

**COMBATING BORDER VIOLENCE: THE ROLE OF  
INTERAGENCY COORDINATION IN INVESTIGATIONS**

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**HEARING**

BEFORE THE

**SUBCOMMITTEE ON BORDER,  
MARITIME, AND GLOBAL  
COUNTERTERRORISM**

OF THE

**COMMITTEE ON HOMELAND SECURITY  
HOUSE OF REPRESENTATIVES**

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**COMBATING BORDER VIOLENCE: THE ROLE  
OF INTERAGENCY COORDINATION IN  
INVESTIGATIONS**

**Thursday, July 16, 2009**

U.S. HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON BORDER, MARITIME,  
AND GLOBAL COUNTERTERRORISM,  
COMMITTEE ON HOMELAND SECURITY,  
*Washington, DC.*

The subcommittee met, pursuant to call, at 10:09 a.m., in Room 311, Cannon House Office Building, Hon. Loretta Sanchez [chairwoman of the subcommittee] presiding.

Present: Representatives Sanchez, Thompson, Lofgren, Jackson Lee, Cuellar, Kirkpatrick, Green, McCaul, and Rogers.

Ms. SANCHEZ. [Presiding.] The subcommittee will come to order.

The subcommittee will come to order. The Subcommittee on Border, Maritime and Global Counterterrorism is meeting today to receive testimony on "Combating Border Violence: The Role of Interagency Coordination in Investigations."

Good morning, everybody.

I want to thank our panel of witnesses for being here today. And I know that my ranking member will not be here today, because he has a markup in another committee, I believe. And so, Mr. McCaul, we thank you for being here and making this a bipartisan hearing. We appreciate that.

Today's hearing is crucial to securing our borders and further reducing the violence in Mexico that has resulted in over 6,200 drug-related deaths just in this past year. The weapons used in the drug violence in Mexico largely come from the United States, as does the demand for drugs that pays for those weapons.

This hearing is, I think, a timely opportunity to discuss the growing security problem and the violence happening at the border.

And on a side note, this is the first time that the Drug Enforcement Administration and the Bureau of Alcohol, Tobacco, Firearms and Explosives have testified alongside our Immigration and Customs Enforcement agency in this subcommittee since I have been the chairwoman. So, that is already cooperation right there. Thank you.

Thank you all for being here.

The hearing comes after two major announcements by your respective agencies. Recently, ICE renewed outstanding memoranda of understanding, or MOUs, with both the ATF and the DEA to better coordinate and investigate the gun and drug related cases.

These agreements come after much negotiation and hard work by both the Department of Homeland Security and the Department of Justice.

And I want to salute both Secretary Napolitano and our Attorney General Holder for negotiating these agreements within the first 6 months of this administration. I know they worked very, very hard at it, and I am sure you were all involved.

It is important to note that some of these memoranda of understanding, these MOUs, had not been updated since the 1970s. And as we know, the drug and drug cartel and how they work has become so much more sophisticated in the last almost—over 35 years.

The updated ICE and DEA agreements recognized inherent expertise that the Department of Homeland Security has in combating large smuggling rings and in investigating these rings internationally and domestically, both.

Further, the agreements will allow ICE to fully participate in DEA's Organized Crime Drug Enhancement Task Force Fusion Centers, which have been critical resources in this whole issue of drug related cartel and information.

Also, as the largest investigative arm in the Department of Homeland Security, ICE has the authority to investigate the unlawful importation and exportation of weapons and firearms and drugs into the United States. A renewed agreement between ICE and ATF is crucial, given that ATF has responsibility for investigating domestic weapons violations.

And further, the ATF has the comprehensive e-Trace database, which has been really the most incredible resource for us when we are trying to see the purchase and trace some of these firearms that have ended up in Mexico.

Information sharing between the three agencies which are responsible for all the investigations of drug and weapons violations at the border is really central to our southwest border strategy. And in fact, that is why we are having this hearing, to make sure that you all are cooperating, talking to each other, enhancing what we really consider is a critical process.

In the recent reports from the GAO office, before the MOUs were announced, of course, they had concerns about the types of communication and coordination, or lack of, that were happening between you all.

One example was the widely reported situation where an ICE agent unknowingly conducted surveillance on an ATF agent, who was pursuing a suspected trafficker. So, we want to avoid those situations.

