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U.S. EFFORTS TO COMBAT ARMS TRAFFICKING TO MEXICO: REPORT FROM THE GOVERNMENT ACCOUNTABILITY OFFICE (GAO)

HEARING

BEFORE THE

SUBCOMMITTEE ON
THE WESTERN HEMISPHERE

OF THE

COMMITTEE ON FOREIGN AFFAIRS
HOUSE OF REPRESENTATIVES

ONE HUNDRED ELEVENTH CONGRESS

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CONTENTS

Page

WITNESS

Mr. Jess T. Ford, Director, International Affairs and Trade Team, United States Government Accountability Office (GAO) 12

LETTERS, STATEMENTS, ETC., SUBMITTED FOR THE HEARING

The Honorable Eliot L. Engel, a Representative in Congress from the State of New York, and Chairman, Subcommittee on the Western Hemisphere: Prepared statement 4
The Honorable Connie Mack, a Representative in Congress from the State of Florida: Prepared statement 8
Mr. Jess T. Ford: Prepared statement 16

APPENDIX

Hearing notice 32
Hearing minutes 33
The Honorable Dan Burton, a Representative in Congress from the State of Indiana: Prepared statement 34
Questions for the record submitted by the Honorable Eliot L. Engel along with responses by Mr. Jess T. Ford 35
Questions for the record submitted by the Honorable Michael T. McCaul, a Representative in Congress from the State of Texas, along with responses by Mr. Jess T. Ford 47
Questions for the record submitted by the Honorable Gabrielle Giffords, a Representative in Congress From the State of Arizona, along with responses by Mr. Jess T. Ford 51

U.S. EFFORTS TO COMBAT ARMS TRAFFICKING TO MEXICO: REPORT FROM THE GOVERNMENT ACCOUNTABILITY OFFICE (GAO)

FRIDAY, JUNE 19, 2009

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON THE WESTERN HEMISPHERE,
COMMITTEE ON FOREIGN AFFAIRS,
Washington, DC.

The committee met, pursuant to notice, at 12 o'clock p.m. in room 2172, Rayburn House Office Building, Hon. Eliot L. Engel (chairman of the subcommittee) presiding.

Mr. ENGEL. A quorum being present, the Subcommittee on the Western Hemisphere will come to order.

I am very happy to have this hearing, albeit a day late. As you know, it was impossible with all the votes we had yesterday to do the hearing, so I apologize for any inconvenience, but I am delighted that we are able to do the hearing today because the subject is really important. And I must say, I have never seen so much interest all over the media and people in general and the reports, the reports of our hearing and the findings have been all over the country in newspapers, on television, in Mexico as well, so this has been very widely covered. And, I am delighted that the media has picked up and run with this because it is a very important issue.

So today's hearing will focus on the just released Government Accountability Office report on U.S. Efforts to Combat Arms Trafficking to Mexico. I commissioned this report with the former ranking member of this subcommittee, Dan Burton, and several other subcommittee members last year. The availability of firearms illegally flowing from the United States into Mexico has armed and emboldened a dangerous criminal element in Mexico, and it has made the brutal work of the drug cartels even more deadly.

Data in the GAO's report shows that 93 percent of firearms recovered in Mexico and traced in FY 2008 originate in the United States. In FY '06 and '07 the number was 95 percent. Now, I have been going around saying 90 percent of the guns used by the drug cartels to commit crimes come from the United States, and now it is even more than 90 percent. It is just unacceptable. It is just totally unacceptable as far as I am concerned.

It is not the first time that this subcommittee has focused on what the Bureau of Alcohol, Tobacco, and Firearms and Explosives, ATF, has referred to as the iron river of guns illegally flowing from the United States into Mexico. When the Merida Initiative was an-

nounced in October 2007, the United States and Mexico put out a joint statement in which the United States pledged to "intensify our efforts" to combat the trafficking of weapons to Mexico. As chairman of this subcommittee I have been waiting for too long for us to live up to this commitment, and I will not let up on the pressure until we do so.

It has been 1½ years since the Merida Initiative was announced. Shockingly, what did we find in the GAO's report? It states that until just a couple of weeks ago, the United States strategy to combat firearms trafficking to Mexico was nowhere to be found. On June 5th, the Office of National Drug Control Policy released its 2009 National Southwest Border Counternarcotics Strategy, which for the first time includes a chapter on combating illicit firearms trafficking to Mexico.

But implementation still has not begun. It is mind boggling that for 1½ years we have had no interagency strategy to address this major problem but instead have relied on uncoordinated efforts by a variety of agencies. A strategy to combat arms trafficking to Mexico should have been in place and running on October 22nd, 2007, the day that Presidents Bush and Calderon announced the Merida Initiative. I am glad that President Obama has finally begun to address this.

The June 5th announcement was certainly a step in the right direction. That was the President's announcement, and we now anxiously await further direction on this interagency strategy and the roles and responsibilities of various U.S. agencies. As the GAO reports, ATF and Immigration and Customs Enforcement, the two main agencies implementing efforts to combat firearms trafficking to Mexico, do not effectively coordinate their efforts.

I fully endorse the GAO's recommendation that the Attorney General and the Secretary of Homeland Security finalize a memorandum of understanding between ATF and ICE, and ATF we know and ICE being Immigration and Customs Enforcement. I was also pleased to author a provision in the House passed Foreign Relations Authorization Act, which we just passed last week, which will create an interagency task force on the prevention of illicit small arms trafficking in the Western Hemisphere to assure that our efforts to curb firearms trafficking are better coordinated not just with regard to Mexico but with all countries in Latin America and the Caribbean.

I was not surprised to learn in the GAO report that certain provisions of Federal firearms laws, including the Tiart Amendment, present challenges to United States efforts to curb firearms trafficking to Mexico. Current restrictions on collecting and reporting information on firearms purchases not only make the jobs of our fine police officers more difficult than they already are, but also inhibit our ability to effectively curb firearms trafficking to Mexico, and I have said many, many times that this is not a Second Amendment issue. I support Second Amendment rights. This is an issue of illicit firearms going south of the border.

GAO reports that of the 87 percent of firearms recovered in Mexico originating from the United States between 2004 and 2008, 19 percent were manufactured in third countries and imported into the United States before being trafficked into Mexico. This is why

we must once again enforce the ban on imported assault weapons that was previously enforced during the administrations of President George H.W. Bush and Bill Clinton.

In recent years, the George W. Bush administration quietly abandoned enforcement of the import ban. As a result, the U.S. civilian firearms market is flooded with imported, inexpensive, military style assault weapons. These assault weapons, which often come from Eastern Europe or China are being trafficked from the United States across the border into Mexico. To get around the ban, importers have been able to skirt restrictions by bringing in assault weapons parts and reassembling them with a small number of U.S. made parts.

In other words, the guns are 98 or 99 percent the same, but they tinker with it. They make a little change in it, and therefore they get around the ban. That is also totally unacceptable. Enforcing the existing import ban requires no legislative action and would be a win-win for the United States and Mexico. On February 12th, I sent a letter to President Obama signed by a bipartisan group of 52 of my colleagues urging him to once again enforce the ban on imported assault weapons. We are waiting for President Obama to act.

The data in today's report only reinforces the need to return to enforcement of this ban. Finally, I would like to once again call upon the Senate to ratify the Inter-American Convention against Illicit Manufacturing of and Trafficking in Firearms, also known as CIFTA. President Obama has publicly called for the Senate to ratify CIFTA, and so has Secretary of State Hillary Clinton. This treaty was signed during the Clinton administration and must be ratified so the United States can tell our friends in the Hemisphere that we are serious in addressing the problems of illegal weapons trafficking.

Before I close, I would like to personally thank the GAO team who put together this extraordinary report over the past year, and I want to mention their names, Jess Ford, Juan Gobel, Addison Ricks, and Lisa Hellmer. Thank you all for your excellent work.

With that, I would now like to call on my friend, Ranking Member Mack, for his opening statement.

[The prepared statement of Mr. Engel follows:]

Opening Statement
Chairman Eliot L. Engel

House Foreign Affairs Subcommittee on the Western Hemisphere

U.S. Efforts to Combat Arms Trafficking to Mexico: A Report from the Government Accountability Office (GAO)

Thursday, June 19, 2009

Today's hearing will focus on the just released Government Accountability Office (GAO) report on U.S. efforts to combat arms trafficking to Mexico. I commissioned this report last year with the former Ranking Member of this Subcommittee Dan Burton and several other Subcommittee Members.

The availability of firearms illegally flowing from the United States into Mexico has armed and emboldened a dangerous criminal element in Mexico, and it has made the brutal work of the drug cartels even more deadly. Data in the GAO's report shows that 93% of firearms recovered in Mexico and traced in FY 2008 originate in the United States. In FY 2006 and 2007, the number was 95%. This is even higher than the 90% figure that is most frequently cited in the press, and it is simply unacceptable.

This is not the first time this Subcommittee has focused on what the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) has referred to as the "iron river of guns" illegally flowing from the United States into Mexico. When the Merida Initiative was announced in October 2007, the United States and Mexico put out a joint statement in which the U.S. pledged to "intensify our efforts" to combat the trafficking of weapons to Mexico. As Chairman of this Subcommittee, I have been waiting for too long for us to live up to this commitment, and I will not let up the pressure until we do.

It has been a year and a half since the Merida Initiative was announced. Shockingly, the GAO's report states that until just a couple of weeks ago, a U.S. strategy to combat firearms trafficking to Mexico was nowhere to be found. On June 5th, 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 firearms trafficking to Mexico. But, implementation still has not begun. It is mind-boggling that for a year and a half, we have had no inter-agency strategy to address this major problem, but instead have relied on uncoordinated efforts by a variety of agencies. A strategy to combat arms trafficking to Mexico should have been in place and running on October 22, 2007 – the day that Presidents Bush and Calderon announced the Merida Initiative. I'm glad President Obama has finally begun to address this.

The June 5th announcement was certainly a step in the right direction, and we now anxiously await further direction on this inter-agency strategy and the roles and responsibilities of various U.S. agencies. As the GAO reports, ATF and Immigration and

Customs Enforcement (ICE) – the two main agencies implementing efforts to combat firearms trafficking to Mexico – do not effectively coordinate their efforts. I fully endorse the GAO's recommendation that the Attorney General and the Secretary of Homeland Security finalize a Memorandum of Understanding (MOU) between ATF and ICE. I was also pleased to author a provision in the House-passed Foreign Relations Authorization Act which will create an Inter-Agency Task Force on the Prevention of Illicit Small Arms Trafficking in the Western Hemisphere to ensure that our efforts to curb firearms trafficking are better coordinated, not just with regard to Mexico but with all countries in Latin America and the Caribbean.

