

CRS Report for Congress

The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF): Budget and Operations

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The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF): Budget and Operations

Summary

The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) is the lead federal law enforcement agency charged with administering and enforcing federal laws related to the manufacture, importation, and distribution of firearms and explosives. Congress transferred ATF's enforcement and regulatory functions for firearms and explosives from the Department of the Treasury to the Department of Justice as part of the Homeland Security Act (P.L. 107-296). ATF is also responsible for investigating arson cases with a federal nexus, as well as criminal violations of federal laws governing the manufacture, importation, and distribution of alcohol and tobacco.

From FY1999 to FY2008, Congress increased ATF appropriations from \$541.6 million to nearly \$1.008 billion, an increase of 86%. The FY2008 funding includes \$984.1 million for salaries and expenses and \$23.5 million for construction. For the same 10 years, with some fluctuation, ATF staffing increased from 3,969 to 4,880 full-time equivalent (FTE) positions, a 23% increase. Despite increased funding, the acting ATF Director, Michael Sullivan, recently testified before Congress that ATF is currently operating under a \$37 million shortfall, as funding for ATF salaries and expenses was not increased for FY2008. Meanwhile, there is an additional \$4 million in the House- and Senate-passed FY2008 emergency supplemental appropriations for ATF operations in Iraq (H.R. 2642). The Senate-passed bill includes an additional \$15 million for "Project Gunrunner," a Southwest border initiative to suppress cross-border gun trafficking from the United States to Mexico.

For FY2009, the Administration has requested \$1.028 billion and 4,942 FTE positions for ATF salaries and expenses, or \$44 million and 62 FTE positions more than the amounts appropriated for FY2008 (\$984 million). According to ATF, the FY2009 request would be allocated among ATF budget decision units in the following amounts: \$740 million (72%) for firearms compliance and investigations, \$267.2 million (26%) for arson and explosives investigations, and \$20.6 million (2%) for alcohol and tobacco diversion.

On the Southwest border with Mexico, firearms violence has spiked sharply in recent years as drug trafficking organizations have reportedly competed for control of key smuggling corridors into the United States. In March 2008, President Felipe Calderón called on the United States to increase its efforts to suppress gun trafficking from the United States into Mexico. During FY2006 and FY2007, ATF dedicated approximately 100 special agents and 25 industry operations investigators to disrupt gun trafficking under Project Gunrunner. By the end of FY2008, ATF plans to have 148 special agents and 55 industry operations investigators deployed to the Southwest border region; the FY2009 request includes an additional \$948 thousand and 6 FTE positions (12 permanent positions) for those purposes. The House Foreign Affairs Committee has approved a bill (H.R. 6028) that would authorize \$73.5 million to be appropriated over three years to increase ATF resources committed to disrupting the flow of illegal guns into Mexico. Similar authorizations are included in S. 2867, H.R. 5863, and H.R. 5869. This report will be updated as needed.

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The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF): Budget and Operations

This report provides an overview of the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) budget and operations, with a focus on the Administration's FY2009 budget request for ATF. It will be updated as needed to reflect congressional action on the FY2009 Commerce, Justice, Science, and Related Agencies Appropriations bill, the appropriations bill that includes the ATF account.

ATF Mission

Located in the Department of Justice (DOJ), the ATF is the lead federal law enforcement agency charged with administering and enforcing federal laws related to the manufacture, importation, and distribution of firearms and explosives. As part of the Homeland Security Act, Congress transferred ATF's enforcement and regulatory functions for firearms and explosives to the DOJ from the Department of the Treasury, adding "explosives" to ATF's title.¹ ATF is also responsible for investigating arson cases with a federal nexus, as well as criminal violations of federal laws governing the manufacture, importation, and distribution of alcohol and tobacco. The regulatory aspects of those alcohol and tobacco laws are the domain of the Tax and Trade Bureau (TTB), which was established at Treasury following ATF's transfer to DOJ.²

¹ P.L. 107-296, 116 Stat. 2135.

