also were incarcerated. Now, I am just wondering how many convictions have you generally. If you are not able to give us the number, just how successful have you been in achieving the aims which you say are desirable to stop this? How successful have you been? Can you give us some idea on this in any manner that you see fit?

Mr. DAVIS. Thank you, Mr. Chairman. In the period that began February 1, 1975, to January 31, 1976, we have perfected 190 cases.

I can give you some quick rundowns. For example in the fiscal year 1975 we made 185 arrests regarding violations of explosives laws. That is cases and arrests.

Senator SCOTT. What?

Mr. DAVIS. That is cases and arrests involved during that same period, fiscal year 1975, we recommended for prosecution 257 indi-

viduals. We had indictments returned on 176, 106 of those plead guilty, 31 a plea of guilty and so—

Senator SCOTT. How many were acquitted?

Mr. DAVIS. And that would leave 30?

Senator SCOTT. Thirty, they were acquitted?

Mr. DAVIS. Or otherwise not—

Senator SCOTT. Do you have the conviction there of what you charged for criminal offenses?

Mr. DAVIS. Between 70 and 80 percent.

Senator SCOTT. Between 70 and 80 percent.

OK, now, I am sort of asking you to rate your own agency if you can. Do you feel that this meets the criteria that you have said is necessary to minimize or eliminate these bombings?

I heard the President on television, and I have great admiration for the President, who was saying we are going to do what is necessary to stop this. And I remember remarking to my wife at the time that he should say that we are going to make every effort to stop it because none of us know whether we are going to be successful in our efforts.

But do you feel that this is meeting the requirement, the criteria that you yourself have said is necessary in your principal testimony?

Mr. DAVIS. Well, sir, I think that all of us would like 100 percent, but I think in my experience in law enforcement, that generally 70- to 80-percent conviction rate is quite high. And certainly—

Senator SCOTT. You think it is a deterrent?

Mr. DAVIS. Yes, sir, I might for example point out that the principal individual who was found guilty for the McLean bombing received 15 years.

Senator SCOTT. Was he convicted in Federal court?

Mr. DAVIS. Yes, sir. And there are other individuals who are being convicted, and there are others who are fugitives in that particular case. We are quite pleased with that case. It involved cooperation with the Royal Canadian Mounted Police, in Canada, and a great deal of investigative effort.

Senator SCOTT. But let me ask, may I, lest I digress too far here: To what extent do you see these type of bombings as being from people who are mentally deranged?

Mr. DAVIS. Not to any great degree, Mr. Chairman. The motivations that we have principally, the principal motivations for bombings like this that we have found are those of political nature in which the political philosophy or something of this kind is the motive. We have found that there are a number of them that are motivated by labor management disputes; we have found there are those rather personal kinds of things, such as the spouse involved or something of that kind.

Senator SCOTT. This seems like you are saying that you are finding substantially all of them of a vicious nature, intentionally done and planned; and is this accurate?

Mr. DAVIS. Yes, sir, I think very much so and unfortunately, whereas in the past, particularly those groups that are politically motivated and using bombing as a means to an end, have tried to avoid loss of life.

The documents that we have from them indicate that they are changing their philosophy and in order to direct the bombings in such a way that they would, in other words, the documents that we have that we will make available to the committee from such organizations as the Red Guerrilla Family indicate that they believe that they are directing their bombings at merely property no longer as it has not produced the results that they have desired.

Senator SCOTT. Directing it against what?

Mr. DAVIS. Property, primarily.

Senator SCOTT. You say that to be effective from their point of view they have to direct their bombings against people?

Mr. DAVIS. Yes, sir.

Senator SCOTT. Well, now, this is an open hearing, but to the extent that your security will permit, what has happened to this bombing in New York at the airport?

Mr. DAVIS. Well, sir if I can, I would prefer to be rather limited in my statement. It is an open investigation. It is continuing. The Federal Bureau of Investigation, the Bureau of Alcohol, Tobacco and Firearms, and the New York Police Department are working on the investigation in a cooperative effort and it is continuing.

Senator SCOTT. New York City, New York State, and the Federal Government?

Mr. DAVIS. Yes, sir. And in this case, of course, since there was loss of life, would be a State murder charge, even though the individual obviously violated Federal law as well.

That, certainly, would be the principal charge in this case, a murder charge in the laws of the State of New York.

Senator SCOTT. What, if you know, and I don't want to intrude further into this case, but what has happened there at the airport insofar as the prevention of future bombings are concerned?

Mr. DAVIS. Well, sir, I am probably not too well qualified specifically in this area, but we know that the Federal Aviation Administration is looking into various aspects of security. Our representatives have attended some of the meetings, and I am aware that they are preparing certain test procedures at selected airports to determine what could be effective against the introduction of bombs into aircraft or into the airport area.

Senator SCOTT. Now, with regard to airports, generally, in your statement a few minutes ago with regard to the terrorist point of view, the bombing should be directed toward people.

I had heard somewhere privately, or from the media, that an effort was being made in some airports, in Los Angeles or somewhere in California, to put the places where people could store their luggage in a more remote area where there wouldn't be so many people.

That just seemed to a lay person to be a very good idea. Is that being done, or is that helpful or desirable, or does your Bureau have any thoughts on this?

Mr. DAVIS. Well, sir, we are generally aware again that the Federal Aviation Administration is considering a number of various things such as lockers of different construction where the heavier construction—

Senator SCOTT. You are saying it is more within the providence of the FAA than it is within the providence of your Bureau?

Mr. DAVIS. Yes, sir. Now, I may say, Mr. Chairman, that we have had for the last 2 years a Federal advisory committee on what we call explosives tagging. The purpose of this committee is to determine—and we think that they have successfully determined methods whereby substances could be introduced into explosives that would make them detectable before they go off, or if they should go off in the form of a bomb, then the explosives can be identified.

And to this extent, of course, we are assisting in the overall effort to prevent bombings or if they should occur to be able to trace them more accurately. For example, in the LaGuardia bombing, if the explosive used there had been tagged, it would have saved thousands of man-hours of investigative time in trying to locate and to determine what was used and where they were purchased and things of this kind.

Senator SCOTT. Mr. Davis, what we are going to do, if agreeable to everyone, is take about 10 more minutes and then adjourn with the thought we will meet tomorrow morning about 10:30, provided the schedule of the members of the subcommittee will permit and your schedule would permit. It would be subject to the call of the chairman, but counsel will confer with you to see if that is agreeable. I am going to ask counsel now if he will take the last 10 minutes, and if you have something that you would want to convey at this time rather than to wait till tomorrow, feel free to do so.

Mr. DAVIS. Yes, sir, if I may, I will just follow up on the last of the train of thought that I had—I have here and would be happy to provide them to the subcommittee, if they so desire, that communication from—for example, the “Red Guerrilla Family Bombs ATF”—when they bombed our offices in San Francisco causing \$100,000 damage to our offices.

[The communication referred to follows:]

R.G.F. BOMBS A.T.F.

THE RED GUERRILLA FAMILY IS RESPONSIBLE FOR THE ATTACK ON THE ALCOHOL, TOBACCO AND FIREARMS BUREAU OF THE TREASURY DEPARTMENT AT 525 MARKET STREET IN SAN FRANCISCO

We take this action in response to the pig murder of Popeye Jackson. The ATF, like the FBI and the CIA, is a federal agency charged with the task of intimidating and disrupting revolutionary organizations. Popeye Jackson was the leader of the United Prisoners Union, a revolutionary organization of prisoners-of-war locked down in Amerika's San Quentins and Soledads. Popeye was a revolutionary who actively sought to expose to the people the fascism of the pigs and the necessity of an armed struggle to overthrow the ruling class. Thus it was necessary for this same ruling class to have Popeye murdered, just as it was necessary to kill Martin Luther King, Malcolm X, George and Jonathan Jackson, Cinque and countless other black leaders and revolutionaries.

The exact role of the ATF in Popeye's murder is not yet known. But we do know that at the beginning of June, Brenton Thorne, the head of the ATF office in San Francisco, announced plans to add 100 agents to ATF offices on the West Coast, principally in the Bay Area and Los Angeles, in order to beef up the ATF's counter-insurgency campaign. Popeye, a well-known comrade who publicly worked for unity between the underground and the aboveground, was an obvious target for these pigs. Less than a week after Thorne's announcement, Popeye was dead. Two days later, a phony communique, clearly written by the pigs, attempted to lay the blame for this murder on the New World Liberation Front.

Despite these efforts, the people of California have not been divided by Popeye's murder or deceived by the pig propaganda that surrounded it. The unity of the people and of our guerrilla organizations is stronger than ever. For all the efforts of the ATF and the FBI, these pigs are themselves more vulnerable to

attack than are the peoples clandestine guerrilla forces. We applaud the deaths of two FBI pigs on the Pine Ridge reservation, knowing that they were the agents of one of the most vicious ruling classes ever known to humanity. The struggle continues—and we continue to build a strong base for the more intense levels of struggle to come. Popeye was impatient with trashing buildings, and wanted the underground to attack the pigs themselves. His life's work of unifying and organizing oppressed peoples has helped to set the stage for the intensification of the people's struggle.

The RED GUERRILLA FAMILY sends greetings of solidarity to the brave warriors of Pine Ridge and Wounded Knee, and to all the guerrilla organizations of the people, in and out of Amerika's political prisons—to the Black Liberation Army, the Symbionese Liberation Army, the Black Guerrilla Family, the Weather Underground Organization, the New World Liberation Front, the Frente de Liberacion Chicano, and the Fuerzas Armadas de Liberacion Nacional de Puerto Rico.

THE PEOPLE REMEMBER POPEYE!  
 UNITY IN STRUGGLE!  
 LIFE AND FREEDOM TO THE PEOPLE!

We applaud this action on the part of the R.G.F. as it clearly targets one of the more oppressive yet least known agencies of the American government. The day after the attack on June 21, attorney general Edward Levi appeared before a congressional juvenile delinquency subcommittee to confirm the existence of the AT&F agents made known by the S.L.A. in their communique of June 12.

We also support the R.G.F. communique in both its basic clarity and essential political content. We do think, however, that there should have been some explanation of any procedures they took to have the area cleared of workers before the explosion.

LONG LIVE THE GUERRILLA!

BAY AREA RESEARCH COLLECTIVE BOX 4344 BERKELEY, CA. 94704  
 7/23/75

Senator SCOTT. One of your branch offices?

Mr. DAVIS. Regional. Then in connection with this, the Emiliano Zapata unit, which is an underground unit, makes this statement in a communique dated August 13, 1975: "The people struggle has now reached the point where you must in some cases depart from our non-injury policy. We will fully explain all of our actions objectively in detail."

[The statement referred to follows:]

AUGUST 13, 1975.

This is the first communique to the people issued by the Emiliano Zapata Unit, an underground People's Force motivated and guided by the political ideology of Marx, Lenin, Mao Tsetung, Marighela, Cabral, Che, George . . .

We are a multi-national unit determined to destroy the fascist-imperialist insects that preys on the lives of the people. We have devoted our lives to the destruction of the reactionary genocidal forces of America, which oppress us and our brothers and sisters with their brutal atrocities. To accomplish this we will engage in political kidnapping, political assassinations, bank expropriations, all carried out by commando units. We will also use very high explosives to eliminate certain capitalist agencies and institutions which are destroying peoples lives here and abroad.

We will be focussing first of all on the treasury agents deployed in the Bay Area; they will be dealt with severely, to counteract their ruthless attempts to destroy and discredit the Left.

The people's struggle has now reached the point where we must in some cases depart from our non-injury policy. We will fully explain all our actions objectively and in detail. We will employ tactics such as raiding radio stations and taking control temporarily, in order to bring the *real* political information and education to the people. Also we are maintaining safe houses from which we are able to break in radio frequencies by means of short wave radios, if any of our communications are distorted by the pig media—or even the people's media.

We represent the true interest of the people, and will deal with any so-called revolutionary group, collectives or individuals who are motivated by ego-gratification, i.e.: superstar positions, gangsterism, adventurism, etc.

A complete political statement from the Emiliano Zapata Unit will appear soon. Meanwhile, all messages of support and criticism are welcome and should be channeled to the people's media. We are deep rooted in the Bay Area, and will be able to respond quickly and objectively.

With the deep respect and unfailing love born of struggle we embrace each individual and organization engaged in revolutionary work. Like the NWLF, WUO, BLA, SLA, RGF, ETC.—we are born of the people, and our only purpose is to serve the people. Dare to struggle, Dare to Win.

LA LUTA CONTINUA,  
*Zapata Unit.*

Mr. DAVIS. And so, it is clearly indicated there that they feel that they should direct their activities against people as well as property.

Senator SCOTT. Mr. Davis, there is no need for us to try to stretch this out another few minutes and just get in every minute that we can. We do have another vote. Rather than have counsel attempt to develop another theme, I think we will adjourn, subject to the call of the Chair.

[Whereupon, at 5:30 p.m., the meeting adjourned, subject to the call of the Chair.]



## CONTROL OF EXPLOSIVES

### Administration and Execution of the Laws Pertaining to the Control of Explosives

FRIDAY, APRIL 9, 1976

U.S. SENATE,  
SUBCOMMITTEE TO INVESTIGATE THE  
ADMINISTRATION OF THE INTERNAL SECURITY ACT  
AND OTHER INTERNAL SECURITY LAWS  
OF THE COMMITTEE ON THE JUDICIARY,  
*Washington, D.C.*

The subcommittee met, pursuant to notice, at 10:45 a.m., in room 2228, Dirksen Senate Office Building, Senator William L. Scott of Virginia, presiding.

Also present: Richard L. Schultz, chief counsel; Robert J. Short, senior investigator, and David Martin, senior analyst.

Senator SCOTT. The subcommittee will resume its sitting, and we will ask counsel to continue the examination. We welcome you and your group again Mr. Davis, and I understand we will attempt to conclude the hearing this morning. Thank you again.

Mr. SCHULTZ. Just a couple of questions, Mr. Davis, concerning your testimony of yesterday.

I became a little confused when we started talking about the statistics and convictions. If I could recap my notes and then ask you to clarify exactly what we were talking about. We were talking about the statistics achieved by ATF and, if my notes are correct, you had mentioned the figures 257 recommended for prosecution, 176 indictments, 107 found guilty, 31 guilty pleas, approximately 30 dismissed or some other disposition. And, then we talked about a 70- to 80-percent conviction rate.

Were these figures related to investigations resulting from a report of the theft of explosives, or were these figures related to the total statistics relating to explosives violations, a broad category?

Mr. DAVIS. Yes, Mr. Schultz, they were related to all violations of title XI relating to explosives offenses.

Mr. SCHULTZ. Thank you. I think we made a rather fast transition between those two subject matters, and I just wanted to clarify your testimony.

Mr. DAVIS. If I might state in amplification, we reviewed that particular question and can give you just a little better or more detailed breakdown of those persons that were prosecuted. This is the way it comes out: 107 entered a plea of guilty, 28 were convicted by a verdict of guilty, 30 were dismissed and 10 were acquitted.

Yesterday I indicated that our conviction rate was between 70 and 80 percent, and it turns out that it is 76 percent.

Mr. SCHULTZ. I believe when we concluded yesterday I was pursuing some questions that we thought might need amplification in connection with your prepared remarks. I would like to return to just a few of those if I may.

Referring to page 12 of your prepared remarks, would you say that the bombing and bomb threats against Government installations represents an increase in the problem?

Could you give us a year-by-year breakdown?

Mr. DAVIS. Yes; in other words, you would like a year-by-year breakdown of the figures that are reflected on page 12 for 1975.

Mr. SCHULTZ. Would those be available for the last 5 years?

Mr. DAVIS. Yes, there has been an increase in the number of bombings and bomb threats against government installations. Our statistics on the number of such actions against government installations are provided to us by the Federal Protective Service, which is part of the General Services Administration, and only relate to facilities under GSA control. The figures made available by the Federal Protective Service begin in 1973 and show that ten (10) Federal buildings were bombed in that year, and three hundred and thirty-nine (339) were subjected to bomb threats. In 1974, the bombings rose to eleven (11) and bomb threats to three hundred and forty-one (341). Last year, in 1975, eleven (11) Federal buildings were bombed and six hundred and fourteen (614) received bomb threats. Unfortunately, figures do not exist which reflect the damage to these government buildings in terms of dollars and cents, or the cost to the government because of disruption to work when employees were evacuated during bomb threats prior to 1975. The figures for 1975 are reflected in my prepared remarks.

Mr. SCHULTZ. Would you describe for us the makeup of explosives? Are they uniform in size?

Mr. DAVIS. No; if I understand your question correctly, you want to know how they are commercially packaged?

Mr. SCHULTZ. Yes; right.

Mr. DAVIS. Well, they come in many different shapes and sizes. For example, dynamite, probably the most familiar configuration that we come in contact with, or the public comes in contact with, would be the 1-pound stick—the ordinary size. Dynamite also is made for special purposes in tremendous packages or sticks. Such explosives as ammonium nitrate fuel oil mixtures, of course, are in bag configuration. Ammonium nitrate, a granular substance, with fuel oil added to it. Then you have such things as your water gels and slurries which come in liquid form. So, there is a vast variety of shapes, forms and sizes of explosives.

Mr. SCHULTZ. Do you require uniformity within each of those categories?

Mr. DAVIS. No; we do not. In other words, the dynamite can be manufactured, for example, in any size and shape.

Senator SCOTT. Mr. Davis, I am having some slight difficulty hearing you. I wonder if you would move that mike in front of your mouth to the extent feasible. I have heard you, but there has been a little bit of strain and, thank you.

Mr. DAVIS. Yes, sir; is that better? Maybe the microphone is not on; it looks like it is on.

Mr. SCHULTZ. Would you describe briefly for us the labeling requirements for explosives?

Mr. DAVIS. Insofar as ATF is concerned, we do require the explosives manufacturer to put what we call the date shift code on the explosives container. This means that the manufacturer indicates the date it was manufactured, and also the shift during that business day. This gives us an opportunity, if explosives are recovered intact, to trace them to the point where they were stolen or otherwise acquired.

Now, I am sure that there are, for example, other agencies that require certain labeling of explosives by classification and things of this kind.

Mr. SCHULTZ. But you are able to trace them to the last legitimate receiver?

