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Report to Congressional Requesters

June 2009

FIREARMS TRAFFICKING

U.S. Efforts to Combat Arms Trafficking to Mexico Face Planning and Coordination Challenges

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Highlights

Highlights of GAO-09-709, a report to congressional requesters

FIREARMS TRAFFICKING

U.S. Efforts to Combat Arms Trafficking to Mexico Face Planning and Coordination Challenges

Why GAO Did This Study

In recent years, violence along the U.S.-Mexico border has escalated dramatically, due largely to the Mexican government's efforts to disrupt Mexican drug trafficking organizations (DTO). U.S. officials note the violence associated with Mexican DTOs poses a serious challenge for U.S. law enforcement, threatening citizens on both sides of the border, and U.S. and Mexican law enforcement officials generally agree many of the firearms used to perpetrate crimes in Mexico are illicitly trafficked from the United States across the Southwest border.

GAO was asked to examine (1) data on the types, sources, and users of these firearms; (2) key challenges confronting U.S. government efforts to combat illicit sales of firearms in the United States and stem the flow of them into Mexico; (3) challenges faced by U.S. agencies collaborating with Mexican authorities to combat the problem of illicit arms; and (4) the U.S. government's strategy for addressing the issue. GAO analyzed program information and firearms data and met with U.S. and Mexican officials on both sides of the border.

What GAO Recommends

GAO is making recommendations to several departments, including the Departments of State, Homeland Security, and Justice, to improve interagency coordination, data gathering and analysis, and strategic planning. State and DHS agreed with our recommendations. Justice did not comment on our recommendations.

View GAO-09-709 or key components.
For more information, contact Jess T. Ford at (202)512-4268 or fordj@gao.gov.

What GAO Found

Available evidence indicates many of the firearms fueling Mexican drug violence originated in the United States, including a growing number of increasingly lethal weapons. While it is impossible to know how many firearms are illegally smuggled into Mexico in a given year, about 87 percent of firearms seized by Mexican authorities and traced in the last 5 years originated in the United States, according to data from Department of Justice's Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). According to U.S. and Mexican government officials, these firearms have been increasingly more powerful and lethal in recent years. Many of these firearms come from gun shops and gun shows in Southwest border states. U.S. and Mexican government and law enforcement officials stated most firearms are intended to support operations of Mexican DTOs, which are also responsible for trafficking arms to Mexico.

The U.S. government faces several significant challenges in combating illicit sales of firearms in the United States and stemming their flow into Mexico. In particular, certain provisions of some federal firearms laws present challenges to U.S. efforts, according to ATF officials. Specifically, officials identified key challenges related to restrictions on collecting and reporting information on firearms purchases, a lack of required background checks for private firearms sales, and limitations on reporting requirements for multiple sales. GAO also found ATF and Department of Homeland Security's (DHS) U.S. Immigration and Customs Enforcement, the primary agencies implementing efforts to address the issue, do not effectively coordinate their efforts, in part because the agencies lack clear roles and responsibilities and have been operating under an outdated interagency agreement. Additionally, agencies generally have not systematically gathered, analyzed, and reported data that could be useful to help plan and assess results of their efforts to address arms trafficking to Mexico.

U.S. law enforcement agencies have provided some assistance to Mexican counterparts in combating arms trafficking, but these efforts face several challenges. U.S. law enforcement assistance to Mexico does not target arms trafficking needs, limiting U.S. agencies' ability to provide technical or operational assistance. In addition, U.S. assistance has been limited due to Mexican officials' incomplete use of ATF's electronic firearms tracing system, an important tool for U.S. arms trafficking investigations. Another significant challenge facing U.S. efforts to assist Mexico is corruption among some Mexican government entities. Mexican federal authorities are implementing anticorruption measures, but government officials acknowledge fully implementing these reforms will take considerable time, and may take years to affect comprehensive change.

The administration's recently released National Southwest Border Counternarcotics Strategy includes, for the first time, a chapter on combating illicit arms trafficking to Mexico. Prior to the new strategy, the U.S. government lacked a strategy to address arms trafficking to Mexico, and various efforts undertaken by individual U.S. agencies were not part of a comprehensive U.S. governmentwide strategy for addressing the problem. At this point, it's not clear whether ONDCP's "implementation plan" for the strategy, which has not been finalized, will include performance indicators and other accountability mechanisms to overcome shortcomings raised in our report.

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Abbreviations

ATF	Bureau of Alcohol, Tobacco, Firearms and Explosives
BEST	Border Enforcement Security Task Force
BVIC	Border Violence Intelligence Cell
CBP	Customs and Border Protection
CENAPI	Centro Nacional de Planeación, Análisis e Información para el Combate a la Delincuencia (Government of Mexico's Planning, Analysis and Information Center for Combating Crime)
CRS	Congressional Research Service
DDTC	Directorate of Defense Trade Controls
DEA	Drug Enforcement Administration
DHS	Department of Homeland Security
DOD	Department of Defense
DOJ	Department of Justice
DTO	drug trafficking organization
EPIC	El Paso Intelligence Center
EOUSA	Executive Office for U.S. Attorneys
FFL	federal firearms licensee
IBIS	Integrated Ballistics Identification System
ICE	Immigration and Customs Enforcement
INL	Bureau of International Narcotics and Law Enforcement Affairs
IRS	intelligence research specialist
MOU	Memorandum of Understanding
NAS	Narcotics Affairs Section
NTC	National Tracing Center
OFAC	Office of Foreign Assets Control
ONDCP	Office of National Drug Control Policy
PGR	Procuraduría General de República (Government of Mexico's Office of Attorney General)
State	Department of State

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United States Government Accountability Office
Washington, DC 20548

June 18, 2009

The Honorable Eliot L. Engel
Chairman
The Honorable Connie Mack, IV
Ranking Member
Subcommittee on the Western Hemisphere
Committee on Foreign Affairs
House of Representatives

The Honorable Dan Burton
The Honorable William Delahunt
The Honorable Gabrielle Giffords
The Honorable Gene Green
The Honorable Albio Sires
House of Representatives

In recent years, violence along the U.S.-Mexico border has escalated dramatically as the administration of President Felipe Calderon has sought to combat the growing power of Mexican drug trafficking organizations (DTO) and curb their ability to operate with impunity in certain areas of Mexico. The Mexican government's efforts to disrupt DTO operations has put pressure on criminal organizations fighting to maintain control over lucrative routes they depend on to funnel drugs to the United States, and arms and cash from the United States into Mexico. In 2008, the number of individuals killed in violent incidents in Mexico exceeded 6,200, more than twice as many as in 2007, with around 1,500 killed in the first 3 months of 2009 alone.

As illicitly trafficked firearms have fueled the drug trafficking violence,[1] Mexican officials have come to regard illicit firearms as the number one crime problem affecting the country's security, and U.S. officials note the violence associated with Mexican DTOs poses a serious challenge for U.S. law enforcement, threatening the safety of citizens on both sides of the border, particularly given the increased level of criminal activity in the

[1]According to U.S. and Mexican government officials, including the Government of Mexico Attorney General's Office, Mexican law prohibits the commercial sale or purchase of a firearm; all firearm sales must go through the Government of Mexico. Officials told us that the application and sales process takes a long time and that the types of firearms that Mexican citizens are allowed to possess are limited to smaller caliber pistols and rifles.

southwestern United States and concerns that it could grow. According to the Department of Justice's (DOJ) *2009 National Drug Threat Assessment*, Mexican DTOs represent the greatest organized crime threat to the United States, controlling drug distribution in at least 230 U.S. cities, and gaining strength in markets they do not yet control. In response to this growing threat, in March 2009, the Department of Homeland Security (DHS) announced it planned to increase resources on the U.S.-Mexico border, including more personnel and greater use of available technologies, among other elements.

In response to your request that we review U.S. efforts to stem the flow of arms trafficking into Mexico, we examined (1) what data are available on the types, sources, and users of these arms; (2) key challenges that confront U.S. government efforts to combat illicit sales of firearms in the United States and to stem the flow of these arms across the Southwest border into Mexico; (3) challenges faced by U.S. agencies collaborating with Mexican authorities to combat the problem of illicit arms; and (4) the U.S. government's strategy for addressing the issue.

To address these objectives, we reviewed and analyzed program and project status reports, and related information. To obtain a better understanding of the scope and progress of various U.S. agencies' programs related to arms trafficking, we met with cognizant officials from DOJ's Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF); DHS's Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP); the Department of State (State); and other agency officials supporting U.S. efforts to combat arms trafficking, including the Executive Office for U.S. Attorneys, the Drug Enforcement Administration (DEA), and the Office of National Drug Control Policy (ONDCP). We visited and met with officials from three major Southwest border cities—San Diego, California, and El Paso and Laredo, Texas—and their Mexican counterpart cities to explore the challenges faced by law enforcement officials to stem the flow of arms smuggling across the border. We also traveled to Mexico City and Monterrey, Mexico, to meet with U.S. embassy and consulate officials responsible for implementing programs to combat arms trafficking and Mexican government officials responsible for related activities. We did not review Mexican firearms laws, and to the extent that we comment on these in this report, we relied on secondary sources. We also reviewed ATF, ICE, and CBP data on seizures of southbound firearms and cases involving arms trafficking to Mexico. We determined the data provided to us by various U.S. agencies on these topics were sufficiently reliable to provide an overall indication of the magnitude and nature of the illicit firearms trade. We conducted this performance audit from July 2008

to June 2009, in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. Appendix I contains additional details about our scope and methodology.

Results in Brief

Available evidence indicates a large proportion of the firearms fueling Mexican drug violence originated in the United States, including a growing number of increasingly lethal weapons. While it is impossible to know how many firearms are illegally trafficked into Mexico in a given year, around 87 percent of firearms seized by Mexican authorities and traced over the past 5 years originated in the United States, according to data from ATF. Around 68 percent of these firearms were manufactured in the United States, and around 19 percent were manufactured in third countries and imported into the United States before being trafficked into Mexico. According to U.S. and Mexican government officials, these firearms have been increasingly more powerful and lethal in recent years. For example, many of these firearms are high-caliber and high-powered, such as AK and AR-15 type semiautomatic rifles. Many of these firearms come from gun shops and gun shows in Southwest border states, such as Texas, California, and Arizona, according to ATF officials and trace data. U.S. and Mexican government and law enforcement officials stated most guns trafficked to Mexico are intended to support operations of Mexican DTOs, which are also responsible for trafficking arms to Mexico.

The U.S. government faces several significant challenges to its efforts to combat illicit sales of firearms in the United States and to stem the flow of these arms across the Southwest border into Mexico. First, certain provisions of some federal firearms laws present challenges to U.S. efforts, according to ATF officials. Specifically, officials identified key challenges related to (1) restrictions on collecting and reporting information on firearms purchases, (2) a lack of required background checks for private firearms sales, and (3) limitations on reporting requirements for multiple sales. Another challenge we found is ATF and ICE, the primary agencies implementing efforts to address this issue, do not consistently and effectively coordinate their efforts, in part because the agencies lack clear roles and responsibilities and have been operating under an outdated interagency agreement. This has resulted in some instances of duplicate initiatives and confusion during operations. Additionally, we found agencies lack systematic analysis and reporting of aggregate data related

to arms trafficking, and they were also unable to provide complete information to us on the results of their efforts to seize firearms destined for Mexico and to investigate and prosecute cases. This type of information could be useful to better understand the nature of the problem, to help plan ways to address it, and to assess progress made.

U.S. law enforcement agencies and State have provided some assistance to Mexican counterparts in combating arms trafficking, but these efforts face several key challenges. U.S. law enforcement agencies have built working relationships with Mexican federal, state, and local law enforcement, as well as the Mexican military, which has given the United States the opportunity to provide Mexican government counterparts with some technical and operational assistance on firearms trafficking. However, U.S. assistance has been hampered by a number of factors. In particular, U.S. law enforcement assistance has been limited and, furthermore, it has not targeted arms trafficking needs. For example, although the Merida Initiative—a U.S. interagency response to transborder crime and security issues affecting the United States, Mexico, and Central America—provides general law enforcement and counternarcotics assistance to Mexico, it does not provide dedicated funding to address the issue of arms trafficking. A number of efforts officials told us could be helpful in combating arms trafficking—such as establishing and supporting a bilateral, multiagency arms trafficking task force— have not been undertaken. In addition, U.S. assistance has been limited due to Mexican government officials' incomplete use to date of ATF's electronic firearms tracing system, known as eTrace, which is an important tool for U.S. arms trafficking investigations in the United States. The ability of Mexican officials to input data into eTrace has been hampered partly because a Spanish language version of eTrace under development for months has still not been deployed across Mexico. Another significant challenge facing U.S. efforts to assist Mexico is concern about corruption among some Mexican government entities. According to Mexican and U.S. government officials, extensive corruption at the federal, state, and local levels of Mexican law enforcement impedes U.S. efforts to develop effective and dependable partnerships with Mexican government entities in combating arms trafficking. Mexican federal authorities are implementing anticorruption measures—including polygraph and psychological testing, background checks, and salary increases— but government officials acknowledge fully implementing these reforms will take considerable time, and may take years to affect comprehensive change.

On June 5, 2009, the Office of National Drug Control Policy (ONDCP) released its 2009 National Southwest Border Counternarcotics Strategy,

which, for the first time, includes a chapter on combating illicit arms trafficking to Mexico. Prior to the new strategy, the U.S. government did not have a strategy that explicitly addressed arms trafficking to Mexico. In the absence of a strategy, individual U.S. agencies have undertaken a variety of activities and projects to combat arms trafficking to Mexico. While these individual agency efforts may serve to combat arms trafficking to Mexico to some degree, they were not part of a comprehensive U.S. governmentwide strategy for addressing the problem. GAO has identified several key elements that should be a part of any strategy, including identifying objectives and funding targeted to meet these objectives; clear roles and responsibilities; and mechanisms to ensure coordination and assess results. We reviewed a copy of the new National Southwest Border Counternarcotics Strategy, which ONDCP officials told us will serve as the basic framework, with an "implementation plan" to follow in late summer of 2009. ONDCP officials told us that this implementation plan will provide detailed guidance to the responsible agencies and have some performance measures for each objective. At this point, it is not clear whether the implementation plan will include performance indicators and other accountability mechanisms to overcome shortcomings raised in our report. In addition, in March 2009, the Secretary of Homeland Security announced a new DHS Southwest border security effort to significantly increase DHS presence and efforts along the Southwest border, including conducting more southbound inspections at ports of entry, among other efforts. However, it is unclear whether the new resources that the administration has recently devoted to the Southwest border will be tied to the new strategy and implementation plan.

To ensure that relevant agencies are better focused on combating illicit arms trafficking to Mexico, we are making recommendations to the ONDCP and three executive departments.

We are recommending that the U.S. Attorney General prepare a report to Congress on approaches to address the challenges law enforcement officials raised in this report regarding constraints on the collection of data that inhibit their ability to conduct timely investigations. Additionally, we recommend that the U.S. Attorney General and the Secretary of Homeland Security finalize the Memorandum of Understanding (MOU) between ATF and ICE and develop processes for periodically monitoring its implementation.

We have several recommendations to improve data gathering and reporting to help identify where efforts should be targeted to combat illicit arms trafficking to Mexico, including that: (1) the U.S. Attorney General

direct ATF to regularly update its reporting on aggregate firearms trafficking data and trends; (2) the U.S. Attorney General and the Secretary of Homeland Security direct ATF and ICE to ensure they share comprehensive data and leverage each other's expertise and analysis on future assessments relevant to southbound weapons smuggling trends; and (3) the U.S. Attorney General and the Secretary of Homeland Security ensure the systematic data gathering and reporting on the results of these efforts, including firearms seizures, investigations, and prosecutions.

We also recommend that the U.S. Attorney General and the Secretary of State work with the Government of Mexico to expedite the dissemination of eTrace in Spanish to relevant Government of Mexico officials, provide these officials proper training on the use of eTrace, and ensure more complete input of information on seized arms into eTrace.

Finally, we recommend that the Office of National Drug Control Policy ensure its implementation plan for the arms trafficking chapter of the 2009 National Southwest Border Counternarcotics Strategy (1) identifies needs and defines objectives for addressing those needs; (2) identifies roles and responsibilities for meeting objectives that leverage the existing expertise of relevant agencies; (3) ensures agencies have guidance for setting funding priorities and providing resources to address those needs; (4) establishes mechanisms to facilitate coordination across agencies; and (5) employs monitoring mechanisms to determine and report on progress and identify needed improvements.

We provided a draft of this report to the Departments of Homeland Security, Justice, and State and to the Office of National Drug Control Policy. DHS and State provided written comments, which are reproduced in appendixes III and IV.

DHS agreed with our recommendations; however, DHS raised questions regarding our interpretations of certain data and the relationship between ICE and ATF. We disagree that our presentation of the data is misleading, and the evidence in the report clearly demonstrates coordination problems between ICE and ATF.

State agreed with our recommendation that the U.S. Attorney General and the Secretary of State work with the Government of Mexico to expedite the dissemination of eTrace in Spanish across Mexico to the relevant Government of Mexico officials, provide these officials the proper training on the use of eTrace, and ensure more complete input of information on seized arms into eTrace. In addition, State added that the agency is funding

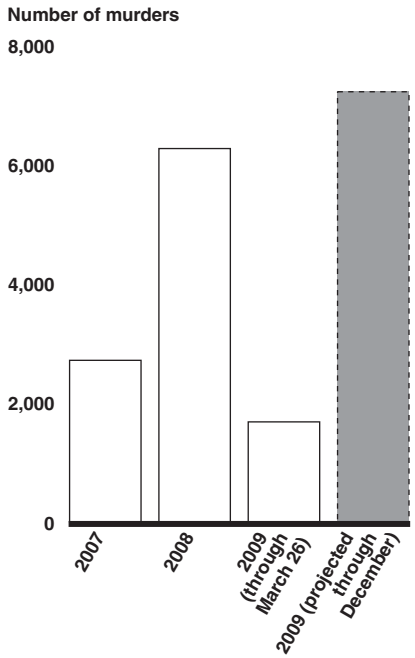
a $5 million Forensics Laboratories project with the Government of Mexico's Office of the Attorney General (PGR) for the successful investigation and prosecution of criminal cases.

We also received technical comments from DHS, DOJ, State, and ONDCP, which we have incorporated throughout the report where appropriate.

Background

Since his inauguration in December 2006, President Felipe Calderon has mobilized the Mexican military and law enforcement in a series of large scale counternarcotics operations throughout the country. These efforts have targeted areas, particularly along the U.S.-Mexican border, where DTOs have exerted most influence. By pursuing and detaining the leaders of these criminal organizations, Mexican authorities have disrupted DTOs' internal power structures and territorial control. The DTOs have countered government pressure with increased violence against law enforcement entities. The government's efforts to disrupt drug trafficking operations also appear to have intensified conflicts among DTOs over access to lucrative trafficking routes to the United States. The result has been an escalation of drug-related assassinations, kidnappings, and other violent crimes. While the majority of the casualties have been individuals involved in the drug trade in some way, victims also include law enforcement officers, journalists, and innocent bystanders. Gun violence in Mexico has increased dramatically in the last 2 years, with the number of drug-related murders more than doubling from around 2,700 in 2007 to over 6,200 in 2008. The drug-related murder rates for the first quarter of 2009 remain high and thus the yearly total for 2009 will likely be close to the 2008 level. See figure 1.

Figure 1: Drug-War Related Murders in Mexico



Source: Mexican Federal Government's Planning, Analysis and Information Center for Combating Crime (CENAPI).

Growing criminal activity in Mexico, particularly in communities across the Southwest border, has raised concerns that the violence might spill over to the United States. Since 2006, DOJ's annual *National Drug Threat Assessment* has reported Mexican DTOs and criminal groups are the most influential drug traffickers and the greatest organizational threat to the United States. Law enforcement reporting indicates Mexican DTOs maintain drug distribution networks or supply drugs to distributors in at least 230 U.S. cities. See figure 2. Mexican DTOs control most of the U.S. drug market and are gaining strength in markets they do not yet control. President Obama has expressed concern about the increased level of violence along the border, particularly in Ciudad Juarez and Tijuana, and has called for continued monitoring of the situation to guard against spillover into the United States.