I was not surprised to learn in the GAO report that certain provisions of federal firearms laws – including the Tiahrt amendment – present challenges to U.S. efforts to curb firearms trafficking to Mexico. Current restrictions on collecting and reporting information on firearms purchases not only make the jobs of our fine police officers more difficult than they already are, but also inhibit our ability to effectively curb firearms trafficking to Mexico.

GAO reports that of the 87% of firearms recovered in Mexico originating from the United States between 2004 and 2008, 19% were manufactured in third countries and imported into the United States before being trafficked into Mexico. This is why we **must** once again enforce the ban on imported assault weapons that was previously enforced during the administrations of President George H.W. Bush and Bill Clinton. In recent years, the George W. Bush Administration quietly abandoned enforcement of the import ban. As a result, the U.S. civilian firearms market is flooded with imported, inexpensive military-style assault weapons. These assault weapons – which often come from Eastern Europe – are being trafficked from the U.S. across the border into Mexico. To get around the ban, importers have been able to skirt restrictions by bringing in assault weapons parts and reassembling them with a small number of U.S.-made parts. Enforcing the existing import ban requires no legislative action and would be a win-win for the US and Mexico. On February 12th, I sent a letter to President Obama – signed by a bipartisan group of 52 of my colleagues – urging him to once again enforce the ban on imported assault weapons. The data in today's report only reinforces the need to return to enforcement of this ban.

Finally, I would like to once again call upon the Senate to ratify the Inter-American Convention against Illicit Manufacturing of and Trafficking in Firearms, also known as CIFTA. The treaty was signed during the Clinton Administration and must be ratified, so the United States can tell our friends in the hemisphere that we are serious in addressing the problem of illegal weapons trafficking.

Before I close, I would like to personally thank the GAO team who put together this extraordinary report over the past year. Jess Ford, Juan Gobel, Addison Ricks and Lisa Helmer – thank you all for your excellent work.

With that, I would now like to call on Ranking Member Mack for his opening statement.

Mr. MACK. Thank you, Mr. Chairman. Thank you for holding this hearing, and I know it has been difficult to get to this hearing because of all the votes yesterday, but you have a great staff and you guys were able to make it happen today. I also want to thank Mr. Ford for being here and his testimony. Today is I think very important to this issue as we move forward. And, Mr. Chairman, I hope it is appropriate, but I would also like to welcome your son Phillip who is here with us today. Good to see you, Phillip. Your dad thinks a lot of you.

Mr. ENGEL. I do, and he is also better looking than me.

Mr. MACK. Mr. Chairman, I do think it is important that as we move forward that, it is my belief that there are many flaws in this report, and to base future action on a report that in my opinion is flawed doesn't make a lot of sense. What we do know for sure is that violent crime in Mexico is on the rise, which is a horrible thing. But this report makes conclusions based upon opinions and assumptions.

Example, the report states that officials have said that they saw no reason why drug cartels would go to Asia or Eastern Europe to get weapons when it is so easy to get them from the United States, but on page 23 you list Washington State as a source of weapons. If the drug lords are going to Washington State to get weapons, why not Venezuela? Venezuela is much closer and flooded with military weapons.

Also, we hear a lot about this number, 90 or 95 percent of the weapons are coming from the U.S. Well I would suggest that, and even by this own report, they don't know the total number of weapons that are coming into Mexico, and that number, the 90 or 95 percent, represents the number of guns that they can trace. And by and large it is the U.S. weapons that are traceable. I would ask how many weapons they have been able to trace from Venezuela.

And I think this report contradicts itself. It makes up concrete conclusions, but also says there is no way of knowing the ultimate facts. For example, the report says that "available information suggests that most firearms come from the U.S." But it then says that the exact number of guns trafficked to Mexico is unknown. I think it has got to be very difficult when you ask the GAO to do a report, when you are trying to put numbers around something that is almost impossible to come up with.

The idea that 90 percent of all of the weapons in Mexico come from the United States is one, just unbelievable, and two, I think the report also if you read it carefully suggests that they don't know the total number of guns that are coming into Mexico. And the assumptions that are made are not based on fact but based upon suggestion and one's belief. I do recognize though that there is a problem over the border in Mexico, and I would suggest to the committee and to people out there watching, that if you really want to get this under control, the way to do it is to secure our border. And both Mexico and the United States have a shared interest in securing our border.

On one hand Mexico doesn't want money and guns moving south across the border into Mexico, and on the other hand we don't want criminals and terrorists coming north across the border into the United States. We have a shared benefit by securing the border.

And I believe it is that action that will ultimately, if you want to get out the guns that are moving from the United States into Mexico, the way to do it is strengthen the border.

Mr. Chairman, again I thank you for holding this hearing and your tenacity on making it happen because of the challenges that we face. But ultimately, I think we have a hearing and we are going to come to some conclusions based upon a flawed report, and I hope that Mr. Ford has the opportunity to try to clarify some of these issues in the report. Thank you, Mr. Chairman.

[The prepared statement of Mr. Mack follows:]

THE HONORABLE CONNIE MACK
Ranking Member, House Subcommittee on the Western Hemisphere
OPENING REMARKS
U.S. Efforts to Combat Arms Trafficking to Mexico
Report from the Government Accountability Office (GAO)
Room 2172 of the Rayburn House Office Building, 11:00am

I want to thank my good friend, Chairman Engel, for holding this hearing today. I also would like to thank Mr. Ford and his staff for their hard work. I recognize that compiling this information can be complicated and the data can be ambiguous at times. I look forward to your remarks.

Mr. Chairman, Mexico is locked in a battle with the drug cartels. We have all heard the terrible statistics. 6200 people were killed in Mexico last year. That is more than twice as many as in 2007. And reports indicate that 2009 will be worse than 2008. According to the Department of Justice, Mexican drug trafficking organizations represent the greatest organized crime threat to the United States.

But as I read through this report, a few things jumped out at me.

First, I was troubled by the fact that the report makes conclusions based on opinions and assumptions, rather than facts. For example, the report indicates that US law enforcement officials have said that "experience and observations corroborated that most of the firearms in Mexico originated in the US."

While the men and women on the ground, here and in Mexico, are fighting the cartels every day, it becomes even more important for you to present a report that is backed up by hard data and raw numbers.

The report also states that officials indicated that "they saw no reason why the drug cartels would go through the difficulty of acquiring a gun in Asia or Eastern Europe and transporting it to Mexico when it is so easy for them to do so from the US."

The fact that conclusions would be made on this report based on a "gut" feeling is troublesome. And here is another interesting point.

On page 23 you list Washington state as a source of weapons going to Mexico. But if drug lords are going to Washington state to buy weapons, why not to Venezuela? Venezuela is a much closer location and is flooded with military weapons.

I am also concerned that the report contradicts itself. It makes concrete conclusions based on evidence, but also states that there is no way of knowing the ultimate facts.

For instance, the report says that "available information suggests that most firearms recovered in Mexico come from the US." Specifically, it states that 87% of firearms seized by Mexican authorities and that are traced originated in the US.

But the report also states that "ATF and ICE officials have told you that the exact number of guns trafficked into Mexico is unknown." Furthermore, it states that there is no data on the number of arms trafficked to Mexico.

But here is my real issue. The report indicates that the data only really represents traced guns and not seized guns. Of the 30,000 firearms that the Mexican Attorney General's office said were seized, only 7,200 were submitted to the ATF for tracing.

Where did the other 22,000 guns that were seized come from? Venezuela? Europe? Ecuador? Nicaragua? The FARC?

Mr. Chairman, I also want to commend the GAO for tackling these issues and for sharing with us some of its recommendations.

From deploying eTrace in Spanish, to coordinating efforts between agencies, to having a more holistic approach to checking cars heading south-bound, to fighting corruption in Mexico; you have indeed presented this Subcommittee with positive recommendations.

Thank you Mr. Chairman and I look forward to hearing from our witness.

Mr. ENGEL. Thank you very much, Mr. Mack.

Mr. Sires.

Mr. SIRES. Let me first thank you for your patience. We had a great day yesterday. It boosted up my percentage a great deal for the amount of votes that we took. And I want to thank the chairman for holding today's hearing. I am pleased the subcommittee is taking a hard look at how our domestic arms policy significantly affects our neighboring countries.

If we are to be successful in our efforts to curb drug trafficking and limit gang violence, we must be successful in efforts to reduce arms trafficking in Mexico and throughout the region. Our closest allies are fighting criminals that are well financed by our drug addiction and well armed by our free flow of weapons. Combating arms trafficking must be a critical part of our ongoing battle to achieve security and prosperity on our borders and throughout our countries. I look forward to having a good in-depth discussion, and am looking forward to share some of the information that I read in the report, and I thank you for being here.

Mr. ENGEL. Thank you, Mr. Sires.

Mr. Green.

Mr. GREEN. Thank you, Mr. Chairman, for holding this important hearing. I would like to welcome Mr. Ford and thank you and your colleagues for all your work in this comprehensive report over the last year. Representing a district in Texas I have a personal interest in this issue as the violence on our border continues to escalate because of President Calderon's, I might say heroic efforts to address drug trafficking and crime and corruption in his country. I applaud President Calderon's efforts, but alleviating illicit drug trafficking is not just Mexico's fight.

And that is why we passed the Merida Initiative last Congress and why the Department of Homeland Security has ramped up its efforts on our border. One of the greatest challenges we face in the

addressing of this drug trade and the associated violence is the arms that these traffickers are able to get their hands on. Combating the arms trafficking into Mexico is primarily our battle, and, Mr. Ford, your evidence highlights this point.

According to your report, the available evidence shows that a majority of the firearms fueling this drug violence originate in the United States, yet you found our efforts to combat this illegal trafficking face several challenges, particularly related to coordination between ATF and ICE, who astonishingly for all this time have not had a strategy to explicitly address arms control trafficking to Mexico. Also, the ineffective use of eTrace by Mexico, and I hope we will be able to deal with that and highlight it in your report.

The Office of National Drug Control Policy recently released its 2009 National Southwest Border Counternarcotics Strategy, which for the first time includes a chapter on combating illicit arms trafficking to Mexico. However, this chapter is only a basic framework with an implementation plan to follow later this summer. We can enforce export controls of firearms from our country without limiting our country's basic Second Amendment rights.