² ATF was originally established as a separate bureau in the Department of the Treasury (DOT) in 1972 by Treasury Department Order No. 120-1. While ATF traces its origins back to the first federal tax on distilled spirits in 1791, its firearm regulatory responsibilities can largely be traced back to the 1934 National Firearms Act (NFA). As the NFA is essentially a tax law, it was administered initially by the Department of the Treasury's Bureau of Internal Revenue (BIR) and its Miscellaneous Tax Unit. In 1942, the firearm enforcement duties were transferred to BIR's Alcohol Tax Unit (ATU). In 1952, the BIR was reorganized and renamed the Internal Revenue Service (IRS) and the firearm and tobacco programs were transferred to ATU, which was renamed, the Alcohol and Tobacco Tax Division (ATTD). Following the Gun Control Act of 1968, the ATTD was given responsibility for explosives as well, and was renamed the Alcohol, Tobacco and Firearms Division (ATFD). See George Thomas Kurian, Editor in Chief, *A Historical Guide to the U.S. Government*, Vicki Herrmann, "Alcohol, Tobacco and Firearms, Bureau of," (New York, 1998), pp. 39-41.

As a law enforcement agency within the DOJ, ATF's first priority is preventing terrorist attacks within the United States.³ ATF is responsible for countering the illegal use and trafficking of firearms and explosives, and the criminal diversion of alcohol and tobacco products as an illegal source of funding for terrorist activities. In criminal investigations, ATF agents have reportedly uncovered foreign terrorists and their supporters bootlegging cigarettes as part of larger terrorist-financing operations in the United States.⁴ With those responsibilities, ATF special agents are partners on DOJ's Joint Terrorism Task Forces.⁵

As shown below, however, the lion's share of ATF's resources are allocated to its firearms compliance and investigations program. While the ATF periodically checks the records of federally licensed gun dealers, the major focus of the firearms program is the reduction of firearms-related violence.

Funding and Staffing, FY1999-FY2008

From FY1999 to FY2008, Congress increased ATF appropriations from \$541.6 million to nearly \$1.008 billion, an increase of 86%. The FY2008 funding includes \$984.1 million for salaries and expenses and \$23.5 million for construction. Congress appropriated the latter amount for the construction of an ATF National Center for Explosives Training and Research. As **Table 1** shows, for the same 10 years, with some fluctuation, ATF staffing increased from 3,969 to 4,880 FTE positions, a 23% increase.⁶ Of the \$984.1 million appropriated for FY2008 for salaries and expenses, DOJ budget documents indicate that the Administration plans to allocate the following amounts to ATF's three budget decision units:

- \$708.6 million (72%) towards firearms compliance and investigations,
- \$255.9 million (26%) towards arson and explosives investigations, and
- \$19.7 million (2%) towards alcohol and tobacco diversion efforts.⁷

³ U.S. Department of Justice, Office of the Attorney General, *Stewards of the American Dream: FY 2007 — FY 2012 Strategic Plan*, available at [<http://www.usdoj.gov/jmd/mps/strategic2007-2012/index.html>], last accessed on May 13, 2008.

⁴ Sari Horwitz, "Cigarette Smuggling Linked to Terrorism," *Washington Post*, June 8, 2004, p. A1.

⁵ U.S. Department of Justice, Office of the Inspector General, *The Department of Justice's Terrorism Task Forces*, I-2005-007, June 2005.

⁶ These staffing amounts do not reflect FTE positions provided for law enforcement availability pay (LEAP), overtime pay, or FTE positions funded with reimbursable resources.

⁷ Due to rounding, these amounts do not total precisely to \$984.1 million. U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives, Congressional Budget Submission, Fiscal Year 2009, (February 2008), Exhibit B — Summary of Requirements.

The acting ATF Director, Michael Sullivan, recently testified before Congress that the ATF is currently operating under a \$37 million shortfall for FY2008, as funding for salaries and expenses was not increased for this fiscal year when compared to FY2007.⁸

Table 1. Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) Appropriations for Salaries and Expenses, FY1999-FY2008

Fiscal Year	Salaries and Expenses Appropriation (in \$000)	Full-Time Equivalent (FTE) Positions ^a	Permanent Positions
1999	\$541,574	3,969	N/A
2000	\$565,959	4,221	4,492
2001	\$771,143	4,643	5,049
2002	\$823,316	5,029	5,143
2003	\$826,801	5,111	5,231
2004	\$827,289	4,735 ^b	4,862 ^b
2005	\$878,465	4,885	5,073
2006	\$911,817	5,040	5,128
2007	\$984,097	5,053	5,128
2008	\$984,097	4,880 ^c	4,956 ^c

Source: CRS presentation of ATF funding and staffing data presented in Department of Justice budget submissions to Congress for FY2003-FY2009.