Figure 2: U.S. Cities Reporting the Presence of Mexican DTOs, January 1, 2006, through April 8, 2008

Sources: GAO analysis of DOJ's National Drug Threat Assessment 2009; Map Resources (map).

Since the 1970s, the United States has collaborated with Mexican authorities and provided assistance to Mexico to combat transnational crimes associated with drug trafficking, including illicit firearms smuggling. However, counterarms trafficking efforts have been a modest component of broader bilateral law enforcement cooperation. U.S. and Mexican officials also told us that, in the past, the Mexican government considered illicit arms trafficking a problem that originated in the United States and thus needed to be dealt with by U.S. authorities. However, the Mexican government has taken on a greater focus in combating arms trafficking in recent years. For example, Mexico's Secretary of Public

Security noted, "the arms issue … is a subject that was not considered when discussing drug trafficking, however today it is part of the dialogue we have with our colleagues from the United States." Moreover, Mexican officials told us they now regard illicit firearms as the number one crime problem affecting the country's security, and they are intent on working with their U.S. counterparts to address the threat posed by weapons smuggling.

DOJ's ATF and DHS's ICE are the two primary agencies combating illicit sales and trafficking of firearms across the Southwest border. For over 40 years, ATF has implemented efforts to combat arms trafficking within the United States and from the United States to other countries as part of its mission under the Gun Control Act,[2] and it is the only entity within the U.S. government able to trace firearms recovered in crime in Mexico.[3] ATF also conducts inspections of FFL gun dealers to ensure they comply with applicable federal firearms laws and regulations.[4] Through Project Gunrunner—ATF's key effort to address arms trafficking to Mexico—the agency has conducted investigations to identify and prosecute individuals involved in arms trafficking schemes and has provided training to Mexican law enforcement officials on firearms identification and tracing techniques, among other efforts.[5] According to ICE, for over 30 years, ICE—and previously the U.S. Customs Service—has implemented efforts

[2]Gun Control Act of 1968, Pub. L. No. 90-618, 82 Stat. 1213.

[3]ATF is responsible for investigating criminal and regulatory violations of federal firearms laws, among other responsibilities. In carrying out its responsibilities, ATF licenses and regulates federal firearms licensees (FFL) to ensure they comply with applicable laws or regulations. ATF also traces U.S. and foreign manufactured firearms for international, federal, state, and local law enforcement agencies, to link a suspect to a firearm in a criminal investigation or identify a potential trafficker. Firearms tracing is the systematic tracking of the movement of a firearm recovered by law enforcement officials from its first sale by the manufacturer or importer through the distribution chain (wholesaler/retailer) to identify the first retail purchaser. ATF has a paperless firearm trace submission system (eTrace) that is accessible through the Internet, through which users can submit, retrieve, query, and store firearms trace information, as applicable.

[4]According to ATF, as part of the FFL inspection process, when ATF Industry Operations Investigators review FFL records and other information, they check to see that firearms are properly accounted for, and look for firearms trafficking indicators to identify any suspicious purchases, which are referred to ATF criminal investigators for potential investigation.

[5]In April 2009, ATF announced plans to temporarily assign Gunrunner Impact Teams made up of additional personnel and resources to the Southwest border as part of Project Gunrunner, in order to increase investigative leads and intelligence to combat arms trafficking to Mexico.

to enforce U.S. export laws, and ICE agents and other staff address a range of issues, including combating the illicit smuggling of money, people, drugs, and firearms.[6] Examples of ICE's arms trafficking-related activities include its efforts to raise public awareness through the dissemination of posters and brochures to educate FFLs and firearms purchasers about U.S. laws related to firearms and smuggling, as well as ICE's more recent effort to expand seizures of firearms destined for Mexico on the U.S. side of the border.[7] ICE enhanced its efforts on arms trafficking to Mexico through Operation Armas Cruzadas, announced in 2008. Table 1 provides more information on ATF and ICE efforts to combat arms trafficking.[8]

Table 1: Key ATF and ICE Efforts and Resources to Combat Arms Trafficking to Mexico

Agency	Key activities	Estimated funding expenditures (between fiscal years 2004-2008)	Personnel (fiscal year 2008)[a]
ATF	• Through Project Gunrunner, which was initiated following discussions between ATF and the Mexican government in 2005, ATF conducts investigations, develops intelligence, and provides training related to arms trafficking to Mexico in partnership with the Mexican government and other U.S. government agencies. • ATF has said the cornerstone of this initiative is tracing firearms recovered in crime in Mexico, which provides intelligence and investigative leads.	$76.6 million • Funding included Southwest border-related efforts at EPIC, funding for staff in Mexico, and funding that was earmarked for Southwest Border Initiative in the four Southwest border states. • According to ATF, funding does not fully reflect costs for the agency's domestic efforts to investigate cases.	• 550 agents and industry operations investigators in the four Southwest border states[b] • 6 agents and intelligence and other staff assigned to the El Paso Intelligence Center (EPIC) • 3 agents assigned to the U.S. Embassy and a consulate in Mexico

[6]ICE officials stated ICE's efforts include enforcing laws related to the export of military items and dual-use goods.

[7]According to ICE, other related activities include its efforts to support the State Directorate of Defense Trade Controls (DDTC) in increasing the number of end use verification checks for firearms lawfully exported to Mexican government entities to ensure intended recipients of U.S. munitions are actually in control of those items lawfully exported. As discussed later in this report, a small number of firearms recovered in crime in Mexico to date have been traced back to lawful exports.

[8]U.S. law enforcement agencies conduct their work in Mexico in cooperation with Government of Mexico counterparts under the Treaty on Cooperation Between the United States of America and the United Mexican States for Mutual Legal Assistance, Dec. 9, 1987, U.S.-Mexico, S. Treaty Doc. No. 100-13 (1988).

Agency	Key activities	Estimated funding expenditures (between fiscal years 2004-2008)	Personnel (fiscal year 2008)[a]
ICE	• In 2008, ICE announced Operation Armas Cruzadas as a bilateral law enforcement and intelligence sharing operation to reduce arms trafficking to Mexico. As part of the operation, in the first few months of 2009 ICE increased efforts to seize firearms destined for Mexico on U.S. side of border, as well as to develop intelligence and investigative leads. • ICE also has 10 Border Enforcement Security Task Force (BEST) teams in the four Southwest border states to investigate and prevent illicit smuggling of goods and people out of the United States, including firearms.	$15.2 million • According to ICE, this amount included ICE efforts to investigate arms trafficking on the U.S. side of the border, including trafficking to Mexico, as well as other locations, such as Central America. It also included efforts by staff in Mexico in support of arms trafficking investigations and other Southwest border BEST efforts. • ICE officials stated the above estimate does not fully reflect ICE's efforts to address the issue due to the way ICE tracks funding expenditures. They noted ICE spent about $1.06 billion for Southwest border activities overall between fiscal years 2004 and 2008, including efforts to address arms trafficking to Mexico.	• 1,934 agents assigned to Southwest border offices • 52 intelligence officers and analysts assigned to Southwest border offices, including nine at EPIC • 8 agents assigned to the U.S. Embassy and four consulates in Mexico

Sources: GAO analysis of testimonial and documentary evidence from ATF and ICE.

[a]ATF officials stated that, although ATF personnel focus on firearms issues, which would include arms trafficking to Mexico, responsibilities also include issues such as arson or gangs. ICE officials stated that ICE personnel who address arms trafficking to Mexico are also responsible for a range of other issues, such as the smuggling of drugs, money, or people.

[b]Officials from ATF and ICE stated the focus of U.S. government efforts to address arms trafficking to Mexico has been in the four Southwest border states, though staff in other states may also undertake efforts to address the issue.

Several other U.S. agencies also play a role in stemming the flow of illicit firearms across the Southwest border into Mexico, including the following:

- DHS's CBP is charged with managing, securing, and controlling the nation's borders with a priority mission of keeping terrorists and their weapons out of the United States. It also has a responsibility for securing and facilitating trade and travel while enforcing hundreds of U.S.

regulations, including immigration and drug laws; as such, CBP is involved in intercepting contraband firearms to Mexico.[9]

- DOJ's U.S. Attorneys serve as the nation's principal litigators under the direction of the U.S. Attorney General. U.S. Attorneys handle criminal prosecutions and civil suits in which the United States has an interest, including cases against individuals who violate federal criminal laws related to firearms trafficking. Since each U.S. Attorney exercises wide discretion in the use of resources to further the priorities of local jurisdictions, the caseload distribution related to firearms trafficking varies between districts.

- DOJ's DEA is responsible for the enforcement of U.S. controlled substances laws and regulations and bringing to justice key individuals and organizations involved in the production or distribution of controlled substances appearing in or destined for illicit traffic in the United States. In carrying out its mission, the DEA also coordinates and cooperates with U.S. and Mexican law enforcement officials in efforts to combat criminal violence and thus shares intelligence on DTO activities, including weapons violations.

- State's INL advises the President, Secretary of State, and other U.S. government agencies on policies and programs to combat international narcotics and crime. INL programs support State's strategic goals to reduce the entry of illegal drugs into the United States and to minimize the impact of international crime on the United States and its citizens. INL oversees funding provided to assist Mexico in its fight against organized crime under the Merida Initiative. Merida is a U.S. interagency response to transborder crime and security issues affecting the United States, Mexico, and Central America. The Initiative seeks to strengthen partner countries' capacities to combat organized criminal activities that threaten the security of the region, including arms trafficking.

- DOJ's Criminal Division attorneys serve as DOJ's primary legal experts on firearms related issues and contribute to the nation's prosecutorial efforts from the headquarters level. Criminal Division prosecutors are charged with developing and implementing strategies to attack firearms trafficking networks operating in the United States and abroad. These prosecutors

[9]Although CBP has a role in intercepting southbound illicit firearms at the border, southbound inspections of vehicles and persons traveling from the United States to Mexico have generally not been a focus of CBP's efforts. See pages 34-39 in this report for a discussion of CBP's efforts to seize illicit firearms at the Southwest border.

prosecute important firearms related cases, formulate policy, assist and coordinate with local U.S. Attorneys Offices on legal issues and multidistrict cases, and work with numerous domestic and foreign law enforcement agencies to construct effective and coordinated enforcement strategies.

- ONDCP, whose principal purpose is to establish policies, priorities, and objectives for the nation's drug control program, produces a number of publications including a *National Southwest Border Counternarcotics Strategy*, which this year includes a component on combating arms trafficking.

Available Evidence Suggests Most Firearms Recovered in Mexico Come from U.S. Gun Dealers, and Many Support DTOs

Available evidence indicates many of the firearms fueling Mexican drug violence have come from the United States, including a growing number of increasingly lethal weapons. Many of these firearms came from gun shops and gun shows in Southwest border states, such as Texas, California, and Arizona, according to ATF officials and trace data. U.S. and Mexican government officials stated most guns trafficked into Mexico are facilitated by and support operations of Mexican drug trafficking organizations.

Available Information Suggests Most Firearms Recovered in Mexico Come from the United States and Are Increasingly More Powerful and Lethal

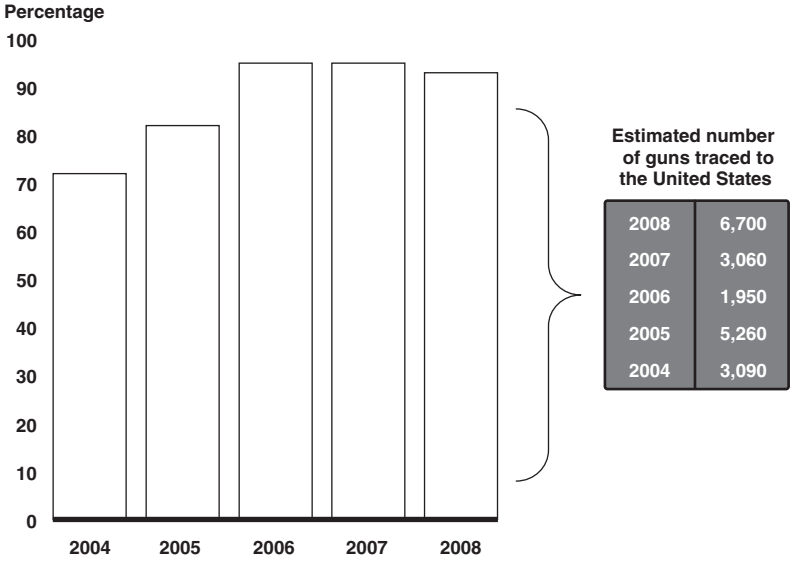
According to U.S. and Mexican government and law enforcement officials and data from ATF on firearms seized in Mexico and traced from fiscal year 2004 to fiscal year 2008, a large portion of the firearms fueling the Mexican drug trade originated in the United States, including a growing number of increasingly lethal weapons. As is inherently the case with various types of illegal trafficking, such as drug trafficking, the extent of firearms trafficking to Mexico is unknown;[10] however, according to ATF, a large number of guns are seized from criminals by the military and law enforcement in Mexico, and information on many of these guns is submitted to ATF for the purposes of tracing their origins and uncovering

[10]While there is no data on the total number of firearms trafficked to Mexico, the Government of Mexico maintains data on the number of firearms seized in Mexico. Information, such as serial numbers, on many of these seized firearms is submitted to ATF's National Tracing Center for tracing. ATF's National Tracing Center attempts to trace the firearms using the information submitted. Between fiscal years 2004-2008, around 52 percent of trace requests from Mexico that were submitted to ATF's National Tracing Center identified the first retail dealer. Furthermore, according to ATF, the identification of the country of manufacturing origin of a firearm does not depend on identifying the first retail dealer but rather on the initial description of the firearm.

how the guns arrived in Mexico.[11] ATF maintains data on the firearms that are seized in Mexico and submitted for a trace, and, from these firearms trace requests, ATF officials told us, they are often able to detect suspicious patterns and trends that can help identify and disrupt arms trafficking networks on both sides of the U.S.-Mexico border.

Using ATF's eTrace data, which currently serves as the best data we found available for analyzing the source and nature of firearms trafficked and seized in Mexico, we determined over 20,000, or 87 percent, of firearms seized by Mexican authorities and traced from fiscal year 2004 to fiscal year 2008 originated in the United States. Figure 3 shows the percentages of firearms seized in Mexico and traced from fiscal year 2004 to fiscal year 2008 that originated in the United States. Over 90 percent of the firearms seized in Mexico and traced over the last 3 years have come from the United States.

Figure 3: Percentages of Firearms Seized in Mexico and Traced in Fiscal Years 2004-2008 That Originated in the United States



Source: GAO analysis of ATF data.

[11]As noted earlier, U.S. law enforcement agencies conduct their work in Mexico in cooperation with Government of Mexico counterparts under the Treaty on Cooperation Between the United States of America and the United Mexican States for Mutual Legal Assistance.

Around 68 percent of these firearms were manufactured in the United States, while around 19 percent were manufactured in third countries and imported into the United States before being trafficked into Mexico. ATF could not determine whether the remaining 13 percent foreign sourced arms had been trafficked into Mexico through the United States, due to incomplete information.

While the eTrace data only represents data from gun trace requests submitted from seizures in Mexico and not all the guns seized, it is currently the only systematic data available, and the conclusions from its use that the majority of firearms seized and traced originated in the United States were consistent with conclusions reached by U.S. and Mexican government and law enforcement officials involved personally in combating arms trafficking to Mexico. In 2008, of the almost 30,000 firearms that the Mexican Attorney General's office said were seized, only around 7,200, or approximately a quarter, were submitted to ATF for tracing. U.S. and Mexican government and law enforcement officials indicated Mexican government officials had not submitted all of the firearms tracing information due to bureaucratic obstacles between the Mexican military and the Mexican Attorney General's Office and lack of a sufficient number of trained staff to use eTrace. For instance, at one point, State officials told us, the Government of Mexico had only one staff person collecting gun information and entering it into eTrace.[12] Further, as ATF pointed out, not all guns seized in the United States are submitted by U.S. entities to ATF for tracing either, due to some of the same type of bureaucratic and resource challenges faced in Mexico. Consistent with the results of eTrace data, U.S. law enforcement officials who had worked on arms trafficking in Mexico and along the U.S.-Mexican border told us their experience and observations corroborated that most of the firearms in Mexico had originated in the United States. Furthermore, U.S. and Mexican government and law enforcement officials also stated this scenario seemed most likely, given the ease of acquiring firearms in the United States; specifically, they told us they saw no reason why the drug cartels would go through the difficulty of acquiring a gun somewhere else in the world and transporting it to Mexico when it is so easy for them to do so from the United States.

[12]ATF and Government of Mexico officials told us they have worked to address some of these obstacles, have already increased Mexico's use of eTrace between fiscal year 2004 and fiscal year 2008, and plan to make more extensive use of eTrace by Government of Mexico entities.

Firearms Seized in Mexico Are Increasingly More Powerful and Lethal

While existing data does not allow for an analysis of trends of all firearms seized in Mexico, according to U.S. and Mexican government officials, the firearms seized in Mexico have been increasingly more powerful and lethal in recent years.[13] For example, around 25 percent of the firearms seized in Mexico and traced in fiscal year 2008 are high-caliber and high-powered such as AK and AR-15 type semiautomatic rifles, which fire ammunition that can pierce armor often used by Mexican police (see table 2).

Table 2: Ten Firearms Types Most Frequently Recovered in Mexico and Traced, Fiscal Years 2004 to 2008

9 mm pistol
.38 caliber revolver
.22 caliber pistol
.380 caliber pistol
7.62 mm AK-type semiautomatic rifle
.22 caliber rifle
.223 caliber AR-15 type semiautomatic rifle
.45 caliber pistol
.38 caliber pistol
12 gauge shotgun

Source: GAO analysis of ATF data.

Moreover, U.S. and Mexican government officials told us they have encountered an increasing number of the higher caliber, high-powered weapons, particularly in the past 2 years in seizures resulting from operations against drug cartels. A video clip of the types of firearms recovered near the Southwest border and in Mexico is available at http://www.gao.gov/media/video/gao-09-709 . In addition, U.S. government officials told us there had been a decrease in some of the smaller, lower-powered guns, such as the .22 caliber pistol and rifle. Mexican and U.S. government officials told us that the guns used by the drug cartels often overpower Mexican police and rival that of the military. See figure 4.[14]

[13]While we reviewed data on firearms seized in Mexico and traced from fiscal year 2004 to fiscal year 2008, we could not determine from the data trends on increases in caliber or size of guns, because the year the firearm was traced was not necessarily the year it was seized, the year it was trafficked into Mexico, or the year it was purchased.

[14]ATF has analyzed firearms seizures in Mexico from fiscal year 2005 to fiscal year 2007 and identified the following weapons commonly used by drug traffickers: 9 mm pistols; .38 super pistols; 5.7 mm pistols; .45 caliber pistols; AR-15 type rifles; and AK- type rifles.

Figure 4: High-Powered Firearms Seized by the Government of Mexico in a Single Confrontation with Criminal Organizations in November 2008

Source: CENAPI.

In addition, there have been some examples of military grade firearms recovered in Mexico. Some of these recovered firearms, ATF officials noted, were guns commercially available in the United States that were altered to make them more lethal. For instance, AK-type and AR-15 type semiautomatic rifles have been altered to make them fully automatic, like machine guns used by the U.S. and Mexican militaries. Seventy machine guns were submitted for tracing to ATF between fiscal year 2004 and fiscal year 2008, which represents a small percentage, 0.30 percent, of the total number of 23,159.

A small number of the firearms[15] seized in Mexico have been traced back to legal sales of weapons from the United States to Mexico or a third

[15]In addition to firearms, some grenades and rocket launchers have been seized by Mexican government agencies that, according to ATF officials, generally had come from stocks in Central American countries that had obtained the weapons from the United States in the 1980s or, since then, through the foreign military sales process.