Mr. DAVIS. Yes; that is correct. If we recover the explosives before they are detonated and, in some cases, after they are detonated, we can go back to the manufacturer's records and, if that particular lot of explosives were distributed to five different sources, then we can follow up there. Eventually we can narrow it down to either the fact that this was purchased legitimately, or was, at least, purchased or it was stolen.

Mr. SCHULTZ. While we are on this point, could you tell us if there is a problem with the illicit manufacture of explosives? What is the magnitude of the problem if it exists?

Mr. DAVIS. Well, as I am sure the subcommittee is aware, there are certain substances—common substances—that can be combined to make explosives material. Very frankly, in terms of bombings, we have not found this to be very prevalent, where the bomber would make an explosive from scratch, so to speak.

But to take a little different tack, the University of Wisconsin bombing was made from ammonium nitrate fuel oil. Ammonium nitrate is a common fertilizer. Fuel oil can be added to it to create an explosive mixture which has to be detonated by a stick of dynamite, for example. In other words, it does have to have a detonating agent to make it go off. But, by and large, it has been our experience that explosives are so obtainable to the bomber in terms of theft and other means, that they very seldom make explosives from scratch.

Senator SCOTT. Would you say, Mr. Davis, that the amateur might have difficulty making explosives? He could steal them or get them in another way easier than he could make them?

Mr. DAVIS. I think that certainly is true, Mr. Chairman. The amateur—the explosives that the amateur would make would be highly unreliable. They probably would have much less force than commercially manufactured explosives.

I remember when I was young and I had a chemistry set, I made some black powder. I never was able to get it to do much beyond just burn a little bit. But it is not the simplest thing.

Senator SCOTT. Just clarifying in my mind something Counsel asked you, the standardization of these various types of explosives—do the manufacturers for different companies attempt to have their explosives of the same type look alike—a stick of dynamite made by one company would look like a stick of dynamite made by another company. Is this generally true? Is this a trade practice, that they would want to make it look alike, or would you comment briefly on that?

Mr. DAVIS. Yes, sir; I will be very happy to. They do, of course, identify their explosive by trade names and other means. I think the real overriding factor here, however, is the predictability of the explosive. In other words, a 40-percent, 1-pound stick of dynamite has a certain amount of explosive force so that there needs to be uniformity

so that, if an explosive expert uses five sticks of 40-percent dynamite, then he knows exactly how much rock this will remove, or whatever it is.

So, from that standpoint, there is uniformity generally in these packages.

Senator SCOTT. Well now the thrust of the question is—is that something that the manufacturers desire rather than doing it because it is the law, and I am not sure that it is the law, that it is a trade practice then?

Mr. DAVIS. Yes, sir, there is nothing in the law in title XI that dictates to the manufacturers the shape or potency of the manufactured product.

Mr. SCHULTZ. Referring to page 15 of your statement, the paragraph there is describing one of the incidents that you presented to the subcommittee for consideration. How were the investigators able to determine that the dynamite used in the situation you described there was smuggled from Canada?

Mr. DAVIS. Without direct knowledge on this particular aspect of it, I am sure that it is more than likely that there were statements obtained from participants or witnesses that led to the information that the dynamite had been smuggled from Canada.

Mr. SCHULTZ. My question was prompted by, I suppose, the further questions of whether or not the coal company in question—I believe it was a coal company—had made adequate inventory checks, and whether or not there is a need for supervision of the removal of explosives from storage rooms and daily logs, and this kind of thing. I wonder if you could comment on the need for these procedures, or whether they are actually in effect?

Mr. DAVIS. Actually, we are talking about two cases here.

The case where the smuggling from Canada occurred was separate from the one where the friend went to the blasting site and removed the dynamite in order to make a bomb. Now, this certainly is a widespread problem, where explosives are in use on a daily basis, for the proprietor or the owner to insure that all of the explosive material is being used in the blasting effort. There is for all intents and purposes really no way for them to insure that. If there is collusion between the blasting expert and some friend or something of that kind, then it is very easy to divert a small number of sticks of dynamite, for example, for bombing purposes. And, I think this is true even though they keep very detailed daily records of withdrawals. In other words, the question is whether 20 sticks or 15 sticks of dynamite were placed in the bore hole and detonated. And, unless you have an almost over-the-shoulder supervision, it would be impossible to insure this.

Mr. SCHULTZ. We talked about the date shift code.

What is the shelf life of an explosive, say, dynamite?

Would a mining operation go on a first-in, first-out basis; in other words, use the freshest dynamite, or is that a consideration, if you know?

Mr. DAVIS. With the new wrapping techniques that they have on, for example, dynamite, my expert tells me that the life of dynamite is almost indefinite if they store it under good conditions.

On the other hand, in the past, when they did not have the improved wrapping techniques, then it did start deteriorating after a certain period of time.

Mr. SCHULTZ. Well, I was thinking that there might be an additional reason for the industry to check so that they would use up the explosive before it deteriorated. But, in addition, they are also required under statute to make a regular check of their storage facilities, are they not?

Mr. DAVIS. Yes; that is correct. For example, if you have an unattended magazine, then the law requires that you inspect it every 3 days.

Mr. SCHULTZ. Now, when you say magazine, are you talking about storage for industry or manufacturer, or is there a difference?

Mr. DAVIS. For this purpose, there would be no distinction between a magazine for a user, or licensee, or a manufacturer, but as a practical matter, most manufacturers would probably be using the magazines almost daily, and they would be in close proximity to their operation.

Mr. SCHULTZ. And they need to check these every 3 days?

Mr. DAVIS. Yes; if they are unattended magazines.

Mr. SCHULTZ. Are they required to make an inventory every 3 days, or is it a running log on a day-to-day basis?

Mr. DAVIS. Yes; actually every time they put explosives in the magazine or they withdraw, then they must keep a magazine inventory to show that fact.

Senator SCOTT. Now, you say, Mr. Davis, they must do this. Do you know whether it is actually done or not, and how do you know?

Mr. DAVIS. Well, sir, we use our manpower resources insofar as possible to check on this and, as I think was indicated yesterday, there are State people who are also active in this area. We have, throughout the country, coordinated our efforts with State agencies and, where we feel that their activities are adequate to insure the compliance with Federal law, then we would—

Senator SCOTT. Well, I think it would be almost an impossible task to police this on a nationwide basis on 3 days. Highway departments from various States apparently have explosives, people in the construction business, and you would know the magnitude of the job certainly far better than I. But I just wonder, do you send people around to every job everywhere in the country? I cannot conceive of this being possible, even in a State. My State of Virginia, for example, I doubt that they have the staff and if they go to every place where there is dynamite stored; even then, it would be pretty much of an impossible task. And, yet, you must be dependent in some manner on what you are told with some sort of periodic inspection, but could you amplify that?

How do you know whether these records are kept in compliance with the requirements of law, every 3 days they check on them?

Mr. DAVIS. Yes, sir. Well, as you have indicated, Mr. Chairman, it would be an impossible task for us to police this kind of requirement. We have, for example, in connection with this particular year, issued instructions to our field personnel that every storage facility and licensee will be checked before July 1. Now, when they make these checks, they look, not only into the storage facilities to see that they meet requirements, but they also examine the records system to make sure that they are being kept.

So that, yes, we do depend a great deal on the voluntary cooperation of the users, and industry members in explosives.

Senator SCOTT. And they have to file a form saying that they have done this every 3 days?

Mr. DAVIS. No, sir. We merely have advised them of the requirements of Federal law. I do want to emphasize, however, these are unattended magazines where there is nobody there full time or there is no in and out traffic so that they must check them every 3 days to determine that there has been no theft, that there is no hazardous condition existing, and this kind of thing.

When we do make our compliance visits, we do try to ascertain that they are following this procedure.

Senator SCOTT. Well now, frankly we have the question of paperwork and recordkeeping. I believe the Federal Government has too much of this and, yet, in something like explosives, it is important to know about it.

Do you feel that the requirements are reasonable? Are they too stringent, or too lax, or are you generally satisfied with the requirements in the existing law with your inspection procedure, with the State inspection procedure? Or, would you say that you had dissatisfaction with any phase of it? Or, could you comment on this?

Mr. DAVIS. Well, sir, my opinion is that the recordkeeping requirements are adequate under the existing law. I think one of the problems, of course, that we face is due to the nature of the use and of the character of explosives themselves, where, if you have an employee who wishes to divert explosive materials while it is being used, it is not too difficult for him to do so.

We are quite mindful of the paperwork burden onto members of this legitimate industry and, that is why we have entered into a memorandum of understanding with the mine engineering and safety authority of the Bureau of Mines providing that wherever we can, we will work with the State to avoid duplication and in order to prevent that. Now, one thing, of course, is that with our rather limited manpower, we are not able to make as many compliance-type checks as I think would be desirable under the law for this particular project.

Senator SCOTT. Staff tells me that there is no requirement that forms be kept by the person who has the explosives and it is required that there be an inspection every 3 days, but the law does not require a form showing that there has been an inspection every 3 days. Is that accurate or not?

Mr. DAVIS. Yes; that is correct, Mr. Chairman. In other words, they do not have to keep a record of each 3-day visit that they make. To further amplify that, the law does require what is known as a daily summary of magazine transactions. Now, if there is any explosive placed in the magazine or any explosive withdrawn, this has to be entered on a daily summary that is kept at the magazine.

Senator SCOTT. Now, when they would inspect, would, generally, if they have their explosives in—I am a novice in this field, so I may ask questions that might not need to be asked by somebody with greater expertise but, to inspect, might they just go to the door and see if it had been unlocked or has been tampered with, or do they go back and count every stick of dynamite, or every box of explo-

sives? The inspection that is required every 3 days, how thorough an inspection, might that need be?

Mr. DAVIS. Well, sir, if I can just read you this particular part of the law which is very brief and it indicates, "Any person storing explosives material shall open and inspect his storage facilities at intervals not greater than 3 days to determine whether the explosives therein are intact and, to determine whether there has been any unauthorized entry, or attempted entry, into the storage facilities, or the unauthorized removal of facilities or their contents."

Senator SCOTT. Well, that would mean he would open the door, not open every box of explosives, or, you are not trying to put him in a straitjacket.

Mr. DAVIS. Yes, sir, Mr. Chairman. In my view, if the person making the inspection unlocked the door of the magazine, walked inside and looked around, and there appeared to be the amount of explosives that should be in there, and if there was no evidence of any forced entry, then he would satisfy this requirement.

Senator SCOTT. All right, sir. Now, you have mentioned the various forms that are filled out and, I am just wondering and this question of paperwork is something that bothers many people, many businessmen, many Members of Congress. I am concerned about any unnecessary paperwork and, yet, we are talking about attempting to prevent dangerous explosives from getting into the hands of the improper persons.

Do you feel that looking at all of the forms that are required by your agency or by the State, do you feel that the reporting requirements, both by the States, if any by local governments and by the Federal Government, your bureau and other bureaus with regard to explosives, are they just about what they should be or are there too many or too few? The paperwork burden is a tremendous burden on the business community.

I am not suggesting an answer here, but I am asking you for your judgment as to whether the paperwork requirements, State and national, are reasonable requirements, in your opinion.

Mr. DAVIS. Yes, sir, Mr. Chairman. In my opinion they are reasonable. And, looking at it specifically from the standpoint of ATF, I do not think that we really require any records except one, that would not be considered to be good commercial practice. In other words, if I were operating a business in the use of explosives, certainly I would want to know, just for my own business purposes, when explosives were placed in and withdrawn from a magazine. For example, that is one requirement.

I would say the exception to that is what we call the transaction record, the 4710, where there is certain information that has to be filled out by both the purchaser and the seller. But, again, this form, I think, is highly essential for law enforcement purposes. It also acts as a deterrent to prevent people who are proscribed by Federal law from acquiring explosives. It provides a method of tracing, should those explosives later be used in a bombing incident.

I might say, too, that it is roughly equivalent to the same form that has to be filled out when an individual buys a firearm, under the Federal firearms laws.

But, the other records that the people are required to keep, again indicate just primarily good commercial practices that have been placed in the form of a requirement under the law.

Mr. SCHULTZ. May I interrupt, Mr. Chairman. Most of these records are kept by the industries, is that correct?

Mr. DAVIS. Yes, with one exception, and that is the 4710.

Mr. SCHULTZ. Is that a problem to you? Would you be better equipped to conduct your inspection and investigation of problem areas relating to the control of explosives if ATF, National Office, or a computerized repository—would you be better equipped if you had direct access to those materials?

Mr. DAVIS. Certainly, if we had the computer capacity to take on this mass of data in the explosives area, I think it certainly would help us in carrying out our responsibilities. Furthermore, I think certainly it would generate information that might be useful to the Congress, to the administration and others, in determining the policy that would be applied to explosives.

Senator SCOTT. These forms that are maintained by the manufacturer and are held available for inspection—and there are some forms—how many of these forms are actually looked at?

Are they evaluated to determine the legitimacy or propriety of an individual obtaining explosives?

Do you have inspectors that look at the forms and evaluate them?

Mr. DAVIS. Mr. Chairman, we do evaluate, for example, the 4710's which are submitted to us, and we do make a limited number of field investigations based on those findings.

However, I would have to admit that we are doing far from the job that we feel is adequate in terms of the 4710's in following up on a purchaser to determine if he is storing those explosives in a safe manner, or if he is using them for the stated purpose when he purchased them. The forms that are maintained on the premises of either a licensed dealer or a licensed manufacturer, are examined when an inspection is made of those facilities, both to determine if there are any trends or information of value.

And, second, of course, to determine that he is in fact, complying with Federal law by keeping records.

Senator SCOTT. Staff calls to my attention the requirement that an inspection be made, and tells me that in the past fiscal year, 1975, that 6,325 licenses or permits were issued, that the average licensee was inspected about once every 3 years.

Is that accurate, or reasonably accurate? And, do you consider this number of inspections reasonably adequate?

If you would care to have another member of your staff respond, we would be glad to hear from either you or any member.

Mr. DAVIS. All right, sir. I think maybe in this particular instance I will ask Mr. Higgins to respond.

Mr. HIGGINS. In fiscal 1975, there are two figures that you really need to look at to determine the coverage of licenses and permittees.

One is the number that ATF made, which is a figure of 2,954. Now, those are ones that our inspectors and agents made.

In addition to that, we have somewhere in the neighborhood of 6,000 or 7,000 investigations, maybe more than that, that are made by MESA under the agreement we have with them where they go into

the coal mines and other kinds of facilities, ATF does not inspect those premises. So, that would be in addition to this. Also, in that figure of 6,000 plus, licensees and permittees, we have approximately 1,700 or 1,800 of those people who have one-time user permits for use around the Fourth of July. We do not have a regular inspection program at this point on them.

And then, finally, in 1976, we are attempting to cover, and I believe we will, 100 percent of the licensed dealers this year and the permittees that we have coverage of. We have asked MESA, of course, to cover 100 percent of those under this supervision or control. And, I think, we are going to make every one of them in 1976.

Mr. DAVIS. I think it might be useful for the subcommittee to know that under the memorandum of understanding we have with MESA that when they make inspections of these mining facilities, that they not only enforce their regulations and carry out their responsibilities, they also do the same thing with respect to the ATF responsibilities.

Senator SCOTT. Mr. Davis, Mr. Short of our staff seems to believe there may be a discrepancy here, and I would like for him to explain what he has in mind, and to pose a question to you or Mr. Higgins with regard to it.

Mr. SHORT. Yes, sir. You had the 2,141 compliance inspections that ATF made. Now there were 6,320 licenses and permits issued which we average out to indicate that a licensee can expect to be inspected once every 3 years. Now, is that correct?

Mr. HIGGINS. Yes, if you just took them strictly like that. However, I have some figures here that show in 1975, for example, that between the original application for license investigations that we made and the compliance inspections, the total would be 2,954. But, actually, the number of licensees and permittees we had as of March 9, was only 4,733. Now, you have a figure of a little over 6,000 licenses and permits that were issued in 1975 for the total year. There are about 1,500 or 1,600 of those that are issued as one-time user permits for fire-works around the Fourth of July. We do not get out to those 1,500 or 1,600.

Senator SCOTT. Now, do you keep your records on a fiscal year basis, rather than calendar year, so we are talking about the same period of time? Go ahead, Mr. Short.

Mr. SHORT. You mentioned 2,900. Are you taking the 813 investigative figure, adding it with the 2,141 for compliance inspections just combining the two?

Mr. HIGGINS. Right. Some of those initial visits were to set the man up and, you know, that was the first time the permittee or licensee had gone into business. We always try to make an initial visit to him. So, you can either add the two together or not; it does not make any difference.

The other figure is that MESA may—

Mr. SHORT. Let me interrupt you. I do not think I understand that point. It is my understanding, there were 813 investigations made. Now, actually, then, an investigation by an agent at that point is—

Mr. HIGGINS. I see what the problem is. The program is split—our inspectors who make some inspections and our special agents, who make some. It is the same kind of visit, whether you call it inspection or investigation. Some regions have been able to put the program en-

tirely in the hands of inspectors. Some are midway between doing that, and still use special agents for some and inspectors for others. But, this is the same kind of compliance.

Mr. SHORT. In other words, when you use an agent, you call it an investigation and when you use an inspector, you call it a compliance inspection, though it is the same type of overall investigation.

Mr. HIGGINS. That is where we are running into our problems, in terminology.

Senator SCOTT. Let me ask you, these inspectors that you have, or the agents, what grades are they generally in? Are they General Service grades? Are their grades comparable to other investigators or other inspectors with the Government?

Mr. DAVIS. Yes, Mr. Chairman, the inspectors are what we call GS-1854 series. Their grades are generally, a journeyman at grade 9 with the senior inspector at a grade 11, some at grade 12. The agents or the 1811 series, their journeymen grade is 11 with senior agents at grade 12, and it is not easy to compare the inspectors with another occupational group.

Senator SCOTT. What sort of a training do they receive in order to become inspectors? Do you have some sort of a training school for them? Just briefly describe what they go through before you send them out.

Mr. HIGGINS. We have, first of all, a basic inspector training program which is now a 4-week centralized program in which we require all the new recruits to attend 4 weeks of classroom training. Then, that is followed by the remainder of the time during, really, the first year when they are serving as trainees and accompanying experienced inspectors on the job as trainees. So, we have 4 weeks classroom, and whatever is required up to a year for on-the-job training.