- a. A full-time equivalent (FTE) position represents the amount of funding necessary to provide for a single position for an entire year. Not all positions (new, temporary, and part-time) are fully funded for the entire year. New positions, for example, are often partially funded, as such positions are filled incrementally and at some point during the fiscal year. Hence, they do not require full funding for the first year.
- b. The decrease of 376 FTE positions and 369 permanent positions for FY2004, as compared with FY2003, reflects the funding that remained at the Department of the Treasury for the regulatory components of ATF, which were designated the Trade and Tax Bureau, when the ATF enforcement components were transferred to the Department of Justice as the Bureau of Alcohol, Tobacco, Firearms and Explosives, pursuant to the Homeland Security Act (P.L. 107-296).
- c. The decrease of 173 FTE positions and 172 permanent positions for FY2008, as compared with FY2007, reflects adjustments to base and other technical adjustments to the ATF budget that were made to eliminate “hollow” or “unfunded” positions.

⁸ Congressional Quarterly, Transcript of the “House Appropriations Subcommittee on Commerce, Justice, Science, and Related Agencies Holds Hearing on the Fiscal 2009 Budget for the Bureau of Alcohol, Tobacco and Firearms,” April 9, 2008.

Since its transfer to the DOJ in FY2003, ATF has also reported permanent positions, in addition to FTE positions. The FY2008 appropriation provides for 4,956 permanent positions, including 2,428 special agents, 773 industry operations investigators (formerly inspectors) and investigative research specialists, and 1,755 “other” positions.⁹

FY2008 Iraq Supplemental Appropriation

There is reportedly \$4 million for ATF in the House- and Senate-passed FY2008 emergency supplemental appropriations for operations in Iraq (H.R. 2642).¹⁰ According to DOJ, ATF is establishing an attache office in the U.S. Embassy in Baghdad.¹¹ This office is charged with a threefold mission to

- create an Iraq Weapons Investigation Cell to investigate and account for U.S. government-issued munitions;
- establish an ATF Combined Explosives Cell, which will seek to identify the source countries for explosives recovered in Iraq; and
- engage in targeted investigations of cigarette theft and other diverted contraband throughout the country.¹²

Since December 2003, ATF has also been providing post-blast explosives investigative training to Iraqi police forces.¹³

The Senate-passed bill also includes an additional \$15 million for “Project Gunrunner,” an initiative to suppress cross-border gun trafficking from the United States to Mexico, which is described in greater detail below.

FY2009 Request

For FY2009, the Administration has requested \$1.028 billion and 4,942 FTE positions for ATF, or \$44 million and 62 FTE positions more than the amounts appropriated for FY2008 (\$984 million).¹⁴ Of the difference, \$42.8 million and 56

⁹ Ibid., Exhibit I — Detail of Permanent Positions by Category.

¹⁰ For further information, see CRS Report RL34451, *Second FY2008 Supplemental Appropriations for Military Operations, International Affairs, and Other Purposes*, by Stephen Daggett et al.

¹¹ U.S. Department of Justice, “Fact Sheet: Department of Justice Efforts in Iraq,” February 13, 2008.

¹² Ibid.

¹³ Ibid.

¹⁴ U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives, *Congressional Budget Submission, Fiscal Year 2009*, (February 2008), Exhibit B — Summary of Requirements.