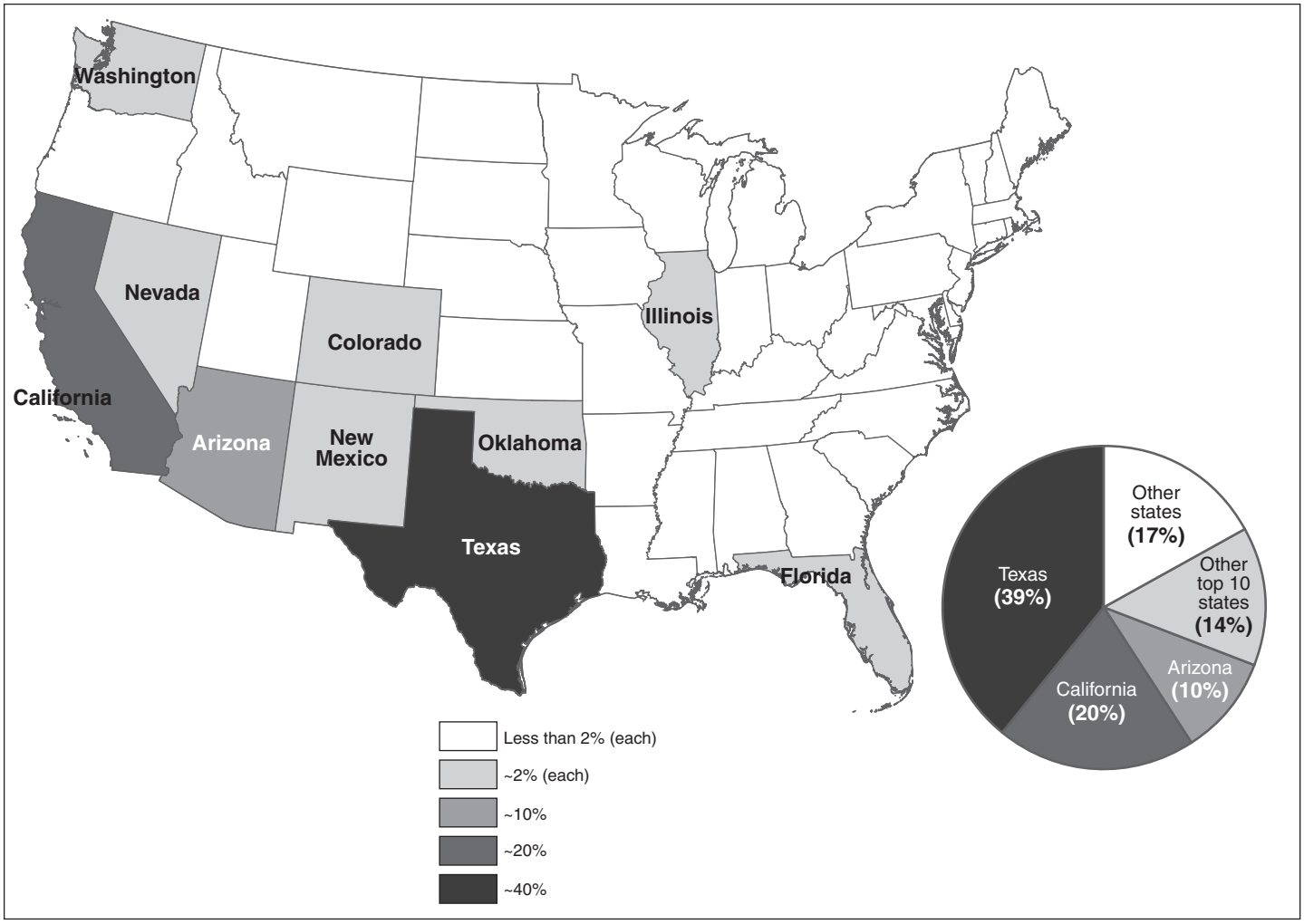
country, according to ATF.[16] For instance, firearms traced back to the Government of Mexico, from 2004 to 2008, constituted 1.74 percent, or 403 firearms, of the total number of trace requests made during that time. This included 70 .223 caliber AR-15-type semiautomatic rifles and one machine gun. In addition, 39 guns were recovered in 2008 that had been sold legally by the United States to a third party country, including 6 guns each from Germany, Belize, and Guatemala and 1 from El Salvador. These 39 guns included 21 semiautomatic pistols, and nothing larger or more powerful than the Colt 45. According to U.S. law enforcement officials we met with, there have not been any indications of significant trafficking of firearms from U.S. military personnel or U.S. military arsenals. According to ATF data for fiscal years 2004-2008, of the 23,159 guns seized in Mexico and traced, 160 firearms, or 0.70 percent, were found to be U.S. military arms.

Many Firearms Trafficked into Mexico Come from Gun Shops and Gun Shows in Southwest Border States

From fiscal year 2004 to fiscal year 2008, most of the firearms seized in Mexico and traced came from U.S. Southwest border states. In particular, about 70 percent of these firearms came from Texas, California, and Arizona. Figure 5 provides data on the top source states for firearms trafficked to Mexico and traced from fiscal year 2004 to fiscal year 2008.

[16]The Department of Defense (DOD) provides analytical support to ATF regarding captured weapons that there is reason to suspect may originally have been provided by the U.S. government to another country and then leaked out. Therefore, information provided by ATF would include such DOD analytical support as a subset of that information.

Figure 5: Top Source States for Firearms Seized in Mexico and Traced Over the Last 5 Years (Fiscal Years 2004-2008)



Sources: GAO analysis of ATF trace data; Map Resources (map).

Most of the firearms seized in Mexico and successfully traced come from gun shops and pawn shops, according to ATF gun trace data. According to ATF, there are around 6,700 retail gun dealers—gun shops and pawn shops—along the Southwest border of the United States. This represents around 12 percent of the approximately 55,000 retail gun dealers

nationwide. These gun dealers, or FFLs,[17] can operate in gun shops, pawn shops, their own homes,[18] or out of gun shows. From fiscal year 2004 to fiscal year 2008, of those firearms ATF was able to trace back to a retail dealer, around 95 percent were traced back to gun shops and pawn shops—around 71 to 79 percent from gun shops and 15 to 19 percent from pawn shops, according to ATF. In addition to these firearms that are successfully traced back to a retail dealer, some ATF officials told us, based on information from their operations and investigations, many seized guns also come from private sales at gun shows, though it is impossible to know this exact number due to the lack of records kept for such purchases, which is discussed further below.

The illicit purchase of firearms in the United States happens in various ways depending upon where the purchase takes place.

- *Gun shops and pawn shops*. Firearms purchased at gun shops and pawn shops for trafficking to Mexico are usually made by "straw purchasers," according to law enforcement officials. These straw purchasers are individuals with clean records who can be expected to pass the required background check and who are paid by drug cartel representatives or middlemen to purchase certain guns from gun shops. Because the straw purchasers are legitimately qualified to purchase the guns, they can be difficult to identify by gun shop owners and clerks, absent obvious clues that would signify that a straw purchase is happening. For instance, ATF officials were tipped off to straw purchases when older women purchased multiple AK-type semiautomatic rifles, or individuals who seemed to know little about guns made purchases off of a written shopping list. In far fewer cases, ATF officials stated, corrupt gun shop owners or staff facilitate these illicit purchases. ATF officials told us they have not estimated what percentage of firearms trafficked to Mexico result from such illegal actions on the part of the gun shop owners or staff, but ATF has identified gun shop personnel who sold guns they knew would be trafficked to Mexico, as well as instances where gun shop personnel have altered their records

[17] 18 U.S.C. § 923(a) requires that a person file for and obtain a license from the U.S. Attorney General before he or she can engage in the business of importing, manufacturing, or dealing in firearms.

[18] Under regulation, some part of a private dwelling must be open to the public in order to constitute a business premise as required to obtain federal firearms license. 27 C.F.R. § 481.11.

to mask the disappearance of guns from their inventory after being sold illegally.[19]

- *Gun shows*. According to ATF officials, individuals can use straw purchasers as they would at gun shops to acquire guns from gun shops with booths at gun shows. In addition, individuals can also purchase guns at gun shows from other individuals making sales from their private collections. These private sales require no background checks of the purchaser and require no record be made or kept of the sale. ATF officials told us this prevents their knowing what percentage of the problem of arms trafficking to Mexico comes from these private sales at gun shows.

Most Guns Trafficked to Mexico Support DTOs, According to U.S. and Mexican Government Officials

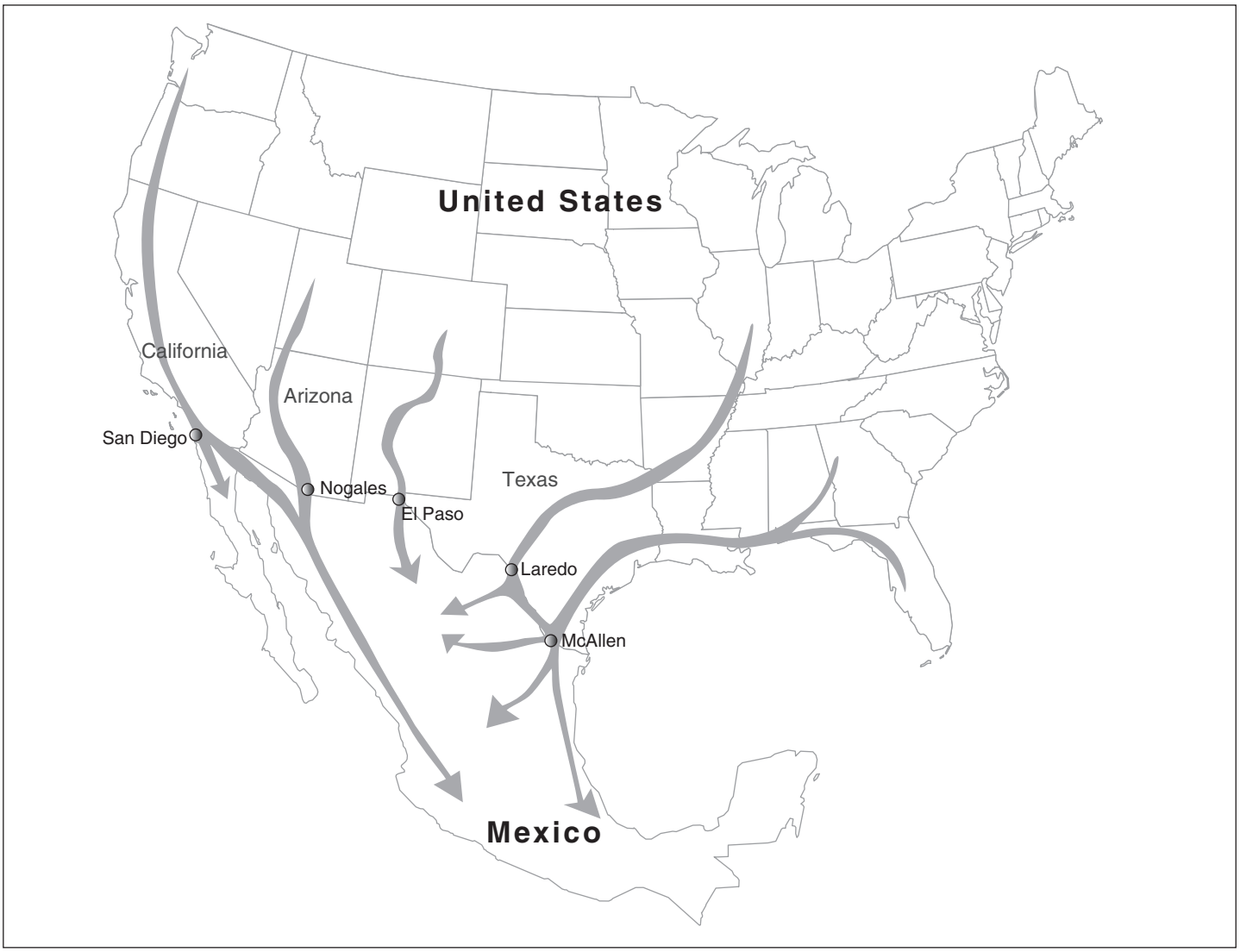
U.S. and Mexican government officials stated most guns trafficked into Mexico are facilitated by and support operations of Mexican DTOs.[20] According to ATF officials, once the gun is acquired in the United States, typically a middleman or someone representing the drug cartel will transport or pay another individual to transport the firearm or firearms into Mexico. Firearms are generally trafficked along major U.S. highways and interstates and through border crossings into Mexico. The firearms are normally transported across the border by personal or commercial vehicle because, according to U.S. and Mexican government officials, the drug cartels have found these methods to have a high likelihood of success. (We will discuss the challenges to seizing illicit southbound firearms at the border in the second objective of this report.) Once in Mexico, the firearms are generally deposited in border towns or trafficked along major highways to their destinations. The transporter drops off the firearm or firearms at a set location for pick up and use by members of a

[19]A June 2000 Department of the Treasury and ATF report found that FFL traffickers were involved in under 10 percent of ATF trafficking investigations, although FFL traffickers were associated with greater mean numbers of illegally trafficked firearms per investigation (see *Following the Gun: Enforcing Federal Laws Against Firearms Traffickers* (Washington, D.C.)). ATF has not assessed the extent to which cases of arms trafficking to Mexico involve FFL traffickers.

[20]According to ATF's Project Gunrunner Fact Sheet from September 2008, "Most of the firearms violence in Mexico is perpetrated by drug trafficking organizations (DTOs) who are vying for control of drug trafficking routes to the United States and engaging in turf battles for disputed distribution territories…. DTOs operating in Mexico rely on firearms suppliers to enforce and maintain their illicit narcotics operations. Intelligence indicates these criminal organizations have tasked their money laundering, distribution and transportation infrastructures reaching into the United States to acquire firearms and ammunition. These Mexican DTO infrastructures have become the leading gun trafficking organizations operating in the southwest United States."

drug cartel. Figure 6 displays the primary trafficking routes from the United States into Mexico.

Figure 6: Map of Primary Trafficking Routes from the United States into Mexico



Sources: ATF - adapted by GAO; Map Resources (map).

ATF and Mexican government officials told us they have found in Mexican arms trafficking investigations that a small number of firearms illicitly trafficked into Mexico from the United States are for hunters, off-duty police officers, and citizens seeking personal protection. Officials from

ATF, ICE, and the Government of Mexico told us most of the guns seized and traced come from seizures Mexican military or law enforcement make in their war with the drug cartels. Government of Mexico data showed almost 30,000 firearms were seized in Mexico in 2008. Government of Mexico officials told us almost all of them were seized in operations against the drug cartels.

U.S. Efforts to Combat Illicit Sales of Firearms and to Stem the Flow of These Arms across the Southwest Border Face Key Challenges

U.S. efforts to combat illicit sales of firearms in the United States and to prevent the trafficking of these arms across the Southwest border into Mexico confront several key challenges. First, relevant law enforcement officials we met with noted certain provisions of some federal firearms laws present challenges to their efforts to address arms trafficking. Second, we found poor coordination and a lack of information sharing have hampered the effectiveness of the two key agencies—ATF and ICE—that implement various efforts to address arms trafficking to Mexico. Third, a variety of factors, such as infrastructure limitations and surveillance by drug traffickers at the border, hinder U.S. efforts to detect and seize southbound firearms at U.S.-Mexico border crossings. Finally, agencies lack systematic gathering and recent analyses of firearms trafficking data and trends that could be used to more fully assess the problem and plan efforts, and they were unable to provide complete information to us on the results of their efforts to seize firearms destined for Mexico and to investigate and prosecute cases.

Some Federal Firearms Laws Present Challenges to U.S. Efforts to Combat Arms Trafficking to Mexico, according to Law Enforcement Officials

U.S. agencies implement efforts to address arms trafficking to Mexico within current applicable federal firearms laws.[21] In enacting federal firearms laws such as the Gun Control Act of 1968, Congress has sought to keep firearms out of the hands of those not legally entitled to possess them and to assist law enforcement in efforts to reduce crime and violence, without placing an unnecessary burden on law-abiding citizens who may acquire, possess, or use firearms for lawful activity.[22]

[21]Two major federal statutes regulate the commerce in, and possession of, firearms: National Firearms Act of 1934, 48 Stat. 1236, codified, as amended, at 26 U.S.C. §§ 5801-5872 and the Gun Control Act of 1968, Pub. L. No. 90-618, 82 Stat. 1213, codified, as amended, at 18 U.S.C. §§ 921-931.

[22]Pub. L. No. 90-618, § 101 and *Huddleston v. U.S.*, 415 U.S. 814, 824 (1974) (interpreting the legislative history of the Gun Control Act of 1968 and reiterating that the principal purpose of the Gun Control Act was to curb crime by keeping firearms out of the hands of those not legally entitled to possess them).

Furthermore, Congress stated that in enacting the Gun Control Act of 1968 that the law was not intended to discourage or eliminate the private ownership or use of firearms by law-abiding citizens for lawful purposes.[23] However, ATF officials stated certain provisions of some federal firearms laws present challenges to their efforts to combat arms trafficking to Mexico. For example, they identified key challenges related to (1) restrictions on collecting and reporting information on firearms purchases, (2) a lack of required background checks for private firearms sales, and (3) limitations on reporting requirements for multiple sales.

- *Restrictions on collecting and reporting information on firearms purchases*. FFLs are required by federal law to maintain records of firearm transactions and to provide information on the first retail purchaser of a firearm to ATF in response to a trace request within 24 hours.[24] ATF has stated that information obtained through the firearms trace process is critical to its efforts to identify individuals involved in firearms trafficking schemes and to detect trafficking patterns. In addition, ATF documents and officials noted the trace of a firearm recovered in crime in Mexico often leads to the initiation of an arms trafficking investigation or provides agents with information to assist with an investigation. However, the U.S. government is prohibited by law from maintaining a national registry of firearms.[25] As a result, ATF must take a number of steps to trace a crime gun, including, as applicable, contacting the importer, manufacturer, and wholesaler of the firearm in order to identify the FFL retailer who sold the firearm to the first retail purchaser. Key law enforcement officials stated restrictions on establishing a federal firearms registry lengthen the time and resources required by ATF to complete a crime gun trace and can limit the success of some traces. ATF officials added that information ATF is able to maintain on certain firearms purchases, such as information on some multiple firearms purchases, enables ATF to more quickly trace those firearms if they turn up in crime because the information is already entered into a searchable database.

According to ATF, from fiscal year 2004 to fiscal year 2008, it took the agency an average of about 14 days to complete a trace of a firearm

[23]Pub. L. No. 90-618, § 101.

[24]18 U.S.C. §§ 923(g)(1)(A) and (g)(7). FFLs are required by federal law to maintain records of firearm transactions for a period of 20 years. 27 C.F.R. § 478.129.

[25]The Firearms Owners' Protection Act, Pub. L. No. 99-308, §106, 100 Stat. 449 (1986) prohibited the establishment of a federal registry of firearms, firearms owners, and firearms transactions and dispositions.

recovered in Mexico to the first retail purchaser. However, officials stated investigative leads obtained from trace results are most useful within the first few days following a firearm seizure, in part because the sort of conspiracies often associated with firearms trafficking tend to change personnel frequently and, as a result, an individual found to be responsible for the purchase of a particular firearm may no longer have ties to the principal gun trafficker directing the scheme.[26]

DOJ documents and ATF officials also noted secondary firearms—firearms resold following the first retail purchase from an FFL, or "used guns"—are commonly trafficked to Mexico. Federal law permits the private transfer of certain firearms from one unlicensed individual to another in places such as at gun shows, without requiring any record of the transaction be maintained by the unlicensed individuals, an FFL, or other law enforcement authority.[27] Secondhand firearms may also be sold to and purchased from FFL pawnshops.[28] Although pawnshops maintain records of any secondhand firearm transfers,[29] ATF cannot directly trace the firearm from the first retail sale at an FFL to the pawnshop. Through the firearms trace process, ATF can follow the records of a firearm from the manufacturer or importer to the first retail sale at an FFL; however, if the firearm was resold from one individual to another or through a pawnshop, there is a break in the chain of records, and ATF must then consult with the last recorded purchaser of the firearm to determine the continuing disposition of the firearm. As a result, ATF officials stated that, while ATF may be able to trace a firearm to the first retail purchaser, it

[26]According to ATF, the primary goal of a straw purchasing conspiracy investigation is to identify the principal firearms trafficker. If the principal trafficker is not caught, that individual can continue to enlist new straw purchasers.