Senator SCOTT. Let me go back if I may, Mr. Davis. I think that the response indicates that these investigators, inspectors that you have do have a lower grade, say, than an FBI agent or some of the Treasury agents, and it may be that this is a reasonable thing for them, to have a lower grade. I am in a field now that I know something about because I have been with the Government probably as long as anybody in this room, but let me turn to another field.

Is the theft of explosives listed in the FBI computer?

Mr. DAVIS. Yes, sir. The FBI operates what is called a National Bomb Data Center.

Senator SCOTT. Now, I am told that there is sort of a master computer in the FBI with the initials NCIC. What does that mean, NCIC?

Mr. DAVIS. Yes, sir. That is the National Crime Information Center, and there are a number of what you would call general law enforcement items of information there.

For example, all stolen firearms are listed within the Information Center as they are reported. There are such things as information on individuals who are wanted by State or Federal authorities, or fugitives.

Senator SCOTT. Now, that particular computer, if there is a theft of explosives at a particular location, that is inserted in this computer in part of the general information?

Mr. DAVIS. No, sir. If I may, Mr. Chairman?

Senator SCOTT. Please, ask any assistant that you have. We would like to have as accurate information as possible.

Mr. DAVIS. No, sir. The theft of explosives is not entered into the NCIC.

Senator SCOTT. Would that be a good idea to do it? Suppose in an overall criminal investigation that it would just appear on the surface to a lay person, not a criminal investigator, that if you knew that a given criminal was in a particular area, if you also knew that explosives had been stolen in that area, there might be a connection. It would certainly be something worthy for an investigator to consider. And I am just wondering why they would not be put in that computer, or if you would recommend that they be put in. Could it be done by your agency without any authorization of law? Or, could it be done by the Department of Justice, the parent agency being consulted with and then agreeing to put that in there? Or, is there any legal prohibition to putting something like that in the computer?

Mr. DAVIS. Mr. Chairman, of course we are in favor of the widest possible dissemination of information to be of assistance in a criminal investigation.

The main problem is that stolen explosives are, of course, somewhat different than a firearm where you have a unique serial number and it is easy to identify.

If, for example, ten cases of dynamite were stolen in, say, Virginia, while it is true that there is a date shift code on that, and it might be of some value, my understanding is that the somewhat general nature or the fact that it cannot be identified with certainty is one of the reasons why this information is not included in the National Crime Information Center. Since all thefts of explosives as we have indicated yesterday, are required to be reported to the ATF and, since we do have a limited computer facility, I think we could perform this service quite easily. It also ties in very closely to the tracing of explosives which we are now doing for State and local law enforcement organizations.

Senator SCOTT. Now, you say you have your own computer that this will be put in?

Mr. DAVIS. Well, sir, we have access to the Treasury computer which, I must say, does not have the same accessibility to law enforcement personnel around the country as the NCIC.

Senator SCOTT. Now, if a chief of police wanted to get information, would he ordinarily turn to the FBI and to their computer for his information? Would he be as apt to contact the Treasury Department with regard to information? Again, I have not worked in the criminal field, but I would just think that he might contact the FBI and have its computer searched rather than contacting the Treasury Department about some criminal activity. And, I do not know the capacity of the FBI computer. I assume it is a rather large and complex thing.

Would it tax its capacity to list something like this?

Mr. DAVIS. Well, sir, I would not think so, and certainly if the details of procedures could be worked out, we would be very happy to supply that information to the FBI for inclusion in their computer. I might say that, of course, the State and local law enforcement agencies do look to ATF for assistance in the fields of our expertise.

For example, just to give you a sort of parallel example, we are now tracing about 3,000 firearms a month, with about 60 percent of them for State and local law enforcement agencies to assist them in their investigations.

But, in any event, I certainly agree with you, Mr. Chairman, that reports on the theft of explosives, and where they occur, and what kind should be made available to law enforcement officials throughout the United States.

Senator SCOTT. Well, actually, I had not thought of it deeply at all, but I was really thinking of your agency as being a part of the Department of Justice, and I am now aware that it is not.

Is there cooperation with the Department of Justice and its various agencies?

Is the fact that your agency is under Treasury Department—I can understand the tax aspects with the alcohol and tobacco—I have some little difficulty with the firearms and with the explosives, there being a separation. Actually, are taxes on explosives a major factor that would cause this to be within the Treasury Department rather than the Department of Justice?

Mr. DAVIS. Well, sir, yes. We almost have to look at the historical events that led up to this situation. The first gun control act of 1934 was based on the taxing power of Congress. Therefore, it was decided that that law should be administered in the Department of the Treasury.

The second law in 1938 was based on the Interstate Commerce Clause, but since Treasury was administering the first one, they felt it should all be in one place.

Finally, the 1968 Gun Control Act, again, was a combination of the two powers. And then, finally, because the statutory scheme for regulation of explosives was in fact patterned exactly on that of firearms and, then, because there was certain duplication—for example, under the firearms law we had the destructive device which, in fact, is a bomb—they felt that ATF would be the logical place to carry out that responsibility. Now, we do, obviously, cooperate very closely with the FBI not only in joint investigations but, in terms of an exchange of information and services. We do explosive tracing for the FBI. So, I can assure you that there is no barrier to cooperation because the two agencies are located in two different departments.

Senator SCOTT. It does raise a question in my mind and, being from Virginia, I believe in heritage and tradition and such things as that, but, sometimes there may come a time when changes should be made on the basis of modern day facts. And, with the FBI being the principal investigator of domestic crimes of a Federal nature, how active are they in this field? Are you the exclusive agent for the Government in the field of the investigation of explosives?

Mr. DAVIS. Yes, sir. Certainly when you speak about regulation of explosives then we are the primary Federal agency that has that general responsibility.

Senator SCOTT. Does the FBI have any responsibility in this field under existing law, insofar as you know?

Mr. DAVIS. Only to the extent of criminal violations. There are six criminal acts included in the title XI of the Organized Crime Control Act of 1970, where both the Department of Justice and the Department of the Treasury are given concurrent jurisdiction. In order to

avoid, again, any duplication and unnecessary waste of the taxpayer's money, we have entered into a memorandum of understanding with the FBI in which we have separated those jurisdictions and both of us are clearly aware of the area in which we are involved so that we will not have any duplication of effort. But, those sections are the only ones in which they are involved.

Senator SCOTT. I cannot help but think of the professional criminal and the criminal element in the country that might cross State lines, and might even be nationwide in its effect and wonder if, actually, you should not have the criminal investigations in the same department.

Now, I know that is an oversimplification, and I am going to ask staff, if they will, to check this a little further for us to see if they would want to recommend to the subcommittee any change.

This explosive that you showed us that happened out in McLean, Va.—was the FBI involved in any way in that, or was that investigation carried on entirely by State and local authorities in cooperation with your agency?

Was any other Federal agency involved in this?

Mr. DAVIS. Yes, sir. The ATF and the FBI both responded to that incident. And, when it was determined that it was within our jurisdiction, because it was an interstate-type bombing, then the FBI withdrew and we carried the investigation out, although they helped us in any place they could. For example, this investigation, as I indicated yesterday, extended up into Canada where we worked very closely with the RCMP, and had very successful results.

Senator SCOTT. I am going to ask you in a moment if you will to explain in a little more detail this memorandum of understanding that you spoke of.

But, in connection with, and I just used the McLean incident because that is the one that was illustrated yesterday, and we in the Washington area are somewhat familiar with that, but, when these explosions occur, might there not be some people who would commit other crimes and a criminal element that would have to do with other than explosives, that perhaps would be under the jurisdiction of the FBI? I am just wondering if we are isolating this too much, and just saying it is an explosive—we will investigate the explosive. And, if it is a general criminal element and this is a part of their operation. I am wondering if we are separating things, putting them into a compartment and, actually, if it is working in the interest or toward preventing criminal activity as effectively as if it was done through the same agency.

If you would comment on that, and then explain to us a little bit more in detail about this memorandum of understanding with the FBI? You go ahead in your own way.

Mr. DAVIS. All right, sir. Thank you. Of course, explosives and bombings are certainly not the only area in which you have criminal activity involving one person or group of persons together. For example, in our enforcement of firearms laws, we frequently run into narcotics. This presents no problem whatsoever, because when we do, we immediately notify, or refer as we call it, that aspect of the case to the drug enforcement people.

Senator SCOTT. Now you are talking about narcotics. Could it not be that they want explosives to blow up a bank vault?

Mr. DAVIS. Certainly it could be, or certainly to extort.

Senator SCOTT. Or to do a number of things not under your jurisdiction. Now, I do not know—a bank robbery—who investigates that? Possibly that is still a Treasury agent. It is FBI, is it?

Mr. DAVIS. It would be the FBI.

Senator SCOTT. I am just thinking of whether or not it would be more effective to investigators from a central agency. I do not want any agency to get too big, but at the same time, we do want—and I am sure you would be in complete agreement on this—we want the maximum effective law enforcement, and I do not think we would have the slightest quarrel on this. But, you go ahead, sir.

Mr. DAVIS. Well, sir, the question obviously is much larger than ATF and explosives. Obviously, as you are well aware, Mr. Chairman, the Secret Service in the Department of Treasury investigates counterfeiting. The U.S. Customs Service in Treasury investigates smuggling of materials into the United States as we do firearms. Certainly the Drug Enforcement Administration is responsible for narcotics and the Immigration and Naturalization Service, for the illegal entry of aliens.

Senator SCOTT. A lot of those, though, would not tie in very closely with explosives, but blowing up a bank vault might very well tie in—or other crimes. We have got a Subcommittee on Immigration that is considering changing the law with regard to illegal aliens. I do not see a close tie in between that. An illegal alien could get hold of an explosive and could participate, but that is not the general practice. They come over here for the purpose of having a higher standard of living, and becoming involved in some way in our overall American life. But, I can see where the professional criminal would use explosives. I am just wondering if it is in the national interest to have the investigation of the use of explosives by a tax-oriented organization.

You are talking about the history here, and that it started with taxes, and that it has gone beyond that, but—I do not want to interrupt. I have interrupted you and, perhaps, broken your chain of thought, but it is something that just came to mind when you were talking about this information not being in the FBI computer, the national crime computer. I think, at least, that ought to be in there.

I have interrupted you, and I will try to let you finish your chain of thought.

Mr. DAVIS. All right, sir. First, Mr. Chairman, let me assure you that as far as the law enforcement part of ATF is concerned, we are not tax-oriented. We have been a law enforcement organization longer than the FBI. We are quite proud of our history of law enforcement in the areas that we have been given responsibility. I would rush to assure you that the fact that we do have different Federal law enforcement agencies does not, in any way, in my opinion, detract from the Federal law enforcement effort. In fact, I think it probably enhances it. There are, of course, criminal specialties and, I think, probably the fact that we have separate law enforcement agencies at the Federal level does allow a focus on particular areas such as, for example, narcotics, which we recognize is a tremendous social and law enforcement problem in the United States.

In the case that you have used, the example such as the bombing of a bank vault, there would be no question in anybody's mind that that would be in FBI jurisdiction.

Senator SCOTT. Yes, but you said that the—as I understood you. I may have misunderstood—but you said that if explosives are stolen, that that is not something that gets on the FBI computer and, yet, if the explosives are stolen for the purposes of blowing up some sort of safe in a bank or some crime, some general crime that might be under the investigation of another bureau other than your own, they might not have information with regard to this, and it looks to me like it is a weakness in the law enforcement system of Federal law enforcement.

Mr. DAVIS. Well, sir, again I would agree with you and certainly if the procedural problems could be overcome we certainly would be very happy to introduce that information into the NCIC.

I probably spoke a little too hastily a minute ago. Mr. Corbin has informed me that we have in the Treasury the Treasury Enforcement Communication System or TECS, which is shared by Customs and ATF for law enforcement purposes. And we do have stored in that computer all of the explosive theft incidents of the last 2 or 3 years. And, obviously, if any law enforcement organization needed information of this kind, it would be available to him.

State and local law enforcement organizations, I think, are mindful of the fact because we work very closely with them in all of our jurisdictional areas that ATF does have responsibility for explosives, generally, at the Federal level, and, as I say, we trace explosives for them through our laboratories. We prepare evidence in those State cases where they have asked for our laboratory assistance or the reconstruction of explosive devices or ask for testimony of this kind.

Senator SCOTT. Mr. Davis, I am not in any way trying to talk down your organization. From your presentation and my limited knowledge, you have a very fine organization. No thought of any criticism of your organization—and yet we would have a mutual desire to track down the criminal, and that is really the thrust of what I am getting at. And I do have a concern that you have what we might call a master computer to get information with regard to criminals.

I am thinking that maybe if you got a John Dillinger running around the country or maybe a “mad dog” type of person, I think if explosives were stolen, and, somehow, the local, Federal, and State officers were trying to find out what that individual, or group of individuals were doing, that they would need all of the information they could get. And if the explosives had been stolen, they ought to know that because it might have a relationship to what he is going to do the next day, or the next week. And, it just seems to me that it ought to be in that computer.

Now, how you get it in there is a different thing, and again, I am going to ask staff to look into this matter a bit if they will, and we would like to have any information that you are prepared to give now, or that you would later want to submit for the record.

I would like, also, as soon as you complete your thoughts that you may have now with regard to this overall matter, if you would get back and tell us what this memorandum of understanding is. I would like to understand the memorandum of understanding.

Mr. DAVIS. Very well, sir. I think if I can, I just would conclude my train of thought by saying that I can understand your concern, and a very legitimate concern, about the effectiveness of Federal law enforce-

ment. But my opinion, based on my years of experience in the law enforcement field, is that the separation of responsibilities among the various agencies at the Federal level, does not inhibit or detract from effective law enforcement at the Federal level, and I think we have very close, cooperative relationship among the various agencies. I think, certainly, this is demonstrated fully by our joint investigation of the LaGuardia bombing, for example. And, this is only one. There have been many cases where the FBI and ourselves and others have cooperated very fully.

Mr. Chairman, we would be happy to put the full memo of understanding into the record if the chairman would so desire.

Senator SCOTT. Yes; and it will be received, but could you just briefly tell us what is this memorandum of understanding?

[The material referred to will be found on p. 73 of the appendix as Exhibit No. 3.]

Mr. DAVIS. There is in the memorandum of understanding, a summary, and I think probably if I can just run down through that. OK, sir, first I will refer to the law itself, and it is in title XI of the Organized Crime Control Act of 1970. The final sentence of section 846, Additional Powers of the Secretary, reads as follows, "In addition to any other investigatory authority they have with respect to violations of provisions of this chapter, the Attorney General and the Federal Bureau of Investigation, together with the Secretary"—and that is the Secretary of the Treasury—"will have authority to conduct investigations with respect to violations of subsections D, E, F, G, H, or I of section 844 of this title, which includes six specific violations of the law."

Now, in this memo of understanding, these are generally the things. I will not necessarily read the section, but it is included on the left side. For example, regulatory provision violations are the jurisdiction of ATF. This is such things as the buildings and storage, failure to keep records, and a long list of things that are criminal violations. Those are clearly the jurisdiction of ATF. The interstate transportation—except by mail, which is the Post Office Department's responsibility—of explosives with unlawful intent is ATF jurisdiction.

Bomb threats, false information as they relate to Treasury buildings or functions, that is the jurisdiction—

Senator SCOTT. Now, is the thrust of your memorandum of understanding of who investigates a particular activity? Is that the thrust of it?

Mr. DAVIS. That is it.

Senator SCOTT. Well, I wonder if perhaps you should not go further than this and have a memorandum of understanding on how you would cooperate with one another. Now, do you have some sort of a conference among Federal law enforcement agencies where you coordinate your activity to determine how you can best cooperate?

I can understand—a moment ago, I noted a little bit of pride in your organization and there is not a thing wrong with that, but just like rivalry between our military services might not be in the national interest, I think undue pride in any branch of the Government might not be in the national interest. And we mention the question of this computer. Now, is this computer—the FBI has it—but is this considered the major national crime computer, and the storage place for crimes of various types other than those that are investigated by the

FBI, that are under the jurisdiction of the FBI? Is it supplemented by information from other law enforcement agencies?

Mr. DAVIS. Yes, sir. And it is certainly considered to be the national crime computer. As I have indicated, there are certain kinds of information that are included in it. And, they are very specifically spelled out. If my recollection is correct, they have a Board of Governors—or a Board of Trustees, or whatever you want to call it—to determine what kind of information can be reproduced.

For example, we routinely place in the National Crime Information Center information about stolen guns, but certainly your characterization of the computer is accurate in that it is the national crime computer.

Senator SCOTT. I remember years ago, when I was serving in the House, we had it demonstrated to us. They took my name. They said, we can determine whether you have a criminal record. And I did risk this, and they told me that within 10 seconds they would have a report. And, it took more than 10 seconds: it took a full minute for them to come back and say that I had no criminal record according to the FBI's computer.

Frankly, I think this is a very wonderful thing for the Federal Government to have a record of the criminal element, but I believe it is deficient. I say I speak as a lay person and, yet, I was with the Department of Justice 21 years, 35 years with the Federal Government, and do have some knowledge of the Government bureaucracy and the empire building concept that we have in the Government.

I think we ought to find a way to see that the theft of explosives—perhaps we could have an amount, maybe every time one stick of dynamite is stolen—perhaps that need not be reported, but certainly within some reasonable limitation it seems to me that the stealing of any sizable amount should be in that computer.

Do you feel that it would take legislation to get this done, or what would you suggest as to the best way?

Could your office, if you submitted such information, would it be received by the FBI and put into the recorder?

Or, to get back a bit to the question I asked a few minutes ago, what sort of cooperation do you have among these various investigative agencies?

Do you meet periodically? Does the head of the FBI meet with the head of the Secret Service? And, do they meet with the head of your bureau? Do you have a joint meeting where you kick around some of these things?

Mr. DAVIS. Yes, sir, first let me say, to give you a complete answer to your question, we do have daily liaison contact with the FBI on what you might call daily operating problems and things of this kind. Mr. Corbin, the Assistant Director of Criminal Enforcement, meets with the officials of the FBI, and particularly as they relate to any problems that may come up. We have at the Director level a bimonthly luncheon meeting at which myself and Director Kelley, Director Knight, in other words, all of the Federal law enforcement agencies every 2 months have a luncheon meeting at which many of these broad kinds of concepts are discussed.