And, Mr. Ford, I look forward to your specific recommendations on what this plan should include and whether something we can as an authorizing committee do to help, especially since the State Department's Narcotics Affairs section has stated that it only has some flexibility to shift Merida funding into combating arms trafficking, but this amount would be small as the Merida Initiatives does not provide dedicated funding to address the issue.

And again, Mr. Chairman, I think that is also something we ought to highlight, Merida Initiative didn't provide for funding on our side of the border to deal with it. So we might want to consider that effort. And I look forward to your testimony.

Mr. ENGEL. Thank you very much, Mr. Green.

Mr. Payne.

Mr. PAYNE. Well let me also thank you, Mr. Chairman, for your persistence and for having this very important hearing. Something must happen. This carnage that is going on in Mexico that is coming across the border is senseless. We need to really have some way to stop the flow of illegal weapons across the border, but also we really need to take a look at how do we get guns off the street in our cities, where there is a tremendous amount of violence that is going on in most of our major cities with many lives being lost.

You know, I am sure that when those men wrote the Second Amendment hundreds and hundreds of years ago they certainly didn't have the intent of what is happening now, and there is some way that we need to seriously take a look at the proliferation of guns and the death that it brings on innocent people. One day, as a matter of fact, if we took violent death out of the United States as mortality rates, we would have the longest life expectancy in the world. However we don't, and it is because of the tremendous number of violent deaths that happen in the United States of America, which is very rare in Europe where people are not in love with guns as we find so many in this nation. And so hopefully we can really start to get some sound thinking on this issue. I yield back the balance of my time.

Mr. ENGEL. Thank you, Mr. Payne. Before I call on Ms. Giffords, I just want to state the fact that Ms. Giffords's district borders with Mexico in Arizona, and I wanted just to call to her attention as I had mentioned before that just 2 weeks ago the Office of National Drug Control Policy released its 2009 National Southwest Border Counternarcotics Strategy which for the first time includes a chapter on combating illicit firearms trafficking to Mexico, so I have had many discussions about this with Ms. Giffords and it is an issue of much concern to her. And in the fall I am hoping to go to her district and perhaps do a field hearing with this subcommittee to talk about this issue and other issues, immigration or whatever, involving the border between Mexico and of course Arizona.

So I call on Ms. Giffords for her remarks.

Ms. GIFFORDS. Thank you, Mr. Chairman. I appreciate your leadership on this subcommittee. We look forward to having you and other members of the committee that are interested in coming down really to the front lines of what is happening in terms of violence and the drug smuggling across the United States-Mexico border.

I want to welcome Mr. Ford. Good afternoon, it is great to have you here today. I was recently appointed the vice chair of the United States-Mexico interparliamentary workgroup, where just a couple weeks ago we Mexicans and Americans came together, Members of the House and the Senate on both sides of the border, to talk about the variety of issues that we have at hand, and it is an important meeting but particularly in light of what is happening with illegal immigration and drug smuggling and the violence as well.

Last February, six colleagues and I requested the GAO report to look at the flow of firearms across the border, and in contradiction to some comments that were made earlier, I am very proud of the work that the GAO does. The GAO as well we asked to do a report looking at the checkpoint issue along the United States-Mexico border. And to see the dedication of members of the GAO that come out, that get to know the districts in the area sometimes better than the members frankly. It was incredibly impressive. So if you would please complement and pass on the words to your staff, it is a tremendous resource that we have the GAO available to us, and I think your work is excellent.

I think this hearing is timely, looking at drug violence since 2006 that has claimed over 10,000 lives. Just last week the Mexican Army captured 25 gunmen in the state of Chihuahua, seized 29 automatic rifles. That is the same day that authorities in the western state of Michoacan reported that three Federal agents had been killed in two attacks along the highway, and investigators there recovered more than 500 shell casings at the two crime scenes.

So this report allows us to highlight the need for additional resources, again on both sides of the border. We are not going to solve this problem on our side and they are not going to solve it on their side unless we work cooperatively together. Again, Mr. Chairman, I do represent the most heavily trafficked district in terms of illegal immigrants coming into the United States, that is the Tuscon sector of the Border Patrol. And we see more violence

and more guns and more drugs flowing both ways, and it is a problem that we have to address. So again thank you for your leadership on this, and we are looking forward to hearing from your testimony.

Mr. ENGEL. Thank you very much, Ms. Giffords.

Before I call on our distinguished witness, I want to mention something and want to especially compliment Mexican President Calderon. In the past 6 months I have met with him five times. Five times in four different countries actually, more so than I have met with any other leader in the Hemisphere. And I must say that I admire President Calderon's courage and intelligence and his great decision to not just sit quietly and allow the drug lords and the drug cartels to continue to wreak havoc in his country.

He has moved forcefully against them, which is probably a contribution to the reason why they are now being defiant and acting out and doing so much more destruction damage to try to push him around and push back and try to show him who is boss. Well, we have a stake in the Mexican Government and the Mexican President declaring that they are the ones who run things in Mexico, not the cartels who are trying to destroy so many lives just for money that they can line their pockets with.

So I just want to say that I and other members of this subcommittee admire the work that President Calderon has done in this regard, and I think that the bilateral relationship between the United States and Mexico is such an important relationship that anything that we do needs to be coordinated with Mexico with regard of course to border policy and everything else that we have talked about, immigration, drug trafficking, gun trafficking, all the problems.

We are only going to be successful if we work on this together. But I did want to say again that I am delighted to have had five bilateral meetings with him, private meetings with subcommittee members, with some other Members who are not on the subcommittee, and privately, and I admire his tenacity and his courage. I want to say that.

So now I am pleased to introduce our distinguished witness today, Jess Ford. Jess is a Director for Internal Affairs and Trade at the Government Accounting Office, known affectionately as the GAO, where he has worked since 1973. That is even longer than I have been here. Mr. Ford, who has testified before Congress over 40 times, is no stranger to this subcommittee. I was pleased to welcome you here in October 2007 for a hearing I chaired just as the Merida Initiative was announced. And it is a pleasure to welcome you back to the subcommittee once again. In fact you have been with GAO so long as Mr. Ford, you were even there when we had President Ford. So it is nice to have someone with a lot of experience and I look forward to listening to your testimony today. Thank you, Mr. Ford.

STATEMENT OF MR. JESS T. FORD, DIRECTOR, INTERNATIONAL AFFAIRS AND TRADE TEAM, UNITED STATES GOVERNMENT ACCOUNTABILITY OFFICE (GAO)

Mr. FORD. Thank you very much, Mr. Chairman and members of the subcommittee. I appreciate those kind words.

I am pleased to be here today to discuss our recent report related to illicit arms trafficking into Mexico. In recent years violence along the Mexico border has escalated dramatically as the administration of President Felipe Calderon has sought to combat the growing power of Mexican drug trafficking organizations and to curb their ability to operate with impunity in areas of Mexico. Mexican officials have come to regard illicit firearms as the number one crime problem facing the country.

According to the Department of Justice 2009 National Drug Threat Assessment, Mexican drug trafficking organizations represent the greatest organized crime threat in the United States, controlling drug distribution in many U.S. cities. In particular, law enforcement reporting indicates Mexican drug trafficking organizations maintain drug distribution networks and drug supply distributions in over 230 U.S. cities.

In March 2009, the Department of Homeland Security announced that it planned to increase resources on the United States-Mexican border including more personnel and greater use of available technologies. And as the chairman mentioned, just 2 weeks ago the ONDCP released its new Southwest Border Counternarcotics Strategy, which for the first time contains a chapter on arms.

Today I am going to discuss the data that is available on the types, sources, and users of arms, the key challenges that confront the U.S. Government in 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, the challenges facing United States agencies collaborating with the Mexican authorities, and the U.S. Government's strategy for addressing this issue.

Available evidence indicates that a large proportion of firearms fueling the 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 any given year, over 20,000, or around 87 percent of the firearms seized and traced over the past 5 years have originated in the United States according to ATF.

The data we are using is ATF data, we have spent a lot of time working with them, and I can get into that in the Q & A about what we know about this issue. We believe this is the best data that is currently available that indicates what the nature of the problem is. In the last 3 years, over 90 percent of the guns that were traced from Mexico came from the United States according to ATF. The chart that I have got to my left is a summarization actually of the 5 years of information that came from ATF, including the actual number of guns that were traced from the United States, and if you totaled that number up, it is over 20,000 guns over the last 5 years.

Of that amount, ATF data shows that approximately 68 percent of the firearms were manufactured in the United States, and 19 percent were manufactured in third countries. The remaining amounts ATF was not able to identify for us exactly where the guns were manufactured. According to United States 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, high powered weapons such as AK–47s and AR–15 type semiautomatic rifles.

According to ATF trace data, many of these firearms came from gun shops and gun shows in the southwest Border States such as Texas, California, and Arizona. United States and Mexican Government and law enforcement officials state that most guns trafficked in Mexico are intended to support the operations of Mexican drug trafficking organizations which are responsible for most of the trafficking of arms into Mexico.

The U.S. Government faces several significant challenges in its efforts to combat the illicit sale of firearms and to stem the flow of arms across the border. First, according to ATF officials, certain provisions of some Federal firearm laws present challenges in their efforts to investigate firearms cases. The three areas that they identified for us include the restrictions on collecting and reporting information on firearms purchases, the lack of required background checks for private firearms sales, and limitations on reporting requirements on multiple gun sales.

Another major challenge that we found is that ATF and ICE, the two primary agencies responsible for implementing efforts to address the smuggling of arms and identifying the nature of the problem, are not consistently coordinating their efforts effectively 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 in operations.

Additionally, we found agencies lack systematic analysis and reporting on data related to arms trafficking, and that they are also unable to provide complete information to us on the results of their efforts to stop guns from being smuggled into Mexico. We believe this type of information could be useful to better understand the nature of the problem and to help plan ways to address it and to make more progress in stopping the illicit smuggling of arms into Mexico. United States law enforcement agencies and the Department of State have provided some assistance to Mexican counterparts in combating arms trafficking, but these efforts face several key challenges.

United States 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 the Mexican Government counterparts with technical and operational assistance to address the firearms problem. For example, although the Merida Initiative 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 officials told us that would be helpful to combat arms trafficking such as establishing multi-agency arms trafficking taskforce to help address this problem. Furthermore, United States assistance has been limited in helping the Mexican Government to expand its capabilities to provide better trace information to the United States Government to better understand the overall nature of gun trafficking and gun problems in the country.

According to Mexican and United States Government officials, extensive corruption in Federal, state, and local levels is another problem that impedes United States efforts to develop effective and dependable partnerships with the Mexican Government. Mexican Government officials indicated that anticorruption measures such as increased use of polygraph and psychological testing, background checks, and salary increases are efforts underway to try to address this problem.