[27]Only individuals who are engaged in the business of importing, manufacturing, or dealing in firearms—those whose principal objectives are livelihood and profit—need to obtain a license (18 U.S.C. §§ 921(21) and 923(a).) In addition, 18 U.S.C. § 923(g)(1)(A) only requires licensed importers, licensed manufacturers, and licensed dealers to maintain records of importation, shipment, receipt, sale, or other disposition of firearms at his or her place of business.

[28]18 U.S.C. § 921(11) defines a "dealer," in part, as a person who is a pawnbroker. Consequently, the recording requirements of 18 U.S.C. § 923(g)(1)(A) and associated regulations, which apply to licensed firearms dealers, apply to pawnbrokers as well.

[29]As an FFL, a pawnshop is subject to the same records maintenance and reporting requirements as all other FFLs. *See* 18 U.S.C. § 921(11) (dealer is defined by law as encompassing a person who is a pawnbroker); 18 U.S.C. § 923(a) (requiring dealers to obtain a license to deal in firearms); and 18 U.S.C. § 923(g)(1)(A) (requiring licensed dealers to maintain records).

generally has no knowledge of any secondhand firearms purchases from gun shows or pawnshops—where many traffickers buy guns—without conducting further investigation, which may require significant additional resources and time.

- *Lack of required background checks for private firearms sales*. Federal firearms law prohibits certain persons from possessing or receiving firearms.[30] A 1993 amendment to the Gun Control Act (the Brady Handgun Violence Prevention Act) required background checks be completed for all nonlicensed persons seeking to obtain firearms from FFLs, subject to certain exceptions.[31] These background checks provide an automated search of criminal and noncriminal records to determine a person's eligibility to purchase a firearm. However, private sales of firearms from one individual to another, including private sales at gun shows, are not subject to the background checks requirement and, therefore, do not require the seller to determine whether the purchaser is a felon or other prohibited person, such as an illegal or unlawful alien.[32] DOJ documents and ATF officials stated that, as a result, many firearms trafficked to Mexico may be purchased through these types of transactions by individuals who may want to avoid background checks and records of their firearms purchases.[33]

[30]18 U.S.C. §§ 922(g) and (n).

[31]Pub. L. No. 103-159, § 103(i), codified at 18 U.S.C. § 922(t). The Brady Act established the National Instant Criminal Background Check System. In passing the Brady Act, Congress took into consideration the privacy interests of private individuals and specifically required the Attorney General to pass regulations to ensure the privacy and security of the information in the System. Section 922(t)(3) lists exemptions from the background check requirement.

[32]18 U.S.C. § 922(t) prohibits only a licensee from transferring a firearm to a nonlicensee before contacting the national criminal background check system and does not apply to transfers by nonlicensees. According to a 1999 report by the Department of the Treasury and DOJ, this is known as the "gun show loophole." The Gun Control Act requires all persons manufacturing, importing, or selling firearms as a business to be federally licensed, but private transactions between persons "not engaged in the business" are not covered by the Gun Control Act. Nonlicensees are prohibited from transferring firearms to any person who they have reasonable cause to believe is not a resident of the state in which the transaction occurs and from knowingly transferring a firearm to prohibited persons. However, the Brady Act does not apply to private firearm transfers. See Department of the Treasury, DOJ, and ATF, *Gun Shows: Brady Checks and Crime Gun Traces* (Washington, D.C.: January 1999).

[33]The 1999 report by the Department of the Treasury and DOJ provided recommendations to the President to close the "gun show loophole;" however, resulting legislation subsequently proposed in Congress did not become law.

- *Limitations on reporting requirements for multiple sales.* Under the federal multiple sale reporting requirement, an FFL that sells two or more handguns within 5 business days to an individual must report information on the transaction to ATF.[34] The federal reporting requirement was established to cover multiple sales of handguns, following studies showing that handguns sold in multiple sales to the same individual purchaser were frequently used in crime. ATF has identified multiple sales or purchases of firearms by a nonlicensee as a "significant indicator" of firearms trafficking, and officials noted the federal multiple sale reporting requirement helps expedite the time required by ATF to complete a crime gun trace. ATF officials added that information ATF received from FFLs on multiple sales has provided critical leads for some investigations of arms trafficking to Mexico. However, the requirement does not apply to purchases of long guns.[35] As a result, although according to ATF data about 27 percent of firearms recovered in Mexico and traced from fiscal year 2004 to fiscal year 2008 were long guns, ATF does not have information in its multiple sales database on any long guns recovered in crime in Mexico that may have been purchased through a multiple sale. In addition, law enforcement officials noted traffickers are aware of how to avoid the federal reporting requirement by spreading out purchases of handguns at different FFLs. For example, traffickers can effectively purchase two or more guns within 5 business days without having such purchases reported as long as they purchase no more than one gun at any individual FFL.

Lack of Coordination Hampers ATF and ICE Efforts to Combat Arms Trafficking to Mexico

Some officials we met with from ATF and ICE—the two primary agencies combating arms trafficking to Mexico—noted the agencies have worked well together on various efforts to address the issue; however, we found ATF and ICE have not consistently coordinated their efforts to combat arms trafficking. ATF has stated it aims to address arms trafficking to Mexico in collaboration with domestic and Mexican law enforcement partners, including Mexican government entities, as well as U.S. agencies

[34]Since 1975, FFLs have been required by regulation (27 C.F.R. § 478.126a), and subsequently by law (18 U.S.C. § 923(g)(3)(A)), to report all transactions in which an unlicensed person has acquired two or more handguns at one time or during any 5 consecutive business days (called a multiple sale). 18 U.S.C. § 923(g)(3)(A) specifies that a licensee must prepare a report of multiple sales, during 5 consecutive business days, of two or more pistols, or revolvers, or any combination of the two totaling two or more, to an unlicensed individual. According to ATF, the purpose of the requirement was to enable ATF to monitor and deter illegal commerce in handguns by unlicensed persons.

[35]Long guns include shotguns and rifles, the latter of which include firearms such as AK and AR-15 type semiautomatic rifles.

such as ICE and DEA. Specifically, a 2007 ATF document outlining its plan for Project Gunrunner stated ATF would incorporate ICE, CBP, and other participating agencies in joint initiatives, to expand information sharing and coordinated operations. According to ICE, its BEST initiative was largely developed to facilitate cooperation and bring together resources of ICE, CBP, and other U.S. and Mexican law enforcement entities to take a comprehensive approach to address border violence and vulnerabilities. However, an outdated interagency agreement and jurisdictional conflicts have led to instances of poor coordination between the two agencies. Officials from both agencies in Washington and in the field cited examples of inadequate communication on investigations, unwillingness to share information, and dysfunctional operations. As a consequence, it is unclear whether ATF and ICE are optimizing the use of U.S. government resources and minimizing duplication of efforts to address the issue.

ATF and ICE officials we interviewed had differing views of their respective roles and responsibilities for addressing arms trafficking to Mexico. ATF officials stated ATF's relative experience on firearms issues and broad range of relevant authorities under which it operates—including its role in tracing crime guns and regulating the firearms industry—make it the logical U.S. agency to lead efforts to combat arms trafficking to Mexico. For example, ATF enforces provisions of federal firearms laws[36] related to

- prohibited persons in possession of a firearm,[37]
- knowingly giving or selling a firearm to a prohibited person,[38]
- a lawful purchaser acquiring a firearm on behalf of an unlawful purchaser (known as a "straw purchase"),[39]

[36]As noted previously, two major federal statutes regulate the commerce in, and possession of, firearms: National Firearms Act of 1934, 48 Stat. 1236, codified as amended at 26 U.S.C. §§ 5801-5872 and the Gun Control Act of 1968, Pub. L. No. 90-618, 82 Stat. 1213, codified as amended at 18 U.S.C. §§ 921-931.

[37]18 U.S.C. § 922(g); 27 C.F.R. § 478.32.

[38]18 U.S.C. § 922(d); 27 C.F.R. § 478.32.

[39]While straw purchasing is not in itself illegal, it is illegal to intentionally provide false information in connection with the acquisition of a firearm. 18 U.S.C. § 922(a)(6). *See also U.S. v. Moore*, 109 F.3d 1456, 1460-63 (9th Cir. 1997) (explaining the straw man doctrine and applying it to a factual case).

- dealing in firearms without a license, [40] and
- the unlawful interstate transfer of firearms in certain instances.[41]

Although ICE officials acknowledged ATF had more years of experience on firearms issues, they told us they viewed ATF's role as focused on firearms trafficking on the U.S. side of the border, while ICE has the primary role in cases involving firearms smuggled across the U.S. border into Mexico. ICE enforces provisions related to the illegal export or smuggling of goods, including firearms and ammunition, from the United States into Mexico in the Arms Export Control Act of 1976[42] and its implementing regulations, the International Trafficking in Arms Regulations[43]; the USA Patriot Improvement and Reauthorization Act of 2005[44]; and the Export Administration Act[45] and its implementing regulations, Export Administration Regulations;[46] among other authorities.[47]

In the locations we visited during our audit work, officials cited examples of how unclear roles and responsibilities have hindered communication and cooperation during some operations. Examples are as follows:

- Several officials told us they felt the agencies were not taking sufficient advantage of each other's expertise to more effectively carry out operations, such as ATF's expertise in firearms identification and

[40]18 U.S.C. §§ 922(a)(1), 923(a).

[41]18 U.S.C § 922.

[42]Pub. L. No. 90-629, 82 Stat. 1320, as amended.

[43]22 C.F.R. parts 120-130.

[44]Pub. L. No. 109-177, 120 Stat. 192 (2006).

[45]50 U.S.C. App. §§ 2401-2420. The Export Administration Act is not permanent legislation. Authority granted under the act lapsed in August 2001. However, Executive Order 13222, Continuation of Export Control Regulations, which was issued in August 2001 and extended most recently by Presidential Notice on July 23, 2008, under the authority provided by the International Emergency Economic Powers Act (50 U.S.C. §§1701 et seq.), continues the controls established under the act and the implementing EAR. *See* 73 *Fed. Reg*. 43603 (July 25, 2008).

[46]15 C.F.R. subchapter C.

[47]ATF and ICE officials noted that they may support each other's efforts to address arms trafficking in areas in which one agency may have primary jurisdiction.

procedures for conducting surveillance at gun shows, and ICE's experience dealing with export violations and combating money laundering and alien smuggling, which ICE officials noted also may be relevant to cases of arms trafficking.

- Information on intelligence related to arms trafficking to Mexico was not being shared by the agencies at the El Paso Intelligence Center (EPIC), which was established to facilitate coordinated intelligence gathering and dissemination among member agencies related to Southwest border efforts to address drug, alien, and weapons smuggling. The 9/11 Commission Report asserted intelligence sharing is critical to combat threats to the United States and that intelligence analysts should utilize all relevant information sources. According to ATF, its "gun desk" at EPIC was established as a conduit or clearinghouse for weapons-related intelligence from federal, state, local, and international law enforcement entities, including weapons seizure information from ICE, CBP, and Mexican authorities. ICE stated its Border Violence Intelligence Cell (BVIC) was established at EPIC to coordinate weapons smuggling investigations and other related efforts with partner agencies and facilitate timely information sharing and analysis. However, ATF officials we met with at EPIC told us that, although they thought it was important for the two agencies' efforts to be integrated at EPIC, they had minimal interaction with BVIC staff. Additionally, senior ICE officials at headquarters told us that, in the past, ATF has taken information shared by ICE and used it to lead its own investigations; as a result, ICE has subsequently been reluctant to share information with ATF at EPIC. Although CBP had a representative assigned to the gun desk during our site visit in January 2009, the ATF official in charge of the gun desk stated ICE did not have a representative at the gun desk as of May 1, 2009. After reviewing a draft of this report, ATF and ICE officials at headquarters noted ICE had requested permission from ATF to assign a representative to the gun desk in the past 6 months, and ATF permitted the assignment at the end of May; they stated an ICE analyst had been assigned to the gun desk as of June 1, 2009, which may contribute to improved coordination between the two agencies at EPIC in the future.

- The agencies have not coordinated and collaborated on some covert operations, potentially compromising the effectiveness of these efforts. For example, ATF officials stated that, in some cases, ICE did not follow standard procedures ATF has established for conducting operations at gun shows. ATF officials told us of one case in which ICE did not coordinate with ATF on an operation at a gun show, which led to an ICE agent unknowingly conducting surveillance on an ATF agent who was pursuing a suspect trafficker. ICE officials stated that, in another case, ATF had

conducted "controlled delivery" covert operations in an attempt to identify organizations receiving illicit weapons in Mexico, without coordinating with ICE. The ICE officials said ATF did not notify them of their operations, including preclearing the controlled export of the weapons, which could have put ATF's operation in conflict with ICE, CBP, or Mexican government law enforcement and raised the risk that weapons smuggled to Mexico as part of the operations would end up in the wrong hands and be used in crime.

- In some cases, ATF and ICE refused to provide required documentation to assist each other in arms trafficking investigations, according to ICE officials. ICE officials stated, in some cases, ATF officials would not provide necessary statements for cases ICE was investigating that involved interstate firearms violations. As a result, the officials said they would not provide a required immigration certificate to ATF for arms trafficking cases ATF was investigating that involved an immigration violation.

- Although ICE established BEST teams to facilitate interagency coordination and an integrated approach to address border issues, ATF and ICE officials indicated ATF has had minimal participation on the BEST teams. ICE officials stated that, as of May 2009, ATF was working with 4 of the 10 Southwest border BEST teams. ATF stated in February 2009 it had not permanently assigned any agents to BEST teams, but some ATF agents had been available on an as-needed or part-time basis to assist with BEST efforts to stop the illegal export of weapons from the U.S. A senior ATF official subsequently told us resource constraints prevented ATF from fully participating in the Southwest border BEST teams, but the official said ATF recently agreed to assign one ATF agent to each of the Southwest border BEST teams that are located where ATF also has a field office.

- ATF, ICE, State, and other relevant officials we met with at the U.S. Embassy in Mexico City agreed on the potential usefulness of creating an interagency, bilateral operational arms trafficking task force to conduct joint operations and investigations including both U.S. and Mexican government officials. However, ATF and ICE could not agree on who would take the lead, or whether they would co-lead, the effort. Senior ICE officials told us ICE preferred not to co-lead an interagency task force with ATF unless ATF could provide an equivalent level of resources, and ATF had relatively fewer resources in Mexico. The officials also said ICE wanted to minimize coordination meetings that would be required with an interagency task force. While a senior ATF official stated ATF and ICE agreed at an April conference in Mexico to create an interagency task

force including both agencies that would be led by the Mexican government, senior ICE officials said the interagency task force would be led by ICE, and ICE is also moving forward with its own plans to create several bilateral taskforces comprising relevant ICE and Mexican officials at key locations in Mexico, without ATF involvement.

ATF and ICE officials acknowledged the need to better coordinate their efforts to leverage their expertise and resources, and to ensure their strategies are mutually reinforcing, particularly given the recent expanded level of effort to address arms trafficking. In our past work, we have found that in an interagency effort where interagency collaboration is essential, it is important that agencies have clear roles and responsibilities and that there be mechanisms to coordinate across agencies.[48] Officials from both agencies stated ATF and ICE are in the process of updating a 1978 MOU that existed between ATF and Customs (before the 2003 creation of ICE), and the agencies are working to improve coordination and cooperation.[49] ATF officials said the new MOU will more clearly define the agencies' statutory jurisdictions and reflect changes in some laws since the previous MOU was created. A draft copy of the MOU we obtained also included some guidelines for coordinating investigations and resolving interagency conflicts. A senior ATF official suggested that, in the future, it would be helpful if ICE and ATF officials in charge of field offices could develop more detailed standard operations procedures for their respective locations, based on the MOU. However, ATF and ICE have not reached formal agreement on the MOU to date, and officials said they have not established other formal coordination mechanisms to facilitate high-level information sharing and integrate strategies for addressing arms trafficking to Mexico.

[48]GAO, *Combating Terrorism: Law Enforcement Agencies Lack Directives to Assist Foreign Nations to Identify, Disrupt, and Prosecute Terrorists*, GAO-07-697 (Washington, D.C.: May 25, 2007); GAO, *Results-Oriented Government: Practices That Can Help Enhance and Sustain Collaboration among Federal Agencies*, GAO-06-15 (Washington, D.C.: Oct. 21, 2005); and GAO, *Managing for Results: Enhancing Agency Use of Performance Information for Management Decision Making*, GAO-05-927 (Washington, D.C.: Sept. 9, 2005).

[49]According to the 1978 MOU, the agreement was developed to facilitate more effective use of federal investigative resources and "an open exchange of intelligence and joint enforcement efforts on dual jurisdiction investigations, i.e., investigations in which there are, or may be, violations of statutes within the primary investigative jurisdiction" of each agency.

Various Factors Limit the Potential to Detect and Seize Southbound Weapons at U.S. Mexican Border

We conducted site visits to three locations along the U.S.-Mexico border (Laredo/Nuevo Laredo, San Diego/Tijuana, and El Paso/Juarez) and to Monterrey and Mexico City, Mexico, between September 2008 and January 2009. In March 2009, the Secretary of Homeland Security announced a new Southwest border security initiative that will expand screening technology and add personnel and canine teams that can detect weapons and currency for southbound inspections at ports of entry, among other efforts.[50] Although we have not reviewed these new plans, our review of operations found various factors limit the potential for southbound inspections to reduce the flow of arms at the Southwest border.

While ATF and ICE play important roles in investigating cases of arms trafficking to Mexico, CBP is responsible for the ports of entry at the U.S.-Mexico border, and its efforts include intercepting southbound illicit firearms at the border.[51] Although CBP reported that from fiscal year 2005 to fiscal year 2008 some weapons were seized as a result of southbound inspections along the U.S.-Mexico border, in general, such inspections have yielded relatively few seizures. According to agency officials we met with, in general, southbound inspections of vehicles and persons have not been a high priority for the U.S. government and have resulted in relatively few weapons seizures. [52] For example, in fiscal year 2008, CBP reported 35 southbound weapons seizures occurred at 10 of the 25 land ports of entry along the Southwest border, involving a total of 70 weapons. [53] The other 15 ports of entry did not report any southbound weapons seizures.[54]

[50]In addition, law enforcement officials stated that they have used, and are planning to expand, license plate reader technology along the Southwest border to combat arms trafficking. CBP has also begun screening 100 percent of outbound railcars at eight rail crossings along the U.S.-Mexico border, although officials noted that most southbound weapons seizures have occurred following inspections of personally owned (noncommercial) vehicles at the official ports of entry and rail screenings have resulted in no weapons seizures to date.

[51]CBP and ICE officials noted that they often work together in efforts to intercept firearms at the border.

[52]Law enforcement officials noted that southbound operations are focused on illicit goods in general, including money, guns, drugs, and people.

[53]CBP noted not all southbound weapons seizures necessarily relate to arms trafficking, such as in instances when an individual is arrested at the border due to an outstanding warrant, and the individual also had a weapon.

[54]Officials also told us few weapons have been seized in between the official ports of entry, although CBP does not maintain data on southbound weapons seized in between the ports of entry.

Efforts to increase southbound weapons seizures at the Southwest border are limited by several factors, including resource and infrastructure limitations, drug traffickers' surveillance capabilities, and the limitations of Mexican government efforts.