So, I think we have a considerable amount of liaison at meetings to address ourselves to these common problems, and to engender a spirit of cooperation.

Mr. SCHULTZ. I am wondering, a point of clarification, Mr. Davis. I am not familiar with the criteria of those items that would go into NCIC, but I would think that whether they are instrumentalities of a crime, or whether they are items of stolen property, that one of their requirements would be a serial number or some method by which they could be identified with certainty. You mentioned that explosives have a date shift code, but I think you indicated that they do not have any particular serial number by which you could enter them and with some certainty identify the same identical explosive if it were located.

Perhaps you could address yourself to the question of would this be feasible? What would you envision would be required to be able to do that?

Mr. DAVIS. Certainly this is one of the basic problems, introducing explosive theft incidents into the computer.

You have to have some key to pull the information out of the computer at the request of some officer in some part of the country. Now, obviously by the model or serial number, guns can be done very readily because it is a unique identifier of that particular weapon. It would be certainly more difficult to try to take some combination of the date shift code or information of this kind so that you could pull out information regarding the theft of explosives around the country.

Now, I am certainly not suggesting that it is impossible; I am only suggesting that it would be much more difficult. I will have to admit that in terms of, and I think the chairman asked the question about legislation, to introduce this information. I think there is, and again I am speaking from recollection, it may not be that accurate, I think there is a Board of Governors or a Board of Trustees, some such body at the NCIC who determine the policies to be followed for the information to be included.

Senator SCOTT. This policy board that you are speaking of, is that for the purpose, primarily, of protecting civil rights of the individuals or is that for the purpose of not trying to exceed the capacity of the computer? Or, is that just information that would be of sufficient importance to warrant its inclusion for the benefit of the law enforcement community generally? Or is it a combination of these or other factors?

Mr. DAVIS. I am sure it would be a combination to establish policy. I am sure that there are, from time-to-time, types of information that people feel should be in the computer that this Board would determine whether or not there is sufficient advantage to law enforcement in comparison to the cost and things to—

Senator SCOTT. Well, I would think now, without having any expertise in regard to the computer technology, that if you had somebody on a rampage committing various crimes up in the State of Washington, or in the northwestern part of the United States, and there were explosives in any quantity that were stolen in that area, that it would be very material for someone trying to capture an individual or a group to know about this.

On the other hand, if it happened down in Puerto Rico, and they were up in the northwestern part of the country, it might be an entirely different thing. And, I think, maybe on a geographic basis, that that might be one way of putting something like that in a computer. But, again, I have no knowledge of computer technology, but if the computer is of any value, somebody must know how to get the infor-

mation in it. I am not suggesting that the Director of a bureau ought to know how to operate a computer because I do not believe that that is a requirement of your office, but somebody that is working on that computer should know how to catalog it, how to get it in there, and how to get the necessary information out. I cannot see this as being insurmountable.

Mr. DAVIS. Mr. Chairman, certainly, again, if it is desired by the FBI to include this information in the NCIC, we would be very happy to cooperate in every way possible.

Senator SCOTT. Now, we do have some questions that we would want to submit to you to be answered later on for the record, Mr. Davis, and counsel will get those to you. And we would like, within a reasonable time, for you to give us the answers for the record.

[The material referred to appears on p. 48.]

We are going to take about 10 more minutes and then adjourn.

Counsel, do you have any more questions that you might want to ask or something else that you think we might do before we adjourn the subcommittee?

Mr. SCHULTZ. Yes; I wonder if—

Senator SCOTT. And then, after counsel poses anything that he has, then we would want to give you the opportunity, Mr. Davis, or your associates, to make any additional statement that you feel would be of value to the subcommittee.

Mr. SCHULTZ. Mr. Davis, in connection with the criminal sanctions that are attached to the reporting procedures—the storage requirements—you did list a few when you were going through the memorandum of understanding. I wonder if you will be able to give us some figures relating to either criminal sanctions imposed against the industry, or civil penalties imposed for violations which have occurred over the last 3 years.

Mr. DAVIS. We do not have any record of criminal sanctions being imposed against a member of the explosives industry by ATF since the effective date of Title XI, Regulation of Explosives. In 1975, we did revoke one dealer's license. Violations of the regulations uncovered during our inspections of licensed premises are primarily in the field of storage, and every opportunity is given the licensee to bring the storage facilities and procedures into compliance before we resort to what might be considered as the first administrative action against a licensee—the denial of the application to renew a license or steps to revoke a license already in existence. It is interesting to note that in Fiscal 1972, we denied 150 applications for license. That figure has dwindled in the ensuing years to 34 denials in Fiscal 1973, 21 in Fiscal 1974 and 6 in Fiscal 1975. The same pattern follows in the application for permits under Title XI. We denied 230 in Fiscal 1972, with 43 denials in Fiscal 1973, 29 in Fiscal 1974 and 6 last year. These figures, coupled with our field reports, give us reason to believe that the explosives industry is rapidly taking whatever steps are necessary to conform to the requirements of Title XI.

Mr. SCHULTZ. Would you take us through a typical example of ATF receiving a theft or a loss report, and how this is handled right from the beginning of who receives the report? What investigation is conducted?

Mr. CORBIN. Typically, one of our criminal enforcement officers—field officers—posted for duty in Louisville, Ky., will receive a report

from a storage facility that upon inspection on Monday morning, April 7, they discovered that a case of dynamite was missing. Upon receiving that information, the special agents from ATF would contact the owners, very likely visit the facility, record what information was available, when was the last time the facility was checked, who discovered the missing explosive, was there evidence of forced entry, was the lock picked, was the door closed, what was the nature of the explosive, what was the amount—the usual criminal investigation routine—interview the owners who had access, or suspicious persons.

At that point, it is a matter of what lead, what can you develop? Is there labor difficulty? Does any employee who has access have a domestic problem? Is there a group in the general area who, for one reason or another, might be suspect?

From that point, it is a normal investigative routine.

Mr. SCHULTZ. All right. I take it that a full investigation is conducted, and the resolution depends upon what information they have to work with?

Mr. CORBIN. That is correct.

Mr. SCHULTZ. Is there a case report written on each investigation?

Mr. CORBIN. No, sir. Each such theft would result in what I would call a numbered investigation that is recorded. The theft is reported in our Treasury computer by incident.

If I could add here, that is the problem between NCIC and what we do. We record thefts of explosives by incident. NCIC, as I understand it, is set up to record property or individuals by some numbering system.

Senator SCOTT. You do it by what?

Mr. CORBIN. By incident. A theft of one case of 40 percent DuPont dynamite, April 7, Louisville, Ky., such and such.

Senator SCOTT. Well, that might be all that would be needed if you have Louisville, Ky., and there is a criminal element operating in the Louisville, Ky., area. You are saying that the computer in the FBI is on the basis of what?

Mr. CORBIN. Number. For example, you have a social security number. You had a serial number in the service.

Senator SCOTT. Are you talking about the number for a particular criminal?

Mr. CORBIN. For a criminal, for a piece of property, for example.

Senator SCOTT. It must be more than that and, again, I do not have any knowledge, but there must be other ways, other things, that they would have in the computer rather than just having it computed under a number identifying a particular criminal.

You are not suggesting that if they are checking on a bank robbery that they check to see whether Dillinger is the one that did it. They must have something other than Dillinger that they would look under. Is that what you are telling us?

Mr. CORBIN. How bank robberies are put into NCIC I do not know. It is my understanding that the decision is in property of this type which is stolen—only that property which can be identified specifically by number is entered.

Senator SCOTT. Well, I have some reservations, with all the expertise that we have in here today, whether we have the technological expertise that we need to resolve these questions. If we do have, and it is desired—I am assuming that your job is not that of a computer man,

that you have much broader responsibilities than that. So, perhaps as far as the mechanics is concerned, maybe we had better not delve into that any further than we have because I am satisfied if the computer is worth the amount of money that is paid for it, that there is a way to get it in there. And, unless we have people that operate computers—and I am not sure we even would want to go into how it would be accomplished, I think our inquiry is much broader than that—but I am willing to go out on a limb and say there is a way to do it if there is a will to do it. I think, maybe, we do not even need to inquire further because I am satisfied that there is a way that it can be accomplished if we want to do it.

Now, Counsel, perhaps you might have a final question, and then let us give Mr. Davis an opportunity to say a few words because I think he has been here with us 2 days and we ought to at least give him 5 minutes to say something that we have not asked him.

Mr. SCHULTZ. In view of the hour, Mr. Chairman, I defer to Mr. Davis, and we will submit our questions by letter if it is agreeable.

Senator SCOTT. All right. If you will go right ahead, sir, anything that you feel you have not covered that you believe this committee ought to know about.

Mr. DAVIS. Yes, sir. Thank you, Mr. Chairman. I do appreciate the opportunity. I will be very brief.

I think, together with the material that we have gone over in session and combined with the questions that will be posed to us by counsel and staff that we will answer in the future, that we have pretty well, I think, covered the various areas.

I think there is one important area that I would just like to mention to the chairman, and that is, our efforts in the explosives tagging area.

Senator SCOTT. Now, that is identification, tagging?

Mr. DAVIS. Yes. It is covered briefly in my prepared statement that we, a little over 2 years ago, established a Federal Advisory Committee made up of representatives of the various concerned Federal agencies, including law enforcement agencies, members of the industry, and members of scientific institutions, together with a technical subcommittee to determine the feasibility of tagging explosives so they could be detected before they were detonated, in other words, to detect a bomb that was located in the area.

And, second, if a detonation should occur, it would permit us to—and when I say us, I am speaking primarily of law enforcement organizations throughout the United States—to find out where that explosive was made, where it was distributed to, which would give a valuable, I think, investigative lead. And, we do feel that we have progressed to a point where we have established the technical feasibility of these systems and we are very hopeful that our efforts as the lead agency here, together with the other efforts being conducted by the Government, will result in a system that will hopefully prevent a large number of bombings, and in those cases where they did not prevent it, at least it would give us a very valuable investigative lead toward discovering who is responsible for a violation.

Well, Mr. Chairman, my colleague, Mr. Peterson, just reminded me that if we had such a tagging system, which would be a numeric system, that there is no question that that could be placed in the NCIC, and retrieved from this system.

In closing, sir, we have appreciated the opportunity to appear before this subcommittee to discuss our activities in this area. And, thank you very much.

Senator SCOTT. Mr. Davis, you have been very helpful to us, and cooperative in responding to our questions. We had purposely conducted the hearing on somewhat of an informal basis because I believe it is more productive that way.

We appreciate your bringing your associates with you, and having the benefit of their knowledge on this important matter. Thank you for being here.

We are adjourned.

[Whereupon, at 12:21 p.m., the subcommittee adjourned, subject to the call of the Chair.]

#### SUPPLEMENTAL QUESTIONS AND ANSWERS

(Referred to on p. 45)

##### (1) GENERAL

*Question.* It is accurate that criminal and terrorist bombings occur far more frequently and pose much more of a problem today than they did, let's say, ten years ago?

*Answer.* ATF does not have accurate data dating back ten years. However, our intelligence sources indicated that although the total number of bombings have increased, bombings by terrorists have not necessarily done so. During 1969-70, the anti-Viet Nam protest was at its peak. Therefore, there were a large number of what might be termed terrorists bombings. Most of these bombings were incendiary and were by groups in protest of our involvement in Viet Nam. The terrorists bombings today are more sophisticated and are doing more damage because of the use of explosives, but the numbers have not appeared to increase.

Former Assistant Secretary Rosslides testified before the Committee on Government Operations, U.S. Senate on Wednesday, July 15, 1970, to the following statistics. For the 15-month period of January 1, 1969, through April 15, 1970, there was reported to ATF a total of 4,330 bombings. Of this number 975 were explosive bombings and 3,355 were incendiary bombings. These figures were obtained from local and state law enforcement agencies. Accurate data was not again available until 1972, when the FBI began publishing Bomb Summaries in their Uniform Crime Reports. Quoting from those reports are the following figures. In 1972 there were 1,507 total bombings reported of which 793 were incendiary and 714 explosive. 1973 produced 1,529 total bombings reported with 787 being incendiary and 742 explosive. In 1974 there were 1,651 total bombings reported with 758 incendiary and 893 explosive. For the first half of 1975 there were 828 total bombings reported with 268 incendiary and 560 explosive. As you can see, the incendiary bombings are decreasing. While intelligence sources indicated that terrorists bombings have not increased, other criminally motivated have and are continuing to increase.

*Question.* It would, therefore, be accurate to say that we have a far greater problem today than we had when the Organized Crime Control Act of 1970 was passed, wouldn't you agree?

*Answer.* Yes.

*Question.* Would you then agree that in the light of this situation, we've got to have substantially more rigorous control over the production and distribution and use of explosives?

*Answer.* We feel that there is no requirement for additional control requirements for the production and distribution of explosives. However, regarding the use of explosives, ATF and the Institute of Makers of Explosives have intensified efforts to continually educate the user in the importance of the proper storage, prompt theft and loss reporting, proper recordkeeping, and safety of explosive materials.

*Question.* On the basis of some of the figures you have presented to the subcommittee, are the forces at your command adequate to cope with the problem?

You have told us that there are over 2,000 manufacturers, importers and dealers licensed under Title XI. You told us, further, that the total number of permits and licenses was 6,320. Against this you have a total of 1,800 men involved in inspection and enforcement.

Answer. We believe that our current manning level, supported by MESA and State cooperative programs, is adequate at this time to meet our statutory responsibilities. Additionally, our program in voluntary compliance activities with the industry, distributor and consumer is designed to supplement our limited manpower resources.

The men identified in your question are the total number of ATF special agents available for criminal enforcement investigations. In addition, we have 682 inspectors engaged in application and compliance inspections.

#### (2) ATF JURISDICTION

*Question.* For the purpose of clarification, does the Bureau of Alcohol, Tobacco and Firearms have exclusive and sole jurisdiction over the Federal laws governing the manufacture, sale and use of explosives?

Answer. The Bureau has exclusive jurisdiction with respect to the regulatory provisions of Title XI of the Organized Crime Control Act of 1970 (18 U.S.C. Chapter 40), which among other things regulates the manufacture, storage, and sale of explosive materials (see 18 U.S.C. \* \* \* 841-843). Users of explosive materials who acquire, transport, or ship explosive materials in interstate or foreign commerce must obtain a Federal permit and comply with regulations under Chapter 40. The Bureau does not regulate the actual use of explosives. Those Federal agencies regulating the use of explosives are the Department of Defense through the Defense Supply Agency, the Department of the Interior through the Mining Enforcement and Safety Administration (MESA) and the Bureau of Mines, and the Department of Labor through the Occupational Safety and Health Administration (OSHA). The Department of Transportation regulates the transportation of explosives.

#### (3) LICENSING

*Question.* What basic criteria determine whether or not an individual is acceptable and may be granted a manufacturer's, dealer's or importer's license?

Answer. In order for an applicant to qualify for a Federal explosives license or permit, the person making such application must be 21 years of age or over; must not be a person to whom the distribution of explosive materials would be unlawful under 18 U.S.C., Chapter 40, Section 842(d); must not have wilfully violated any of the provisions of 18 U.S.C., Chapter 40 or of Part 181 of Title 27 of the Code of Federal Regulations; must have premises in the State from which he intends to conduct business; must have a place of storage for explosive materials which meets the standards of the Federal regulations regarding public safety and security against theft; and must be familiar with all published State laws and local ordinances relating to explosive materials for the location in which he intends to do business.

18 U.S.C., Chapter 40, Section 842(d), referred to above, prohibits the distribution of explosive materials to any person who: (1) is under 21 years of age; (2) has been convicted of a crime punishable by imprisonment for a term exceeding one year; (3) is under indictment for a crime punishable by imprisonment for a term exceeding one year; (4) is a fugitive from justice; (5) is an unlawful user of marijuana or any depressant or stimulant drug or narcotic drug; or (6) has been adjudicated a mental defective.

*Question.* What are the penalties for providing false information on an application to become a manufacturer or distributor of explosives?

Answer. A fine of not more than \$10,000 or imprisonment for not more than ten years, or both.

*Question.* You said in your statement that there are 594 manufacturers, 76 importers and 1411 dealers of explosives licensed under Title XI. Are all applicants investigated on a routine basis to determine the propriety and legality of their application?

Answer. Before any applicant for a Federal explosives manufacturer's importer's or dealer's license or user's permit is granted such license or permit, an application investigation is conducted. The manufacturer-limited license, which is valid for 30 days from the date of issuance, is nonrenewable, and only

permits the holder to manufacture explosive materials for his own use, and the user-limited permit, which is only valid for a single purchase transaction, is issued without an inspection.

The scope of authority of the Mining Enforcement and Safety Administration includes regulation of the storage and use of explosives in mining operations. As part of a memorandum of understanding with ATF, MESA conducts application and compliance inspections of those explosives licensees and permittees that come within their jurisdiction.

Compliance inspections of explosives dealers, manufacturers and users are conducted by ATF on a regular basis. The average frequency of these inspections, as established by an ATF Order, is once each year. The primary purpose of the annual compliance inspection is to determine if the licensee or permittee has been complying with applicable laws and regulations. Other purposes of these inspections may be to instruct a licensee or permittee of legal requirements, to answer his questions regarding Federal explosives law and regulations, and to obtain data on possible willful violations for further investigation.

*Question.* Must a person who applies for a license to deal in explosives deal exclusively in explosives and have no other business?

*Answer.* As long as the provisions of 27 CFR Part 181 are met, a person who applies for a license to deal in explosive materials is not required to deal exclusively in explosive materials and is allowed to conduct other business operations. In fact, many licensed explosives dealers sell explosive materials merely as a convenience to their customers and in addition to their main business operations, such as firearms dealerships or hardware stores.

*Question.* What fees are imposed for becoming a licensed manufacturer, dealer, or importer of explosives?

*Answer.* Section 843(a) of Title 18, United States Code, Chapter 41 prescribes a maximum fee of \$200 for each original license or permit, and a renewal fee not to exceed one-half of the original fee. The regulations issued under Chapter 40—Title 27, Code of Federal Regulations, part 181, Sections 181.42 and 181.43—set forth the actual license and permit fees as follows:

License fees:	
(1) Manufacturer .....	\$50
(2) Manufacturer-limited (nonrenewable).....	5
(3) Importer .....	50
(4) Dealer .....	20
Permit fees:	
(1) User .....	20
(2) User-limited (nonrenewable).....	2

NOTE.—Each renewal fee equals one-half the original fee.