We want to know who the good guys are and who the bad guys are, and want you all working together, because, quite frankly, we have limited resources—very scarce resources with respect to trying to do some of this. And these are very important issues.

So, I am very optimistic that we are going to move forward, and move forward in a very positive way with the relationship between your respective agencies. I am hopeful that the agreements will work out, and that any technical issues, or what have you, we can manage over time.

And I look forward to your testimony and to the answers to the questions that our subcommittee members will have.

I will yield to Mr. McCaul, in case his side has an opening statement.

Mr. MCCAUL. Thank you, Madam Chair. I asked to substitute in at the last minute here, so I appreciate—

Ms. SANCHEZ. You are a pretty good substitute. We will take you. [Laughter.]

Mr. MCCAUL. —your yielding to me.

I would like to, first of all, enter into the record—request that Mr. Souder's opening statement in its entirety be entered into the record.

Ms. SANCHEZ. So be it.

[The statement of Mr. Souder follows:]

FOR THE RECORD

PREPARED OPENING STATEMENT OF THE HONORABLE MARK E. SOUDER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF INDIANA, AND RANKING MEMBER, SUBCOMMITTEE ON BORDER, MARITIME, AND GLOBAL COUNTERTERRORISM

Thank you Madam Chair. Four months ago this Subcommittee held a hearing on border violence that provided some valuable insight into DHS capabilities and strategies for the growing violence and tension along the Southwest border. Mr. Kibble, welcome back.

Since that time, the Federal government, especially the agencies represented here today, have deployed hundreds of additional personnel to the border, sought ways to increase cooperation and intelligence sharing, and enhanced partnerships with the Mexican government.

While good work is being done, several cases of Mexican cartel violence this week provide a terrible reminder of the viciousness of the cartels and the lengths they will go to maintain their smuggling operations. Last Saturday, six different attacks were carried out against the police and another officer was killed on Monday during an attack on their convoy. Two days ago, Mexico woke up to 12 bodies of tortured and slain police officers.

In March, a Special Agent from the DEA in El Paso testified before Congress that Mexican drug traffickers earn between \$8 billion and \$24 billion annually. In order to break down these criminal networks, secure our borders, prevent violence from spilling over, and assist our Mexican counterparts, there must be coordination between agencies, with state and local law enforcement, and with foreign partners.

In front of us today, we have three witnesses representing a combined investigative force of over 13,000 special agents. This hearing is an important opportunity to hear how they are working together, what impact the new MOUs will have on the agents in the field, and what progress is being made to compromise the drug trafficking organizations and close down their smuggling organizations.

I would like to apologize up front that I will likely have to leave early to attend a markup in another Committee on the health care legislation. In case I may not have time to ask questions of the witnesses, there are a few issues that I want to put on the record now that need to be addressed:

1. I think both of the new MOUs are steps in the right direction and it will be several months and possibly a year to see if they are having the intended impact in the field. However, I am extremely concerned about a Notice that was circulated by DEA in April effectively ending all ICE counternarcotics investigations in the Caribbean. According to the Notice, something very significant happened between the two agencies in that area resulting in DEA deciding not to allow any more ICE agents. I want to know what happened, that status of the Notice, and if the new MOU provides a sufficient framework to address these issues before such a drastic step is taken that could have compromised many investigations.

2. Information sharing and coordination are essential for the agencies to work together. As I look at a partial list of all of the different fusion centers, task forces, and initiatives between involving just these three agencies, I wonder if we are running the risk of duplicating efforts or going back to pre-9/11 stove-piping. It is important for the witnesses to address how these entities work together and not in a vacuum.

Mr. MCCAUL. And just a few points that he makes in his opening statement that I want to bring out as well is, while good work is being done, several cases of Mexican cartel violence this week provided a terrible reminder of the viciousness of the cartels and the lengths they will go to maintain their smuggling operations.

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In order to break down these criminal networks, secure our borders and prevent violence from spilling over, and assist our counterparts, there must be coordination between these agencies and state and local law enforcement, and with our foreign partners.

In front of us today we have these three witnesses representing a combined investigative force of over 13,000 special agents.