- *Resource and infrastructure limitations.* Although CBP officials stated CBP does not track the overall number of southbound inspections conducted at Southwest border crossings, officials stated such inspections have generally been periodic and ad hoc, depending on available resources and local intelligence. For example, at one border crossing we visited, CBP officials stated law enforcement agencies typically conducted about one to two southbound operations per month. Officials noted southbound border crossings generally lack the infrastructure available at northbound crossings for screening vehicles and persons, such as overhead canopies, inspection booths, X-ray units, and other technologies. CBP officials we met with at the San Ysidro border crossing from San Diego to Tijuana, Mexico, noted there are 24 northbound lanes at that crossing, with inspection booths and screening technologies that enable them to process about 110,000 vehicles and pedestrians crossing from Mexico into the United States every day with an average 1-1.5 hour wait per vehicle.[55] However, the officials said there are only 6 southbound lanes, none of which have the inspections infrastructure northbound lanes have, and the majority of vehicles cross into Mexico without stopping on either side of the border. Because of the lack of southbound infrastructure at this border crossing, officials said they use orange cones and concrete barriers to designate inspection areas during southbound operations (see fig. 7).

[55]The officials noted about 80 percent of border-crossers are "frequent crossers," meaning that they cross the border in both directions 10 times per month or more.

Figure 7: Southbound Operation Being Conducted at San Ysidro Border Crossing Between San Diego, California, and Tijuana, Mexico

Source: GAO.

To increase southbound inspections, law enforcement officials told us significant additional resources for personnel, equipment, and infrastructure along the Southwest border would be required beyond what is already spent conducting northbound screenings. For example, as of March 2009, Laredo, Texas, was the only CBP location along the Southwest border with a permanent team of individuals available to conduct southbound inspections at local border crossings.[56] CBP noted that, under the new security initiative, it plans to conduct more regular southbound operations, in collaboration with other law enforcement entities. However, officials stated some border crossings lack the additional space that would be required to expand southbound infrastructure in order to accommodate primary and secondary screening areas while limiting the impact on traffic. For example, we visited one border crossing in El Paso, Texas, that is adjacent to park land not owned by CBP, which CBP officials said would preclude any efforts to expand southbound infrastructure at that crossing. Officials added that the new Southwest border security initiative will include efforts to survey existing southbound infrastructure to assess needs for functionality and worker

[56]CBP officials stated that since March 2009, under the new Southwest border security initiative, CBP has been in the process of reassigning staff in order to have at least one dedicated team available for southbound inspections at each field office along the Southwest border.

safety, but they said any efforts to expand southbound infrastructure under the new security initiative would be long-term, since projects generally take 7-10 years.

- *Drug traffickers' surveillance capabilities.* Law enforcement officials stated they typically only have about 45 minutes to an hour to conduct a southbound inspections operation before drug traffickers conducting surveillance at the border detect the operation and tell potential traffickers to wait for the operation to end before attempting to cross. As a result, officials said inspections are typically conducted during random brief intervals over a certain time period, such as 2 to 3 days.

- *Limited Mexican southbound operations.* Although Mexican customs aims to inspect 10 percent of vehicles crossing into Mexico on the Mexican side of the border, they have generally inspected much less than that to date. U.S. and Mexican officials noted, Mexican customs typically has focused more on inspections of commercial vehicles for illicit goods, which result in the payment of a fine, than on inspections for illicit weapons. Officials said this variance was due to several factors, including Mexico's general lack of capacity for detecting illicit weapons, as well as concerns about corruption and the risks faced by Mexican officials involved in a seizure of illicit firearms. However, the Mexican government is taking some steps to improve inspections, such as enhancing background checks and vetting staff involved in inspections, and putting in place new processes, equipment, and infrastructure to improve the security, efficiency, and effectiveness of inspections.

DHS's new Southwest border security initiative has the potential to mitigate some of the limitations we found with existing border operations. We did not review efforts under the new initiative, and it is too early to tell whether and to what extent these recent efforts may effectively stem the flow of illicit weapons at the U.S.-Mexico border. Additionally, even if southbound operations were significantly expanded along the Southwest border, they might still result in a relatively small percentage of the weapons intended for Mexico being seized. For example, in comparison, even with the level of screening that is currently conducted on vehicles and persons coming into the United States from Mexico, the U.S.

interagency counternarcotics community has noted only a portion of illicit drugs crossing into the United States from Mexico are seized at the border.[57]

Agencies Lack Complete Data to Help Plan and Assess Results of Efforts to Address Arms Trafficking to Mexico

With the exception of information maintained by ATF on traces of firearms seized in Mexico, in general, U.S. agencies were not able to provide comprehensive data to us related to their efforts to address arms trafficking to Mexico. We found agencies lack recent systematic analysis and reporting of aggregate data related to arms trafficking, which could be used to better understand the nature of the problem and to help plan and assess ways to address it. Additionally, while agencies provided some information on efforts to seize firearms, and initiate and prosecute cases of arms trafficking to Mexico, they were not able to provide complete and accurate information related to results of their efforts to address trafficking to Mexico specifically.[58]

As mentioned previously, ATF maintains some data on firearms that are seized in Mexico and submitted for a trace, which can be used to help characterize arms trafficking patterns and trends.[59] For example, ATF has used this information to identify primary trafficking routes from the United States to Mexico and to identify types of firearms frequently recovered in crime in Mexico. ATF also provided data we requested on the number of traces that were linked to a multiple handgun sale and on

[57]The U.S. interagency counternarcotics community includes the Central Intelligence Agency's Crime and Narcotics Center; the Defense Intelligence Agency's Counternarcotics Trafficking Office, Defense's Joint Staff, and the Deputy Assistant Secretary of Defense for Counternarcotics; DHS's ICE, CBP, U.S. Coast Guard, Office of Intelligence and Analysis, Office of Counternarcotics and Enforcement, and the U.S. Interdiction Coordinator; Justice's DEA, Federal Bureau of Investigation, Narcotic and Dangerous Drug Section, National Drug Intelligence Center, and the Organized Crime and Drug Enforcement Task Force; the National Security Agency; ONDCP; State/INL; and the Department of the Treasury's Internal Revenue Service and Office of Foreign Assets Control (OFAC).

[58]We have identified standards for appropriate and effective internal control in government, which can help agencies improve operational processes and identify and address major performance and management challenges, such as the need to comprehensively identify internal and external risks and to monitor activities to compare actual performance to planned or intended results. See GAO, *Standards for Internal Control in the Federal Government*, GAO/AIMD-00-21.3.1 (Washington, D.C.: November 1999).

[59]Pages 14-24 of this report provide information on types and sources of firearms trafficked from the United States to Mexico, based on analyses of traces of firearms recovered in crime in Mexico.

firearms that had been reported lost or stolen.[60] However, ATF was unable to provide data to us on the number of arms trafficking to Mexico cases involving straw purchasers or unlicensed sellers because the agency does not systematically track this information. ATF was also unable to provide information we requested on the number of traces completed for firearms recovered in Mexico that were linked to FFL gun dealer sales at gun shows from fiscal year 2004 to fiscal year 2008, although the agency began a new effort to track this information in its firearms tracing system in June 2008. Multiple sales, straw purchasers, trafficking by unlicensed sellers, and gun shows have been cited in prior ATF reports and by ATF officials as sources or indicators for firearms trafficking in general and to Mexico in particular.

For example, in 1999 and 2000, the Department of the Treasury and ATF released three reports that included analyses of firearms trafficking trends based on ATF investigations.[61] The reports included information such as primary reasons for initiating firearms trafficking investigations, sources of illegal firearms, types of traffickers identified in investigations, and trafficking violations commonly associated with investigations. Law enforcement agencies and the National Academy of Sciences have stated the type of information related to arms trafficking included in the reports can be used by Congress and implementing agencies to more accurately assess the problem and to help target and prioritize efforts. [62] One of the three reports, released in February 2000, stated it was to be the first in an annual series. However, it has not been updated, and similar analyses and reporting have not been completed since the three reports were released.

[60]In fiscal year 2008, 145 of 7,206 (about 2 percent) firearm trace requests submitted by Mexico were linked to a multiple sale. Ten trace requests were submitted for firearms that were found to have been reported lost or stolen from an FFL or an interstate carrier.

[61]Department of the Treasury, Department of Justice, and Bureau of Alcohol, Tobacco, and Firearms, *Gun Shows: Brady Checks and Crime Gun Traces* (Washington, D.C.: January 1999); Department of the Treasury and Bureau of Alcohol, Tobacco, and Firearms, *Commerce in Firearms in the United States* (Washington, D.C.: February 2000); and Department of the Treasury and Bureau of Alcohol, Tobacco, and Firearms, *Following the Gun: Enforcing Federal Laws Against Firearms Traffickers* (Washington, D.C.: June 2000).

[62]A 2004 report by the National Academy of Sciences highlighted the general lack of data related to firearms and violence and the effectiveness or impact of various gun control policies. The report noted the importance of this type of information to aid policymakers in assessing problems, such as illegal commerce in firearms, and to help determine ways to effectively address firearms-related issues. See National Academy of Sciences, *Firearms and Violence: A Critical Review*, ISBN 978-0-309-09124-4 (2004).

Senior ATF officials stated ATF had not recently compiled reports including an analysis of aggregate data on firearms trafficking due to a provision in their appropriation that was in place from fiscal year 2004 to fiscal year 2007[63] that restricted the sharing of this type of information. The officials stated an update would be useful and, since the appropriations restrictions were relaxed in 2008, ATF was considering such an update in the future, though no funding was requested for this activity in ATF's fiscal year 2010 budget.

ICE officials also acknowledged the importance of compiling this type of information, and they noted that, for the first time in March 2009, ICE, CBP, and DHS intelligence staff had compiled an assessment providing an overview of southbound weapons smuggling trends, such as primary smuggling routes and destination states for firearms in Mexico.[64] The assessment included an analysis of 212 southbound weapons seized by CBP and ICE in the Southwest border states in fiscal year 2007 and fiscal year 2008, as well as data from the Mexican government on firearms seizures in Mexico between 2006 and 2008 and data from ATF on a portion of traces ATF completed for firearms recovered in Mexico in 2007 and 2008. However, the assessment notes that it "does not provide an all inclusive picture of…firearms smuggling" from the United States to Mexico. ICE stated it worked closely with ATF intelligence staff in developing the assessment. Nevertheless, the senior ATF intelligence official cited by ICE as its primary ATF contact for the assessment told us while ATF answered specific questions from ICE, such as regarding ATF's firearms trace process, ATF was not asked to provide comprehensive data and analysis or significant input into the assessment's overall findings and conclusions. In addition, although ICE officials stated that the assessment had been completed in March 2009, senior ATF officials we met with in April, including the Chief of ATF's National Tracing Center, had just received a copy for the first time. We found the assessment only includes a subset of trace statistics we were able to obtain from ATF on firearms recovered in crime in Mexico and traced over the last 5 years. The senior ATF intelligence official told us that it would make sense for future

[63]Consolidated Appropriations Act, 2004, Pub. L. No. 108-199, Div. B, 118 Stat. 3, 53; Consolidated Appropriations Act, 2005, Pub. L. No. 118-447, Div. B, 118 Stat. 2809, 2859-60 (2004); Science, State, Justice, Commerce, and Related Agencies Appropriations Act, 2006, Pub. L. No. 109-108, 119 Stat. 2290, 2295-96 (2005); Continuing Appropriations Resolution, 2007, Pub. L. No. 109-289, Div. B, 120 Stat. 1311 (2006), as amended.

[64]The assessment was labeled for official use only and has not been released to the public.

assessments to be developed jointly, in order to leverage more comprehensive data and analysis available from both agencies; however, he noted that until both agencies improve their interagency coordination, developing a joint assessment was unlikely.

Law enforcement agencies also reported tracking some information related to results of their efforts to address arms trafficking to Mexico to date, such as data on firearms seizures and cases initiated, but they lack complete data on results of their efforts to combat arms trafficking to Mexico specifically and have not systematically reported information on results of their efforts.[65] Examples follow:

- *Firearms seizures.* Law enforcement agencies could not provide complete data on the number of firearms seizures they made involving arms trafficking to Mexico. ATF reported to us it acquired 8,328 firearms in the four Southwest border states (Arizona, California, New Mexico, and Texas) in fiscal year 2008 as evidence in support of criminal investigations (through abandonment, purchase, or seizure), related to its Southwest border enforcement efforts.[66] However, a senior ATF official stated the agency is not able to readily retrieve data on whether a firearm was headed north or south, or, for example, whether an agent determined a firearm was being trafficked to Mexico or was seized for some other

[65]Law enforcement officials stated data on firearms seizures, cases initiated, and prosecutions provided by one agency are not necessarily mutually exclusive of data provided by another agency since multiple agencies may track information on the same seizure event or trafficking case.

[66]This figure does not include all firearms acquired by ATF in the above mentioned states in fiscal year 2008; it only includes those firearms identified by ATF as related to its Southwest border enforcement efforts. ATF reported that, of the 8,328 firearms, 559 were abandoned (voluntarily turned over to ATF by the owner for appropriate disposition. According to ATF, an abandonment must be unconditional; the person abandoning the property is not absolving themselves of potential criminal charges in connection with the property); 336 were purchased (generally in undercover scenarios, for evidentiary purposes); 4,040 were seized administratively (administrative forfeiture is a process by which property may be forfeited to the United States by ATF without any judicial action); 307 were seized judicially (judicial forfeiture is an action included as part of a criminal prosecution or an action in a U.S. district court); 1,448 were seized for evidence (property that is not subject to forfeiture may be seized as evidence where there is probable cause to believe that the evidence will aid in a particular apprehension or conviction); 1,638 were seized as evidence and held in the custody of a cooperating law enforcement agency in a joint investigation with ATF where there was probable cause to believe the evidence would aid in a particular apprehension or conviction (this property, though held by another law enforcement agency, is part of the case in chief being recommended for prosecution by ATF).

reason.[67] In addition, seizures of firearms in other states that may relate to arms trafficking to Mexico are not reflected in the above number.[68] Similarly, ICE reported to us it seized a total of 1,767 firearms in those same states in support of criminal investigations related to its Southwest border enforcement efforts in fiscal year 2008, including 152 firearms designated as having transited through or being destined for Mexico.[69] ICE officials said agents have not consistently indicated in ICE's data tracking system when a seizure relates to Mexico, so the latter number is likely less than the actual number of firearms seized related to Mexico. They added that seizures of firearms in other states that may relate to arms trafficking to Mexico also would not be reflected in the data. Additionally, while CBP reported to us it seized a total of 70 southbound firearms at official land ports of entry along the Southwest border in fiscal year 2008, it noted not all southbound weapons seizures necessarily relate to arms trafficking, such as in instances when an individual is arrested at the border due to an outstanding warrant and the individual also had a weapon.[70]

- *Cases initiated.* Law enforcement agencies could not provide complete data on cases they initiated involving arms trafficking to Mexico. ATF reported to us it initiated 280 cases nationwide related to arms trafficking to Mexico in fiscal year 2008. However, a senior ATF official stated some cases involving weapons that were exported to another country, such as Guatemala, and were later recovered in crime in Mexico would not be included in the above number, because the intermediate location would be recorded as the destination country in ATF's data tracking systems; therefore, the number provided is likely fewer than the actual number of cases. The official also noted ATF's data systems do not capture information on reasons for initiating cases, such as whether a case was initiated based on information provided from a confidential informant or

[67]ATF stated an accurate determination of the reason(s) for the acquisition of firearms as evidence can only be obtained by reviewing the investigative reports underlying the acquisition of each individual firearm.

[68]Law enforcement officials stated a majority of firearms trafficked from the United States to Mexico are sourced to the Southwest border states.

[69]An ICE official noted data on ICE firearms seizures include seizures by ICE on the U.S. side of the border, as well as seizures by CBP that were referred to ICE.

[70]CBP Border Patrol also noted that while Border Patrol maintains data on weapons seizures in between the official ports of entry, they are not able to determine from the data whether a weapon was headed north or south or was related to arms trafficking to Mexico without conducting further investigation. Officials noted anecdotal evidence suggests that few weapons intended for Mexico have been seized in between the ports of entry.

based on findings from an FFL inspection.[71] ICE reported to us it initiated 103 cases involving Mexico-related weapons smuggling in fiscal year 2008. However, ICE officials stated some cases that do relate to arms trafficking to Mexico are not included in the data since ICE agents have not consistently indicated whether a case is related to Mexico in ICE's data tracking system.[72] They also noted their data systems do not capture information on specific reasons for initiating cases, such as whether a case was initiated following a highway interdiction on the U.S. side of the border or based on information provided from a confidential informant. However, ICE was able to provide a breakdown to us of cases by referring agency. For example, ICE reported 15 of the cases involving weapons smuggled to Mexico were initiated following a weapons seizure by CBP at an official port of entry, and 16 were initiated following a referral from ATF.

- *Prosecutions.* Agencies were also unable to provide complete data on prosecutions of cases involving arms trafficking to Mexico. Officials from DOJ's Executive Office for U.S. Attorneys (EOUSA) stated their national database for tracking criminal cases does not have a category specific to Mexico arms trafficking cases. They said there is not a simple way to determine which cases involve arms trafficking to Mexico since cases may involve various defendants and charges, and no charges are specific to arms trafficking to Mexico. They added that, to date, most of the cases U.S. Attorneys Offices have prosecuted relating to arms trafficking to Mexico have been referred to U.S. Attorneys by ATF.[73] ATF reported to us it referred 73 cases involving arms trafficking to Mexico for prosecution in

[71]A 2004 report by the DOJ Office of the Inspector General found that ATF's FFL inspection program was not fully effective for ensuring that FFLs comply with federal firearms laws because inspections were infrequent and of inconsistent quality, and follow-up inspections and adverse actions had been sporadic (see Report Number I-2004-005, *Inspections of Firearms Dealers by the Bureau of Alcohol, Tobacco, Firearms, and Explosives* (Washington, D.C). However, ATF has not assessed the extent to which cases of arms trafficking to Mexico involve FFL traffickers.

[72]For example, ICE officials said narcotics, money laundering, or human trafficking cases that also involved arms smuggling may not be reflected in data provided on the initiation and prosecution of cases.

[73]EOUSA officials noted that, for the first time, in 2009, EOUSA is planning to provide training for relevant U.S. officials on prosecutions of southbound weapons smuggling cases.

fiscal year 2008.[74] ATF officials stated although their data systems track the outcome of all cases, including firearms trafficking cases in general, or, as another example, for cases related to Southwest border violence (which may involve arms trafficking as well as other related offenses) they do not readily track the outcome of arms trafficking to Mexico cases specifically. However, based upon further review and analysis, ATF was able to generate some information for us on the outcome of the 73 cases: specifically, as of September 30, 2008, 22 cases were pending a prosecutorial decision, 46 had been accepted for prosecution, and 5 had not been accepted for prosecution. In addition, ATF reported 47 of the cases had been indicted, and 33 had resulted in convictions. While ICE was not able to provide data on the number of cases involving arms trafficking to Mexico that it referred for prosecution, it reported 66 cases involving Mexico-related weapons smuggling had been indicted, and 47 had resulted in convictions in fiscal year 2008. ICE officials noted some narcotics, money laundering, or human trafficking cases may also result in charges related to weapons smuggling that are not reflected in this data. They said compiling more complete and precise data related to prosecutions of cases involving arms trafficking to Mexico would require extensive documentary review and analysis.

U.S. Assistance Limited by a Lack of Targeting Resources at Needs and Concerns over Corruption among Some Mexican Government Officials

U.S. law enforcement agencies have provided some technical and operational assistance to Mexican counterparts to combat arms trafficking to Mexico. However, these efforts have been limited in scope and hampered by the incomplete use of ATF's eTrace system and a lack of targeting resources at needs. In addition, concerns about corruption among some Mexican government officials limit the United States' ability to establish a full partnership with Mexican government entities in combating illicit arms trafficking to Mexico.