*Question.* How many applications for Federal licenses have been acted upon each year for the past 5 years?

Licenses acted upon	Fiscal year—						Total
	1971	1972	1973	1974	1975	1976 <sup>1</sup>	
Original.....	2,092	687	459	442	356	445	4,491
Renewal.....		1,335	1,758	1,831	2,004	1,649	8,577
Total.....	2,092	2,022	2,217	2,274	3,360	2,104	13,068

<sup>1</sup> Through Mar. 31, 1976.

*Question.* How many applications for licenses to manufacture, sell or import explosives have been revoked or disapproved on a year-by-year basis over the past 5 years?

Licenses	Fiscal year—						Total
	1971	1972	1973	1974	1975	1976 <sup>1</sup>	
Denied.....	75	150	34	21	6	0	287
Revoked.....	0	0	0	0	1	0	1

<sup>1</sup> Through Mar. 31, 1976.

*Question.* You said in your testimony that double-base smokeless powder could be sold without restrictions of any type. Does this mean to say that any person can enter a sporting goods store and purchase any quantity of smokeless powder without a license or permit, and without any record of the sale?

*Answer.* Yes, insofar as Title XI is concerned. Small arms ammunition and components thereof are exempt from the regulatory provisions of Title XI. However, the Gun Control Act of 1968 regulates ammunition, including propellant powder designed for use in any firearm, and licensed firearms dealers are required to keep records on the sale of smokeless powder. Smokeless powder, because it is defined by the Act as ammunition, cannot be sold to anyone under the age of 18. The buyer does not have to have a permit, but must provide the dealer with identification before the sale is made. The buyer's name and address, along with the amount of powder purchased, is entered in the dealer's permanent firearms records.

*Question.* A question on the employment of user permits—Assuming that a user permit is given to a construction firm, one could not reasonably expect the head of the construction firm to drive the truck that picked up a load of explosives from the distributor. What combination of procedures is used to enable the distributor to determine first, that the permit in question is a valid one, and secondly, that the person driving the pickup vehicle is acting with the authority of the permittee? Can a manufacturer or distributor, if there is any question about a permit, put in a call to an office in ATF for the purpose of double-checking? Are manufacturers and distributors encouraged, where any question exists, to use the phone for the purpose of confirming the bona fides of the person driving the pickup vehicle?

*Answer.* In the example you have given, the construction firm which holds an explosives user permit would be required by regulations to furnish to the distributor a certified copy (in the case of a user-limited, the original) of their permit. A distributor cannot lawfully make an explosives transaction with another licensee or permittee without first verifying the identity and status of that licensee or permittee.

ATF urges all explosives dealers to require whatever information they deem necessary and within reason in order to verify the identity and licensed status of distributee licensees or permittees with whom they do business. After the permittee in your example furnishes a certified copy of their permit to the distributor, they would not be required to again furnish such certified copy to that distributor during the term of the current permit. The construction firm would also be required to furnish the licensed distributor with a current certified list of representatives or agents authorized to acquire explosive materials on behalf of the business. When the possession of explosive materials is transferred at the distributor's premises, the distributor is required to verify the identity of the person accepting possession on behalf of the distributee before relinquishing such possession.

If the construction firm sends an employee who is not an authorized agent of the business on the current certified list to pick up explosives from the distributor, for example a truck driver, then the driver will be required to identify himself and to complete and sign Section A of Form 4721, Explosives Delivery Record.

ATF encourages explosives licensees and permittees to call the nearest ATF office when questions or problems arise. However, although ATF can certify to a licensed distributor the status of a licensee or permittee desiring to acquire explosives, we would be unable to confirm the bona fides to a person driving a vehicle to pick up explosives. We would suggest that the distributor contact the distributee if any problem arises in such circumstances.

*Question.* The sample copies you gave the subcommittee of ATF Form 4706, which is a license for manufacturers, importers or dealers in explosives, and ATF Form 4708, which is a permit for the use of explosives, appear to suffer from a number of weaknesses from the standpoint of security.

(a) First, they are not printed on watermarked paper, or other special paper, so that it should be extremely easy business to forge printed duplicates;

(b) Second, neither the license nor the permit has a signature line for the licensee or permittee. This is rather surprising, because drivers' licenses, social security cards, credit cards, and virtually every other form of identification document does not require the signature of the person named.

(c) Finally, there is no serial number on either the license or the permit form. Wouldn't this make it possible for a dishonest employee to remove quantities of either form from the ATF offices, without the theft being noticed? Don't you

think it would make sense to have license forms and permit forms as secure as such forms can be made? Has consideration been given to this?

Answer. It is true that permits and licenses (ATF Form 4708 and 4706, respectively) are not printed on watermarked or other special paper. This would be extremely difficult, if not impossible, under our current procedures which require a licensee or permittee to provide certified copies of his license or permit to all licensees from whom he is receiving explosives. Although a "purchasing copy" of the license or permit (Part 2 of ATF Form 4706 and 4708) is provided for this purpose by ATF at the time of issuance, a licensee or permittee is authorized to make additional certified reproductions of his license or permit to provide to each explosives distributor with whom he is doing business. Since these certified copies would not be printed on special paper, we believe it would serve no useful purpose to print the original license on watermarked or other special paper.

(b) Part 2 (Purchasing Copy) of the license and of the permit does require the signature of the licensee or permittee in order to verify that the copy is authentic. Any additional reproductions must be made from either the original license or permit (Part 1) or from the Purchasing Copy (Part 2) and must be individually signed for certification.

Since the original license or permit must be displayed at the business premises and cannot be used for transaction purposes, we see no need to require that it be signed by the holder.

(c) We have considered the possibility of adding serial numbers to the forms used for explosives licenses and permits. However, for the following reasons, we decided against doing so:

1. Each license and permit is numbered at the time of issuance. This number indicates the type of license, ATF region, Internal Revenue District or State, county, expiration number and the sequence number. Each license number is associated with a specific license and normally the number remains the same throughout license renewals. We feel that the appearance of a serial number on the form in addition to the license number could result in confusion for some licensees and permittees since they may mistakenly use the serial number in lieu of the license number in correspondence and in transaction records. This would cause problems for ATF and the Internal Revenue Service in acting on the correspondence and would result in difficulties in attempting to trace the movement of explosives.

2. While the use of serial numbers would increase the security of the blank forms, it would not prevent persons from obtaining copies of licenses that have already been issued in order to illegally obtain explosives. Since photocopies of licenses and permits are routinely produced and forwarded to explosives suppliers in the course of business, a photocopy of a license could be illegally obtained by a dishonest employee.

3. The cost of printing serial numbers, providing accounting procedures, and reporting, recording and tracing missing forms would be substantial in terms of man-hours and money. Since a photocopy of a license can be used as readily as an original license, we do not feel that the time and expense involved in printing serial numbers on blank forms could be justified.

We feel we should emphasize at this point that every attempt is made to assure the integrity and honesty of all ATF employees. There have been no known instances involving the illegal use of these forms by any ATF employee since the Bureau was given the responsibility for the enforcement of the Organized Crime Control Act of 1970.

#### (4) REGULATIONS

*Question.* You said in your statement that manufacturers, distributors and users are required to keep complete and accurate records on the disposition of explosives. Could you provide us with a detailed summary of the regulations they must respect with regard to the manufacture, storing or transportation of explosives in interstate commerce?

Answer. Persons engaged in the business of manufacturing explosive materials must be licensed under Title XI. A licensee may not lawfully distribute explosive materials to any person except a licensee, a permittee, or a resident of the State where distribution is made and in which the licensee is licensed to do business; distribute such materials to any person where the purchase, possession, or use by such person of the materials would violate State or local law; or distribute explosive materials to individuals within certain proscribed categories, *e.g.*, convicted felons.

With respect to recordkeeping requirements, a licensed manufacturer must keep accurate records of the manufacture, acquisition, and disposition of explosive materials. Additionally, the manufacturer must identify by prescribed markings the materials manufactured.

Licensed manufacturers are required to store their explosive materials in conformity with prescribed regulations, 27 C.F.R. Part 181, Subpart J. The actual transportation of explosives is not regulated by the Bureau under Title XI, but rather by the Department of Transportation.

*Question.* What records are required to be kept by manufacturers, dealers, or importers of explosives? Are copies of these records sent to and maintained by ATF?

*Answer.* The records and reports required under Title 27, Code of Federal Regulations, Part 181, Subpart G, are specifically:

1. Manufacturer's Records of: (a) Physical inventories; (b) marks of identification (if any), the quantity and class of explosive materials manufactured or otherwise acquired, and the date of manufacture or acquisition; (c) Explosive materials distributed to other licensees and permittees reflecting the marks of identification, quantity and class, name of manufacturer or importer (as applicable), the license or permit number of the transferee, means of identifying the transferee or transferee's agent, and the date of the transaction; (d) Explosive materials manufactured for the manufacturer's own use, including (in a separate permanent record) the quantity and class used daily and the date of such use; and (e) A daily summary of magazine transactions showing, by class of explosive materials, the total quantity received in and removed from each magazine during the day, and the total remaining on hand at the end of the day (Discrepancies indicating theft or loss of explosive materials must be reported within 24 hours.)

2. Dealer's records of: (a) Physical inventories; (b) each purchase or other acquisition of explosive materials showing the date of receipt, the name, address and license or permit number of the person from whom received, the name of the manufacturer and importer (if any), and the quantity and class of explosive materials received; (c) explosive materials sold or otherwise distributed to another licensee or permittee showing the quantity and class of explosive materials, the name of the manufacturer and importer (if any), the manufacturer's marks of identification (if any), the license or permit number of the transferee, the date of the transaction, and the means of identifying the transferee or transferee's agent; and (d) a daily summary of magazine transactions showing, by class of explosive materials, the total quantity received in and removed from each magazine during the day, and the total remaining on hand at the end of the day (Discrepancies indicating theft or loss must be reported within 24 hours.)

3. Importers records of: (a) Physical inventories; (b) quantity and class of explosive materials, name of manufacturer, manufacturer's marks of identification (if any), country of manufacture, and date of importation or acquisition of explosive materials; (c) explosive materials distributed to another licensee or permittee showing quantity, class, manufacturer, manufacturer's marks of identification (if any), country of manufacture, license or permit number of transferee, means of identifying the transferee or transferee's agent, and the date of the transaction; and (d) a daily summary of magazine transactions showing, by class of explosive materials, the total quantity received in and removed from each magazine during the day, and the total quantity remaining on hand at the end of the day. (Discrepancies indicating theft or loss of explosive materials must be reported within 24 hours.)

All manufacturers, dealers, and importers must, in addition to the records listed above, maintain a separate record of sales or other distributions of explosive materials to nonlicensees and nonpermittees on Forms 4710 which reflect the intended use of the explosive materials, the name, date and place of birth, social security number or taxpayer identification number, address and physical description of purchaser; the date of the transaction, transaction serial number, required certification by the purchaser that he is not prohibited by law from purchasing explosive materials, the means by which the purchaser identified himself, and the quantity, class and type of explosive materials transferred (including name of manufacturer and manufacturer's marks of identification, if any.)

The records pertaining to explosive materials prescribed by 27 CFR, Part 181, must be in permanent form and must be retained on the licensed or permit premises for a period of not less than five years.

Copies of these records are not required to be sent to ATF (except for Forms 4710, Explosive Transaction Record—Nonlicense or nonpermittee, which are discussed in response to another question in this text); however, the records must be made available to ATF officers for examination or inspection during normal business hours.

*Question.* If copies of these records are not sent to ATF, are they reviewed periodically by ATF inspectors?

*Answer.* The records required under 27 CFR, Part 181, to be maintained by manufacturers, dealers or importers of explosives, must be made available to ATF officers for examination or inspection. These records are reviewed periodically by ATF officers. Operating procedures within ATF have been established calling for inspection of explosives manufacturer's, dealer's, and importer's records and premises at least once per year.

*Question.* Are there any regulations which require a personnel security program to be implemented for those individuals who have access to and/or control over explosives?

*Answer.* No.

#### (5) SAFEGUARDS AND INSPECTION

*Question.* How much emphasis does the Bureau place on prevention as opposed to after-the-fact investigation?

*Answer.* The Bureau's explosive control program is predicated on reducing the hazards to persons and property arising from the misuse and unsafe or insecure storage of explosive materials. The regulations promulgated in 27 CFR, Part 181, and enforced by ATF, support the standards of safety and security recognized by the explosives industry. This program is designed to place emphasis on the prevention of the illegal acquisition and use of explosives for bomb incidents.

*Question.* With regard to safeguard systems at the place of manufacture or storage, do the systems look towards the weakest link—is there a single failure criterion? For example, you mentioned the fact that 84% of the explosives thefts you investigated showed that there had been illegal entries through the door of the storage vault. Is this the weakest link?

*Answer.* ATF, in meetings with the IME Security Committee, has established that the lock and door of the storage magazine is the most widely used method of illegal entry. Means to strengthen this area are under study to determine if new types of locks, haps, hinges, and door construction methods can increase storage security.

*Question.* Are your safeguards programs monitor-controlled and directed from the national headquarters?

*Answer.* National headquarters develops the policies and procedures for the explosive compliance inspection program which is implemented and controlled by regional headquarters. This program is monitored by the Bureau of Regional headquarters through review and analysis of the results of compliance inspections and by monitoring the issuance of variances of safety and security standards.

*Question.* Could you provide us with a critical evaluation of the effectiveness of these programs? How are these programs evaluated?

*Answer.* These programs are evaluated on the basis of results achieved as reported to us by the industry members and our field inspection reports. The number of thefts or attempted thefts and the amount of explosives stolen are weighed against the number of storage facilities and the amount of explosives available to determine not only the success rate but the increase or decrease in incident level. At this point, we feel the programs are effective.

*Question.* Can you describe for us any other problems, not yet covered in the testimony, that you experience in carrying out your day-to-day responsibilities in connection with the control of explosives?

*Answer.* The increased sales of explosives from demilitarized munitions for industrial and commercial use has created a problem since there is no manufacturer's mark of identification, as required in 27 CFR 181.109, on containers of explosives sold by the Defense Supply Agency as surplus. ATF is conducting meetings with the Department of Defense for the purpose of determining a course of action to resolve this problem.

*Question.* Obviously, it would be difficult if not impossible to put a serial number on every stick of dynamite. But would it not be feasible to require that every box of dynamite or every container of explosives have a serial number printed on it?

*Answer.* It would be technically feasible to require that each box of explosive materials be serially numbered. However, the current system of requiring the

manufacturer's marks of identification and the date and shift of manufacture on each container, including individual sticks of dynamite, enables us to trace recovered explosives from the point of manufacture to the point of the last legal sale. The addition of serial numbers on boxes of explosive materials would not significantly improve current tracing capability. It would impose a significant increase in recordkeeping requirements on the industry since it is estimated that the industry consumes 10,000,000 boxes annually.

The Explosive Tagging Program proposed by ATF will not only provide the capability to trace explosives prior to detonation, but will also permit tracing the explosives used in bombs after they have exploded.

*Question.* Are containers of explosives ordinarily strapped and sealed in a manner which would make it difficult to reseat if they had been opened and the contents had been removed?

*Answer.* Explosives materials are packaged at the manufacturing plant in accordance with Department of Transportation requirements in 49 CFR Parts 100-199. They are required to be sealed and an opened package of explosives would normally be apparent unless the thief had access to similar packaging accessories.

*Question.* Are manufacturers, distributors and users required to designate an employee or employees to supervise and log all storage or magazine transactions, in or out?

*Answer.* No. However, it is a common practice to have a person or persons delegated this responsibility for the purpose of maintaining records required under both Federal and State laws as well as the normal business records required for ordering explosives materials.

*Question.* In the case of major users, such as mines, are withdrawals of explosives from the magazines limited to designated employees? Or can any employee withdraw explosives? How is the daily record of withdrawals maintained? Does the employee who withdraws explosives have to sign? Are there any requirements for other identifying details such as employee number, time of withdrawal, quantity withdrawn, etc.?

*Answer.* The method of withdrawal of explosives from a magazine, including the designation and identification of employees authorized to receive the explosives, is determined by the owner in accordance with his judgment and good business practice. ATF regulations only require that the inventory be maintained. The inventory record includes the quantity and description of each receipt in, and withdrawal from, the explosive magazines, in chronological order. It has been our experience that large users such as large mines and construction sites generally take a very responsible attitude toward the storage of explosives and do limit the withdrawal of explosives to key personnel.

*Question.* In your testimony, you told us that any person storing explosive materials shall open and inspect the storage facilities at intervals not greater than 3 days to determine whether the explosives are intact or whether there has been any unauthorized entry or removal. Commenting on this, you said that in your view, if the person making the inspection unlocked the door of the magazine, walked inside and looked around, and there appeared to be the amount of explosives that should be in there, and if there was no evidence of any forced entry, then he would satisfy this requirement. . . . If containers of explosives bore serial markings, so that they could be logged in as they arrived and logged out as they were used up, wouldn't it be realistic to require the person making the inspection to check the containers in the magazine by serial number to see if any were missing? After all, even in a fairly big mine, they probably wouldn't have more than 100 to 200 containers of explosives in their magazines or magazine at any one time.

*Answer.* It is our opinion that requiring manufacturers and importers to affix serial numbers to containers of explosive materials, and further requiring all licensees and permittees to "log in" and "log out" each container of explosives on the basis of serial number, would impose an undue administrative burden on those law-abiding citizens acquiring, storing, and using explosive materials for industrial, mining, or other lawful purposes, in contravention of Section 1101 of Title XI, Regulations of Explosives.

Requiring serialization of containers would add an administrative burden to manufacturers and importers of explosives due to the large volume (10 million cases) of explosives consumed by industry annually. Adding the requirement for logging in and logging out containers of explosives by serial number is not feasible for the following reasons:

1. Licensees and permittees usually purchase mixed lots of various types and quantities of explosives, thus leading to nonconsecutive serial numbers and difficulty in inventorying.