FTE positions are base adjustments.¹⁵ For Southwest border enforcement, the FY2009 request includes a budget enhancement of \$948 thousand and 6 FTE positions (12 permanent positions). According to ATF, the FY2009 request would be allocated among ATF budget decision units in the following amounts:

- \$740 million (72%) for firearms compliance and investigations,
- \$267.2 million (26%) for arson and explosives investigations, and
- \$20.6 million (2%) for alcohol and tobacco diversion.¹⁶

The FY2009 budget request would provide funding for 4,978 permanent positions, including 2,428 special agents, 785 industry operations investigator and investigative research specialists, and 1,765 other positions.¹⁷

The Administration budget request includes increases for specific purposes by decision unit. The Southwest border enforcement increase mentioned above is the only requested ATF budget enhancement for FY2009. Although Congress does not appropriate monies for the ATF (or any other DOJ agency) by decision unit, the appropriators often address whether such increases are to be provided in report language and more rarely in the bill language for the salaries and expenses account itself. As a consequence, the requested amounts for decision units are binding in the sense that the appropriators are aware of the increases that were provided for and how they would affect the decision unit totals. In addition, if funding is shifted from one decision unit to another, statutory budget reprogramming requirements are usually triggered, under which the DOJ and its agencies are required to notify and seek the approval of the Appropriations Committees. ATF budget decision units, or budget programs, are described in greater detail below.

Firearms Budget Program

ATF's firearms budget program funds activities related to administering and enforcing federal laws related to the manufacture, importation, and distribution of

¹⁵ For most DOJ agencies, the current Administration has often made “base adjustments” to the number of FTE and permanent positions that were considered “authorized” (funded or appropriated for) as part of estimating an agency’s base budget. The base budget essentially represents an estimated level of resources that an agency would need to provide the anticipated level of services for the current fiscal year in the next fiscal year. In the past, base budgets did not include adjustments to the number of permanent positions, and the number of “authorized” permanent positions was generally static, unless changed by Congress by increasing or decreasing funding associated with those positions. As happened in the FY2008 budget cycle, the Administration has periodically (about every 10 years) proposed eliminating “hollow” positions, for which the modular costs and underlying assumptions are no longer sufficient to fund those positions. Authorized or funded positions are generally displayed by job series in a “Table of Organization” in the agency’s budget submissions to Congress.

¹⁶ U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives, *Congressional Budget Submission, Fiscal Year 2009*, (February 2008), Exhibit B — Summary of Requirements.

¹⁷ *Ibid.*, Exhibit I — Detail of Permanent Positions by Category.

firearms. The principal focus of ATF's firearms-related activities, however, is the reduction of firearms-related violence. As part of this focus, the ATF has dedicated increased resources in recent years toward investigating the criminal activities of violent street gangs, ensuring that federally licensed gun dealers comply with the law, and suppressing gun trafficking.

Violent Crime and Gangs. As a full partner in the President's Project Safe Neighborhoods (PSN), which was initiated in FY2001, ATF has joined with DOJ attorneys and other federal law enforcement agencies, along with state, local, and tribal authorities, to investigate and prosecute offenders, with a particular focus on armed violent and career criminals. ATF also leads the Attorney General's Violent Crime Impact Teams (VCITs) in 29 cities¹⁸ in an effort to reduce the number of homicides and other violent crimes committed with firearms.¹⁹ According to ATF, the VCITs assist state and local authorities by

- systematically investigating all firearms-related leads;
- responding to all street recoveries of firearms and interviewing those involved to determine the source of the firearms;
- targeting and investigating violent and career criminals, and removing them from the streets;
- infiltrating criminal groups through undercover operations and confidential informants;
- tracing all recovered guns used in crime to determine their origin;
- imaging and storing all ballistic evidence in the National Integrated Ballistic Information Network (NIBIN); and
- inspecting and, when appropriate, investigating corrupt federal firearms licensees.²⁰

¹⁸ Those cities are Albuquerque, NM; Atlanta, GA; Baltimore, MD; Baton Rouge, LA; Birmingham, AL; Camden, NJ; Columbus, OH; Fresno, CA; Greensboro, NC; Hartford, CT; Houston and Laredo, TX; Las Vegas, NV; Los Angeles, CA; Mesa, AZ; Miami, FL; Milwaukee, WI; Minneapolis, MN; New Orleans, LA; Orlando, FL; Philadelphia and Pittsburgh, PA; Richmond, VA; San Bernadino, CA; San Juan, PR; Tampa, FL; Tucson, AZ; Tulsa, OK; and Washington, D.C.