[74]ATF reported that, of the 73 cases, DHS participated in some way in 39 of the investigations (for example, an agent, analyst, or attorney from ICE, CBP, Border Patrol, BEST, or another DHS component was a participant or source of information for the investigation). A senior ATF official stated arms trafficking to Mexico cases are not necessarily referred for prosecution in the same year they are initiated. A case may be referred to a U.S. Attorney's Office or in some cases to a state or local prosecutor for prosecution.

Agencies Provide Some Assistance to Mexican Counterparts in Combating Arms Trafficking, but Overall Efforts Are Limited and Not Targeted to Needs

U.S. law enforcement agencies have provided some assistance to Mexican counterparts in combating arms trafficking. As noted previously in this report, U.S. law enforcement agencies conduct their work in Mexico in cooperation with Government of Mexico counterparts under the Treaty on Cooperation Between the United States of America and the United Mexican States for Mutual Legal Assistance.[75] ATF agents in Monterrey, for instance, have built working relationships with federal, state, and local law enforcement, as well as the Mexican military, in the Monterrey area. This type of outreach has given the United States the opportunity to provide Mexican government counterparts some technical and operational assistance on firearms trafficking.[76]

- *Technical assistance.* ATF has provided training sessions on firearms identification, developing arms trafficking investigations, and the use of eTrace. For instance,[77] according to ATF, from fiscal years 2007 through 2008, ATF trained 375 law enforcement officials on the use of eTrace, at a cost of just under $10,000. Government of Mexico officials told us the training was extremely helpful in improving the skills of the officers who received it. However, only a small percentage of officers received the training, and more training is needed, Government of Mexico officials told us. In addition, ATF has provided some equipment to Mexican government counterparts, such as providing forensics equipment to the State Crime Lab of Nuevo Leon in Monterrey, Mexico.[78]

[75] Treaty on Cooperation Between the United States of America and the United Mexican States for Mutual Legal Assistance, Dec. 9, 1987, U.S.-Mexico, S. Treaty Doc. No. 100-13 (1988).

[76] According to DOD, ATF has asked DOD to utilize ongoing military-to-military discussion channels to facilitate ATF conversations with the Mexican military. Should such prospective discussions take place, DOD would be in a supporting and facilitating role, and any results would properly be reported by ATF.

[77] From fiscal year 2007 to fiscal year 2008, ATF provided 12 training sessions on the use of eTrace in Mexico City, Monterrey, Hermosillo, Guadalajara, Tijuana, Ciudad Juarez, Nogales, Matamoros, Nuevo Laredo, and Merida, Mexico.

[78] According to State, it will fund a $5 million Forensics Laboratories project with the Mexican Attorney General's Office for the successful investigation and prosecution of criminal cases. This funding will be used to provide state-of-the-art equipment and training in such areas as collection and preservation of evidence, chemical/biological analysis, computer forensics, and an Integrated Ballistics Identification System (IBIS), which will directly support DOJ and DHS efforts in the disruption of firearms trafficking. IBIS will complement ATF's eTrace by tracing the origin of U.S. sourced firearms recovered from Mexican criminal investigations.

- *Operational assistance.* ATF currently has 3 agents in Mexico, and ICE has 12, though ICE agents are required to work on a wide variety of issues and, at the time of our field work in Mexico, none was exclusively dedicated to arms trafficking issues. In May 2009, ICE officials told us that one ICE agent in Mexico would now be dedicated to arms trafficking. Where they can, these ATF and ICE agents work with their Mexican counterparts to assist at crime scenes and to gain access to firearms information necessary to conduct gun traces. As part of this, ATF has worked with Mexican law enforcement to collect gun data for submission to eTrace. Once they have received the data on the guns through eTrace, ATF's National Tracing Center in West Virginia conducts the gun traces and returns information on their findings to the submitting party. In addition, ATF uses that trace information to launch new investigations or inform existing ones. ATF officials told us these investigations are the means by which ATF shuts down arms trafficking networks.

However, despite these efforts, overall ATF and ICE assistance has been limited, according to Mexican and U.S. government officials. For example, due to ATF's resource limitations, it has provided only a portion of the training ATF officials told us is needed to federal, state, and local law enforcement and to the Mexican military. In addition, though ATF and ICE have provided operational assistance in investigations, and though ATF has assisted in the collection of firearms information for submission to ATF's eTrace when Mexican law enforcement and military seize firearms, ATF and ICE have been significantly limited in what assistance they can provide. For instance, there are several firearms seizures in Mexico every week, but in a country as large as Mexico, neither ATF nor ICE have enough staff in multiple locations to assist with the vast majority of gun seizures that take place.

Also, U.S. assistance has been limited due to the incomplete use to date of eTrace by Mexican government officials.[79] The inputting of firearms information into eTrace provides an important tool for U.S. law enforcement to launch new, or to further existing, arms trafficking investigations in the United States, which can lead to the disruption of networks that traffic arms into Mexico, according to ATF officials. In addition, the data inputted into eTrace currently serves as the best data we found available for analyzing the source and nature of the firearms that are

[79]Between fiscal year 2004 and fiscal year 2008, the Government of Mexico submitted more weapons to be traced—from 0 to 1067—with the remaining requests generally entered by ATF agents operating in Mexico.

being trafficked and seized in Mexico. However, because Mexican government officials have only entered a portion of the information on firearms seized, the eTrace data only represents data from these gun trace requests, not from all the guns seized. U.S. and Mexican government and law enforcement officials told us Mexican government officials' failure to submit all of the firearms tracing information could be attributed to several factors, including the following:

- Mexican officials only recently began to fully appreciate the long-term value to Mexico of providing gun trace information to ATF;
- the Mexican military serves as the central repository for all seized guns in Mexico, while the Mexican Attorney General's office is responsible for maintaining information on seized firearms, and coordinating access to the guns in order to collect necessary information has presented some challenges, according Mexican government officials;
- the Mexican Attorney General's office is understaffed and has not had sufficient resources to clear the eTrace backlog, according to U.S. and Mexican government officials;
- only some of the Mexican Attorney General's office staff had received ATF-provided training on identification of firearms and on using the eTrace system; and
- eTrace has been provided only in an English language version.

Recent trends in submissions of trace requests to ATF's National Tracing Center indicate Mexican government officials have begun to input more information using eTrace. ATF officials attribute this increased use of eTrace by Mexican government officials to the training and outreach the agency has provided over that period of time, and they hope this number will continue to grow as Mexican government officials become more aware of the long-term benefits to Mexico of submitting firearms trace requests, participate in ATF firearms identification and eTrace training,

and devote more resources to gathering the firearms information and entering it into eTrace.[80]

Nonetheless, the ability of Mexican officials to input data into eTrace has been hampered because a Spanish language version of eTrace has still not been deployed across Mexico. In September 2008, ATF and State officials told us eTrace would soon be deployed across Mexico.[81] However, ATF officials told us that to date the eTrace system is still being adapted to include all planned changes—such as the ability to enter more than one last name for a suspect or other party and to enter addresses that are differently configured from those in the United States—and that they were not sure when Spanish eTrace would be deployed across Mexico. U.S. and Government of Mexico officials told us it was important to complete the development of Spanish eTrace and immediately deploy it across Mexico because providing it and the necessary training for it to all relevant parties in Mexico would likely improve Mexican government officials' use of the system.

In addition, according to U.S. law enforcement and embassy officials, no needs assessments regarding arms trafficking were conducted in advance of Merida Initiative funding and, as a result, some needs that have been identified have not been addressed. The United States has recently provided significant funding for assistance to the Government of Mexico under the Merida Initiative; however, the Initiative currently provides general law enforcement and counternarcotics assistance to Mexico but has not focused on arms trafficking. State told us that the initial allocation of assistance was more general in order to enable it to be provided to get the money out for use in Mexico more quickly. Going forward, State told us that with additional time they could potentially develop and seek funding for more specific programs or efforts to assist Mexico in combating arms trafficking. State's Narcotics Affairs Section (NAS) in

[80]In addition to incomplete submissions of firearms information into eTrace, ATF officials told us that the time between when a firearm is seized in Mexico and when ATF receives a trace request varies. While ATF receives some requests within a day or so of a firearms seizure, over the last few years, ATF has received other requests to trace "batches" of firearms that were seized over an 18-month period. ATF is working with the Mexican government to improve the trace process, including shortening average time between when a firearm is seized and ATF receives a trace request.

[81]According to State, money from the Department of the Treasury's Asset Forfeiture Funds, not money from State's Merida funding, will be used to develop and deploy the Spanish language version of eTrace.

Mexico City administers Merida Initiative funding for Mexico and had been able to use some of the Initiative's monies in support of ad hoc arms trafficking initiatives conducted by U.S. law enforcement agencies and other U.S. entities at the embassy. However, there were specific needs identified by Mexican and U.S. government officials that were not being met, including the following:

- Mexican government officials we met with consistently stated their agencies needed training from U.S. law enforcement on firearms trafficking. They said ATF had provided some training that was very useful to their agencies, including training on identifying firearms, discovering trafficking trends, or developing firearms trafficking cases and that their agencies did not have their own courses on the issue. However, there had only been a few training sessions and only a small percentage of Mexican government officials to date had received the training. ATF, ICE, and embassy officials agreed more training was needed but said they had minimal resources to devote to address the problem. NAS officials at the embassy told us they were able to take some of the Merida Initiative money for building general capacity and use it to support some training with an arms trafficking application. However, these amounts were small, and the money was not designated in such a way that an arms trafficking curriculum or training program could be developed on a large scale and funded through Merida Initiative monies. Both U.S. and Mexican government officials told us designing and providing a comprehensive training program could be very helpful in boosting Mexican law enforcement capacity to combat arms trafficking.

- Mexican government officials, as well as U.S. law enforcement and embassy officials, told us another currently unmet need was the development of a bilateral, interagency investigative task force for arms trafficking. While the embassy uses a law enforcement working group to share general, nonoperational information on a whole range of law enforcement issues in Mexico, there was no group of U.S. and Mexican law enforcement officials working jointly at an operational and investigative level on combating arms trafficking. Mexican and U.S. government and embassy officials told us that such a task force would include a group of vetted Mexican law enforcement and government officials working jointly with U.S. counterparts in relevant law enforcement agencies, such as ATF, ICE, and others, on identifying, disrupting, and investigating arms trafficking on both the Mexican and U.S.

sides of the border.[82] Such types of vetted units, called Special Investigative Units, work with DEA on counternarcotics operations in Mexico. DEA officials we met with told us that these units are time, energy, and resource intensive, but that they are essential for success in their efforts.[83] However, there is no dedicated money that can be used for establishing and maintaining such a group for combating arms trafficking. NAS officials we met with in Mexico City who were administering funds for the Merida Initiative told us they had been able to provide some funding for various projects that had an arms trafficking application. However, funding a standing bilateral, interagency task force would require significant money that would need to be consistently available year to year. As such, these officials told us that, to date, they had not been able to use Merida Initiative funding to develop and maintain such an arms trafficking task force. In addition, NAS officials said that when the embassy had supported the possibility of creating such a task force, ATF and ICE each insisted on leading such an effort and refused to work under the other's leadership, preferring instead to run their own agency units with the Mexican government. Embassy officials told us they were unsure whether any such units would be created in the future without significant dedicated funding and agreement.

Concerns about Corruption among Some Mexican Officials Have Hampered U.S. Efforts to Provide Assistance

Since taking office in December 2006, President Calderon has recognized the need to address the problem of organized crime and the corruption it creates throughout Mexican government and society. Calderon's administration has reached out to the United States for cooperation and U.S. assistance in an unprecedented way. However, U.S. assistance to Mexico has been limited due to concerns about corruption among Mexican government entities, according to Mexican and U.S. government officials.

According to Mexican government officials, corruption pervades all levels of Mexican law enforcement—federal, state, and local. For example, some high ranking members of federal law enforcement have been implicated in

[82]We found in our past work that in a large-scale, interagency effort, mechanisms to ensure interagency collaboration are essential, and we have identified key elements of collaboration, including defining and articulating common outcomes; agreeing on roles and responsibilities; and establishing compatible policies and procedures. See GAO-06-15.

[83]Direct, operational funding for DEA's vetted units in Mexico totals approximately $2 million per year, excluding the salaries and expenses for the DEA Special Agents who work with the units.

corruption investigations, and some high publicity kidnapping and murder cases have involved corrupt federal law enforcement officials. Furthermore, corruption is more of a problem at the state and local levels than federal, according to U.S. and Mexican government officials. The Mexican military, however, is generally considered to be less vulnerable to corruption than law enforcement, according to U.S. and Mexican government officials. As a result, the Calderon administration has used the military extensively to disrupt drug cartel operations and seize illicit firearms and to assist or replace local law enforcement when they are overwhelmed or deemed corrupt. For example, in late 2008, President Calderon's administration terminated around 500 officers on Tijuana's police force and brought in the military to fill the gap until new officers who had been sufficiently vetted could be hired and trained.

U.S. government and law enforcement officials told us that corruption inhibits their efforts to ensure a capable and reliable partnership with Mexican government entities in combating arms trafficking. For instance, U.S. law enforcement officials we met with along the Southwest border and in Mexico told us they attempt to work with Mexican counterparts in law enforcement, the military, and Attorney General's Office whenever possible. However, incidents of corruption among Mexican officials compel them to be selective about the information they share and with whom they share it. For example, in 2006, the Government of Mexico reported that it had dismissed 945 federal employees and suspended an additional 953, following aggressive investigations into public corruption.

Similarly, CBP officials told us that, on the border, collaboration between Mexican and U.S. counterparts has been limited due to concerns about corruption among Government of Mexico customs officers. In fact, in one major border crossing location, CBP officers told us they had not been in contact with their Mexican customs counterparts and would not know who they could trust if they were. The Mexican military has been brought in to work along the border, due to the corruption within Mexican customs, according to Mexican and U.S. government officials. The Government of Mexico is implementing anticorruption measures, including polygraph and psychological testing, background checks, and salary increases for federal law enforcement and customs officers, and has implemented reforms to provide some vetting for state and local officers as well. However, these efforts are in the early stages and may take years to affect comprehensive change, according to Mexican and U.S. government officials.

United States Lacks a Comprehensive Strategy to Combat Arms Trafficking to Mexico

While U.S. law enforcement agencies have developed initiatives to address arms trafficking to Mexico, none have been guided by a comprehensive, governmentwide strategy. Strategic plans for ATF and ICE raise the issue of arms trafficking generally or overall smuggling to Mexico, but neither focuses on arms trafficking to Mexico or lays out a comprehensive plan for addressing the problem. In our past work, we have identified key elements that constitute an effective strategy, including identifying needs and objectives and the resources necessary to meet them, as well as establishing mechanisms to monitor progress toward objectives. In June 2009, the administration released its 2009 National Southwest Border Counternarcotics Strategy, which, for the first time, contains a chapter on arms trafficking to Mexico. We reviewed the strategy, and it contains some key elements of a strategy, such as setting objectives, but lacks others, such as performance measures for monitoring progress toward objectives. ONDCP officials said an appendix with an "implementation plan" for the strategy will be added in late summer of 2009 that will have some performance measures for its objectives. However, at this point, it is not clear whether the implementation plan will include performance indicators and other accountability mechanisms to overcome shortcomings raised in our report. In addition, in March 2009, the Secretary of Homeland Security announced a new DHS Southwest border security effort to significantly increase DHS presence and efforts along the Southwest border, including conducting more southbound inspections at ports of entry, among other efforts. However, it is unclear how the new resources that the administration has recently devoted to the Southwest border will be tied to the new strategy and implementation plan.

Strategic Plans for Agencies Are Not Focused on Arms Trafficking to Mexico

Strategic plans for ATF and ICE raise the issues of arms trafficking in general and overall smuggling to Mexico, but neither plan focuses on arms trafficking to Mexico or lays out a comprehensive plan for how the agencies would address the problem. In addition, the Merida Initiative does not include provisions that would constitute a strategy to combat arms trafficking.

ATF

ATF's current strategic plan for fiscal years 2004-2009 does not mention arms trafficking to Mexico. The strategic plan lays out the strategic goal to "enforce Federal firearms laws in order to remove violent offenders from our communities and keep firearms out of the hands of those who are prohibited by law from possessing them." As part of this objective, the plan identifies one tactic to "partner with law enforcement agencies and prosecutors at all levels to develop focused strategies that lead to the investigation, arrest, and prosecution of…domestic and international firearms traffickers…and others who attempt to illegally acquire or misuse

firearms." However, the strategic plan neither lays out how ATF will go about implementing the tactic or achieving the goal, nor does it include any performance metrics to measure performance and monitor progress. ATF officials told us that they are currently developing their new fiscal year 2010 strategic plan, which will include more information relevant to arms trafficking to Mexico; however, as ATF's fiscal year 2010 strategic plan was in draft form and subject to change, we could not determine whether the final version will contain key elements, such as needs assessments, clear definition of roles and responsibilities, or metrics to measure progress.

In June 2007, ATF released a document announcing Project Gunrunner, as part of DOJ's Southwest Border Initiative. This document does provide some strategic goals, outcomes, and action items for combating arms trafficking and violence in Mexico and the United States. For example, ATF's strategy regarding DOJ's Southwest Border Initiative is summarized as follows:

> "Working with its domestic and international law-enforcement partners, ATF will deny the "tools of the trade" to the firearms-trafficking infrastructure of the criminal organizations operating in Mexico through proactive enforcement of its jurisdictional areas in the affected border States in the domestic front, as well as through assistance and cooperative interaction with the Mexican authorities in their fight to effectively deal with the increase in violent crime."

ATF included certain action items, which provided some specific tasks for ATF to accomplish its strategic goals under Project Gunrunner. Some examples of action items include the following:

- The United States and Mexico establishing a point of contact for each ATF border field division who will meet regularly with the Mexican Attorney General's Office's representative to coordinate investigative and firearms-trafficking issues.
- ATF and other DOJ components, such as DEA, U.S. Marshals Service, and FBI; and DHS components, such as ICE, operating along the border implementing investigative strategies and for developing intelligence relating to trafficking into Mexico.
- The United States and Mexico forming a consultative group of attorneys and law enforcement officials from both countries to address legal issues and policies involving firearms trafficking and enforcement strategies.

- The United States exploring the availability of funding to provide technology and equipment to assist the government of Mexico in upgrading its firearms forensics analysis and tracing capabilities.

While this ATF Project Gunrunner document does contain useful strategic goals and specific action items to achieve those goals, key elements are missing, such as mechanisms that could measure and ensure progress toward these goals.

ICE

Similarly, in ICE's interim strategic plan, dated July 2005, there are no specific arms trafficking to Mexico goals or action items, nor are there mechanisms for measuring progress in their efforts. ICE released a fact sheet on its new effort to combat illicit arms trafficking to Mexico—Armas Cruzadas—which did include mission goals:

> "The mission of Armas Cruzadas is for U.S. and Mexican government agencies to synchronize bi-lateral law enforcement and intelligence-sharing operations in order to comprehensively identify, disrupt, and dismantle trans-border weapons smuggling networks. The goals include (1) establishing a bilateral program to stop weapons smuggling; (2) coordinating operations; (3) developing intelligence about arms trafficking networks; (4) strengthening interagency cooperation; (5) promoting intelligence information exchange; and (6) implementing points of contact for information exchange."

To meet these goals, ICE detailed some action items, which included

- training stakeholders;
- creating a border violence intelligence cell;
- developing a vetted arms trafficking group;
- implementing a weapons virtual task force;
- reinvigorating the ICE Border Liaison Program; and
- leveraging investigation, interdiction, and intelligence.

While ICE's fact sheet does contain relevant strategic goals and specific action items to achieve those goals, key elements of a strategy are missing as well, such as mechanisms to ensure progress toward the strategic goals.