2. Licensees and permittees may buy and sell or use partial cases of various types of explosives, thus posing another problem to inventorying on the basis of container serial numbers. The present system, utilizing case markings as to class and type of explosives, manufacturer's date-shift code, total numbers of cases, and daily summaries of magazine transactions; coupled with the licensee or permittee being alert for evidence of forced entry is deemed sufficient to satisfy the inspection requirement without imposing an undue administrative burden on the industry members concerned.

*Question.* A few more questions about the procedures followed in conducting an inspection of a manufacturer or dealer—(a) Do inspectors make a physical inventory, and do they check this against the dealer's or manufacturer's inventory?

*Answer.* During a compliance inspection of an explosives licensee or permittee, ATF inspectors check an appropriate number of explosives on hand with the record books to verify that they have been properly recorded. Similarly, the inspector checks a representative number of entries in the record books to determine that explosives listed as being on hand are actually in inventory. If these spot checks disclose significant discrepancies, the inspector may deem a complete physical inventory to be necessary.

*Question (b).* Do they make a critical evaluation of the procedures followed by the manufacturers or dealers?

*Answer.* ATF inspectors make a critical evaluation of the procedures followed by the manufacturers or dealers to determine if these procedures comply with applicable laws and regulations. Particular emphasis is given to the examination of the licensee's records and storage facilities during these inspections.

*Question (c).* Where they do find shortcomings, do they submit to the manufacturers or dealers written recommendations for improvements in their security procedures—and do they let them know that the renewal of their license or permit will be contingent on the prompt implementation of these recommendations?

*Answer.* All nonwillful violations disclosed during a compliance inspection are documented on ATF Form 5030.5, Report of Violations, the original of which is presented to the licensee or permittee. ATF inspectors discuss the violations noted with the licensee or permittee and suggest methods of compliance to avoid any recurrence. Licensees and permittees are informed that failure to correct violations can lead to revocation or denial of the license or permit. ATF conducts follow-up or recall inspections of licensees or permittees found to be in violation to determine if areas of noncompliance have been corrected.

*Question.* Is MESA provided with information on the quantity of explosives obtained by the various mines?

*Answer.* ATF does not receive reports from manufacturers of the quantity of explosive materials shipped to licensees/permittees. However, licensees and permittees are required to keep invoices of all explosive materials received and licensees are further required to maintain complete acquisition and disposition records, showing the receipt of all explosives and their disposition. MESA inspectors review these records during their inspection of mining operations under their jurisdiction. Follow up action on suspected false entries could be made by ATF. ATF regulations impose penalties for false entries into these records.

*Question.* You previously stated that in Fiscal 1975 MESA made approximately 7,200 inspections of explosive storage facilities. As a ballpark figure, would this work out to one inspection per mine per year, or several inspections per year, or what?

*Answer.* First we wish to correct the figure of 7,200 inspections made by MESA to approximately 10,000.

The Coal Mine Division conducts quarterly inspections of all mining operations under their jurisdiction. Some mines use no explosives in their operations.

The Metal and Nonmetal Division conducts inspections of all mines and quarries under their jurisdiction at least annually. Underground mines are inspected more frequently, up to three times a year.

*Question.* How many thefts or mysterious losses of explosives has MESA reported to ATF on a year-by-year basis over the past five years?

*Answer.* The responsibility for reporting a theft or loss is a licensee/permittee requirement under Federal law. However, MESA is involved in ATF's theft re-

porting and education program and distributes Industry Circulars, poster, forms and other information to mine and quarry operators under their jurisdiction.

If MESA is apprised of a theft or loss by a mine operator, the operator is advised to notify ATF promptly. MESA district managers and ATF regional supervisory personnel have worked out a system of communications which appear to be operating satisfactorily. ATF keeps statistics only on the total reports of thefts or losses. No actual figures of theft reports which MESA may have reported to ATF have been compiled.

*Question.* How many instances of noncompliance has it reported for the same period of time?

Answer. Copies of their compliance inspections are forwarded to each ATF regional office for review and corrective action if required. These reports are then put in the respective licensee or permittee file.

Based on information received from Metal and Nonmetal Division of MESA, 558 reports of noncompliance were reported during 1975. Follow-up inspections were conducted by MESA to insure that corrective actions had been taken. We do not have information for prior years relating to instances of reported noncompliance.

*Question.* Does MESA make reports to ATF on its inspections, especially on those inspections which result in critical findings?

Answer. A report of each explosives inspection by MESA is furnished to the ATF regional office.

*Question.* Does MESA make any follow-up to insure that the faults it finds are corrected?

Answer. Yes, MESA has a recall program. This is a re-inspection of the facility to insure that appropriate corrective action has been taken. A copy of the recall inspection report is furnished to ATF regional offices as well as the report of the inspection that first disclosed the violation.

*Question.* As a result of the findings of MESA inspectors, have any civil or criminal charges been brought against companies, and have any fines been imposed, or have any licenses been revoked or suspended?

Answer. As a result of MESA inspection and their recommendation, license/permit applications have been denied. For example during 1975, MESA recommended that eight applicants not be issued a permit because the applicant did not have adequate storage magazines. Subsequent visits to five of these applicant premises disclosed adequate storage magazines had been prepared and MESA inspectors recommended issuance of permit.

We find that licensees/permittees take prompt corrective action to comply with regulations when violations are called to their attention. No licenses or permits have been revoked as a result of findings by MESA inspectors. ATF does not have authority to suspend licenses.

*Question.* We would like to have your comments on several paragraphs dealing with commerce in explosives taken from Part 181 of Title 26 of the Code of Federal Regulations. Section 181.127 reads:

"In taking the inventory required by (stated subsections) the inventory shall be entered in a record of daily transactions to be maintained at each magazine of an approved storage facility. At the close of business of each day each licensee and permittee shall record by class of explosive materials, as prescribed in the explosives list, the total quantity received in and removed from each magazine during the day and the total remaining on hand at the end of the day. Any discrepancy which might indicate a theft or loss of explosive materials shall be reported in accordance with the provisions (as required)."

However, when you go back to the wording of Sections 181.122 through 181.125, it becomes obvious that the inventory they are talking about is *not a daily physical inventory*. All of these sections state that an inventory shall be taken, I quote:

"As of February 12, 1971, or at the time of commencing business subsequent thereto, which shall be the effective date of the license issued . . . ; at the time of changing the location of premises to another region; at the time of discontinuing business, and at such other times as the Assistant Regional Commissioner may in writing require."

This appears to mean that the inventory called for under Section 181.127 is simply a bookkeeping inventory—that all they do is add to the book inventory for the previous day the quantity of explosives received and the quantity issued during the course of the day. *Wouldn't you agree that such a book inventory is not sufficient, that there has to be a physical inventory?*

Answer. We feel that requiring a daily physical inventory of all explosive materials on hand would amount to an unreasonable burden on the licensee or permittee. Particularly for the licensee or permittee handling large quantities of explosive materials, we feel that the time and manpower, and therefore money, needed to conduct such an inventory would outweigh the advantages. As expressed in the introductory language to Title XI, it is not the purpose of the law to impose any undue or unnecessary requirements other than those reasonably necessary to carry out the provisions of Title XI.

The daily inventories prescribed by Section 181.127, seem to be adequate for pointing out discrepancies which may indicate a theft or loss of explosive materials. Complete physical inventories are required to be taken at the time of commencing business, which shall be the effective date of the license issued upon original qualification under our regulations; at the time of changing the location of the premises to another ATF region; at the time of discontinuing business; and at such other times as the regional director may in writing require. In addition, during routine compliance inspections, ATF inspectors check the explosives on hand with the licensee's or permittee's records to verify that records are being properly maintained and that the explosives recorded are actually in inventory.

*Question.* If this is so, wouldn't this almost render meaningless a requirement that licensees or permittees report theft or loss of explosives within 24 hours of discovery? It might take them months or more to discover a theft or loss—or, more probably, they wouldn't discover it at all?

Answer. Regulations require that magazines be checked at least every 3 days to insure that the explosives are intact and that there has been no unauthorized entry into the magazine. For the most part, a theft or loss is discovered when a forced entry into the magazine has been made. Thus, the statutory requirement in Title XI that thefts or losses of explosives be reported within 24 hours of discovery is not a meaningless requirement. The thefts or losses that are not discovered are mainly internal. Explosives stolen by employees can remain undetected, since the required records of disposition can be adjusted to conceal the theft and even a physical inventory would not reveal any discrepancy.

*Question.* Circumstances will obviously vary from one installation to another—but wouldn't it be reasonable to require that manufacturers, distributors and industrial users conduct physical inventories at specified intervals? A manufacturer obviously could not be required to conduct a daily inventory—in this case it might be once a week or once a month. But it does seem that the mines, which use the bulk of explosives produced in our country, and which generally work with limited quantities in their storerooms, could be required to conduct daily inventories without imposing any undue economic hardship on them?

Answer. As discussed in the previous two questions, we feel it would be unreasonable to require explosives licensees and permittees to conduct frequent physical inventories. In the case of mines, large quantities of explosives are used, but generally operations are planned so that only those limited quantities required for one or two days' blasting are stored on hand. Although frequent inventories under such conditions might possibly be conducted with less of a hardship, there would be little purpose, since all the explosives on hand would be used during the one or two days and no explosives would remain to be accounted for. Also, the Mining Enforcement and Safety Administration (MESA) performs inspections of the storage and use of explosives at coal mines quarterly and at metal and non-metal quarries and mines annually.

*Question.* Section 181.126 of Title 27 of the Code of Federal Regulations says that a licensee or permittee cannot distribute explosives to a non-licensee or non-permittee unless he records the transaction on a Form 4710. The Section said that a copy of the Form 4710 is to be retained by the licensee and another copy sent to ATF. Each Form 4710 is required to be maintained in numerical order commencing with number 1. When the number reaches one million, an alphabetical prefix or suffix can be affixed. A few questions about this procedure—

(a) Form 4710 says that explosive materials shall not be distributed to any company unless the order or requisition is signed by a person whose name appears on the certified list provided by this company, in accordance with regulations. In accepting and filing Forms 4710, is the seller required to make any check of the signature affixed to the 4710 against the signatures certified as being authorized to acquire explosive materials on behalf of their companies?

Answer. No. The certified list of representatives or agents authorized to acquire explosive materials must contain the name, address, and date and place of birth of each representative or agent; signatures of these individuals are not required by the regulations. When a person whose name appears on the certified list pur-

chases explosives on behalf of the company who provided the list, that person must present proper identification to the distributor and execute Form 4710. An employee not on the certified list may accept custody of explosives for the distributee, if the distributee has executed Form 4710 and the employee identifies himself and executes Form 4721, Explosives Delivery Record, at the time he receives the explosives at the distributor's premises. In all cases, the distributor is required to verify the identity of the person acquiring the explosives.

*Question (b).* Are Forms 4710 maintained by each regional ATF office? Or is some provision made for centralizing the copies of all Forms 4710 filed with regional ATF offices?

Answer. ATF Forms 4710 are not maintained in ATF regional offices. These forms, which are copies of originals maintained by the licensee or permittee, are distributed by the regional office to the appropriate district office. The district office then forwards the Form 4710 to the appropriate post of duty where it is retained until it is no longer needed for investigative purposes. The form is then destroyed.

*Question (c).* In view of the tremendous quantity of Forms 4710 filed with ATF regional offices, wouldn't it be essential to computerize this information if the records are to be used in a meaningful way?

Answer. At present, we screen the names of purchasers for criminal record name checks through Federal, state and local law enforcement files. We also screen for unusual quantities and types of explosives being bought for the stated purposes. We have not computerized this information for two reasons: (1) Our current ADP capability is inadequate; (2) The propriety of maintaining computerized files on large numbers of legal purchasers of explosives is questionable.

*Question.* If an explosive materials business is discounted and there is no successor, the only requirement under Title 26 appears to be to deliver all required records to appropriate authorities within 30 days. What followup, if any, is made to determine the authenticity of these records and to verify that any explosives on hand when the business was discontinued, were properly disposed of?

Answer. As of now, the only requirement is delivery of the records to the appropriate regional director. However, we are studying the possibility of conducting final inspections, where the discontinuance of the business is absolute, to determine the accuracy and completeness of the records. In addition, Forms 4710 would be spot checked for proper execution and disposition, and any unusual or suspicious explosives sales, in terms of numbers or types of explosives, would be further investigated. Also, the proper disposition of all explosives on hand at the time the business was discontinued would be verified.

*Question.* As you pointed out in your testimony, storage facilities are required to be inspected at intervals not greater than 3 days in order to determine unauthorized entry, attempted entry, removal, etc. What records are required to show that this requirement is met?

Answer. There are no recordkeeping requirements which would verify that storage facilities are being inspected at intervals not greater than three days. We previously considered imposing such a requirement; however, several difficulties were brought to light.

First of all, Title XI, Section 842(F), authorized the Secretary to acquire recordkeeping by regulation. However, such records are in connection with the manufacture, importation, purchase, distribution or receipt of explosive materials. ATF's legal authority to require the keeping of records relating to a function not involving any distribution or transaction activity, such as the inspection of a storage facility, is, therefore, questionable.

Secondly, while our statutory authority with respect to the storage of explosive materials applies to "any person", we do not have legal authority to require records to be kept by anyone other than a licensee or permittee. Thus, while the requirement to inspect storage facilities applies to "any person storing explosive materials," any recordkeeping requirement in this regard would only apply to licensees and permittees. Many explosives users in this country do not possess either a license or a permit since they obtain their explosives intrastate.

Finally, even if records were required to be maintained, there would still be a question, in many cases, as to whether the entries (and inspections) were actually made on the dates indicated. Thus, we feel that the extent of increased compliance with the inspection requirement that would result from the implementation of such a recordkeeping provision would probably be minimal.

*Question.* Your testimony indicated that a non-licensee or non-permittee is permitted to buy almost unlimited—at least very large—quantities of explosives by filling out a Form 4710. You also indicated that there would be nothing to prevent a person, using a series of 4710's, apparently either genuine or fraudulent, from making a number of fairly large purchases of explosives. At another point, you said that copies of the Form 4710 are forwarded to ATF and that by this means you would be able to determine if there were suspicious sales of explosives. Are the Forms 4710 subjected to a prompt and regular scrutiny? Has ATF, in fact, ordered investigations on the basis of Forms 4710 indicating the sale of any suspicious quantities of explosives?

*Answer.* Yes. ATF Forms 4710 which are received in the regional and district offices are handled in an expeditious manner to ensure that the information on the form will be timely when received by the resident agent in charge at the post of duty. The Bureau requires that the resident agents in charge promptly review the Form 4710 for any irregularities and initiate such action or investigation as may be indicated. Special agents of the Bureau have initiated numerous investigations as a direct result of a review of the Form 4710.

*Question.* You suggested that you could, by regulation, impose some kind of notice on the licensee when a purchase was more than a certain amount of dynamite, for example, 100 pounds. 100 pounds of dynamite is an awful lot of dynamite; it could kill a lot of people. Would it not be in the public interest to require that anyone purchasing a substantial quantity of dynamite—say 25 pounds or more—even on a one-time basis, be required to obtain a permit rather than simply filling out a Form 4710?

*Answer.* Of course, any such requirement would necessitate an amendment to Title XI. Presently, permits are required only for those users who acquire, transport, or ship explosive materials in interstate or foreign commerce. In our opinion, the proposal would be impractical from a law enforcement standpoint since legitimate users would obtain the permit to purchase 25 pounds or more of explosive materials but persons other than law-abiding citizens could easily circumvent the permit requirement by obtaining smaller quantities from several sources. Thus, the proposal would needlessly burden legitimate users.

*Question.* In your testimony, you said that you "would have to admit that we are doing far from the job we feel is adequate in terms of the 4710's, in following up on the purchaser to determine if he is storing those explosives in a safe manner, or if he is using them for the stated purpose when he purchased them." Would you be prepared to suggest any regulations, or operational improvements, or amendments to existing legislation, which would enable you to do an adequate job in following up on purchasers?

*Answer.* We do not feel that additional legislation or regulations are needed in this area. The problem is that ATF does not have the resources to follow up on all purchasers of explosives to ensure that the explosives are stored in a safe manner and used for the purpose for which they were purchased. We do investigate suspicious transactions, complaints and intelligence leads. In this regard we work closely with other Federal, State and local officials in both the Regulatory Enforcement and Criminal Enforcement areas. The explosives program is the number one priority of ATF.

*Question.* Do you believe that the effectiveness of ATF's general control over the manufacturer and distribution of explosives could be improved in any way by remedial legislation? Can you offer suggestions for any legislation that would strengthen ATF's control?

*Answer.* We feel that present regulatory control over the manufacture of explosive materials is adequate.

However, Section 845(a) of Title XI, exempts any aspect of the transportation of explosive materials via railroad, water, highway or air which are regulated by the United States Department of Transportation and agencies thereof. During the time explosive materials are in transit, or being distributed, ATF has no control or jurisdiction. We have learned of explosive materials being stolen from carriers or otherwise lost while in transit. This is an area where possible legislation may be promulgated to assure the safe and secure transportation of explosives and to report all known thefts.

The introduction of legislation to require a taggant to identify explosives in a post-blast situation, and the identification of permissive explosives, used in mines, plus a taggant for the detection of explosives, could be a Federal

requirement that would materially aid in the detection and identification of select explosives materials for public safety and security purposes.

It was suggested by IME and the International Society of Explosive Specialists during the explosive control hearing in 1970, that legislation require, training, testing, and licensing of all users of explosives.

## (6) THEFTS

*Question.* When you speak about "thefts," does this also include mysterious disappearances where there is no evidence of forced entry and no other hard evidence that a theft has actually occurred? In the nuclear industry they have a category of disappearances covered by the words "Missing—Unaccounted for." Does a similar category exist covering mysterious disappearances of explosives anywhere along the line? If it does exist, are licensees required to submit reports on all such disappearances as soon as they are discovered?

*Answer.* In ATF terminology the term "theft" does not include "mysterious disappearances" of explosives. Disappearances of explosives, mysterious or otherwise, are classified as losses and Federal regulations require the reporting of explosive losses by persons or licensee within 24 hours of discovery. To ensure the timely detection and report of such losses, a licensee is required to take a daily inventory of his stock.