Mr. Chairman, I am not going to mention the new strategy other than to acknowledge the fact it is the first time that our Government has put together an articulated strategy to deal with the gun issue. The strategy is new, it just came out 2 weeks ago. There are some key issues related to the strategy that have not yet been fully announced by the administration. The key issues in our mind have to do with an implementation plan that will go along with the strategy.

We think it is critical that this plan have a clear sense of who is going to be responsible for carrying out the key parts of the strategy and it will have some performance indicators so we will know somewhere down the road how effectively the strategy is working. And we have a recommendation in our report that ONDCP provide that type of information.

Finally, Mr. Chairman, we made a series of recommendations to the Attorney General's Office and Homeland Security covering such issues as addressing the issue of how some of the legal constraints might be addressed, and if they feel necessary to approach the Congress with whatever remedies they believe need to be taken that they finalize this memorandum of understanding that has been under negotiation for several months to better improve their working relationship between ATF and ICE, that they improve their data gathering techniques related to the nature of the problem and the reporting of results on gun smuggling, that they expedite their working relationship with the Mexican Government to enhance eTrace capability so that we have a better understanding of the nature of gun trafficking in Mexico, and as I mentioned that ONDCP incorporate the implementation plans and performance measures so that Congress will have a better understanding of whether we are having success in this area.

Mr. Chairman, that concludes my opening statement. I would be happy to answer any of your questions.

[The prepared statement of Mr. Ford follows:]

United States Government Accountability Office

GAO

Testimony

Before the Subcommittee on the Western Hemisphere, Committee on Foreign Affairs, House of Representatives

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FIREARMS TRAFFICKING

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

Statement of Jess T. Ford, Director
International Affairs and Trade



GAO-09-781T

June 19, 2009

Mr. Chairman and Members of the Subcommittee:

I am pleased to be here today to discuss U.S. efforts to combat illicit arms trafficking to Mexico. This testimony is based on a GAO report, GAO-09-709, that we are releasing today. 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. 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. 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 many U.S. cities, and gaining strength in markets they do not yet control (see fig. 1). In particular, law enforcement reporting indicates Mexican DTOs maintain drug distribution networks or supply drugs to distributors in at least 230 U.S. cities.

[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.

Figure 1: 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).

President Obama has expressed concern about the increased level of violence along the border, particularly in Ciudad Juarez and Tijuana, and, 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.

Today I will discuss (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;

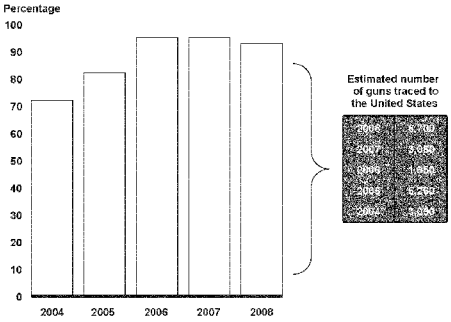
(3) challenges faced by U.S. agencies collaborating with Mexican authorities to combat the problem of illicit arms; and (4) the U.S. government's strategy for addressing the issue.

Over the course of our work on this issue, we reviewed and analyzed program and project status reports, and related information, and met with officials from the DOJ's Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) and DHS's Immigration and Customs Enforcement (ICE), which are the two primary agencies combating illicit sales and trafficking of firearms across the Southwest border. We also met with officials from other agencies supporting these efforts. We visited and met with officials from three major Southwest border cities and their Mexican counterpart cities to explore the challenges faced by law enforcement officials to stem the flow of arms smuggling across the border, and traveled to Mexico to meet with U.S. and Mexican government officials working on this issue. We also reviewed data on firearms seized at the Southwest border and recovered in Mexico over the last 5 years, as well as data on firearms traced; investigations; inspections; and firearms trafficking cases. 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.

In brief, Mr. Chairman, we found that U.S. efforts to combat the illicit trafficking of firearms to Mexico face several challenges, particularly relating to the planning and coordination of these efforts.

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, over 20,000, or 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 (see fig. 2). Over 90 percent of the firearms seized in Mexico and traced over the last 3 years have come from the United States.

Figure 2: 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.

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 drug trafficking organizations, 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 coordinate their efforts effectively, 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 the Department of State (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. This 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 the United States in its efforts to assist Mexico is the concern about corruption among some Mexican government entities. Despite President Calderon's efforts to combat organized crime, 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 for the strategy 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.

Recommendations for Executive Action

To ensure that relevant agencies are better focused on combating illicit arms trafficking to Mexico, we are making several recommendations, including that

- the U.S. Attorney General prepare a report to Congress on approaches to address the challenges law enforcement officials raised regarding constraints on the collection of data that inhibit their ability to conduct timely investigations;
- 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;
- the U.S. Attorney General and the Secretary of Homeland Security take several steps to ensure improved data gathering and reporting by ATF and ICE to help identify where efforts should be targeted;
- 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; and
- ONDCP ensures its implementation plan for the arms trafficking chapter of the 2009 National Southwest Border Counternarcotics Strategy includes the key elements we have identified that should be a part of any strategy, which were outlined earlier in this testimony.

Agency Comments and Our Evaluation

DHS and State commented on a draft of our report and generally agreed with our findings and recommendations. DOJ and ONDCP did not comment on our recommendations.

Mr. Chairman, this concludes my prepared statement. I would be pleased to respond to any questions you or other Members of the Subcommittee may have at this time.

GAO Contact and Staff Acknowledgments

For questions regarding this testimony, please contact Jess T. Ford (202) 512-4268 or fordj@gao.gov. Individuals making key contributions to this testimony include Juan Gobel (Assistant Director), Joe Carney, Virginia Chanley, Matthew Harris, Elisabeth Helmer, Grace Lui, and J. Addison Ricks. Technical assistance was provided by Joyce Evans, Jena Sinkfield, and Cynthia Taylor. Contact points for our offices of Congressional Relations and Public Affairs may be found on the last page of this testimony.

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Mr. ENGEL. Thank you, Mr. Ford. Let me say that in about 10 minutes I think we are going to have a series of votes, so I would like to see if we could perhaps conclude within the next 10 or 15 or 20 minutes perhaps.

Let me just ask you this—well, I guess I was a little off with the timing of the votes. Let me just ask you this. On June 4th, President Obama said that there was going to be a new strategy, ostensibly to plug the holes with some of the things that we found wanting in the report. Help me to understand what happens. You have issued a report, there are a lot of good things in that report, there are things in that report that I think many of us, probably on both sides of the isle, would want implemented. When the administration starts to implement it, what is the mechanism for incorporating some of the recommendations in your report?

I know the President doesn't have to use your recommendations, but I would hope since it was a year's work and it was well thought out and well done that the administration would look to this report. So help me to understand how that dynamic works. Because otherwise the administration is coming up with a whole way of doing things which may to some degree coincide with the report but perhaps not. I would hope that they would read the report and would incorporate a lot of what the report says into their recommendations for change.

Mr. FORD. There are a couple of things. First of all, we did get official comments from Department of Homeland Security and State Department, and both of those agencies agreed with the recommendations that we had for them. So we hope that they will actually implement them. They said they would. They are required within 60 days of the issuance of a report to actually send a letter to Congress indicating what action they are going to take. With regard to the Department of Justice and the ONDCP, they did not provide official comments to our draft.

So at this point we do not know whether they agree with our recommendations and whether or not they will act on them. I can tell you that we have had several discussions with officials at ONDCP who have indicated to us that they do intend in fact to put out an implementation plan directly related to this strategy and that that plan will contain accountability and performance measures that will help Congress understand whether or not we are having any success. They haven't told us that officially, but unofficially they have told us that, so I have confidence that some action will be taken in that area. I cannot comment on the Department of Justice. They did not provide us with any information about whether they are going to agree to our recommendations or not.

Mr. ENGEL. Well I am going to write a letter to the President and urge him to have his administration take into account this report when they are formulating what they are going to do with this. And their January 4th statement again was a good one, but, you know, the proof is in the pudding. I hope they will listen to what you have to say. I am going to leave it just from my question, I am going to give everybody else a chance to ask a question if they want because we obviously have some time constraints right now.

So I will call on Mr. Mack.

Mr. MACK. Thank you, Mr. Chairman.

And as I mentioned in my opening statement, I am having a little bit of difficulty having any real confidence in the report. It is not to say that I don't think some of the recommendations that you come up with might be good ones, but I don't know that the report itself is something that we should put a lot of value in. Most of the things you have talked about, most of the numbers you have talked about have been based upon the number of guns that you were able to trace, and we know that a majority of guns that you are able to trace are the ones that come from the U.S. But that leaves out a majority of the guns that are being seized.

So I would ask how many guns were you able to trace to Cuba or Venezuela or Bolivia or Ecuador, or from other continents? That would be a question that I would have for you. Also, you know, just I think 2 days ago we were at another hearing together where you had said that radio or TV Marti, that less than 1 percent of Cubans see it. And I suggested then that how would you even contemplate that a Cuban would answer the phone and say, yes I watch TV Marti when they are in Cuba living under a brutal dictatorship?

So these two things, this report and that report, I am having a hard time having any kind of real confidence in the report itself. So if you could comment on how many of the weapons do we know come from Cuba, Venezuela, Bolivia, Ecuador, and if you agree that if we had a strong border between United States and Mexico, if that would stop any of the guns that are moving south, if that would stop it as well.

Mr. FORD. Okay, well let me maybe respond first to the issue of the data that you indicate you believe the way we have portrayed that information is flawed. I don't agree with that conclusion. What we have got is a summary of information that came from ATF. It is ATF data, it is not GAO data. The ATF data is based on guns that were identified and traced from Mexico. As we clearly state in our report, that represents approximately a quarter of the guns that the Mexican Government reported that they seized in 2008. So we clearly identify that in the report. Secondly, with regard to, the data is the data. It is 20,000 guns——

Mr. MACK. Let me just say this. So it would be, so you would also say that to say that 90 percent or 95 percent of the guns in Mexico are coming from the United States is false, that is not an accurate statement?

Mr. FORD. That is correct, and we don't say that.

Mr. MACK. Right, but other people are saying that. So I think it is important that we——

Mr. FORD. Well, our report does not say that. Our report clearly states the facts. The facts are, it is 90 percent of the guns that were traced, that the Mexican Government and ATF were able to send back here to be traced by ATF. It does not represent—that 75 percent of the guns, that we don't know where they came from because they were never submitted for trace. That is clearly stated in our report. So if someone is misreporting that, you know, that is not my problem. But our report is based on the facts.