And on a personal note, I had the opportunity to visit EPIC a couple of months ago and see the great work that they are doing there. As we looked across the river to Juarez, which arguably—I know the violence has gone down, thank God. But at the time, arguably, it was probably the most violent city in Latin America, where we have police officers being assassinated every 2 days, every 48 hours.

So, this is a very, very important mission. I know with all the debate going on in the Congress over energy and health care right now, this is one of those issues that maybe is taking a back seat. But I think it is still, in my view, one of the most important issues that we have in this nation. It does, after all, involve our national security.

And with that, Madam Chair, I will yield back.

Ms. SANCHEZ. I thank the substituting ranking member, Mr. McCaul, from Texas.

I would ask our full committee chairman, Mr. Thompson, if he would have an opening statement?

Mr. THOMPSON. Yes, ma'am.

Ms. SANCHEZ. Well, then, I will recognize you. How is that, Mr. Chairman?

Mr. THOMPSON. All right.

Thank you very much, Madam Chairman. And I would like to thank you for convening this important hearing.

I would also like to thank our witnesses for being here today, to testify about how their agencies are fighting the narcotics and weapons trade that fuels violence along the U.S.–Mexico border.

These statistics, however, are very grim. Drug-related deaths have more than doubled in the past 2 years. Data on arms seized in Mexico show a growing number of increasingly lethal weapons being seized.

For too long, this important fight has been hampered by turf battles and a lack of cooperation among fellow agencies responsible for keeping drugs and guns from crossing the border illegally. Memorandums of understanding, which were supposed to foster coopera-



tion among agencies in such investigations, were not updated for years—and in some instances, decades.

Agencies were unwilling to depart from the old ways of doing things, so efforts to update the agreements remained in limbo, even after the Department of Homeland Security was created. As a result, there was confusion about roles and responsibilities, and personnel that could have assisted in some of these cases were unable to do so, because of outdated constraints.

In short, Madam Chair, narcotics and weapons investigations were simply not as effective as they could have been.

Recently, however, the Obama administration has taken significant steps to address the problems. Just last month, ICE and Customs Enforcement signed new interagency agreements with the Drug Enforcement Administration and the Bureau of Alcohol, Tobacco, Firearms and Explosives. These agreements were intended to better coordinate narcotics and weapons investigations, and provide additional resources to fight violence along the border.

In particular, the ICE–DEA agreement allows for an unlimited number of ICE agents to be what is referred to as cross-designated to investigate drug cases with a nexus to the border. This change is long overdue and will put ICE’s 6,000-plus agents and DHS’s sizable presence at our nation’s border to better use.

It is important to note that MOUs are not a panacea for the coordination challenges faced by the agencies. Years of operational practice cannot be changed overnight with the stroke of a pen. Instead, it will take commitment—from the secretary of Homeland Security and the attorney general on down to the agents in the field—to make these agreements work.

The American people, who continue to be concerned about possible spillover of border violence, expect no less. And certainly, Congress expects no less.

I can assure you that this committee will monitor implementation of the MOUs closely and do everything possible to make certain that they are effective.

I hope to hear, however, from our witnesses about that commitment to these agreements and to ensuring a unified federal law enforcement response to drug and weapons trafficking across America’s borders.

Again, thank you, witnesses, for being here.

And again, Madam Chair, thank you for convening this hearing, and I yield back.

Ms. SANCHEZ. Thank you, chairman, for being here today.

Other members of the subcommittee are reminded that under the committee rules, opening statements may be submitted for the record.

And so, now we welcome the panel of witnesses.

Our first witness, Mr. Kumar Kibble, is deputy director of U.S. Immigration and Customs Enforcement’s Office of Investigations. In that capacity, he serves as the chief operating officer for the largest investigative arm of the Department of Homeland Security.

He is also responsible for policy, planning, management and operations aimed at countering transnational, national security and public safety threats arising from illicit travel, trade and finance. Mr. Kibble began his federal law enforcement career as a special

agent with the United States Customs Service in Los Angeles, California.

Welcome.

And our second—I am going to go through the bios, and then we will go to our witnesses.

Our second witness, Mr. Anthony Placido—welcome—leads the Drug Enforcement Administration's intelligence program. His responsibilities include serving as senior officer for the United States' intelligence community and providing executive leadership for the headquarters based Intelligence Division, the Organized Crime Drug Enforcement Fusion Center, and the El Paso Intelligence Center.