¹⁹ U.S. Department of Justice, Bureau of Alcohol, Tobacco, and Firearms, "ATF Fact Sheet: ATF-Led Violent Crime Impact Teams Initiative," May 2007.

²⁰ U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives, *Congressional Budget Submission, Fiscal Year 2007* (February 2006), p. 47.

Under the VCIT initiative, defendants referred by ATF for prosecution in gang-related investigations have increased from 403 in FY2000 to 4,381 in FY2007, nearly a tenfold increase.²¹

Compliance Inspections of Licensed Gun Dealers. ATF inspects federal firearms licensees (FFLs) to monitor their compliance with the Gun Control Act (GCA)²² and to prevent the diversion of firearms from legal to illegal channels of commerce. In the past, despite its crime-fighting mission, ATF's business relationships with the firearms industry and larger gun-owning community have been a perennial source of tension, which from time to time has been the subject of congressional oversight.²³ Nevertheless, under current law, ATF Special Agents and Industry Operations Inspectors are authorized to inspect or examine the inventory and records of an FFL *without search warrants* under three scenarios:²⁴

- in the course of a reasonable inquiry during the course of a criminal investigation of a person or persons other than the FFL;
- to ensure compliance with the record keeping requirements of the GCA — not more than once during any 12-month period, or at any time with respect to records relating to a firearm involved in a criminal investigation that is traced to the licensee; or
- when such an inspection or examination is required for determining the disposition of one or more firearms in the course of a criminal investigation.

In July 2004, the DOJ Office of Inspector General (OIG) reported on ATF inspections of FFLs. Among other things, the OIG reported that ATF inspected the operations of 4.5% of the 104,000 FFLs in FY2002.²⁵ According to ATF, 10,106

²¹ U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives, *Congressional Budget Submission, Fiscal Year 2009* (February 2008), p. 22.

²² 18 U.S.C. Chapter 44, §921 et seq.

²³ For example, in the 109th Congress, the House Judiciary Crime subcommittee held two oversight hearings examining ATF firearms enforcement operations at gun shows in Richmond, Virginia, in 2005. ATF agents reportedly provided state and local law enforcement officers with confidential information from background check forms (ATF Form 4473s), so that those officers could perform residency checks on persons who had otherwise legally purchased firearms at those gun shows. Questions were also raised as to whether ATF agents had profiled gun purchasers at those gun shows on the basis of race, ethnicity, and gender. See U.S. Congress, House of Representatives, Committee on the Judiciary, Subcommittee on Crime, Terrorism, and Homeland Security, *Oversight Hearing on the Bureau of Alcohol, Tobacco, Firearms, and Explosives (BATFE) Parts I & II: Gun Show Enforcement*, February 15 and 28, 2006. Also see Department of Justice, Office of the Inspector General, *The Bureau of Alcohol, Tobacco, Firearms and Explosives' Investigative Operations at Gun Shows*, I-2007-007, June 2007.

²⁴ 18 U.S.C. § 923(g)(1)(B).

²⁵ U.S. Department of Justice, Office of the Inspector General, *Inspections of Firearms* (continued...)

firearms compliance inspections were conducted in FY2007, covering about 9.3% of the nearly 109,000 FFLs in that fiscal year.²⁶

Project Gunrunner. On the Southwest border with Mexico, firearms violence has reportedly spiked sharply in recent years as drug trafficking organizations (DTOs) have competed for control of key smuggling corridors into the United States.²⁷ Beginning in December 2006, Mexican President Felipe Calderón responded by deploying elements of the Mexican Army and federal police to trouble spots around Mexico, including on the northern frontier.²⁸ The DTO's, however, are reportedly buying semiautomatic versions of AK-47 and AR-15-style assault rifles, other military style firearms, and .50 caliber sniper rifles in the United States.²⁹ With those rifles and other small arms, the DTOs are reportedly achieving parity in terms of firepower in shootouts with the Mexican Army and law enforcement.³⁰ In March 2008, President Calderón called upon the United States to increase its efforts to suppress the flow of U.S. firearms into Mexico.³¹

ATF reports that there are 6,647 FFLs in the United States operating in the Southwest border region of Texas, New Mexico, Arizona, and California.³² Moreover, DTOs are increasingly sending surrogates (straw purchasers) across the border to buy 10 to 20 military-style firearms at a time from FFLs.³³ The firearms are reportedly routinely smuggled into Mexico in smaller shipments of four or five firearms as part of a process known as the “ant run.”³⁴

During FY2006 and FY2007, ATF dedicated approximately 100 special agents and 25 industry operations investigators to a Southwest border initiative known as “Project Gunrunner” to disrupt the illegal flow of guns from the United States to

²⁵ (...continued)

Dealers by the Bureau of Alcohol, Tobacco, Firearms and Explosives, Report Number I-2004-005, (July 2004), p. xi.