The second thing that I think is more important to this, and the thing that I think you all should be concerned about is, regardless of whether we know the 100 percent of all of the guns that have been seized in Mexico where they came from, I think we should be

concerned by the fact that 20,000 of those guns we know for sure came from here. And I think that in terms of us coming through with a policy and a program to address this problem at the border, to address your second question, yes I do think we need to tighten up on the border.

When we started this project, this was not a priority, to stop southbound trafficking of arms. Our agencies were focused on northbound activities. And most of the agencies that we dealt with during the course of this job were just not focused on the whole issue of arms. So I think yeah, we need to tighten up on the border, I think it is an important thing. I think the new strategy that just came out is an effort to try to do that. But the data that we use in our report we believe is sound, and we do believe that further effort to actually expand tracing in Mexico will shed further light on this issue if in fact we can get the Mexican Government to send more traces here.

Mr. ENGEL. The gentleman's time is expired. I know we are running out of time. I want to give my colleagues a chance to quickly ask. Maybe we will do three questions in a row and have you respond to it. I know Ms. Giffords in particular since it borders her district is anxious.

So why don't we start with Mr. Green, you can do a quick question, then we will do three questions, and then we will conclude.

Mr. GREEN. I would like to ask questions about two issues. One, I know you describe that the United States attorneys, Executive Office of United States Attorneys, they didn't have data on cases where they have made on arms smuggling. Do you believe it would be helpful to establish guidelines for identifying tracking arms trafficking cases, any additional legislation needed to permit such tracking or can it proceed under current law? If so, which agencies should go out and do these guidelines?

The other one you mentioned and I mentioned in my opening statement is about the Merida Initiative provided no funding specifically designated to combat arms trafficking. And in your opinion what level of resources would be necessary and what areas would we need to be able to do our job on our side of the border to control the illegal export of firearms?

Mr. ENGEL. Let me see if Mr. Ford can do that in under 1 minute if you could. I know it is difficult and I apologize.

Mr. FORD. Okay, well let me see if I understood your question correctly. The first issue is whether or not there is more that could be done to collect information on the results of prosecutions?

Mr. GREEN. Well, the number of cases that are to be made on, you know, export firearms, and also the success of them. From what your report shows, we don't even know how many cases we are making.

Mr. FORD. That is correct. One of the difficulties we had in the course of this job, every agency we asked, well what information do you have that would show number of prosecutions, seizures, smuggling? We were not able to find any good data from any of the agencies, including the U.S. Attorney's Office on the number of cases they prosecuted that were related to arms trafficking to Mexico, they couldn't give us any real good data on that.

Mr. GREEN. I know personally they are making some cases now, and very high profile as in the Houston area and in Texas, so I am hoping we will see that because it has been a violation of the law to export firearms without a permit for many years, and we just haven't enforced the law. And the other one is, should we, Mr. Chairman, and what agencies should we do to try and make an addition to the Merida Initiative not only helping Mexico but also to fund our side of the border? I know the President has transferred ATF agents there, 35 the last number I heard, but even more resources to again to enforce our current law on the prohibition of exporting.

Mr. FORD. Well, first of all, the President has in fact beginning in March allocated, I believe, I haven't confirmed this, approximately $350 million of reallocation of resources to address the issue of southbound trafficking, put more people on the border to do more investigations, more screening of cars as they go south. We haven't really examined that in detail, but there is already an effort to reallocate resources on that now.

Mr. ENGEL. Let me call on Ms. Giffords.

Ms. GIFFORDS. Thank you, Mr. Chairman.

Mr. Ford, you mentioned that the data is the data, but one of the issues that the Mexicans have been bringing up for about 11 years is the fact that when they go to putting in the data in eTrace it is only in English. And I wanted to talk about why is it that we can't, with all of the technology that we have out there, convert this over into Spanish language?

Mr. FORD. Okay, well I am glad you mentioned that. That is actually one of the State Department's programs to try to expedite the use of Spanish eTrace. I don't know the current status of where that is. We also don't know why it has taken them this long to convert that process into Spanish. We don't think it should be that difficult to do that. There are some logistical issues because one of the issues within Mexico is they want to be able to report information throughout the entire country.

Right now they have very limited capability in terms of people that can know how to use the eTrace system itself, they have to be trained. And secondly, they haven't deployed the system throughout the entire country. So that may be one of the constraining factors. But we believe, and in one of our recommendations to State Department was they need to expedite this whole process.

Mr. ENGEL. Thank you, Mr. Payne, for the last question.

Mr. PAYNE. Thank you. Do you know whether the Mexican authorities can get more guns up to be traced so that we can really take it out to the next level? I kind of agree, you know, the facts are the facts. You know, of what ATF got back, 90 percent came from the U.S. That is a fact. I would be interested in knowing if there is an effort to try to get more traced?

Mr. FORD. There is a clear effort to try to expand the use of eTrace so that we have a better understanding of the overall nature of the problem. It is my understanding according to what ATF has told us most recently that they are getting more numbers of requests to trace guns that have been seized in criminal activity. So the volume is increasing, but I do not know at this point wheth-

er or not they have been able to expand beyond the 25 percent that was mentioned in our report for this year. We haven't got the data for 2009 yet, so we don't know whether it has expanded to 35 percent or whatever.

Mr. PAYNE. And there is no way to tell where the guns were purchased from? Are there any kind of markings on guns that you could trace it back to the gun store that sold them?

Mr. FORD. Well, it is two different issues there. In terms of being able to identify a potential manufacturer, some weapons, my understanding is you can do that. However, the importance of the tracing is to identify where the gun was sold.

Mr. PAYNE. That is what I mean, yeah.

Mr. FORD. The tracing is really used as part of the criminal investigation that ATF may undertake. So they want to know which shop the gun was sold at and then try to prosecute or, you know, investigate that issue.

Mr. PAYNE. Exactly.

Mr. ENGEL. I think we are going to have to have that as the last word, but let me just encourage members of the subcommittee to submit any further questions to Mr. Ford in writing, and I am sure he will be able to answer them.

And I just want to call on Mr. Mack for a motion.

Mr. MACK. Mr. Chairman, I ask unanimous consent that members have five legislative days to submit statements and questions for the record.

Mr. ENGEL. Without objection, so moved.

Mr. Ford, thank you for your excellent testimony. We really appreciate it, and we will be exploring all the things in the report further.

The subcommittee is now adjourned.

[Whereupon, at 12:52 p.m., the subcommittee was adjourned.]

APPENDIX

Material Submitted for the Hearing Record

SUBCOMMITTEE HEARING NOTICE
COMMITTEE ON FOREIGN AFFAIRS
U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, D.C. 20515

SUBCOMMITTEE ON THE WESTERN HEMISPHERE
Eliot L. Engel (D-NY), Chairman

June 11, 2009

TO: MEMBERS OF THE COMMITTEE ON FOREIGN AFFAIRS

You are respectfully requested to attend the following OPEN hearing of the Subcommittee on the Western Hemisphere, to be held in Room 2172 of the Rayburn House Office Building:

DATE: Thursday, June 18, 2009

TIME: 11:00 a.m.

SUBJECT: U.S. Efforts to Combat Arms Trafficking to Mexico: Report from the Government Accountability Office (GAO)

WITNESS: Mr. Jess T. Ford
Director
International Affairs and Trade Team
United States Government Accountability Office (GAO)

By Direction of the Chairman

The Committee on Foreign Affairs seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202/225-5021 at least four business days in advance of the event, whenever practicable. Questions with regard to special accommodations in general (including availability of Committee materials in alternative formats and assistive listening devices) may be directed to the Committee as noted above.

COMMITTEE ON FOREIGN AFFAIRS

MINUTES OF SUBCOMMITTEE ON *the Western Hemisphere* MEETING

Day *Friday* Date *06/19/09* Room *2172 RHOB*

Starting Time *12:00 p.m.* Ending Time *12:52 p.m.*

Recesses [ ] (____ to ____)

Presiding Member(s) *Eliot L. Engel*

CHECK ALL OF THE FOLLOWING THAT APPLY:

Open Session [✓]
Executive (closed) Session [ ]
Televised [ ]

Electronically Recorded (taped) [✓]
Stenographic Record [✓]

TITLE OF HEARING or BILLS FOR MARKUP: *(Include bill number(s) and title(s) of legislation.)*

"U.S. Efforts to Combat Arms Trafficking to Mexico: Report from the Government Accountability Office (GAO)"

SUBCOMMITTEE MEMBERS PRESENT:

Eliot L. Engel, Connie Mack, Albio Sires, Gene Green, Gabrielle Giffords, Donald M. Payne

NON-SUBCOMMITTEE MEMBERS PRESENT: *(Mark with an * if they are not Members of HIRC.)*

HEARING WITNESSES: Same as meeting notice attached? Yes [✓] No [ ]
(If "no", please list below and include title, agency, department, or organization.)

STATEMENTS FOR THE RECORD: *(List any statements submitted for the record.)*

Statement - Dan Burton
Additional questions for the record submitted by Reps. Eliot L. Engel, Gabrielle Giffords and Michael T. McCaul

ACTIONS TAKEN DURING THE MARKUP: *(Attach copies of legislation and amendments.)*

RECORDED VOTES TAKEN (FOR MARKUP): *(Attach final vote tally sheet listing each member.)*

Subject	Yeas	Nays	Present	Not Voting

TIME SCHEDULED TO RECONVENE _____
or
TIME ADJOURNED *12:52*

Subcommittee Staff Director

Opening Statement of Congressman Dan Burton,
Subcommittee on the Western Hemisphere
Hearing of the Subcommittee on the Western Hemisphere
Title: "U.S. Efforts to Combat Arms Trafficking to Mexico: Report from the Government"
June 19, 2009

I am pleased that the Chairman has called this hearing to examine the GAO Report outlining the efforts taken by the United States to combat arms trafficking to Mexico. I would also like to thank those at GAO who have gone to great efforts to produce this report. Our efforts to coordinate with the Mexican government to combat drug trafficking must improve and continue as we go forward. Our work through the Merida Initiative is only the beginning. It is essential that we continue to coordinate with the Mexican government to halt the violence that is taking place on both sides of our Southwest Border.

Mexico, Central America and the United States have a joint responsibility to resolve this common and difficult challenge of illegal arms trafficking. Though it is easy to point to the United States as the source of the problem, I believe we must work together to uncover the facts and not jump to conclusions until these facts are verified. While it is clear from the report that most of the arms recovered and traced, particularly near the border, originated in the United States, the source of over three quarters of the arms recovered remains unclear. I fear that the same traffickers who have put weapons in the hands of the FARC, through Venezuela, may also be supplying Mexican cartels with Russian and other firearms. We must continue to seek more accurate and conclusive information.