He is also responsible for information sharing and exchange protocols. And Mr. Placido manages a budget of over \$100 million and develops policy for a staff of 1,300 people. He began his law enforcement career in 1979, with the U.S. Customs Service, and joined DEA the following year.

And our third witness, Mr. William McMahon, is deputy assistant director for the Office of Field Operations at the Bureau of Alcohol, Tobacco, Firearms and Explosives, or the ATF—long title there. In this position, he oversees the day-to-day operations of the seven westernmost ATF field divisions, as well as the bureau's International Affairs Office.

Previously, he served as a special agent in charge of ATF's New York field division. And so, he began his career with the ATF in 1987 as a special agent in New York City.

So, without objection, we are going to put your written testimony into the record. And I will ask you to summarize what you have written to us, and anything else you think we need to know, in 5 minutes apiece or under.

So, we will start with Mr. Kibble. Welcome back again.

**STATEMENT OF KUMAR KIBBLE, DEPUTY DIRECTOR, OFFICE OF INVESTIGATIONS, IMMIGRATION AND CUSTOMS ENFORCEMENT, DEPARTMENT OF HOMELAND SECURITY**

Mr. KIBBLE. Thank you, Chairwoman Sanchez, Chairman Thompson, distinguished members of this subcommittee.

On behalf of Secretary Napolitano and Assistant Secretary Morton, thank you for the opportunity to discuss ICE's role in combating border violence through interagency coordination. We work closely with our foreign and domestic law enforcement partners to conduct multiagency investigations, enabled by robust domestic and cross-border coordination and information sharing.

ICE has the largest force of investigators in the Department of Homeland Security. More than 6,500 ICE agents detect, disrupt and dismantle cross-border criminal networks engaged in the smuggling of people, narcotics, bulk cash and weapons across our borders.

ICE's efforts, along with the broader U.S. government response to Mexican drug cartel violence, require effective operational collaboration and expanded information sharing with our domestic partners and the government of Mexico. ICE facilitates these objectives through unique initiatives, such as Operations Armas

Cruzadas and Firewall, the Border Enforcement Security Task Forces and the Law Enforcement Information Sharing Service.

We also partner with federal, state and local law enforcement partners in national and regional deconfliction and coordination centers. And just last month, we renegotiated the formal inter-agency agreements with both DEA and the ATF to facilitate even closer coordination and expanded information sharing.

ICE attache personnel are working closely with their Mexican counterparts to build a specialized, vetted investigative unit consisting of Mexican prosecutors and law enforcement personnel. This information sharing platform will facilitate exchange of weapons related leads for coordinated investigation of U.S. leads by U.S. agencies and Mexican leads by Mexican agencies.

ICE and our sister agency, CBP, have stepped up our efforts to interdict southbound weapons smuggling. ICE has intensively deployed resources for Armas Cruzadas, this collaborative effort with the Mexican government, to identify, disrupt and dismantle the criminal networks that move these arms across our border.

Since its inception, Armas Cruzadas has resulted in the seizure of 1,600 weapons, more than \$6.4 million and over 180,000 rounds of ammunition, as well as the arrest of almost 400 individuals on criminal charges, resulting in 124 indictments and 74 convictions.

A recent case out of El Paso, Texas, demonstrates the significant impact of our proactive efforts at penetrating Mexican weapons trafficking networks. A joint investigation between ICE, ATF and the El Paso Police Department led to the indictment of four individuals attempting to purchase and illegally export weapons and ammunition out of the United States.

The weapons they attempted to purchase included over 300 AR-15 rifles, 300 .223-caliber rifles, 10 Barrett .50-caliber sniper rifles, two 40-millimeter grenade machine guns and 20 handguns with silencers, along with a large amount of ammunition, with a total street value of more than half-a-million dollars.

In addition to addressing weapons smuggling, ICE partners with CBP to combat the illegal movement of cash across the southwest border. ICE's Operation Firewall counters bulk cash smuggling through capacity-building and close operational collaboration with foreign partners, such as Mexico. Since its inception, Firewall has resulted in 475 arrests and the seizure of more than \$210 million, including over \$65 million seized overseas.