²⁶ U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives, *Congressional Budget Submission, Fiscal Year 2008*, (February 2007), p. 29.

²⁷ Anna Gilmour, “Gulf War — Pressure Mounts on Mexico’s Gulf Cartel,” *Jane’s Intelligence Review*, December 3, 2007.

²⁸ *Ibid.*

²⁹ Sara Miller Llana, “US Guns Arm Mexico’s Drug Wars,” *Christian Science Monitor*, July 19, 2007, p. 1.

³⁰ Oscar Becera, “Firing Line — Tracking Mexico’s Illegal Weapons,” *Jane’s Intelligence Review*, April 28, 2008.

³¹ *Ibid.*

³² ATF briefing provided to CRS on May 5, 2008.

³³ Straw purchases occur when guns are purchased from licensed gun dealers by eligible persons and then knowingly transferred to prohibited persons. Straw purchases are illegal under U.S. law (18 U.S.C. § 924(a)(1)(A)).

³⁴ Oscar Becera, “Firing Line — Tracking Mexico’s Illegal Weapons,” *Jane’s Intelligence Review*, April 28, 2008.

Mexico. In FY2007, ATF agents investigated 187 firearms trafficking cases and recommended 465 defendants for prosecution.³⁵ By the end of FY2008, ATF plans to have 148 special agents and 55 industry operations investigators deployed to the Southwest border to bolster that initiative at a conservatively estimated cost of \$32.2 million.³⁶ In addition, the ATF FY2009 budget request includes \$948 thousand to fund 12 industry operations investigator positions to bolster efforts already underway as part of Project Gunrunner.³⁷ This is the only program increase/budget enhancement in the ATF FY2009 budget request.

ATF also maintains a foreign attache in Mexico City to administer an Electronic Trace Submission System (ETSS), also known as the eTrace program, for Mexican law enforcement authorities. From FY2005 through FY2007, ATF traced just over 11,700 firearms recovered by Mexican authorities, and approximately 90% of those firearms were traced back to the United States.³⁸ In January 2008, ATF announced that e-Trace technology would be deployed to an additional nine U.S. consulates in Mexico (Mérida, Juarez, Monterrey, Nogales, Hermosillo, Guadalajara, Tijuana, Matamoros, and Nueva Laredo).³⁹ The number of traces performed by ATF for Mexican authorities this fiscal year, FY2008, has increased markedly. For example, from March 10 to April 9, 2008, ATF has traced nearly 2,000 firearms recovered by Mexican authorities, as compared with the 11,700 firearms traced over a three-year period, FY2005-FY2007.⁴⁰ Successful firearm traces are instrumental in developing investigative leads in homicide and gun trafficking cases. According to ATF, some of those cases uncover corrupt FFLs who are involved in larger criminal conspiracies to smuggle firearms into Mexico.⁴¹

On May 14, 2008, the House Committee on Foreign Affairs ordered reported the Mérida Initiative to Combat Illicit Narcotics and Reduce Organized Crime Authorization Act of 2008 (H.R. 6028). This bill would authorize to be appropriated over three years, for FY2008 through FY2010, a total of \$73.5 million to increase the number of ATF positions dedicated to Project Gunrunner (\$45 million) and assign ATF agents to Mexico (\$28.5 million). Similar authorizations are included in the

³⁵ Statement of William Hoover, Assistant Director for Field Operations, Bureau of Alcohol, Tobacco, Firearms and Explosives, before the Subcommittee on the Western Hemisphere, Committee on Foreign Affairs, House of Representatives, concerning "U.S. Obligations under the Mérida Initiative," February 7, 2008.

