**Civics 101**

**Episode 83: The Bureau of Alcohol, Tobacco, Firearms and Explosives**

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*[Virginia Prescott] We’re talking with Katie Tinto assistant professor at UC Irvine School of Law where she's director of the Criminal Justice Law Clinic. Hello Katie.*

[Katie Tinto] Hi.

*[VP] Well, so glad you could join us. First what is what's commonly known as the ATF.*

[00:00:59]

[KT] Right. So ATF is our common shorthand as you mentioned for the Bureau of Alcohol Tobacco and Firearms, and since 2003, that title has expanded to also include explosives. The ATF was formed in 1972 as an agency within the Treasury Department. And in 2003 it was reorganized and now it is housed in the Justice Department.

*[VP] Why does the same agency oversee cigarettes, beer, automatic weapons, and bombs?*

[KT] Right. So it has a very interesting back story and it begins in the late 1400's and the early 1400's when the government began to tax alcohol, and this made people very upset. They didn't like their alcohol being taxed and a black market started developing for both the production of alcohol and as a way to sell alcohol illegally to avoid the pain of tax. And this black market for alcohol only strengthened when prohibition came around and all alcohol sales were banned. And in response to organized crime getting involved with alcohol, the government needed a response. And so they created agencies to go after organized crime, investigate illegal trafficking of alcohol, and also trying to collect tax on this alcohol. As organized crime increased the use of firearms increased government tried to again tax the use of firearms. Again, agencies were created to collect this tax on firearms and collect tax on alcohol and investigate all of this illegal trafficking, now of both alcohol and firearms.

*[VP] Well fascinating, they all get lumped together like this. Can you break it down for us - what the ATF actually does? Regulate, investigate, enforce? I mean what?*

[00:02:47]

[KT] Right. So when it was initially formed in 1972, to kind of put all of its expertise in one agency, it has both law enforcement functions and regulatory functions and by regulatory functions I mean it helps implement laws and introduce regulations and rules regarding the legal sales of these things, so the lawful sales of guns explosives alcohol and tobacco. But in 2003 as I mentioned it was reorganized and when it moved, when ATF moved to the Justice Department, it kept its law enforcement function. The investigation of illegal trafficking of these items and ATF also kept its regulatory function with respect to firearms and explosives.

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*[VP] How about enforcement? Because we hear of ATF “agents”…what are they empowered to do?*

[00:03:38]

[KT] ATF has law enforcement agents that investigate the illegal sales and trafficking of firearms that's primarily what they do. But they're also investigating illegal alcohol contraband cigarettes and they also help with the investigation of crimes involving explosives. And they also actually have a very well-known expertise in arson.

*[VP] Can they make arrests?*

[KT] Yes they can make arrests. They are law enforcement agents they are federal law enforcement agents. And so they are empowered to investigate the breaking of federal laws so they investigate illegal trafficking of firearms across state lines and even across our U.S. borders.

[00:04:22]

*[VP] You mentioned the regulatory role of ATF. What did they do in regards to gun sales?*

[00:04:29]

[KT] ATF is the primary federal agency that is tasked with regulating the lawful sales of guns. Currently they are deciding whether they have the authority to regulate bumped stocks which was a device seen in the Las Vegas shooting in October of 2017 that allows an automatic weapon to function like a fully automatic weapon. ATF has the authority to regulate and help implement gun control legislation. They also are the primary agency that is tasked with overseeing our federal database which includes information on who is allowed to buy a gun.

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*[VP] So that's the database that's used for background checks for example.*

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[KT] That's right. It's called the National Instant Criminal Background Check System or an NICBCS. And they help implement and provide oversight to that database.

[00:05:26]

*[VP] How does the gun lobby respond to being lumped in with alcohol tobacco? These are considered unhealthy vices subject to sin taxes so that tells you what our society thinks of them.*

[00:05:38]

[KT] My sense is that the gun lobby will have its attention on any agency that is has as a primary responsibility to regulate the gun industry. So I'm not sure that there's any particular problem with being lumped in with alcohol tobacco. I believe they understand that that's how the agency developed is. You know as we mentioned the history and prohibition but certainly the gun lobby takes an active interest in the workings of ATF and makes its opinions known.