The Border Enforcement Security Task Force is a law enforcement model which recognizes that confronting the multifaceted threat of border violence requires sharing resources, information and expertise. The 14 BESTs serve as a platform from which inter-agency and international partners can work together to address cross-border crime.

ICE, with the help of our partners, has cracked down on arms trafficking, human smuggling, bulk cash smuggling and narcotics smuggling organizations. The BESTs, since 2005, have reported more than 4,000 criminal arrests, seized over 200,000 pounds of narcotics, over 2,500 weapons and more than 370,000 rounds of ammunition, along with over \$26 million in U.S. currency and monetary instruments.

ICE complements this effort through our Law Enforcement Information Service by expanding our information sharing to our state and local partners, as well as other initiatives, such as the Border Violence Intelligence Cell and the Weapons Virtual Task Force. The Law Enforcement Information Sharing Service provides approximately 250 federal, state and local agencies with access to more than 2.5 million ICE records related to our investigations. And approximately 65 to 70 of these state and local agencies are located along the southwest border.

Since January of this year, we have had more than 20,000 queries of information through that network.

In conclusion, coordination and information sharing initiatives I discussed today portray the extensive cooperation that we are advancing and already underway with our counterparts.

I would like to thank the subcommittee for its continued support of ICE and our law enforcement mission. And I would be pleased to answer any questions you may have.

[The statement of Mr. Kibble follows:]

PREPARED STATEMENT OF KUMAR C. KIBBLE

#### **INTRODUCTION**

Chairwoman Sanchez, Ranking Member Souder, and distinguished Members of the Subcommittee:

On behalf of Secretary Napolitano and Assistant Secretary Morton, thank you for the opportunity to discuss U.S. Immigration and Customs Enforcement's (ICE) role in combating border violence through robust interagency coordination. First and foremost, ICE uses its broad federal authorities to conduct intelligence-driven investigations through collaboration with the intelligence community, and other federal, state, local and foreign partners. These multi-agency investigations are enabled by robust, cross-border coordination and information sharing. ICE has the largest force of investigators in the Department of Homeland Security (DHS), and we protect our borders—north and south—by investigating groups who exploit weaknesses in our legitimate trade, travel, and financial systems. More than 6,500 ICE special agents detect, disrupt, and dismantle cross-border criminal networks engaged in the smuggling of people, narcotics, bulk cash, and weapons across our borders. ICE is focused on countering the illicit activities that occur along our shared border with Mexico.

#### **IMPLEMENTATION OF THE SOUTHWEST BORDER INITIATIVES**

The public announcement of the Administration's major Southwest Border (SWB) Initiative on March 24th—and the details outlined by the Secretary on April 15—called for strategic redeployments of DHS personnel totaling more than 360 additional officers and agents. ICE doubled assignments to ICE Border Enforcement Security Task Forces (BESTs); tripled the number of intelligence analysts working at the border; and quadrupled the number of agents designated as Border Liaison Officers to work in close cooperation with Mexican law enforcement. Within Mexico, ICE increased its investigative workforce by 50 percent.

On June 5, Secretary Napolitano, Attorney General Holder, and Office of National Drug Control Policy (ONDCP) Director Kerlikowske released the 2009 National Southwest Border Counternarcotics Strategy, which details the Administration's collective approach to stem the flow of illegal drugs and their illicit proceeds across the SWB, and reduce associated crime and violence in the region.

ICE's efforts, along with the broader U.S. Government response to Mexican drug cartel violence, require effective operational collaboration and expanded information sharing with the Government of Mexico (GoM), and domestic and other foreign law enforcement agencies. ICE facilitates these objectives through unique initiatives such as Operations Armas Cruzadas and Firewall, the Border Enforcement Security Task Forces or BESTs, the Law Enforcement Information Sharing Service (LEISS) and the Border Enforcement Coordination Cell (BECC). We also partner with Federal, state and local law enforcement partners, including the Organized Crime Drug Enforcement Task Forces (OCDETF), in national and regional deconfliction and coordination centers. And just last month, we re-negotiated formal interagency agreements with the Drug Enforcement Administration (DEA) and the Bureau of Alcohol,

Tobacco, Firearms and Explosives (ATF) to facilitate even closer coordination and expanded information sharing.