*Question.* Are the thefts of explosives growing? Could you provide the Subcommittee with a breakdown for the past five years, covering the total quantity of the explosives lost or stolen, their value, their breakdown by class and type? Could you also let us know whether this breakdown indicates the existence of regional patterns, or whether the pattern appears pretty uniform nationwide?

*Answer.* ATF has been collecting and storing data in a retrievable form concerning thefts since 1972. Although the number of reports received have fluctuated during that period, the number reported in 1975 was the highest in the four year period.

1972	-----	248
1973	-----	211
1974	-----	223
1975	-----	273

Prior to 1975 it was more difficult to provide meaningful data depicting the quantity and type of stolen explosive materials. Since we amended our data collection procedures during 1975, more detailed and accurate information is available.

For the years 1972, 1973, and 1974 our figures are as follows :

Year	Number of thefts	Total pounds stolen		
		High <sup>1</sup>	Low <sup>1</sup>	Average <sup>1</sup>
1972	248	172,975	81,844	127,409
1973	211	128,752	58,715	93,733
1974	223	113,350	56,829	85,089
1975 <sup>2</sup>	58,000	111,700	90,000	7,500

<sup>1</sup> The ADP reporting system in use at that time, allowed for a variable range of pounds reported stolen.

<sup>2</sup> With our amended procedures, these are figures for the 1975.

*Question.* Have there been any thefts of explosives from military installations? If so, are the military required to report such thefts in the same manner as licensees? Could you provide the Subcommittee with the figures for the past five years for thefts from military installations?

*Answer.* The Army has reported a small amount of explosives stolen on several occasions. We have received no such reports of loss from the other branches of the Armed Forces. You are reminded that the military is exempt from the provisions of the law. Therefore, they are not required to report such thefts as are licensees, making it impossible to provide the amount of explosives stolen from military installations.

*Question.* You told the Subcommittee that licensees are required to report all thefts within a 24-hour period. Does this mean 24 hours from the time of discovery or 24 hours from the time of theft?

*Answer.* Section 842(k), Title XI, Chapter 40, Organized Crime Control Act of 1970 states: "It shall be unlawful for any person who has knowledge of the theft or loss of any explosive materials from his stock, to fail to report such theft or loss within twenty-four hours of discovery thereof, to the Secretary and to appropriate local authorities."

*Question.* Does it not sometimes happen that thefts are not discovered until some days after they have taken place? In a case like that, might there not be a disposition to overlook the theft in order to avoid the possibility of a charge that they had delayed excessively in reporting the theft, or that they had been lax in discovering it?

*Answer.* Although actual figures are not available, there have been many instances wherein thefts are not discovered until some days after they have taken place. Explosives storage facilities are, for safety reasons, often located in remote areas. These facilities may not be used or visited for several days, dependent upon business demands. Upon arrival at the storage facility an employee discovers that a breaking and entering has occurred and that explosives have been stolen. After the discovery the licensee or permittee usually reports the theft promptly.

It would be contrary to the best interest of the licensee or permittee to overlook the theft in order to avoid the possibility of a charge that they had delayed excessively in reporting the theft or that they had been lax in discovering it. To do so would place them in violation of Section 181.165, Title 26, C.F.R., which reads: "Any person who has knowledge of the theft or loss of any explosive materials from his stock and fails to report such theft or loss within 24 hours of discovery thereof in accordance with § 181.30, shall be fined not more than \$1,000 or imprisoned not more than 1 year, or both."

Therefore, it is unlikely that such a course of action would be pursued by licensees and permittees.

*Question.* In what segment of the explosives handling process have most of the thefts occurred—manufacturing, distribution, transportation, or use? Could you provide any estimate of how thefts break down between the four basic sectors in the explosives handling process?

*Answer.* From a review of the types of incidents reported to ATF, thefts occur most frequently at the distribution and user level and are less common during the manufacturing and transportation process. It should be emphasized that thefts occurring during transportation are not required to be reported to ATF.

*Question.* Could you provide us with an outline of the various programs—educational, regulatory, inspectional, etc.—that ATF employs to deter the theft of explosives?

*Answer:* ATF's educational, regulatory and inspectional programs, as they relate to stolen and lost explosives, have two main objectives; (1) to aid in deterring thefts, and (2) to maximize prompt reporting of explosives thefts and losses.

In regard to the first objective, applicants for explosives licenses and permits are required to describe in detail on their applications the construction materials used in their storage facilities and security measures taken to protect the explosives stored therein, including physical safeguards, locks, and anti-theft measures. The inspector or special agent uses this information, coupled with the on-site inspection, to determine whether or not the facilities are in compliance with Federal requirements. ATF Industry Circular 75-10, of September 22, 1975, amplifies upon the requirements for physical description of facilities provided by applicants on their application forms. During subsequent compliance inspections the inspector or special agent checks to assure that the required security measures are in force. ATF is, of course, available at any time to offer technical assistance to licensees and permittees having inquiries or problems relating to the security of their facilities.

*Question.* Does ATF investigate each and every report of theft, loss, or unexplained disappearance?

*Answer.* Every theft, loss, or unexplained disappearance which comes to our attention through the mandatory reports from licensees is assigned for investigation and is investigated.

*Question.* How are the investigations of thefts of explosives handled? On a national basis, regional, or district basis? Are records of all such investigations centralized?

Answer. Regulations imposed on licensees require them to report thefts to their applicable regional director. The regional director, in turn, refers the theft to the district office wherein the licensee is located. At this point the appropriate post of duty is assigned the investigation. When a special agent acquires an investigation number, it is coded in such a way as to retrieve that and all similar investigations from our computer bank. So, therefore, records of investigations are centralized.

*Question.* Hijacking and cargo thefts are major national phenomena, representing \$1.5 billion per year. One billion dollars of this figure is attributable to the trucking industry; 85 percent of non-rail thefts occur at terminals during normal working hours, and involve employees or personnel of carriers, shippers, and/or receivers authorized to be on the facility. In case of the trucking of explosives, are hijacking and cargo thefts also critical problems?

Answer. The law, Title XI, does not address itself to the transportation industry. Therefore, the trucking industry is not required to report thefts or losses to ATF. Consequently, we do not have statistics in this area. However, our investigations of explosives incidents, which include the tracing of explosives, have not revealed a significant problem in this area.

We have reviewed reports and statistics with DOT and found that in no case did explosives appear as a major commodity involved in hijacking and cargo thefts. However, the statistics maintained by DOT are based on economic reports and do not identify explosives except as a general commodity. Since a few dollars worth of explosives are sufficient to cause death, injury, and thousands of dollars of property damage, we have continued to meet with DOT to determine the most practical method of requiring thefts or losses of explosives while in transportation to be reported to ATF. Currently 18 U.S.C., Chapter 40 and the implementing regulations in 27 CFR exempts from regulations "any aspect of the transportation of explosives via railroad, water, highway, or air which are regulated by the United States Department of Transportation." Legislation may be required in this area.

*Question.* Have there been instances of fraudulent pickup of explosives, and/or fraudulent delivery?

Answer. Our field offices report a total of 25 instances of fraudulent pickup and/or delivery of explosives. These fraudulent pickup and/or deliveries are categorized as follows:

Fraudulent license and/or permit.....	5
Incorrect information on Form 4710.....	5
Fraudulent identification by purchaser.....	3
Fraudulent bookkeeping by distributor or others.....	3
Interstate sale to nonlicensee.....	3
Resale by nonlicensee or permittee.....	2
Sales to undercover special agent.....	2
Employee stole explosive and sold same out of state.....	1
Unlawful manufacture and sale.....	1

*Question.* Have investigations shown many instances of collusion or collaboration between employees and others relating to explosives thefts.

Answer. Investigations have revealed 86 instances of collusion or collaboration between employees and others relating to explosives thefts.

*Question.* Studies indicate that 75 percent of hijacked cargo passes through organized crime hands. What is known of the involvement of organized crime on the flow of illicit explosives? Is it a major activity on the part of organized crime, or is it a fringe operation?

Answer. Investigations conducted by ATF since 1970 indicate that elements of organized crime have frequently been the users of illicit explosives, primarily in labor and racketeering related incidents, however, there have been no indications that explosives are a major part of organized crime's hijacking operations.

Explosive materials, because of their general availability and inexpensive nature, have not in the past been conducive to large scale cargo hijacking and black market activities.

#### (7) BOMBING

*Question.* You said in your statement that your Bureau has joint responsibility with the FBI, for enforcing six of the sections of Title XI of the Organized Crime Control Act of 1970, dealing with the use of explosives for criminal purposes. Doesn't this divided—or joint responsibility sometimes make for confusion? Haven't there been instances where both agencies claimed jurisdiction? Wouldn't

there be an advantage to having one agency dealing with all the bombings, terrorist and criminal? At least this would result in a centralization of intelligence files dealing with terrorist bombings.

Answer. Both the Bureau of Alcohol, Tobacco and Firearms and the FBI recognized, upon passage of Title XI of the Organized Crime Control Act of 1970, that the joint ATF/FBI responsibility imposed by the act over the six violation areas of Section 844 could occasion some confusion and/or duplication of effort at the field level in responding to bombing incidents. Accordingly, officials of the Department of the Treasury and the Department of Justice met, just subsequent to the passage of the act, for the purpose of executing mutually acceptable jurisdictional guidelines relating to these sections of the law. These guidelines went into effect on May 11, 1971; they were renegotiated in early 1973 primarily for the purpose of further clarification. Under these existing guidelines, jurisdiction can—in most instances—be readily determined at the field level. In those relatively few instances where jurisdiction is not clear cut under the guidelines, a “mediator” service have been instituted in the Department of Justice General Crimes Division which, telephonically, assigns jurisdiction in questionable cases. In adhering to these guidelines, jurisdictional problems have been minimal.

As a matter of interest in this same vein, we have executed a similar jurisdictional agreement with the United States Postal Service with relation to bomb and explosive incidents involving the mails or postal property.

There have been instances where both agencies claimed jurisdiction and, realistically, we anticipate such instances will continue to occur. This was, of course, the very purpose for the institution of the General Crimes “mediation” service. When such instances do occur, the question of jurisdiction is most generally raised subsequent to the on-scene response.

For example, a bomb may detonate at a privately owned place of business; both ATF and FBI special agents may respond and agree, at the scene, that ATF had jurisdiction. Subsequent to this, and after ATF has conducted the blast scene search and submitted potential evidence to the ATF laboratory, a communique may be distributed by a terrorist/revolutionary group claiming credit for the bombing. In such instances the function of the “mediator” is to weigh the FBI jurisdiction over terrorist/revolutionary activities against the fact that ATF is already well into the investigation and has collected, is analyzing, and has established a chain of custody of potential evidence. In such instances ATF adheres to the decision of the mediator as to jurisdiction.

In our opinion there would not necessarily be an advantage to having one agency dealing with all bombings, terrorist and criminal. We take this position for several reasons:

1. As you are no doubt aware, a bombing investigation is extremely time consuming and difficult. It is not at all unusual to have a team of 20 special agents working at the blast site for two or three days just searching for evidence. With the increasing number of bombing incidents we are experiencing it may well be advantageous to have the manpower availability of several agencies to conduct the investigations.

2. Cooperative liaison between ATF and FBI creates no problem. Whenever one of these agencies—either formally or informally—requests assistance from the other in a bombing situation, such assistance is timely and adequately afforded.

3. There is ample precedent for overlapping jurisdictions: ATF/Customs as to certain firearms violations involving border traffic; Customs/DEA as to various drug related offenses; ATF/FBI as to wagering operations. In these areas overlapping jurisdictions do not necessarily entail problems.

4. As to the centralization of intelligence files, again, we have experienced no investigative problems in this area. The free interchange of information between ATF and the FBI in bombing investigations is a historic fact, and these files need not, in my opinion, be consolidated to afford maximal investigative effectiveness.

*Question.* In each instance where an explosion occurs, is it part of ATF's jurisdiction to determine the source of the explosive material? How successful has ATF been in determining the sources?

Answer. Determining the source of an explosive material is within ATF's jurisdiction and is an investigative tool fully utilized in all ATF bombing investigations. We are also called upon to trace explosive material for other law enforcement agencies during the course of bombing investigations within their jurisdiction.

In order to trace the explosive material used in a bombing it must first be identified by laboratory analysis. ATF laboratory experts are able to identify the explosive material in about 50% of the cases submitted. At the present time ATF is only able to trace the explosives recovered in pre-detonation scenes or where an explosion has not entirely destroyed the date-shift code or other manufacturer's identification. In such instances we have been about 90% successful in identifying the sources of explosives materials. Unsuccessful traces for the most part involve detonating cord and blasting caps, both electric and non-electric, which are recovered after being removed from their original containers and lack sufficient identification for tracing.

The initiation of our explosive tagging program should enable ATF to determine the source of all explosives or explosives residue which has been recovered and undergone explosives tagging.

*Question.* How many of the explosions which have occurred in the past five years are directly related to the activities of political terrorists? How many have had a simple criminal motivation?

Answer. ATF has not collected this kind of data for the period requested. However, quoting from the FBI Uniform Crime reports, the below information is available.

	1972	1973	1974	1975
Political/terrorists.....	273	156	146	186
Criminal.....	1,539	1,617	1,764	1,664
Unknown.....	120	139	90	130

<sup>1</sup> 1st year statistics were gathered.

Included in the Political/Terrorists figures above the following categories: anti-establishment, extremist, foreign political, political, and anti-war.

Included in the Criminal figures above are the following categories: civil rights, labor disputes, monetary gain, personal animosity, malicious destruction, racketeering, and anti-religious.

*Question.* You stated in your testimony that explosives come in many configurations—dynamite, black powder, ammonium nitrate, fuel oil mixtures, plastic, water gels and so on. If I understood your testimony correctly, dynamite was by far the most common explosive used for criminal and terrorist purposes, but black powder and plastic also play a role in such attacks. Would it be possible to provide the Subcommittee with a breakdown of the type of explosives used in criminal and terrorist bombings in recent years?

Answer. For the most recent period that data is available, April 1, 1975, through March 31, 1976, the following information is provided:

During the reporting period there were 654 bombing incidents reported. There were also 185 non-detonation incidents reported where the explosive material was recovered.

Of the 654 bombing incidents, we were able to positively identify dynamite as being the explosive material in 137 cases. Taking into consideration that we are unable to determine the explosive material used in approximately 50 percent of the bombing incidents, this is a large percentage of the identifiable bombings. Further, of the 185 bombs that did not detonate, dynamite was the explosive material in 59 cases.

These figures are based upon incidents investigated by ATF and do not include those incidents investigated by other agencies. ATF is not charged with investigating terrorists bombings, therefore, separate statistics are not available.

*Question.* What are the penalty ranges for bombings involving property damage, personal injury, and/or the threat to cause an explosion to occur?

Answer. In the case of property damage, the penalties prescribed are fines of not more than \$10,000 or imprisonment for not more than ten years, or both. For personal injuries, the penalties are fines of not more than \$20,000 or imprisonment for not more than twenty years, or both. If death results from such bombings, the prescribed penalties are any term of years, life imprisonment, or death. Bomb threats are punishable by fines of not more than \$5,000 or imprisonment for not more than five years, or both (see 18 U.S.C. § 844).

*Question.* You said in your testimony that the bulk of explosives used in bombing, other than black and smokeless powder, is stolen. Would you be able to give

us any kind of estimate of what percentage of all terrorist bombings, criminal and political, involves stolen explosives; what percentage of the bombs involve black and smokeless powder—and what percentage involves homemade explosives?

Answer. We assume that you include all bombings or criminal use of explosives in your term "terrorist bombings." In our testimony, we expressed our conviction that the bulk of explosives used in bombings, other than black or smokeless powder, was stolen. We base this conviction on the fact that in approximately 25% of the bombing cases investigated in 1975, where the explosives were identified, we were able to establish that the explosive had been stolen. Further, our sample follow up on purchases of explosives by licensees, permittees, and individuals purchasing explosives on Form 4710 indicate that only in isolated cases were explosives used for other than lawful purposes.

The percentage of smokeless powder and black powder used in bomb incidents as reported in the National Bomb Data Center Technical Digest for 1974 and the first half of 1975 indicate that black powder was identified in 23% of the incidents and smokeless powder was identified in 25% of the incidents where the type of explosives was determined. There are no available statistics on the use of homemade explosives in bombs.

# APPENDIX

EXHIBIT NO. 1

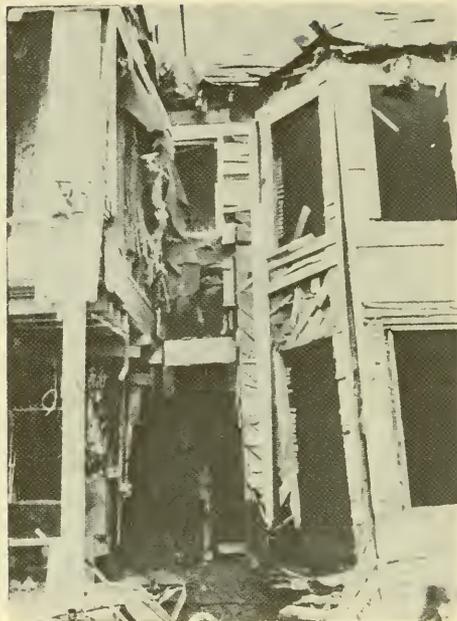
(Referred to on p. 17)

The following photographs are scenes of a bombing which occurred in McLean, Virginia.

(67)







[From the Washington Post, Nov. 29, 1974]

5 ESCAPE AS BOMB RIPS \$200,000 MCLEAN HOME

(By Ron Taylor and Margot Hornblower)

Federal and Fairfax County police investigators are seeking to talk to business and personal associates of builder William F. Banks following a pre-dawn blast that ripped through his \$200,000 McLean home yesterday.

Moments before the explosion, in which no one was injured, a phone call was received by Banks' brother, Robert, who lives in Bethesda. He said the anonymous caller told him: "There is a bomb in your brother's house", and then hung up. It was 5:15 a.m., Banks said yesterday.

Robert Banks called his brother's house at 753 Chain Bridge Rd., where the telephone rang but was not answered. Police said the explosion occurred at 5:17 a.m.

The blast, described by police as being caused by a paraffin explosive device, occurred under a corner of the second floor bedroom where Banks and his wife were sleeping.