[00:06:09]

*[VP] When ATF is considering regulating aspects of the gun industry with an agency that has some origins in the era of prohibition… you talked about you know illegal alcohol sales during Prohibition. How about now? I mean is there really a big trade in black market alcohol?*

[00:06:28]

[KT] I think that there still is taxation and how we tax these alcohol sales is important. As I said the regulatory function of alcohol has stayed in the Treasury Department but ATF recently was in the news because they were investigating contraband cigarettes and had quite a large investigation of the trafficking of contraband cigarettes so it doesn't I would say it's not as common as firearms but it certainly is still something that they actively pay attention to.

[00:06:58]

*[VP] Do they pay any attention to the public health aspects of tobacco or alcohol.*

[00:07:03]

[KT] Not to my knowledge. That is something that is in the under the auspices of other departments.

[00:07:15]

*[VP] Let's get to explosives if we could. What does the ATF have to do with explosives sales and is there such a thing as legal explosives sales in the United States?*

[00:07:26]

[KT] Yes there is important lawful uses of explosives and explosive materials mining oil production demolition. So these are materials that do need to be regulated do need to be monitored in their sales and ATF plays an important role. In fact that's one of their primary responsibilities is to regulate the lawful sale of explosive materials. That said as we're all aware explosives also have a role in crime and have produced some of our largest tragedies. ATF in its law enforcement capabilities helps investigate those crimes and provides expertise to local police departments who are also investigating crimes that used explosives.

[00:08:12]

*[VP] When I was researching for this I saw there's a lot of suspicion for ATF operations and criticism for its methods, and sometimes overreach. Why this agency in particular do you think Katie?*

[00:08:23]

[KT] The investigation of firearms trafficking is extremely difficult. It often involves undercover policing stings. They have to infiltrate these networks. And so ATF has been criticized because several of their undercover stings are undercover strategies have not gone well. They've had weapons stolen they've had weapons lost they've been alleged to have increased the use of firearms and the use of illegal firearms in the areas where they're targeting with an operation. So I think it's a combination of that this is extremely difficult and complicated policing with the fact that some of these undercover strategies have been not well managed, and not well thought out, and this has resulted in errors and unfortunately deaths.

[00:09:20]

*[VP] There have been congressional committees especially in the last couple of years in response to the Fast and Furious operation by the ATF. Some calls for change. How is that all going?*

[00:09:33]

[KT] There have been calls for change to the ATF for many years now one of the reasons the call for change has come is because there is significant overlap between ATF law enforcement functions and the FBI law enforcement functions. So, some have criticized ATF for not having a clear mission and in some of its undercover operations, effectively bungling that mission. On the other hand ATF has not had solid leadership for many years and in fact for the last approximately a year and a half has not had a director. There has been an acting director who of course serves as the director but has not had an official director so there's been a lot of concerns that part of the reason the ATF has struggled as it has in addition to not having a clear sense of mission is that they've lacked consistent management and leadership.

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*[VP] I'm thinking of the lobbies that work for the gun industry for alcohol industry… tobacco and firearms. Is this a more politicized agency do you think than others?*

[00:10:41]

[KT] I think that our history in this country with gun control and gun violence means that any agency that is focused both on regulating the lawful sales of gun as well as investigating crimes involving guns is going to have a lot of political attention. I don't think that's specific to the ATF. I think it's specific to our country's history with gun control and gun violence.

*[VP] Katie Tinto, any big takeaways from your research and looking into the ATF that would be helpful for our listeners to know?*

[KT] My research and my work has primarily focused on the type of undercover policing that ATF conducts with respect to firearms. And I think ATF tactics raise broader questions of how we do find illegal firearms trafficking how we catch people who commit crimes and how do we ensure that our law enforcement agencies are staying on task to really get the worst of the worst if you will or the people who really are responsible for bringing in large amounts of firearms into our country because the ATF has lacked management and leadership for so many of the past years. I think it's time to ask ourselves whether ATF is committed to its mission of ending illegal firearms trafficking and then looking at the tactics they use to achieve that goal.