In addition, the argument has been made that the United States is to blame for the drug trade, since we are the demand that makes narco-trafficking lucrative. If this argument was entirely accurate, then we would have to then place the blame on Mexico for the demand of firearms. I would say that this type of finger pointing on both sides is counter-productive. Instead, we should be coordinating our efforts to eliminate corruption and do our part to stop the illegal flow of arms.

The reality of the situation is that the existence of firearms in Mexico is not the problem; it is how these firearms are used and regulated. Many more firearms exist within the United States than in Mexico even though our gun laws are far less restrictive. GAO concedes on page 2 of their report that, "we did not review Mexican firearms laws, and to the extent that we comment on these in this report, we relied on secondary sources." In addition, it is clear that corruption of Mexican government officials remains a large problem. On page 50, the report states, "According to Mexican government officials, corruption pervades all levels of Mexican law enforcement- federal, state and local." I would like to commend the Calderon Administration for making efforts to reduce this corruption by allowing the army to relieve local officials of their duties when they fail.

The focus of our debate today should not be whether the United States supplies some of these weapons, but how we can work together with the Mexican government to stop the abuse and illegal trafficking of these firearms. U.S. government and law enforcement officials will be

better equipped to combat arms trafficking if corruption within Mexico is decreased and prohibitive gun control laws are lifted.

I would like to thank our distinguished witness for being here today, and I look forward to hearing their how they came to the many conclusions presented in this report.

Questions to GAO for the Record from Chairman Eliot Engel
June 19, 2009 Hearing on US Efforts to Combat Arms Trafficking to Mexico

- Your report (GAO-09-709) and testimony (GAO-09-781T) stated that from fiscal years 2004-2008 around 20,000 firearms seized in Mexico were traced to the United States.

  Would you elaborate on what this means? For example, is it possible that we would find more firearms could be traced to the United States if more weapons seized in Mexico were traced?

  Based on our review of data compiled by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) on arms seized in Mexico and subsequently traced in fiscal years 2004 through 2008, we found that over 20,000 illicit firearms seized in Mexico during that period originated in the United States. Until all of the firearms are traced, we cannot say how many more would be traced back to the United States. However, U.S. and Mexican law enforcement and military officials, who have seen some of the weapons that have not yet submitted for tracing, told us that based on their observations, many of those weapons appear to have originated in the United States also. Thus, it is likely that more firearms could be traced to the United States if more weapons seized in Mexico were traced.

- Your report provided figures on firearms seized in Mexico traced to the United States and makes reference to arms traced to third countries.

  Specifically, from which countries have the firearms seized in Mexico and traced in the last five years originated and in what numbers?

  Based on ATF data, below is a list of the foreign countries that were the source of illicit firearms seized in Mexico and traced by ATF from fiscal years 2004 through 2008. In addition, listed below is the corresponding number of firearms, traced to each country, which had no nexus with the United States. These figures do not include firearms that were initially imported into the United States and were subsequently trafficked into Mexico.

COUNTRY	NUMBER OF FIREARMS TRACED WITH NO NEXUS TO THE UNITED STATES, FY 2004-2008
Spain	724
Italy	422
China	421
Belgium	341
Germany	309
Brazil	271
Austria	132
Romania	83
Hungary	46
Argentina	42
France	41
Czechoslovakia	29
Israel	29
Egypt	24
Japan	17
Russia & Soviet Union	15
Philipines	14
Korea Republic Of	10
Canada	8
United Kingdom	8
Switzerland	6
Yugoslavia	5
Poland	4
Finland	3
Bulgaria	2
Croatia	1
South Africa	1
Turkey	1
Total	3,009

Source: GAO analysis of ATF data.

How many firearms were there whose country of origin could not be traced?

Based on ATF data, among those illicit firearms seized in Mexico and traced by ATF from fiscal year 2004 through 2008 that were not initially imported into the United States and subsequently trafficked into Mexico, there were 85 with no nexus with the United States whose country of origin was described as "unknown."

- How does the quality of firearms information submitted for tracing influence the quality of the trace? For instance, how does the quality of the firearms information submitted for tracing influence the number of traces that identify the first retail purchaser? The first retail dealer? The country of origin? The country of manufacture?

  According to ATF, the more information that is included in the eTrace submission, the greater the likelihood that ATF's trace will identify more of the connections in the flow of the firearm from its manufacturer to its retail purchaser. For example, if correct manufacturer, serial number, import markings, and other firearms descriptive data is entered into eTrace, it is more likely to yield more complete traces. However, not all of the information is needed to determine some of the trace connections. For instance, if a manufacturer's name was discerned from a firearm with a portion of the serial number or import marking, then the country of manufacture and the country of origin may very well be identified. However, it is less likely that the first retail dealer or the first retail purchaser might be identified in such a case. If more complete information is provided, then it's more likely that the first retail dealer or purchaser can be identified. ATF's National Tracing Center could provide the subcommittee more extensive detail on this issue.

- Some believe that substantial numbers of firearms in Mexico have been trafficked from Venezuela.

  Is there any evidence available to support this assertion? Can weapons made in Venezuela and confiscated in Mexico be traced to Venezuela?

  ATF trace data we obtained does not identify how a firearm manufactured in a country other than the United States (that was not initially imported into the United States) ended up in Mexico. Trace data we obtained simply indicates the country of origin of the firearm. Venezuela is not identified as the country of origin of any firearm seized in Mexico that was subsequently traced from fiscal year 2004 through fiscal year 2008.

- In FY2008, what percentage of the around 7200 firearms submitted for tracing identified the first retail purchaser? The first retail dealer? The country of origin? The country of manufacture?

  For fiscal year 2008, the percentage of firearms submitted for tracing identified the first retail purchaser about 23 percent of the time and the first retail dealer about 48 percent of the time. From fiscal year 2004 to fiscal year 2008, the percentage of firearms submitted for tracing identified the first retail purchaser around 28 percent of the time; as noted on page 14 of our report, from fiscal year 2004 to fiscal year 2008, around 52 percent of trace requests from Mexico identified the first retail dealer. ATF's National Tracing Center could provide the subcommittee more extensive detail on the issue, including the percentage of the firearms submitted from Mexico for

tracing that identified the country of origin or the country of manufacture from fiscal year 2004 to fiscal year 2008.

- Your report notes that combating arms trafficking has become a priority for Mexican authorities and that Mexican officials indicated an unprecedented willingness to work with the United States on this issue. Elsewhere in your report, however, you refer to concerns raised by U.S. law enforcement officials regarding corruption among Mexican government entities, and the challenge this poses for U.S. efforts to combat arms trafficking.

  What does this portend for bilateral collaboration on arms trafficking? Could our law enforcement community find reliable partners in Mexico to combat arms trafficking?

  By noting concerns raised by U.S. law enforcement officials about corruption among Mexican government entities, we sought to bring attention to a challenge faced by U.S. agencies in their efforts to stem firearms trafficking to Mexico. As we describe in our report, combating corruption is also a serious concern for the administration of President Felipe Calderon, and Mexican authorities are taking a number of measures to combat corruption, including polygraph and psychological testing, background checks and salary increases for federal law enforcement officials. However, U.S. and Mexican officials acknowledge that it may take years to affect comprehensive change. Thus, in the coming years, concerns about corruption will likely continue to surface in U.S.-Mexico law enforcement collaboration, including efforts to combat arms trafficking.

  Both U.S. and Mexican government and law enforcement officials suggested developing a bilateral, interagency, investigative task force as an approach for cooperation on arms trafficking in the future. Mexican and U.S. government and law enforcement 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 on identifying, disrupting, and investigating arms trafficking on both the Mexican and U.S. sides of the border. These types of units have the potential to mitigate the problem of corruption and create a more effective bilateral partnership.

- Your report comments on several different sources of the firearms seized in Mexico and traced. As you note, most of the firearms seized and traced come from the United States and many of those come from gun shops, pawn shops, and gun shows in U.S. states along the southwest border.

  What percentage of firearms seized in Mexico and traced were legally exported to Mexico for use by the Mexican military and then ended up seized at Mexican crime scenes?

  As noted on pages 18 and 19 of our report, a small number of firearms seized in Mexico have been traced back to legal sales of weapons from the United

States to Mexico. 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.

- In your prepared testimony, you write that "certain provisions of some federal firearms laws present challenges to U.S. efforts, according to ATF officials."

  Can you please elaborate on the specific laws that make U.S. efforts to stem the illegal flow of firearms to Mexico more difficult?

  As noted in our report, ATF officials stated certain provisions of some federal firearms laws present challenges to their efforts to combat arms trafficking to Mexico. Specifically, they cited (1) the ban on the establishment of a national firearms registry which stems from the Firearms Owners' Protection Act, Pub. L. No. 99-308; (2) the fact that the Brady Amendment (Pub. L. No. 103-159) requirement on FFLs to conduct a background check does not extend to the sale of arms by a private individual; and (3) the fact that the multiple sales reporting requirement found at 18 U.S.C. § 923(g)(3)(A) does not apply to long guns. We recommended in our report that the U.S. Attorney General report to Congress on approaches to address the challenges law enforcement officials raised.

- The report describes how ATF has stopped updating and releasing reports that included analyses of firearms trafficking trends, despite the relaxation of certain Tiahrt amendment statutory restrictions in 2008 that had prevented the agency from releasing such information for the past several years.

  Do you think it would be helpful for ATF to establish a defined schedule for completion and release of these studies?

  Yes. Our report recommends that ATF regularly update its reporting on aggregate firearms trafficking data and trends, and we think regular release of these types of studies would be helpful.

- As you report, on June 5th, 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 firearms trafficking to Mexico.

  Shockingly, prior to the June 5th announcement, the U.S. government did not have an inter-agency strategy that explicitly addressed firearms trafficking to Mexico, but instead, as you report, carried out a number of activities that were not sufficiently coordinated at the inter-agency level.

  How clear is this new strategy? Does the strategy clearly lay out who is responsible for what and does it establish a lead agency within the inter-agency?

  The problem with the strategy is that it is incomplete—in our report we state it is not "comprehensive"—and we do not know if the implementation plan

will include those elements we suggest a strategy should encompass. Regarding the second question, while ONDCP has indicated that it will take responsibility for the strategy, at this time, it is not clear whether a lead agency will be designated to carry out the strategy at an operational level.