U.S. Customs and Border Protection

In CBP's current strategic plan, there are no goals specific to arms trafficking to Mexico. The primary focus of CBP's plan is on preventing

dangerous people and goods from getting into the United States, and the issue of preventing arms from going across the border into Mexico is not addressed.

In other reports and publications, CBP mentions items it has seized on the border, including drugs, illicit currency, and even prohibited plant materials and animal products, but the agency does not mention illicit firearms. However, CBP officials told us they have an important role to play in combating arms trafficking to Mexico and will continue to increase their efforts to combat arms trafficking with new initiatives, including some in coordination with and support of operations involving ICE and other U.S. law enforcement agencies.

The Merida Initiative

The Merida Initiative does not include provisions that would constitute a strategy to combat arms trafficking. While a bill in Congress to authorize the Merida Initiative included a "sense of Congress" that an "effective strategy to combat ... illegal arms flows is a critical part of a United States … anti-narcotics strategy,"[84] a subsequent appropriations act, which makes reference to Merida, included no details on which agency or agencies should be responsible for developing and implementing such a strategy.[85] And, as mentioned previously in the report, State has not dedicated funding for the Merida Initiative that targets illicit arms trafficking.

The U.S. Embassy in Mexico, where the Merida Initiative funding is administered, also maintains a Mission Performance Plan to guide its efforts each fiscal year. This plan lays out goals of working with Government of Mexico partners on law enforcement issues including transborder issues, such as smuggling of arms. However, there are neither detailed performance measures, nor are there mechanisms to ensure collaboration across agencies on the issue of combating arms trafficking to Mexico.

[84]H.R. 6028, 110th Cong. (2008).

[85]Supplemental Appropriations Act, 2008, Pub. L. No. 110-252, § 1406, 122 Stat. 2323, 2339 (tying funding for assistance for Mexico to a requirement for a report by the Secretary of State that the Government of Mexico is establishing a mechanism for regular consultations to make recommendations concerning implementation of the Merida Initiative).

Several Key Elements Are Essential to an Effective Strategy

We have previously identified several key elements of an effective strategy. These elements include

- identifying clear objectives
- defining roles and responsibilities for each party to meet those objectives
- ensuring sufficient funding and resources necessary to accomplish objectives
- implementing mechanisms to facilitate coordination across agencies; and
- monitoring progress toward objectives and identifying needed improvements.

We have found that having a strategy with elements such as these has the potential for greatly enhancing agency performance. For example, managers can use performance information to identify problems in existing programs, to try to identify the causes of problems, and to develop corrective actions.

New National Southwest Border Counternarcotics Strategy Includes Chapter on Arms Trafficking, but It Does Not Contain Some Key Elements of an Effective Strategy

In June 2009, the administration released its 2009 National Southwest Border Counternarcotics Strategy, which, for the first time, contains a chapter on arms trafficking to Mexico. By law,[86] the Office of National Drug Control Policy (ONDCP) is required to issue a new strategy every 2 years. The previous version of this document, from 2007, did not include any strategy to combat illicit arms trafficking to Mexico. According to ONDCP officials, initially, this new version did not include arms trafficking either, but in February, a working group, co-led by ATF and ICE, began working on an arms trafficking piece.

We reviewed the strategy's chapter on arms trafficking and found that the chapter does contain some key elements of a strategy. For instance, in that chapter, there are some broad objectives and under those, there are several supporting actions on topics such as improving information sharing. Under each supporting action, there is a description of an issue item to be addressed and how, in general, the relevant agencies should

[86]Office of National Drug Control Policy Reauthorization Act of 2006, Pub. L. No. 109-469, § 1110, 120 Stat. 3502, 3544

resolve the issue. For example, an issue item under "Facilitate U.S. Government interagency intelligence sharing" states:

> "U.S. law enforcement organizations and intelligence agencies operate a variety of intelligence collection and analysis programs which are directly or indirectly related to weapons smuggling. The Department of Defense provides analytical support to some of these programs with regard to captured military weapons and ordnance. In order to provide better operational access and utility to law enforcement agencies, the U.S. Government will capitalize upon the existing law enforcement interagency intelligence center, EPIC, to reinforce rapid information sharing methods for intelligence derived from Federal, State, local and Government of Mexico illicit weapons seizures. Absent statutory limitations, plans should be made to move to a real-time data sharing methodology."

While the arms trafficking chapter of the strategy contains some key elements of a strategy, such as setting objectives, it lacks others, such as providing detailed roles and responsibilities for relevant agencies or performance measures for monitoring progress toward objectives. However, ONDCP officials said an appendix with an "implementation plan" for the strategy will be added in late summer of 2009 that will have more detailed actions for each agency to take, as well as some performance measures for each item under the objectives. Furthermore, ONDCP officials said there will be annual reporting that addresses performance towards the plan's goals within the National Drug Control Strategy's annual reporting to Congress. However, at this point, it is not clear whether the implementation plan will include performance indicators and other accountability mechanisms to overcome shortcomings raised in our report. In addition, in March 2009, the Secretary of Homeland Security announced a new DHS Southwest border security effort to significantly increase DHS presence and efforts along the Southwest border, including conducting more southbound inspections at ports of entry, among other efforts. However, it is unclear how the new resources that the administration has recently devoted to the Southwest border will be tied to the new strategy and implementation plan.

Conclusions

Combating arms trafficking has become an increasing concern to U.S. and Mexican government and law enforcement officials, as violence in Mexico has soared to historic levels, and U.S. officials have become concerned about the potential for increased violence brought about by Mexican DTOs on the U.S. side of the border. However, while this violence has raised concern, there has not been a coordinated U.S. government effort to combat the illicit arms trafficking to Mexico that U.S. and Mexican government officials agree is fueling much of the drug-related violence.

Agencies such as ATF and ICE have made some efforts to combat illicit arms trafficking, but these efforts are hampered by a number of factors, including the constraints of the legal framework in which law enforcement agencies operate, according to agency officials, and poor coordination among agencies. In addition, agencies have not systematically and consistently gathered and reported certain types of data on firearms trafficking that would be useful to the administration and Congress to better target resources to combat arms trafficking to Mexico. Gaps in this data hamper the investigative capacity of law enforcement agencies. Further, a Spanish language version of ATF's eTrace has been in development for months but has yet to be finalized; the lack of this new version of eTrace has impeded the use of eTrace by Mexican law enforcement officials, which limits data that could be used in investigations on both sides of the border and results in incomplete information on the nature of firearms trafficked and seized in Mexico. Quick deployment of eTrace across Mexico and training of the relevant officials in its use could increase the number of guns submitted to ATF for tracing each year, improving the data on the types and sources of firearms trafficked into Mexico and increasing the information that law enforcement officials have to investigate and build cases.

U.S. and Mexican government officials in locations we visited told us that, while they have undertaken some efforts to combat illicit arms trafficking, they are concerned that without a targeted, comprehensive, and coordinated U.S. government effort, their efforts could fall short. In June 2009, the administration released its 2009 National Southwest Border Counternarcotics Strategy, containing a chapter on arms trafficking to Mexico. We reviewed the strategy's chapter on arms trafficking and found that the chapter does contain some key elements of a strategy, such as setting objectives, but it lacks others, such as providing detailed roles and responsibilities for relevant agencies or performance measures for monitoring progress toward objectives. ONDCP officials said they will develop an implementation plan for the strategy in late summer of 2009 that will have more detailed actions for each agency to take, as well as some performance measures for each item under the objectives. However, at this point, it is not clear whether the implementation plan will include performance indicators and other accountability mechanisms to overcome shortcomings raised in our report. Furthermore, in March 2009, the administration announced more resources for the Southwest border, including more personnel and equipment for conducting southbound inspections. However, it is unclear how the new resources that the administration has recently devoted to the Southwest border will be tied to the new strategy and implementation plan.

The current level of cooperation on law enforcement issues between the United States and Mexico under President Calderon's administration presents a unique opportunity to work jointly to combat illicit arms trafficking. Taking advantage of this opportunity will require a unified, U.S. government approach that brings to bear all the necessary assets to combat illicit arms trafficking.

Recommendations for Executive Action

We recommend that the U.S. Attorney General prepare a report to Congress on approaches to address the challenges law enforcement officials raised in this report regarding the constraints on the collection of data that inhibit the ability of law enforcement to conduct timely investigations.

To further enhance interagency collaboration in combating arms trafficking to Mexico and to help ensure integrated policy and program direction, we recommend the U.S. Attorney General and the Secretary of Homeland Security finalize the Memorandum of Understanding between ATF and ICE and develop processes for periodically monitoring its implementation and making any needed adjustments.

To help identify where efforts should be targeted to combat illicit arms trafficking to Mexico, we have several recommendations to improve the gathering and reporting of data related to such efforts, including that

- the U.S. Attorney General direct the ATF Director to regularly update ATF's reporting on aggregate firearms trafficking data and trends;
- the U.S. Attorney General and the Secretary of Homeland Security, in light of DHS's recent efforts to assess southbound weapons smuggling trends, direct ATF and ICE to ensure they share comprehensive data and leverage each other's expertise and analysis on future assessments relevant to the issue; and
- the U.S. Attorney General and the Secretary of Homeland Security ensure the systematic gathering and reporting of data related to results of these efforts, including firearms seizures, investigations, and prosecutions.

To improve the scope and completeness of data on firearms trafficked to Mexico and to facilitate investigations to disrupt illicit arms trafficking networks, we recommend that the U.S. Attorney General and the Secretary of State work with the Government of Mexico to expedite the dissemination of eTrace in Spanish across Mexico to the relevant

Government of Mexico officials, provide these officials the proper training on the use of eTrace, and ensure more complete input of information on seized arms into eTrace.

To support the 2009 Southwest Border Counternarcotics Strategy, we recommend the ONDCP Director ensure that the implementation plan for the arms trafficking chapter of this strategy (1) identifies needs and clearly defines objectives for addressing those needs, (2) identifies roles and responsibilities for meeting objectives that leverage the existing expertise of each relevant agency, (3) ensures agencies are provided guidance on setting funding priorities and providing resources to address those needs, (4) establishes mechanisms to facilitate coordination across agencies, and (5) employs monitoring mechanisms to determine and report on progress toward objectives and identifies needed improvements.

Agency Comments and Our Evaluation

We provided a draft of this report to the Departments of Homeland Security, Justice, and State and to the Office of National Drug Control Policy. DHS and State provided written comments, which are reproduced in appendixes III and IV.

DHS generally agreed with our recommendations; however, DHS raised questions regarding our interpretation of certain data and the relationship between ICE and ATF. We disagree that our presentation of the data is misleading, and the evidence in the report clearly demonstrates coordination problems between ICE and ATF.

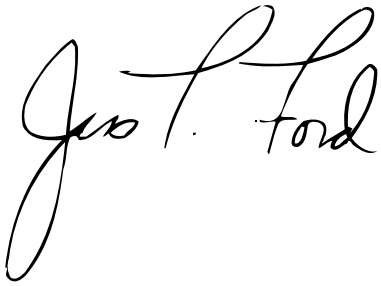
State agreed with our recommendation that the U.S. Attorney General and the Secretary of State work with the Government of Mexico to expedite the dissemination of eTrace in Spanish across Mexico to the relevant Government of Mexico officials, provide these officials the proper training on the use of eTrace, and ensure more complete input of information on seized arms into eTrace. In addition, State added that the agency is funding a $5 million Forensics Laboratories project with the Government of Mexico's Office of the Attorney General (PGR) for the successful investigation and prosecution of criminal cases. This funding, State said, will be used to provide state-of-the-art equipment and training, which directly support DOJ and DHS efforts in the disruption of firearms.

DOJ provided no formal departmental comment on the draft of this report. However, ATF and DEA provided technical comments, which we incorporated throughout the report where appropriate.

DHS and ONDCP also provided technical comments on our report, which we incorporated throughout the report where appropriate.

We are sending copies of this report to interested congressional committees and to the Attorney General, the Secretaries of Homeland Security and State, and the Director of the Office of National Drug Control Policy. The report also is available at no charge on the GAO Web site at http://www.gao.gov.

If you or your staff members have any questions about this report, please contact me at (202) 512-4268 or fordj@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. Other GAO contacts and staff acknowledgments are listed in appendix V.



Jess T. Ford
Director, International Affairs and Trade

Appendix I: Scope and Methodology

To identify data available on types of firearms trafficked to Mexico and the sources of these arms, we consulted U.S. and Mexican government databases, as well as research prepared by nongovernmental entities. We relied primarily on the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) data compiled by its National Tracing Center (NTC) since it contained the most detailed information on the types of illicit firearms seized in Mexico and where they had originated. NTC data on firearms seized in Mexico, however, is not comprehensive. The data is based chiefly on trace information submitted through ATF's eTrace system. As mentioned earlier in this report, over the last 5 years, about one-quarter to one-third of the illicit firearms seized in Mexico had information submitted through eTrace, and not all of these were successfully traced. Notwithstanding its limitations, NTC data was sufficiently reliable to permit an analysis of where the firearms seized in Mexico that could be traced had been manufactured and whether they had been imported into the United States before arriving in Mexico. For those arms that were traced to a retail dealer in the United States before being trafficked to Mexico, NTC data also contained information on the states where they had originated. Based on the trace data and discussions with ATF and other law enforcement officials, we were able to develop an analysis of the type of retail transactions involved in the initial marketing of the firearms in the United States before they were trafficked to Mexico.

NTC trace data also contained information allowing identification of the types of firearms (e.g., caliber and model) that were most commonly seized in Mexico and subsequently traced. We corroborated this information in extensive discussions with U.S. and Mexican law enforcement officials. However, as noted earlier in the report, because firearms seized in Mexico are not always submitted for tracing within the same year they were seized, it was not possible for us to develop data to track trends on the types of firearms trafficked or seized. Similarly, we were unable to obtain quantitative data from U.S. or Mexican government sources on the users of illicit firearms in Mexico. However, there was consensus among U.S. and Mexican law enforcement officials that most illicit firearms seized in Mexico had been in the possession of organized criminal organizations linked to the drug trade. The involvement of criminal organizations involved in drug trafficking in the trafficking of illicit firearms into Mexico was confirmed by law enforcement intelligence sources.

To learn more about trends in illicit firearms seizures in Mexico, we obtained data from the Mexican Federal Government's Planning, Analysis and Information Center for Combating Crime—*Centro Nacional de*

Planeación, Análisis e Información para el Combate a la Delincuencia—(CENAPI) on seizures from 2004 to the first quarter of 2009. To determine the geographical distribution of firearms seized in Mexico, we obtained data from CENAPI on seizures by Mexican federal entity—31 states and the Federal District of Mexico City. We did not assess the reliability of data provided by CENAPI, but we considered this data generally acceptable to provide an overall indication of the magnitude and nature of the trends in arms seizures since 2004.

To identify key challenges confronting U.S. government efforts to combat illicit sales of firearms in the United States and to stem the flow of these arms across the Southwest border into Mexico, we interviewed cognizant officials from the Department of Justice's (DOJ) ATF, Executive Office for U.S. Attorneys (EOUSA), and the Drug Enforcement Administration (DEA); the Department of Homeland Security's (DHS) U.S. Immigration and Customs Enforcement (ICE) and U.S. Customs and Border Protection (CBP); and the Department of State (State) regarding their relevant efforts.

We reviewed and analyzed DOJ and DHS documents relevant to U.S. government efforts to address arms trafficking to Mexico, including funding data provided to us by ATF, CBP, and ICE; the 1978 Memorandum of Understanding (MOU) between CBP and ATF and a draft version of a revised MOU between ATF and ICE; data from ATF, CBP, and ICE on firearms seizures; data from ATF and ICE on efforts to investigate and prosecute cases involving arms trafficking to Mexico; and agency reports and assessments related to the issue. We also reviewed relevant prior GAO reports, Congressional Research Service (CRS) reports and memorandums, and reports from DOJ's Office of Inspector General related to ATF's efforts to enforce federal firearms laws. We reviewed provisions of federal firearms laws that agency officials identified as relevant to U.S. government efforts to address arms trafficking to Mexico, including the Gun Control Act of 1968, the National Firearms Act of 1934, and the Arms Export Control Act of 1976. We did not review Mexican firearms laws and to the extent that we comment on these in this report, we relied on secondary sources.

To explore challenges faced by U.S. agencies collaborating with Mexican authorities to combat illicit arms trafficking, we visited U.S.-Mexico border crossings at Laredo and El Paso, Texas, and San Diego, California. In these locations, we interviewed ATF, CBP, DEA, and ICE officials responsible for overseeing and implementing efforts to stem the flow of illicit arms trafficking to Mexico and related law enforcement initiatives. We observed U.S. government efforts to develop and share intelligence related to arms

trafficking to Mexico at the El Paso Intelligence Center. We also conducted fieldwork in Mexico City, Monterrey, Nuevo Laredo, and Tijuana, Mexico. In Mexico, we met with ATF, CBP, DEA, ICE, and State officials working on law enforcement issues at the U.S. embassy and consulates. We interviewed Mexican government officials engaged in efforts to combat arms trafficking from the Attorney General's Office (*Procuraduría General de la República*), including CENAPI; the Ministry of Public Safety (*Secretaria de Seguridad Pública*); the Ministry of Defense (*Secretaría de la Defensa Nacional*); and Customs (*Servicio de Administración Tributaria*). Since we did not conduct fieldwork in a generalizeable sample of locations along the Southwest border and in the interior of Mexico, our observations in these locations are illustrative but may not be representative of all efforts to address the issue.

To assess the U.S. government's strategy for addressing the issue of arms trafficking to Mexico we reviewed strategic planning, internal guidance, policy, and procedures documents for relevant agencies and departments. Following the March 2009 decision to include a chapter on arms trafficking in the Southwest Border Counternarcotics Strategy, we met with Office of National Drug Control Policy (ONDCP) officials to discuss development of this document, and obtained a general overview. ONDCP officials also arranged for one of our team members to review the draft document.

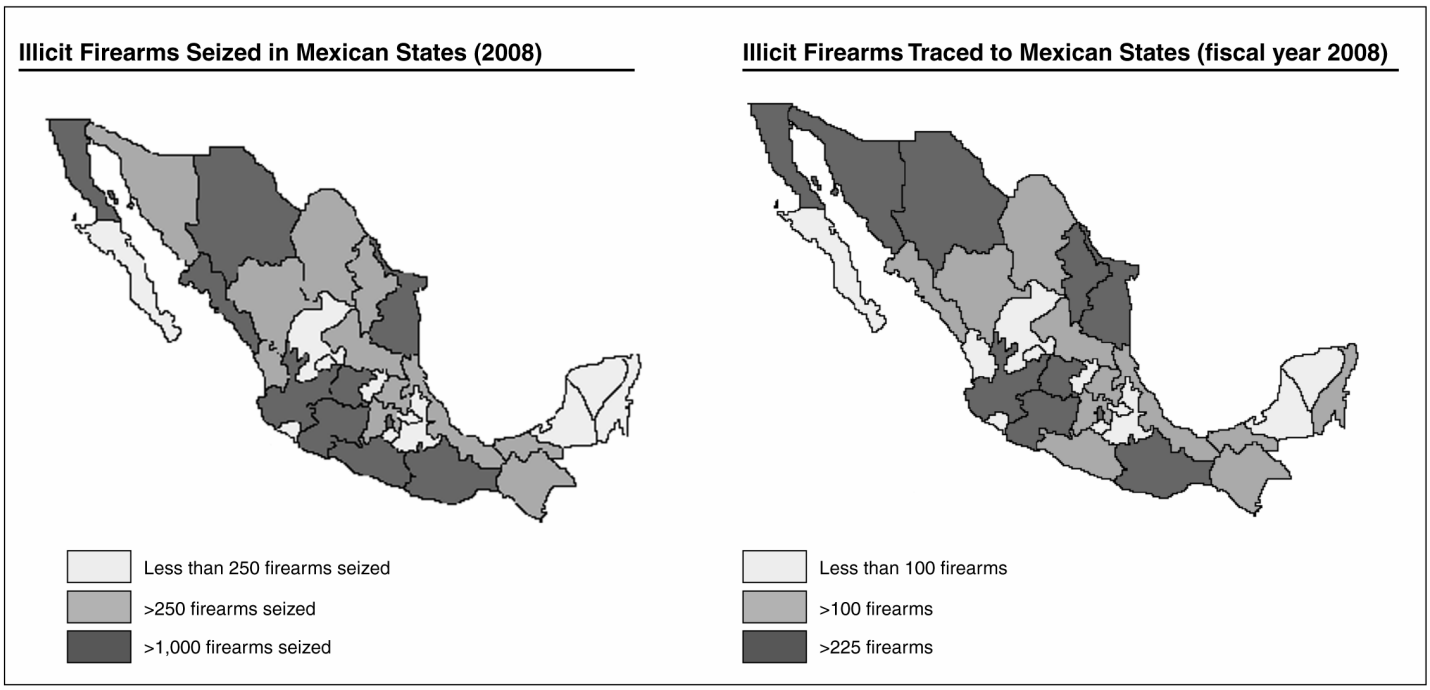
Finally, to assess the reliability of data provided by ATF, CBP, and ICE on funding for efforts to address arms trafficking to Mexico, seizures of southbound firearms, and cases involving arms trafficking to Mexico, we reviewed and discussed the sources of the data with agency officials. We determined the program and project information provided to us were sufficiently reliable to provide an overall indication of the magnitude and nature of the illicit firearms trade and of the completeness of data agencies have related to their efforts to address the issue. Any financial data we reported were for background purposes only.