³⁶ CRS conversations with Bureau of Alcohol, Tobacco, Firearms and Explosives, Office of Legislative Affairs, May 14, 2008.

³⁷ U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives, *Congressional Budget Submission, Fiscal Year 2009* (February 2008), Exhibit C — Program Increases/Offsets by Decision Unit.

³⁸ ATF briefing provided to CRS on May 5, 2008.

³⁹ Bureau of Alcohol, Tobacco, Firearms and Explosives, Office of Public Affairs, "ATF Expands Efforts to Combat Illegal Flow of Firearms to Mexico," January 16, 2008.

⁴⁰ ATF briefing provided to CRS on May 5, 2008.

⁴¹ Ibid.

Southwest Border Violence Reduction Act of 2008 (S. 2867, H.R. 5863, and H.R. 5869).

Arson and Explosives Budget Program

ATF's arson and explosives budget program covers activities related to administering and enforcing federal laws governing the manufacture, importation, and distribution of explosives, as well as investigating arson cases with a federal nexus. Among law enforcement agencies, the ATF is recognized for its investigative expertise in responding to both arson and explosive incidents. The Attorney General (AG), for example, made the ATF responsible for maintaining a consolidated database of all arson and explosive incidents that occur in the United States. Reportedly, as part of the department's law enforcement information-sharing program, this and other databases are to be linked and made Web-accessible, and first responders anywhere in the United States are to have access to critical information about arson and explosive cases nationwide.⁴²

Congress made ATF responsible for more closely regulating the explosives industry in the United States under the Safe Explosives Act.⁴³ The Act made ATF responsible for fully investigating all explosive thefts and losses, as well as providing background checks for licensees and permittees to prevent prohibited persons from acquiring explosives. This Act also requires ATF to inspect explosive licensees and permittees every three years to ensure that all explosive materials are properly stored and accounted for. ATF reports that there are about 12,000 licensees and permittees nationwide, so that to comply with the Act, about 4,000 inspections would need to be conducted by ATF annually.⁴⁴ According to ATF, 3,291 explosives compliance inspections were conducted in FY2007, or about 28% of licensees/permittees.⁴⁵ The FY2009 budget request includes no new resources for this program, as compared with FY2008.

In March 2005, the DOJ OIG reported that ATF could improve its implementation of the Safe Explosives Act. The OIG also found "critical deficiencies" in the background check and clearance process designed to prevent prohibited persons from gaining access to explosives.⁴⁶

⁴² The Federal Bureau of Investigation reportedly continues to maintain its own bomb data center despite the AG's memorandum. See Jerry Markon, "FBI, ATF Battle for Control of Cases: Cooperation Lags Despite Merger," *Washington Post*, May 10, 2008, p. A1.

⁴³ P.L. 107-296, 116 Stat. 2280.

⁴⁴ U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives, *Congressional Budget Submission, Fiscal Year 2007* (February 2006), p. 53.

⁴⁵ U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives, *Congressional Budget Submission, Fiscal Year 2009* (February 2008), p. 48.

⁴⁶ U.S. Department of Justice, Office of the Inspector General, Review of the Bureau of Alcohol, Tobacco, Firearms and Explosives' Implementation of the Safe Explosives Act, Report Number I-2005-005, (March 2005), p. 37.

Alcohol and Tobacco Budget Program

The ATF alcohol and tobacco budget program covers expenses related to agency efforts to counter a rising trend in the illegal diversion of tobacco products, as well as the illegal movement of distilled alcohol products. According to the General Accounting Office (now the Government Accountability Office), the illegal diversion and smuggling of cigarettes in the United States results in an unknown but significant loss in tax revenues.⁴⁷ In addition, ATF criminal intelligence indicates that cigarette bootlegging is a lucrative criminal venture that terrorist groups have used and would possibly use in the future to finance their activities.⁴⁸ The FY2009 budget request includes no new resources for this program, as compared with FY2008

⁴⁷ U.S. General Accounting Office, *Cigarette Smuggling: Federal Law Enforcement Efforts and Seizures Increasing*, GAO-04-641 (May 2004), p. 7.

⁴⁸ *Ibid.*, p. 7.