The Merida Initiative was announced in October 2007 and included a pledge that the U.S. would intensify efforts to curb firearms trafficking to Mexico. So, why do you think it has taken a year and a half to simply come up with an inter-agency strategy?

Concerns about illicit arms trafficking to Mexico have come to the forefront over the past year as violence in Mexico has escalated. As we note in our report, previously, counterarms-trafficking efforts have been a modest component of broader bilateral law enforcement cooperation with Mexico. According to the Office of National Drug Control Policy, the decision to develop an interagency strategy on arms trafficking was related to the higher level of concern regarding violence in Mexico.

In the recently House-passed Foreign Relations Authorization Act, I authored a provision that establishes an inter-agency task force on the prevention of illicit firearms trafficking in the Western Hemisphere that would help us to address this lack of inter-agency cooperation. Do you think this task force will be useful in facilitating greater inter-agency cooperation to curb firearms trafficking?

An interagency task force on arms trafficking in the Western Hemisphere could be a catalyst to promote collaboration among various federal departments and agencies that play a role in stemming the flow of illicit arms to Mexico.

- You report that the Bureau of Alcohol, Firearms, Tobacco and Explosives (ATF) and Immigration and Customs Enforcement (ICE) – the primary agencies implementing efforts to address arms trafficking – do not coordinate their efforts effectively, and you call for a Memorandum of Understanding (MOU) between the two agencies to better define their roles.

  Since Customs and Border Patrol (CBP) has responsibility for monitoring the southbound flow of goods into Mexico, should they also negotiate an MOU with ICE?

  CBP's role in stemming the flow of illicit arms trafficking to Mexico is focused on seizures at the border. We asked CBP officials whether they had MOUs with ICE or ATF regarding what to do when CBP seizes firearms at the border. They provided us an MOU between CBP and ICE and their *Seized Asset Management and Enforcement Procedures Handbook*, which includes detailed procedures for what CBP should do when it seizes illicit firearms at the border.

How effective is CBP in monitoring the illegal flow of firearms from the U.S. to Mexico?

CBP resources at the border are primarily dedicated to monitoring incoming contraband. As noted in our report, CBP faces various challenges in its efforts to stem the flow of arms at the border, including infrastructure-related challenges and drug trafficker surveillance. Until recently, CBP generally conducted periodic and ad hoc southbound inspections at Southwest border crossings, and these inspections yielded relatively few weapons seizures. For example, in FY08, CBP reported 70 southbound weapons were seized at 10 Southwest border crossings, while the other 15 border crossings did not report any southbound weapons seizures. We did not review efforts under DHS's new Southwest border security initiative, and in our report we state that it is too early to tell whether and to what extent these new efforts may effectively stem the flow of arms at the border.

Could CBP increase the number of vehicles traveling into Mexico which are checked for illegally trafficked firearms? What would this do to automobile traffic flows? Do you think this would impact the trafficking of weapons?

CBP may be able to provide further information regarding the possibility of increasing the number of inspections of vehicles traveling into Mexico for illicit firearms, including recent efforts under the Southwest border security initiative, announced by the Secretary of Homeland Security in March 2009. As we note in our report, CBP faces resource and infrastructure limitations at southbound Southwest border crossings. Officials noted southbound border crossings lack the infrastructure available at northbound crossings for inspecting vehicles and persons, and that significant additional resources would be required to increase southbound inspections. Officials also noted some border crossings lack the additional space that would be required to accommodate southbound primary and secondary screening areas while limiting the impact on traffic.

- One of the challenges you refer to in your written testimony is the "lack of required background checks for private firearms sales," meaning predominantly sales at gun shows along the Southwest border.

  Do you think that eliminating the "gun show loophole" – whereby purchasers of guns at gun shows do not need background checks – would curb firearms trafficking from the U.S. to Mexico?

  We recommend in the report that the U.S. Attorney General prepare a report to Congress on approaches to address the challenges law enforcement officials raised, which would include addressing those challenges that result from private sales at gun shows, as cited by law enforcement officials in our report.

  Is ATF able to identify which gun sellers are responsible for large numbers of weapons trafficked into Mexico? Is ATF taking action against gun sellers

responsible for large numbers of weapons trafficked into Mexico whenever possible and to the extent permitted under the U.S. Constitution and U.S. law?

As noted on page 22 of our report, ATF has not assessed the full extent to which cases of arms trafficking to Mexico involve Federal Firearms Licensees (FFL) traffickers. Based on its investigations, ATF may be able to identify gun sellers linked to large numbers of weapons trafficked into Mexico. A June 2000 Department of Treasury and ATF report found that generally FFL traffickers were involved in less than 10 percent of ATF trafficking investigations. However, although FFL traffickers are linked to a relatively small number of cases, those cases typically involved a greater number of illegally trafficked firearms per investigation. ATF officials should be able to clarify further to the subcommittee what actions they would take or are taking against gun sellers or FFLs linked to large numbers of illegally trafficked weapons.

- You report that the firearms seized in Mexico are increasingly more powerful and lethal and specifically mention AK-47 and AR-15-type firearms.

  Did you see the same trend for any other highly powerful guns, such as the 50 caliber sniper rifle or PS90 assault rifle?

  As noted on page 17 of our report, 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 year-to-year 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. However, according to U.S. and Mexican government officials, the firearms seized in Mexico have been increasingly more powerful and lethal in recent years. 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. The 50 caliber and PS90 rifles did not show up in ATF data for the top 10 firearms seized in Mexico and traced from fiscal years 2004-2008.

- The report states that most of the firearms seized and traced originated in Southwest Border States, with 69% coming from Texas, California and Arizona.

  You provide information on the total percentage of guns traced from individual states, but do you also have information on the types (make, model, caliber) of weapons traced to individual states?

  We did not request this specific information by state. It is possible ATF may be able to generate this data.

  Do you have any information on whether the volume of guns supplied from any particular state or states is increasing or decreasing?

As noted above, due to the way ATF firearms data is submitted and traced, we could not determine year-to-year trends.

- The report describes a startling lack of inter-agency cooperation and information sharing. One example you describe in detail is a lack of information sharing among ATF, ICE, and CBP on arms-smuggling at the El Paso Intelligence Center (EPIC), which is intended to be center of inter-agency cooperation. Instead, it seems these agencies are "stove-piping" intelligence on illegal arms traffickers. Moreover, the just-released Office of National Drug Control Policy's (ONDCP) Southwest Border Counternarcotics Strategy says EPIC is a key component in the effort to fight arms smuggling, but seems unaware the it is not functioning as originally envisioned.

  What steps should be taken to improve cooperation and information-sharing among the relevant agencies and specifically at EPIC?

  Our report included a recommendation that the U.S. Attorney General and Secretary of Homeland Security finalize the interagency MOU between ATF and ICE relevant to their arms trafficking efforts, develop processes for periodically monitoring its implementation, and make any needed adjustments. According to DOJ, the MOU was signed at the end of June. Action on these items we believe should also help address coordination at EPIC.

  How can this be accomplished in a short time period to address the urgency of the situation?

  The implementation plan for the chapter on arms trafficking in the recently released *2009 National Southwest Border Counternarcotics Strategy*, which ONDCP officials suggested would be ready later this year, could be a tool for addressing the situation.

- The report describes a number of deficiencies in ATF data collection that adversely affects the agency's efforts to address arms trafficking to Mexico. Astonishingly, ATF does not track the number of trafficking cases involving straw purchasers or unlicensed sellers. You also note that ATF only recently began tracking the number of cases associated with sales by licensed dealers at gun shows.

  It seems that you are suggesting that it would be helpful for ATF to begin collecting and compiling these data. Is that right?

  Yes.

  Do you have an opinion on how difficult it would be for ATF to do this?

  We note in our report that ATF previously released reports (in 1999 and 2000) that included analyses of the types of firearm traffickers that were identified in investigations, such as straw purchasers and unlicensed sellers. Our report recommended that ATF regularly update its reporting on aggregate firearms trafficking data and trends. ATF should be able to clarify to the subcommittee how difficult it might be to compile this data.

- In the report, you describe how law enforcement agencies, including the Executive Office for United States Attorneys (EOUSA), could not provide complete data on how many cases have been initiated involving arms smuggling to Mexico. You cite the EOUSA as saying that there is not a simple way to identify such cases, since they may involve multiple defendants, and there is no specific charge for arms trafficking to Mexico.

  Do you believe it would be helpful to establish guidelines for identifying and tracking arms trafficking cases?

  Yes.

  Is any additional legislation needed to permit such tracking or can it proceed under current law?

  While DOJ officials told us there is not a simple or quick way to identify cases that involve arms trafficking to Mexico, they acknowledged they have this type of information in each case file, but it is not currently tracked in their database.

  If so, which agency should develop these guidelines?

  DOJ.

- Your report describes some of the impediments that have prevented Mexican officials from more fully participating in efforts to address arms trafficking. For example, you say they have only recently begun to appreciate the value of providing trace data to ATF. Further, it is my understanding that different Mexican security agencies have handled tracing differently.

  Is the situation improving with respect to how many guns Mexican authorities are submitting for tracing?

  Yes. According to ATF, Mexican authorities are responsible for a growing number of trace submissions.

  Are Mexican officials fully utilizing e-Trace or is there more they can do?

  Based on our discussions with Mexican officials, it would appear that they have a better understanding of how trace data could be used in investigations, although it is clear they are not yet in a position to fully utilize eTrace's capabilities as are their U.S. counterparts.

  What is the average time a weapon is captured in Mexico to the time it is processed through the eTrace system? Which security services or units in Mexico traced weapons rapidly and efficiently and which did not?

  For various reasons described on page 47 of our report, including bureaucratic difficulties in coordinating access to seized firearms, lack of resources to clear the backlog of seized firearms, and lack of training to identify firearms and use the eTrace system, Mexican officials' entry of trace

data has not been consistent and systematic. We did not collect information on the length of time from when a firearm is seized in Mexico to the time it is processed through eTrace.

What additional steps can be taken to ensure that as many guns as possible are traced?

In our report 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 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.

- ATF informed the Subcommittee staff that Mexico has only one person inputting data into the eTrace system at their one location in Mexico City.

  Is this true? If so, is this adequate?

  In the course of our work, we learned that in the recent past Mexico had only one person inputting data into the eTrace system. This may be changing. Mexican officials told us they planned to dedicate more officials to enter data on eTrace. We were unable to confirm this at the time our report was issued.

  How many weapons are traced versus the number actually confiscated?