Appendix II: Geographic Distribution of Firearms Seized and Traced

Western Hemisphere Subcommittee staff requested that we compare data on firearms seizures in Mexico and ATF firearms trace data to determine if ATF's trace data reflected the geographic distribution of firearms seizures in that country. Our analysis indicates that there is a strong positive correlation between the data we obtained from CENAPI on seizures by Mexican federal entity—that is, 31 states and the Federal District of Mexico City[1]—for calendar year 2008, and ATF's firearms trace data linked to specific Mexican federal entities for fiscal year 2008. Eight of the top 10 Mexican federal entities for firearms seizures in 2008, according to CENAPI data—Baja California, Chihuaha, Guanajuato, Jalisco, Michoacan, Oxaca, Tamaulipas, and the Federal District of Mexico City—also showed up among the top 10 Mexican federal entities where firearms traced by ATF were seized. Figure 8 shows that the Mexican federal entities where most firearms are seized are very similar to those submitting the most firearms trace requests.

[1]Mexico City, the capital of Mexico, is not a "state," but rather a unique jurisdiction within the Republic of Mexico known as the "Federal District." It is comparable to the District of Columbia in the United States.

Figure 8: Firearms Seized in Mexican States in 2008 and Illicit Firearms Traced to Mexican States (Fiscal Year 2008)



Sources: (left to right) GAO analysis based on CENAPI data; GAO analysis based on ATF data.

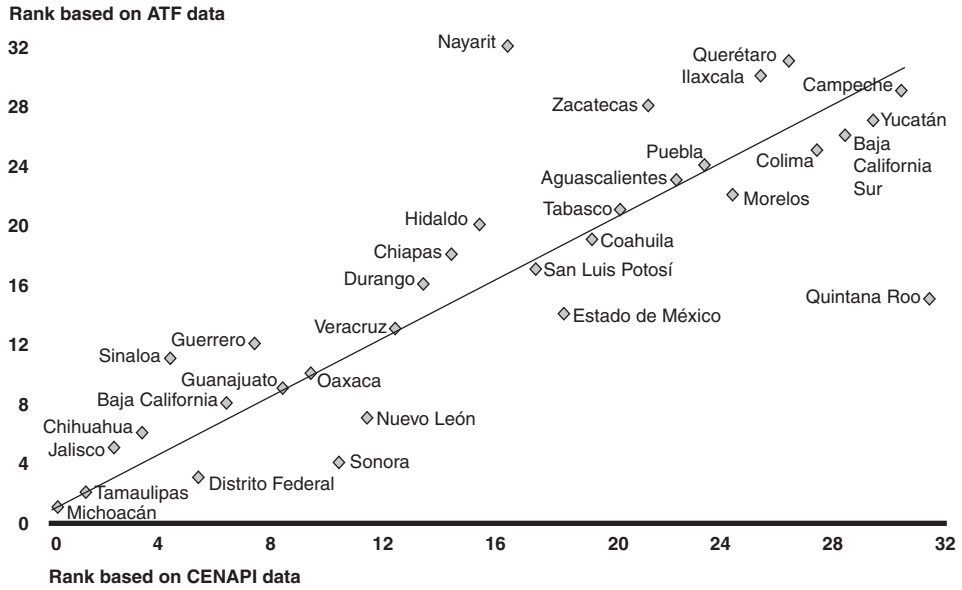
Methodology

In order to determine the geographic distribution of firearms seized in Mexico, we obtained data from CENAPI on seizures, by Mexican federal entity. According to CENAPI data, a total of 29,824 firearms were seized in Mexico in 2008. In order to ascertain the geographic distribution of firearms seized in Mexico that were traced by ATF, we obtained data from ATF linking firearms traced to the Mexican federal entities where they were seized. In fiscal year 2008, ATF traced 7,198 firearms seized in Mexico. Of these, 6,854 were linked to specific states or the Federal District. However, 344 firearms were traced in fiscal year 2008 that could not be linked to a specific state where they may have been seized. We excluded these from our analysis.

We ranked the Mexican states and Federal District by the number of firearms seized according to the data provided by CENAPI, and we ranked them a second time according to the trace data provided by ATF. We then compared the two sets of data using a correlation analysis. See figure 9 below. The correlation coefficient for the data was 0.85, indicating a strong positive correlation. We also performed a correlation analysis for

the raw data—that is, the number of firearms seized in Mexico, and the number of firearms traced by ATF, by Mexican federal entity. The correlation coefficient for those two sets of data was 0.79. We also examined the ratio of arms seized to arms traced and this ranged from .03 to 1.78. Figure 9 shows a strong positive correlation between the number of firearms seized in Mexico and the number of firearms traced by ATF, by Mexican federal entity.

Figure 9: Correlation Between the Number of Firearms Seized in Mexico and the Number of Firearms Traced by ATF, by Mexican Federal Entity



Sources: GAO analysis based on data provided by CENAPI and ATF.

Appendix III: Comments from the Department of Homeland Security

Note: GAO comments supplementing those in the report text appear at the end of this appendix.

U.S. Department of Homeland Security
Washington, DC 20528

June 9, 2009

Mr. Jess T. Ford
Director, International Affairs and Trade
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Dear Mr. Ford:

RE: Draft Report GAO-09-709, Firearms Trafficking: U.S. Efforts to Combat Arms Trafficking to Mexico Face Planning and Coordination Challenges (GAO Job Code 320599)

The Department of Homeland Security (DHS) appreciates the opportunity to review and comment on the U.S. Government Accountability Office's (GAO's) draft report referenced above. The GAO made three recommendations to DHS. The Department agrees with them although Immigration and Customs Enforcement (ICE) officials question some of GAO's assertions.

See comment 1.

DHS officials separately question the statistic involving the origination of weapons as currently presented by GAO. GAO asserts that, "Available evidence suggests most firearms recovered in Mexico come from U.S. gun dealers, and many support Drug Trafficking Organizations" and fuel Mexican drug violence. Using the Department of Justice's Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) eTrace data, GAO determined that about 87 percent of firearms seized by Mexican authorities and traced from fiscal years 2004 to 2008 originated in the United States. DHS officials believe that the 87 percent statistic is misleading as the reference should include the number of weapons that could not be traced (i.e., out of approximately 30,000 weapons seized in Mexico, approximately 4,000 could be traced and 87 percent of those – 3,480 – originated in the United States.) Numerous problems with the data collection and sample population render this assertion as unreliable.

Recommendations

To further enhance interagency collaboration in combating arms trafficking to Mexico and help ensure integrated policy and program direction, GAO recommends that the U.S. Attorney General and the Secretary of Homeland Security finalize the Memorandum of Understanding between ATF and ICE, and develop processes for periodically monitoring its implementation and making any needed adjustments.

www.dhs.gov

2

The DHS, in particular ICE, agrees with the recommendation. In April 2009, ATF and ICE officials met to finalize a draft version of the proposed Memorandum of Understanding (MOU). The draft is awaiting approval and signature by ICE and ATF officials. A revised MOU will update the formal partnership between ATF and ICE relative to each entities investigative efforts and jurisdiction. The proposed MOU articulates the procedures to be followed by each entity in accordance with the authorities vested in each entity by Congress. The mutual goal is to keep the public safe by using those tools given to each entity, either through statute or regulation, which are vital to the effective control of the domestic and international trafficking of munitions.

ICE is committed to working with ATF to more effectively utilize Federal investigative resources and enforce statutes and regulations within each entity's jurisdiction. In situations where respective mission efforts coincide, the MOU will serve to coordinate how each entity will pursue their respective investigations to optimize the use of resources and minimize duplication of efforts.

To help identify where efforts should be targeted to combat illicit arms trafficking to Mexico, GAO made two recommendations to DHS designed to improve the gathering and reporting of data related to these efforts: (1) the U.S. Attorney and the Secretary of Homeland Security, in light of DHS's recent efforts to assess southbound weapons smuggling trends, direct ATF and ICE to coordinate any future assessments relevant to the issue; and (2) the U.S. Attorney and the Secretary of Homeland Security ensure the systematic gathering and reporting of data related to results of these efforts, including firearms seizures, investigations, and prosecutions.

See comment 2.

See comment 3.

ICE agrees with the first recommendation immediately above and will continue to coordinate with ATF on any future assessments, as ICE did most recently in the assessment completed in March 2009. ICE also agrees with the second recommendation to improve the gathering and reporting of specific data. ICE's law enforcement database enables the agency to capture, track, and provide statistical information on all ICE investigations, as well as associate seizures and enforcement actions against individuals linked to criminal behavior. ICE will continue to enhance law enforcement systems and data management activities in furtherance of executive reporting capabilities.

ICE and CBP Comments on the Draft Report Narrative

ICE officials question some of GAO's conclusions regarding ICE's efforts to combat arms trafficking to Mexico and do not believe GAO has sufficient facts to reach certain conclusions.

GAO concludes that ICE and ATF "do not effectively coordinate their efforts, in part because the agencies lack clear roles and responsibilities...additionally, agencies generally have not systematically gathered, analyzed, and reported data that could be useful to help plan and assess results of their efforts to address arms trafficking to Mexico." While GAO finds a few isolated instances in which ICE and ATF have not adequately coordinated investigative activities, coordination actually occurs frequently.

3

ICE presented considerable evidence to the GAO audit team of joint coordination between ICE and ATF and can share this information with the Congressional requesters. Of note, the two entities share actionable information daily through a variety of venues: the gun desk at the El Paso Intelligence Center, the Border Enforcement Security Task Forces, and in field offices.

See comment 4.

The conclusion that the agencies/entities "lack clear roles and responsibilities" is not supported by the excellent working relationship ICE and ATF enjoy. ICE officials believe ATF personnel recognize ICE's statutory authority to enforce anti-smuggling and export control laws long used to prevent the illegal cross-border movement of firearms and other contraband to and from Mexico. Similarly, ICE personnel recognize ATF's role in investigating the illegal smuggling of weapons into the United States and enforcing the Gun Control Act.

See comment 5.

GAO opines in the draft report that ICE "lacks systematic gathering and recent analyses of firearms trafficking data and trends that could be used to more fully assess the problem and plan efforts." GAO however does not identify a single instance in which ICE personnel were unable to pursue an investigation because they were unsure of their ability to enforce the law.

U.S. Customs and Border Protection (CBP) officials had comments on GAO statements related to the DHS component. GAO found that while individual agency efforts may serve to combat arms trafficking to Mexico to some degree, they are not part of a comprehensive U.S. government-wide strategy for addressing the problem. GAO identified several key elements that should be a part of any strategy, including needs assessments, objectives and funding targeted to meet these objectives, clear roles and responsibilities, and mechanisms to ensure coordination and assess results. Specific to CBP, GAO states that CBP's current strategic plan has no goals specific to arms trafficking to Mexico.

See comment 6.

CBP's Strategic Plan is a high level document and as such, does not get into the specifics of which type of contraband nor which country to focus on. The Strategic Plan states that "At the ports of entry, CBP's Office of Field Operations secures the flow of people and goods into and out of the country, while facilitating legitimate travel and trade." The strategic plan was not meant to get into specifics. This section of the draft report is misleading the reader to believe that because a high level document does not mention Mexico or firearms, CBP will not address the threat of firearms exports to Mexico or any other country.

Sincerely,

Jerald E. Levine

Jerald E. Levine
Director
Departmental GAO/OIG Liaison Office

The following are GAO's comments on the Department of Homeland Security's letter dated June 9, 2009.

GAO Comments

1. We disagree that our use of the 87 percent statistic is misleading. Our report clearly states that the number of firearms traced by ATF represents a percentage of the overall firearms seized in Mexico. More importantly, ATF trace data for each year since 2004 identified that most of the firearms seized in Mexico and traced came from the United States. Our recommendation to the U.S. Attorney General and the Secretary of State to expedite further enhancement of eTrace and work with the Government of Mexico to expand its use is designed to shed further light on the origin of guns seized in Mexico.

2. We have added additional information to the text of the report to clarify ATF's role in DHS's recent assessment. While ICE stated it worked closely with ATF intelligence staff in developing the assessment, the senior ATF intelligence official ICE cited as its primary ATF contact for the assessment told us that ATF provided some information to ICE for its assessment, but ATF was not asked to provide comprehensive data and analysis or significant input into the assessment's overall findings and conclusions. We found the assessment only includes a subset of trace statistics we were able to obtain from ATF on firearms recovered in crime in Mexico and traced over the last 5 years. The senior ATF intelligence official told us that it would make sense for future assessments to be developed jointly, in order to leverage more comprehensive data and analysis available from both agencies; however, he noted that until both agencies improve their interagency coordination, developing a joint assessment was unlikely.

3. We did not comment in the report on whether any of ICE's databases enable the agency to capture, track, and provide statistical information on all ICE investigations, as well as associate seizures and enforcement actions against individuals linked to criminal behavior. However, as we noted in the report, ICE was unable to provide comprehensive statistical information specifically on cases involving arms trafficking to Mexico.

4. Contrary to DHS's assertion that ICE and ATF enjoy an excellent working relationship in their efforts to combat arms trafficking to Mexico, ATF, ICE, and State officials we met with along the Southwest border, in Mexico, and at headquarters cited problems with ATF and ICE working well together. These officials included senior officials at

ICE's Office of International Affairs in Washington, from ICE's Attaché office in Mexico City, and from ICE's office at the U.S. Consulate in Tijuana, Mexico.

5. It was not within the scope of our audit to review specific ICE investigations or their disposition, and we did not comment on this in our report. Our report noted that, in general, ICE was not able to provide comprehensive data to us related to its efforts to address arms trafficking to Mexico. For instance, ICE was not able to provide complete data on the seizure of firearms destined for Mexico, the number of cases it initiated related to arms trafficking to Mexico, or the disposition of cases ICE submitted for prosecution. Also, DHS's recent assessment of southbound weapons smuggling trends, which could be used to better understand the nature of the problem and to help plan and assess ways to address it, notes that it "does not provide an all inclusive picture of…firearms smuggling" from the United States to Mexico. In addition, as we noted in comment 2, it only contains a subset of the data we were able to obtain from ATF relevant to the issue.

6. As noted in the report, GAO has found that one of the key elements that should be part of any strategy is clearly identifying an agency's objectives and establishing mechanisms for determining progress toward those objectives. Neither CBP's strategic plan, nor other CBP reports and publications, make mention of illicit firearms, focusing instead on other CBP efforts screening people and goods entering the United States. However, our report noted that CBP is involved in new Southwest border initiatives announced by DHS to significantly increase DHS presence along the border, including conducting more southbound inspections at ports of entry, among other efforts.

Appendix IV: Comments from the Department of State

Note: GAO comments supplementing those in the report text appear at the end of this appendix.

United States Department of State

Assistant Secretary for Resource Management and Chief Financial Officer

Washington, D.C. 20520

JUN 05 2009

Ms. Jacquelyn Williams-Bridgers
Managing Director
International Affairs and Trade
Government Accountability Office
441 G Street, N.W.
Washington, D.C. 20548-0001

Dear Ms. Williams-Bridgers:

We appreciate the opportunity to review your draft report, "FIREARMS TRAFFICKING: U.S. Efforts to Combat Arms Trafficking to Mexico Face Planning and Coordination Challenges," GAO Job Code 320599.

The enclosed Department of State comments are provided for incorporation with this letter as an appendix to the final report.

If you have any questions concerning this response, please contact Ernesto Hernandez, Military Advisor, Bureau of International Narcotics and Law Enforcement Affairs at (202) 647-0198.

Sincerely,

James L. Millette

cc: GAO – Addison Ricks
INL – William McGlynn
State/OIG – Mark Duda

Department of State Comments on Draft GAO Report

FIREARMS TRAFFICKING: U.S. Efforts to Combat Arms Trafficking to Mexico Face Planning and Coordination Challenges
(GAO- 09-709, GAO Code 320599)

Thank you for allowing the Department of State the opportunity to comment on the draft report, "*Firearms Trafficking: U.S. Efforts to Combat Arms Trafficking to Mexico Face Planning and Coordination Challenges.*"

Recommendation for the Secretary of State:

To improve the scope and completeness of data on firearms trafficked to Mexico and to facilitate investigations to disrupt illicit arms trafficking networks, GAO recommends that the U.S. Attorney General and the Secretary of State work with the Government of Mexico to expedite the dissemination of eTrace in Spanish across Mexico to the relevant Government of Mexico officials, provide these officials the proper training on the use of eTrace, and ensure more complete input of information on seized arms into eTrace.

Response:

See comment 1.

The Department of State concurs with GAO's recommendation. The Department is supporting the Department of Justice Alcohol Tobacco and Firearms' (ATF) efforts to develop a Spanish-language version of the Internet-based Firearms Tracing and Analysis (eTrace), and will work with them to help make sure it is quickly disseminated throughout not only Mexico, but also throughout the Spanish-speaking countries. Additionally, the Department is funding a $5 million Forensics Laboratories project with the Office of the Attorney General (PGR) for the successful investigation and prosecution of criminal cases. This funding will be used to provide state-of-the-art equipment and training in such areas as collection and preservation of evidence, chemical/biological analysis, computer forensics, and an Integrated Ballistics Identification System (IBIS) which directly supports Department of Justice (DOJ) and Department of Homeland Security (DHS) efforts in the disruption of firearms. IBIS will complement the ATF's eTrace by tracing the origin of U.S source firearms recovered from Mexican criminal investigations.

The following are GAO's comments on the Department of State's letter dated June 5, 2009.

GAO Comments

1. State agreed with our recommendation that the U.S. Attorney General and the Secretary of State work with the Government of Mexico to expedite the dissemination of eTrace in Spanish across Mexico to the relevant Government of Mexico officials, provide these officials the proper training on the use of eTrace, and ensure more complete input of information on seized arms into eTrace. In addition, State added that the department is funding a $5 million Forensics Laboratories project with the Government of Mexico's Office of the Attorney General (PGR) for the successful investigation and prosecution of criminal cases, and we incorporated this information into the report.

Appendix V: GAO Contact and Staff Acknowledgments

GAO Contact

Jess T. Ford (202) 512-4268 or fordj@gao.gov

Staff Acknowledgments

In addition to the individual named above, Juan Gobel, Assistant Director; Joe Carney; Virginia Chanley; Matt Harris; Elisabeth Helmer; Grace Lui; and J. Addison Ricks provided key contributions to this report. Technical assistance was provided by Joyce Evans, Theresa Perkins, Jena Sinkfield, and Cynthia Taylor.

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