A spokesman for the U.S. Alcohol, Tobacco and Firearms Bureau said there is "no doubt about it being a bomb. To do as much damage as it did, it looks like it might be a dynamite bomb," said W. H. McConnell of the bureau.

It could be heard as far away as Cleveland Park in Northwest Washington, and it sheared away most of the northern face of the two-story, century-old refurbished farmhouse, shattered the building's windows and tossed debris nearly 100 yards from the house.

The direction of the blast—outward and away from the house instead of into the bulk of the structure—may have saved the lives of the Banks family, said police and U.S. Treasury agents at the scene.

Agents from the Treasury Department's alcohol, firearms and tobacco division scoured the debris for evidence while county police investigators and FBI agents collected the names of Banks' personal and business associates. Banks is president of the prominent Banks and Lee, Inc. building firm.

Banks said yesterday that he could not single out who may have planted a bomb or why. But police investigators said yesterday they have singled out three names from the several given them by the family, and suspect either a personal vendetta or reprisal over a disputed business arrangement.

Robert Banks said a threat was made on his brother's life and that an attempt was made to firebomb his home at the beginning of October, and police said that incident was being re-examined in the wake of the Thanksgiving Day explosion.

The federal agents were brought into the investigation because one agent said, "of possible federal violations." He noted that "the crimes we're interested in include interstate transportation of explosives and extortion." A spokesman for the FBI in Alexandria said, "There is an allegation of extortion and the matter is under investigation."

Neither Banks nor his brother would elaborate on the threats but Robert Banks said that they stemmed from "normal disagreements. I don't know if they (the threats) are anything different from what happens in other businesses."

Robert Banks said that after he received the telephoned tip that a bomb was planted he got out of bed to look for his brother's telephone number and dialed.

"I tried to reach my brother but I didn't get an answer. It was ringing on my end but I don't know whether his phone was out of order or not," he said.

He then called Montgomery and Fairfax police, he said. His home in Bethesda later was searched for a bomb but police found nothing.

He said that the family's business, of which he is vice president, was founded by their father, William S. Banks, 37 years ago. The firm's activities have included apartment and home construction throughout the area. The firm is now working on Oak Crest Towers in Prince George's County and built The Hamlets apartments in Alexandria.

Robert Banks added that he and his brother ruled out the possibility of a link between the explosion and a disgruntled former employee. "We have no suspicions of that. We just don't have any reason to think that," he said.

He said that he reached his brother after the family evacuated the house and had been taken in by the home of George McCay next door.

McCay and his wife, Evelyn, were asleep on the enclosed sun porch of their home at the time of the blast. McCay said he did not hear the explosion but Mrs. McCay said that when the blast occurred she slipped her shoes on, grabbed a flashlight, and went looking for the Banks family.

The explosion shattered three of the windows in the McCay house and caused the door locks to buckle.

The blast ripped out the first frame of the well-appointed old farmhouse.

It occurred near a first floor utility room located directly under the bedroom where William and Linda Banks were sleeping.

The force of the blast collapsed the floor of the bedroom closet, and on the front of the house what was left of the plate glass windows yawned out toward the underbrush that faces the house.

The children were asleep at the time in a bedroom on the southwest corner of the three-bedroom house. They were separated from their parents by another bedroom, a playroom and the staircase that the family eventually used to leave the second floor of the house.

The driveway leading from Chain Bridge Road to the garage on the property was littered with shards of glass and splinters.

Pieces of wood, ranging in size from slender slats to ragged chunks from the roof, landed on the McCay's driveway, front lawn and property 150 yards away.

From outside the house, the handsome refurbishing job on the interior could be seen. Banks said the house is valued at \$200,000.

The rolling backyard of the Banks home overlooks the George Washington Parkway. Their neighborhood residents include Sen. Edward Kennedy (D-Mass.) and Washington Redskins head coach George Allen.

Police said the blast was believed to be the first of its kind to occur in Fairfax.

## EXHIBIT No. 2

[Referred to on p. 17]

## STATE EXPLOSIVES CONTROL

State	Enforcement responsibility <sup>1</sup>	State explosive license or permit	Application inspection program	Compliance inspection program
	(1)	(2)	(3)	(4)
Alabama	FM	No	No	No.
Alaska	OSHA	Yes	No	(?)
Arizona	FM and M	No	No	Mines only.
Arkansas	FM and PD	Yes <sup>2</sup>	No	No.
California	FM, PD and PS	Yes (local)	Some	(?)
Colorado	L and M	Yes	Yes	Yes.
Connecticut	PD and PS	Yes	Yes <sup>2</sup>	(?)
Delaware	FM	Yes	Yes	Yes.
Washington, D.C.	FM	Yes	Yes	Yes.
Florida	Other	Yes	Yes	Yes. <sup>2</sup>
Georgia	FM	Yes	No	No.
Hawaii	PS	Yes	Yes	Yes.
Idaho	L	No	No	No. <sup>2</sup>
Illinois	FM and M	Yes	Yes	Yes.
Indiana	FM	Yes	Yes	(?)
Iowa	PS	Yes	Yes	Yes.
Kansas	FM	No	No	No.
Kentucky	M	Yes	No	(?)
Louisiana	PS	Yes	Yes	Yes.
Maine	FM	Yes	Yes	Yes.
Maryland	FM	Yes	Yes	Yes.
Massachusetts	FM	Yes (local)	Yes	Yes.
Michigan	FM	Yes	Yes	(?)
Minnesota	PD	Yes	Yes	Yes.
Mississippi	FM	No	No	No.
Missouri	PS	Yes (local)	No	No.
Montana	FM	No	No	No.
Nebraska	FM	Yes	Yes	Yes.
Nevada	OSHA and M	Yes	Yes	Yes.
New Hampshire	FM	Yes (local)	No	No.
New Jersey	Other	Yes	Yes	Yes.
New Mexico	Other	No	No	No.
New York	L	Yes	Yes	Yes.
North Carolina	L	Yes (local)	No	No.
North Dakota	FM and M	No	No	No.
Ohio	Other	Yes	Yes	Yes.
Oklahoma	FM	No	No	(?)
Oregon	FM	Yes	Yes	Yes.
Pennsylvania	Other and M	Yes	Yes	Yes.
Puerto Rico	PD	Yes	Yes	Yes.
Rhode Island	FM	Yes	Yes	Yes.
South Carolina	PD	No	No	No.
South Dakota	FM	No	No	Yes.
Tennessee	Other	Yes	No	Yes. <sup>2</sup>
Texas	FM	No	No	No.
Utah	OSHA	No	No	No.
Vermont	PS	Yes	No	No.
Virginia	Other	Yes	Yes	Yes.
Washington	PS and M	Yes	Yes	Yes.
West Virginia	FM	Yes	No	No.
Wisconsin	M and L	Yes	No	(?)
Wyoming	FM	No	No	No.

<sup>1</sup> Key to symbols:

FM—Fire Marshal or Fire Protection Division.

PD—Branch or Division of Police Department.

PS—Division or Department of Public Safety.

L—Department of Labor.

OSHA—Occupational Safety and Health Administration.

M—Bureau of Mines or Mine Inspector.

<sup>2</sup> Infrequently or in response to complaints only.<sup>3</sup> Not being implemented.

## EXHIBIT No. 3

[Referred to on p. 42]

INVESTIGATIVE GUIDELINES, TITLE XI, ORGANIZED CRIME CONTROL ACT OF 1970—  
REGULATION OF EXPLOSIVES*1. General*

Title XI of the captioned law amends Title 18, United States Code, by adding a new chapter 40 with section numbers 841 through 848 governing the importation, manufacture, distribution and storage of explosive materials and creating certain Federal offenses pertaining to the unlawful use of explosives. Administration of explosives regulation is vested in the Secretary of the Treasury as is investigative jurisdiction over the unlawful acts proscribed in section 842. Under authority contained in section 846 the Federal Bureau of Investigation (FBI) and the Bureau of Alcohol, Tobacco and Firearms (ATF) have concurrent investigative jurisdiction as to the remainder of chapter 40, i.e., the unlawful acts proscribed in subsection (d), (c), (f), (g), (h) and (i) of section 844. Although not specified in chapter 40, the Postal Inspection Service shall have jurisdiction to investigate all incidents involving explosive or incendiary devices sent through the mails or directed against U.S. Postal Service property.

Title XI greatly broadens Federal authority pertaining to explosives-connected offenses. At the same time, Congress has expressly disclaimed any intent to occupy the field to the exclusion of state law on the same subject matter. To effect both Congressional purposes and to prevent unnecessary duplication of effort it is essential that the limited Federal investigative resources be carefully allocated, particularly in cases in which both the ATF and the FBI have jurisdiction.

*2. Federal Bureau of Investigation (FBI) Jurisdiction in General*

(a) *Effect on prior jurisdiction.*—This agreement applies only to those incidents as to which the FBI had no investigative jurisdiction prior to the enactment of the captioned law and to incidents previously subject to FBI investigation by reason of chapter 65, Title 18, United States Code (malicious mischief). Investigative procedures in other types of incidents (e.g., train wrecking, damaging aircraft and motor vehicles, racketeering) shall remain unchanged.

(b) *Primary jurisdiction.*—Subject to the provision hereof, the FBI will exercise primary jurisdiction over all alleged violations of section 844 which are directed at foreign diplomatic facilities or at activities, such as transportation and tourist offices, operating under the aegis of a foreign government although not in a diplomatic status, over all alleged violations of subsections 844(d) through (i) which are perpetrated by terrorist/revolutionary groups or individuals and all other violations of subsection 844(e) through (g) which are *not* directed at Treasury Department or Postal Service building or functions.

*(c) Type of investigation to be conducted*

(1) *Offenses perpetrated by terrorist/revolutionary groups or individuals.*—The FBI will immediately initiate a full investigation of all alleged violations of section 844 which appear at the outset to have been perpetrated by terrorist/revolutionary groups or individuals as defined in advance by the Internal Security Division of the Department of Justice. If ATF or the Postal Inspection Service has properly initiated investigations and information is subsequently developed indicating apparent involvement of terrorist/revolutionary groups or individuals, responsibility shall be relinquished to the FBI unless a determination is made by the Department of Justice that a transfer of responsibilities will unduly impair further investigative efforts.

(2) *Alleged offenses against Colleges and Universities.*—The FBI will immediately initiate a full investigation of any alleged violation of section 844 which involves the use or attempted use of explosive (as distinguished from incendiary) materials against the facilities of a college or university. Investigation of alleged violations involving use or attempted use of incendiary materials will be limited initially to the development of background information as prescribed in paragraph 6 below.

(3) *Alleged offenses directed against foreign diplomatic facilities and related activities.*—The FBI will immediately initiate a full investigation of all alleged violations of section 844 which are directed at foreign diplomatic facilities and related activities as described in paragraph 2(b) above.

(4) *All other alleged violations of subsection 844(f)—offenses involving use of explosives against United States property or federally financed organizations, and (g)—offenses involving possession of explosives in buildings owned, leased, used, etc., by the United States*—The FBI will immediately initiate a full investigation of all violations of subsection 844(g) over which it has primary jurisdiction hereunder, and those violations of 844(f) which are directed at federal property (e.g., a military facility) or a federal function (e.g., a Selective Service or ROTC facility). In other violations of 844(f) the FBI will develop and disseminate background information as indicated in paragraph 6 below.

### 3. Bureau of Alcohol, Tobacco and Firearms (ATF) Jurisdiction in General

(a) *Violations ancillary to firearms laws violations or violation of section 842*.—The Bureau of Alcohol, Tobacco and Firearms (ATF) of the Department of the Treasury will exercise investigative jurisdiction over violations of section 844 which are ancillary to its primary jurisdiction over the federal firearms laws or over section 842 of Title XI.

(b) *Violations of subsection 844(d)—interstate transportation of explosives with unlawful intent and subsection 844(i)—offenses against property used in or affecting commerce*.—Subject to paragraph 2b, above, the ATF will exercise primary investigative jurisdiction over violations of subsections 844(d) and (i) and will conduct a full investigation thereof unless notified by the Criminal Division that pursuant to paragraph 2(c) (1), above, the Department of Justice has requested FBI investigation in a particular matter.

(c) *Violations directed at Treasury Department property or functions*.—The ATF shall have primary jurisdiction to investigate all violations of section 844 which are directed at Treasury Department property or functions and will conduct a full investigation of such violations.

### 4. Postal Inspection Service Jurisdiction

The Postal Inspection Service shall have primary jurisdiction to investigate all violations of section 844 which are directed at U.S. Postal Service property or functions.

### 5. Special considerations

(a) *Bomb Threats, false information (section 844(e))*.—The ATF and the Postal Inspection Service shall have jurisdiction over violations of section 844(e) against Treasury Department or Postal Service property or functions, respectively. The FBI shall have jurisdiction over all other violations of section 844(e). Upon receipt of information alleging or suggesting a violation of subsection 844(e), the investigative agency concerned will review available information to determine whether the identity of the offender is known or can be readily ascertained and, if not, whether the evidence suggests a pattern or plan of such offenses by a particular offender or against a particular victim. If such a pattern appears or if the offender is identified, all available information will be disseminated as indicated in paragraph 6 below.

(b) *Use/carrying explosive in commission of a felony (section 844(h))*.—Violations of 844(h) should be handled as an adjunct of the felony from which they arise and should be discussed with the appropriate United States Attorney or Division of the Department handling prosecution of the underlying felony offense. The agency having jurisdiction over the underlying felony will have investigative jurisdiction over the 844(h) violation (e.g., bank robbery is under FBI jurisdiction).

(c) *Violations of 26 U.S.C. 5861 (destructive devices)*.—In incidents involving alleged violations of 18 U.S.C. 844 (which may also involve a violation of 26 U.S.C. 5861), ATF shall not exercise its primary jurisdiction under 26 U.S.C. 5861 involving destructive devices, but the incident shall be treated in accordance with the provisions of these guidelines. This is in no way a relinquishment by ATF of its investigative jurisdiction under Title II of the Gun Control Act of 1968.

#### *6. Development of background information*

Some incidents such as those directed against Federal property or functions (paragraph 2(b) above) require immediate full federal investigation. Others require a more circumspect approach and will result in full Federal investigation only after consideration of factors pertinent to the exercise of Federal jurisdiction. Accordingly, in those incidents which these guidelines do not prescribe immediate full investigation, the investigative agency having jurisdiction will develop background information which includes (a) facts bearing on motivation such as involvement of the suspected perpetrators in terrorist/revolutionary activities, organized crime, labor-management disputes, or racial-religious hate activities; (b) the applicability of state and local laws and likelihood of state or local investigative and prosecutive actions; and (c) any other available facts indicating whether or not the offense warrants Federal investigation and prosecution. Such background information will be submitted telephonically (202-739-2745) or by teletype (710-822-0008) to the General Crimes Section of the Criminal Division and to the appropriate United States Attorney. The Criminal Division will advise the investigative agency concerned whether the matter warrants submission to any other Division or Section of the Criminal Division, and when so warranted the Criminal Division will transmit the information to such other Division or Section.

#### *7. Full investigation*

A full investigation will be initiated immediately in those instances wherein such investigation is specified herein. In other instances full investigation will be initiated only upon direction of the Department of Justice after consideration by the Division having cognizance over the matter of the background information developed under paragraph 6 above.

#### *8. Reports*

Copies of case reports prepared in matters investigated under these guidelines will be furnished directly to the Department of Justice and the appropriate United States Attorney. All investigative agencies shall submit initial reports as soon as practicable to the Department of Justice and shall submit progress reports once each 30 days or as soon thereafter as possible. The Criminal Division of the Department of Justice will be informed as soon as possible in each instance wherein an investigative agency initiates an investigation under section 844. Such notification is of critical importance to the avoidance of duplication of investigative activities. Also each agency subscribing to these guidelines shall, upon instituting investigation regarding possible violations of section 844, immediately notify other subscribing agencies having a logical interest therein. Also, a sufficient level of follow-up liaison and dissemination shall be maintained to avoid duplication of investigative effort.

Additionally, each such agency will exchange information on a timely basis and in a manner which will not interfere with ongoing investigations relative to types, sources, movement, and storage of explosives which are the subject of its investigations. Information regarding significant developments in investigations being conducted under these guidelines and information of an intelligence nature developed incidental to investigations which is of logical interest to the Department of Justice shall be furnished promptly to the Criminal Division of that Department which will be responsible for any necessary further dissemination within that Department.

#### *9. Review of guidelines*

These guidelines shall be reviewed on a continuing basis by the parties hereto to determine whether problems exist in their administration which should be alleviated or whether modification of any of the terms of the agreement are needed in the interests of better law enforcement.

## 10. Summary

Section	Type violation	Primary jurisdiction
842.....	Regulatory provision violations.....	ATF.
844(d).....	Interstate transportation (except by mail) of explosives with unlawful intent.	Do.
844(e).....	Bomb threats—false information—Treasury buildings or functions.	Do.
	U.S. Postal Service buildings or functions....	U.S. Postal Inspection Service.
844(f).....	Other.....	FBI.
	Offenses against property of the United States or federally financed organizations—	
	Treasury buildings or functions.....	ATF.
	U.S. Postal Service buildings.....	U.S. Postal Inspection Service.
844(g).....	Other (including colleges and universities).....	FBI.
	Possession of explosives in buildings owned, leased, used by the United States—	
	Treasury buildings or functions.....	ATF.
	U.S. Postal Service buildings or functions....	U.S. Postal Inspection Service.
	Other.....	FBI.
844(h).....	Use/carrying explosives in commission of a felony.	Agency having jurisdiction over underlying felony.
844(i).....	Offenses against property used in or affecting commerce.	ATF.
All sections.....	All offenses perpetrated by terrorist/revolutionary groups or individuals.	FBI—Unless another agency has started investigation before receipt of information indicating terrorist/revolutionary involvement. In this event see paragraph 2c(1) above.

## APPROVED:

By Department of Justice,  
HENRY E. PETERSEN,  
Assistant Attorney General.

Dated: January 30, 1973.

By Department of Treasury,  
EDWARD L. MORGAN,  
Assistant Secretary for Enforcement, Tariff and Trade Affairs and  
Operations.

Dated: February 13, 1973.

By Postal Inspection Service,  
WILLIAM J. COTTER,  
Assistant Postmaster General.

Dated: January 19, 1973.

Effective March 1, 1973.

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