  As noted on p. 16 of our report, in 2008, of the almost 30,000 firearms that the Mexican Attorney General's Office said were seized, around 7,200, or approximately a quarter, were submitted to ATF for tracing.

- From 2004-2008, you state that of the 87% of firearms traced back to the United States, 68% were manufactured in the United States and 19% were manufactured in third countries and imported into the U.S. before being trafficked to Mexico.

  Can you offer specific detail on the type of guns found in this 19%? For example, what percentage of these firearms are assault weapons?

  The data we obtained from ATF did not allow us to ascertain details about the type of traced firearms that were manufactured in third countries. However, ATF should be able to provide more detailed information on other characteristics these weapons. Since we report on firearms traced by ATF, and ATF does not use the term "assault weapons" for its data collection, we do not have data on the percentage of these firearms that may be considered assault weapons.

  Which U.S. agency maintains records on imports of assault weapons?

  Although this issue was not in the scope of our review, we can state that the Department of Commerce maintains data on U.S. imports based on the Harmonized Tariff Schedule. The schedule, however, does not have a

designation for "assault weapons." Additionally, as noted above, the term "assault weapons" is not used by ATF in its data collection. Thus, we are not aware of any U.S. agency that would maintain records on imports of firearms described as "assault weapons."

From 2004-2008, did you observe any year-by-year increase in the number and percentage of guns imported into the U.S. that were subsequently trafficked into Mexico?

As noted above, due to the way ATF firearms data is submitted and traced, we could not determine year-to-year trends.

Questions for the Record- McCaul

1. As you know, there has been a lot of discussion in recent weeks, concerning precisely what percentage of firearms seized in Mexico originated in the United States. Some, who advocate banning guns and otherwise restricting guns more heavily in the United States, have claimed that the percentage is quite high. Others have said that the percentage is much lower, for at least two reasons. First, Mexican drug cartels possess many firearms acquired from other countries, including fully-automatic machine guns which they cannot obtain legally in the United States. And second, the high percentage claimed by gun control supporters is based upon firearms traced by our government, which is only a small percentage of all firearms the Mexican government has seized.

For example, the GAO's report states on page 1, that "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)." But on page 66, it states "a total of 29,824 firearms were seized in Mexico in 2008" and that "In fiscal year 2008, ATF traced 7,198 firearms seized in Mexico."

What that says is, ATF traced 24 percent of all firearms seized by the Mexican government, and found that 87 percent of that 24 percent, or 21 percent of the total, originated in the United States. So the figure is 21 percent, not 87 percent, is that correct?

2. On page 2, the report states that "many" of the firearms later determined to have originated in the United States are "AK and AR-15 type semiautomatic rifles," which were defined as "assault weapons" under the federal law in effect between 1994-2004. On page 17, however, the report states that about 25 percent of firearms traced were of that type. Again, applying basic arithmetic, 7,198 is 24 percent of the total, and 25 percent of 24 percent is about eight percent. Thus am I correct that those kind of rifles account for about eight percent of the total number of rifles seized by the Mexican government from criminals?

3. The reports notes (p. 1) that "Mexican officials have come to regard illicit firearms as the number one crime problem affecting the country's security," but also says (p. 51) that "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 corruption investigations, and some high publicity kidnapping and murder cases have involved corrupt federal law enforcement officials."

I think it could be debated, whether illegal gun acquisitions or corruption at "all levels of Mexican law enforcement" is the greater threat to Mexico's security. Setting that question aside, however, the report also notes (p. 7) that "the majority of the casualties [of the drug cartels' violence] have been individuals involved in the drug trade in some way." I'm interested in knowing what percentage of innocent murder victims in Mexico have been killed with firearms smuggled illegally from the United States.

4 . On page 39, the report says "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." Since straw purchasers would seem to be a significant source of guns illegally acquired for the cartels in this country, why does ATF not track them separately, at least in terms of traces of firearms sold commercially by licensed firearm dealers, who are required to retain records identifying individuals to whom they have sold firearms?

5 . Since the current situation with Mexico began, how many convictions have there been of individuals involved in illegally acquiring firearms in this country for subsequent smuggling into Mexico, who were identified as such by ATF investigations? Or, how many such cases are currently pending?

Responses to Questions for the Record from Rep. McCaul:

1. The statement that 21 rather than 87 percent of the guns seized in Mexico in 2008 originated in the United States is incorrect for two reasons. First, the 7,198 figure refers to the number of guns seized in Mexico and subsequently submitted for tracing in fiscal year 2008, while 87 percent refers to the percentage of arms traced back to the United States during fiscal years 2004-2008. During the five year period (fiscal years 2004-2008), over 20,000 firearms seized in Mexico were traced to the United States, representing 87 percent of firearms seized in that country that were submitted for tracing. If we limit the discussion to 2008 figures, roughly 93 percent of the firearms seized in Mexico that year and subsequently submitted for tracing were traced back to the United States. Secondly, while it would be mistaken to extrapolate from these figures and assert that 93 percent of all firearms seized in Mexico in 2008 originated in the United States, it would also be incorrect to infer from these figures, alone, that only 21 percent of the guns seized in Mexico in 2008 originated in the United States. The origin of the approximately three quarters of the firearms that were seized in Mexico in 2008 but were not submitted for tracing cannot be known until those arms are also submitted for tracing. If these other firearms that were seized in 2008 were submitted for tracing, it is possible that more of them would be traced back to the United States. In fact, U.S. and Mexican government and law enforcement and military officials we met with in Mexico, who were personally involved in combating arms trafficking to Mexico, told us that based on their observations, many of those weapons appear to have originated in the United States.

   With regards to fully automatic machineguns, on page 18 of our report, we explain that fully automatic weapons are a very small percentage (less than one percent) of the total weapons seized in Mexico and traced.

2. It would be incorrect to assert that "about 8 percent of the rifles seized by the Mexican government" were AK or AR-15 type firearms. As noted in our response to question 1 above, the origin of the approximately three quarters of the firearms that were seized in Mexico but were not submitted for tracing cannot be known until those guns are submitted for tracing. It would be erroneous to infer from these figures, alone, that those kinds of rifles account for 8 percent of firearms seized by Mexican authorities in 2008.

3. The discussion in our report regarding the victims of recent drug related violence in Mexico was intended to illustrate why the situation has generated interest and concern on the U.S. side of the border. We did not obtain statistics on the percentage of casualties who could be considered innocent murder victims.

4. ATF officials may be able clarify why they were unable to provide data we requested on the number of cases related to arms trafficking to Mexico that involved straw purchasers or unlicensed sellers. As noted in our report, straw purchasers have been cited in prior ATF reports and by ATF officials as sources 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.[1] The reports included information such as sources of illegal firearms and types of traffickers identified in 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.[2] 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. Our report recommends that the U.S. Attorney General direct the ATF Director to regularly update ATF's reporting on aggregate firearms trafficking data and trends.

5. Our report notes that agencies were unable to provide complete data on prosecutions of cases involving arms trafficking to Mexico. Officials from DOJ's Executive Office for U.S. Attorneys stated 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. ATF officials also told us their data systems do not readily track the outcome of arms trafficking to Mexico cases specifically. However, ATF was able to generate some information on the outcome of 73 cases involving arms trafficking to Mexico that ATF referred for prosecution in fiscal year 2008. 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 resulted in indictments, and 33 had resulted in convictions. Upon further review and analysis, ATF may be able to provide more information regarding the prosecutorial outcome of cases involving arms trafficking to Mexico, including data for earlier years. Our report recommends that the U.S. Attorney General ensure the systematic gathering and reporting of data related to results of ATF's efforts to combat arms trafficking to Mexico, including prosecutions data.

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[1] 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).

[2] 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).

Subcommittee on the Western Hemisphere
"U.S. Efforts to Combat Arms Trafficking to Mexico: Report from the GAO"

Questions Submitted for the Record
Congresswoman Gabrielle Giffords
June 22, 2009

1. This GAO report highlights that the Merida Initiative provides no funding specifically designated to combat arms trafficking, but that the State Department might seek additional funding for this purpose.

   Do you have an opinion of what level of resources would be necessary to adequately address the deficiencies you describe in the report?

   We have not done the work that would allow us to answer this question. On future work for this subcommittee on the Merida Initiative, we may direct a question to relevant executive branch agency officials regarding how their level of resources impacts their ability to meet Merida Initiative goals.

   What are the areas with the most acute needs?

   As noted in our report, Mexican government officials we met with consistently noted their agencies needed training from U.S. law enforcement on firearms trafficking, including courses on identifying firearms, discovering trafficking, and developing firearms trafficking cases. In addition, they noted another unmet need was the development of a bilateral, interagency, investigative task force for arms trafficking. Mexican and U.S. government and law enforcement 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.

2. According to the ATF, 87% of firearms seized by Mexican authorities and traced in the last five years originated in the United States.

   What is the inspection process for vehicles and persons traveling south through the border into Mexico, and what is Mexico doing on its side of the border?

   As noted in our report, southbound inspections by U.S. officials are relatively rare, compared to those conducted by U.S. officials on vehicles and persons traveling northbound into the United States. Officials told us that southbound inspections by U.S. officials are periodic and ad hoc; for instance, at one border crossing we visited, CBP officials told us they typically conducted about one or two southbound

inspections per month, each lasting less than an hour. CBP officials told us that they do not have the resources, the personnel, or the infrastructure to conduct continual southbound inspections.

On the Mexican side of the border, as noted in our report, Mexican customs aims to inspect 10 percent of vehicles crossing into Mexico on the Mexican side of the border, but Mexican officials acknowledged they fall short of this goal. Our report notes that Mexican customs has typically focused more on inspections of commercial vehicles for illicit goods, which result in the payment of a fine, than on inspections for illicit weapons. Various factors impede their efforts, including Mexico's general lack of capacity to detect illicit weapons—lack of equipment and facilities; concerns about corruption among frontline inspectors; and concerns about risks faced by Mexican customs officials involved in a seizure of illicit firearms. We did not assess what would happen if Mexico inspected every vehicle as it entered Mexico, but it would likely have significant traffic and infrastructure cost implications for both sides of the border. We also note 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 security, efficiency, and the effectiveness of border inspections.

Are resources being allocated under the Merida Initiative to assist Mexico's police and border patrol and/or to the U.S. border patrol to better track firearms entering Mexico?

Under the Merida Initiative, the embassy's Narcotics Affairs Section (NAS) has funded equipment for Mexican customs including non-intrusive inspection equipment, which can be used at the border to detect contraband, including firearms.

Does the Merida Initiative include funding for the training of Mexican border and customs officials on firearms detection?

As noted in our report, NAS officials 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.

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