#### **COLLABORATION WITH THE GOVERNMENT OF MEXICO**

Cooperation among ICE and its domestic partners is a critical piece to effective law enforcement along the Southwest Border. Of equal import, however, is ICE's coordination with its Mexican counterparts. Indeed, earlier this year, President Calderón of Mexico identified the illegal flow of weapons from the United States as one of the biggest security threats to his country. On April 1, Secretary Napolitano traveled to Cuernavaca, Mexico with Attorney General Holder to attend a joint U.S.-Mexican conference on arms trafficking. At the conference, the Secretary and Attorney General discussed with their counterparts, including the Attorney General of Mexico, future joint efforts to prevent firearms from being smuggled from the United States into Mexico. Interagency collaboration with the Mexican government is a part of a broader theme of co-responsibility that Attorney General Holder and Secretary Napolitano agree is central to our strategic effort to secure the SWB. Stopping the flow of firearms and bulk cash into Mexico is an important component of the larger strategy to secure our borders from the criminal organizations that use those resources to traffic contraband and perpetrate violence.

**Operation Armas Cruzadas.** ICE and U.S. Customs and Border Protection (CBP) have stepped up their efforts to interdict southbound weapons smuggling, pursuant to DHS authority to enforce export provisions of the Arms Export Control Act (AECA) as specifically designated within 22 C.F.R.—127.4 of the International Traffic in Arms Regulations (ITAR) and to prevent smuggling of weapons in violation of 18 U.S.C. 554. ICE has intensively deployed resources for Operation Armas Cruzadas, which is a comprehensive, collaborative effort with the GoM to identify, disrupt, and dismantle the criminal networks that illicitly transport arms across the border. Under Operation Armas Cruzadas, ICE has implemented numerous activities that promote an intelligence-driven, systematic approach to arms trafficking investigations. Since its inception in June 2008, Operation Armas Cruzadas has resulted in the seizure of 1,600 weapons, more than \$6.4 million, and 182,668 rounds of ammunition, and the arrests of 395 individuals on criminal charges, resulting in 124 criminal indictments and 74 convictions.

A recent case out of El Paso, Texas, demonstrates the significant impact of our proactive efforts at penetrating Mexican weapons trafficking networks. A joint investigation between ICE, ATF, and the El Paso Police Department led to the indictment of four individuals attempting to purchase and illegally export weapons and ammunition out of the United States. The weapons they attempted to purchase and smuggle included 300 AR-15/AR-16 rifles, 300 short-barrel .223 rifles, 10 Barrett .50 caliber rifles, two 40 millimeter grenade machine guns, 20 handguns with silencers and a large amount of ammunition. The firearms would have had a total street value of over \$500,000.

**Operation Firewall.** In addition to addressing weapons smuggling, ICE partners with CBP to combat the illegal movement of cash across the SWB. One reason drug cartels pose such a dangerous threat is their extensive monetary resources. The United States must interrupt that illegal flow of money. ICE's Operation Firewall counters bulk cash smuggling through capacity building and close operational collaboration with foreign partners such as Mexico. On the first day of operations in 2005, at the Benito Juárez International Airport in Mexico City, Mexican authorities seized \$7.8 million en route to Cali, Colombia concealed inside deep fryers, rotisseries and voltage regulators. Other notable seizures include \$7.3 million seized inside rolls of fabric and plastic and \$4.7 million concealed inside air conditioning equipment and metal piping destined for Colombia. Since its inception, Operation Firewall has resulted in 475 arrests and the seizure of over \$210 million, including over \$65 million seized overseas.

#### **COORDINATION OF FOREIGN AND DOMESTIC INTERAGENCY OPERATIONS**

**Vetted Investigative Units.** ICE Attaché personnel are working closely with their Mexican counterparts to build a specialized, vetted investigative unit (SIU) consisting of Mexican prosecutors and law enforcement personnel. This SIU will focus on bilateral weapons smuggling investigations and provide an immediate investigative response to weapons seizures within Mexico. These SIU investigative responses will address an information requirement gap in tracing weapons and exploiting investigative leads. With the establishment of the SIU, weapon serial numbers will be more consistently obtained and traced within ATF's e-Trace database prior to the weapons being turned over to the Mexican military. More comprehensive weapons trace data will facilitate better identification of U.S. sources of weapons. The SIU will better probe the seizures through interviews, telephone data/

record analysis and other investigative tools, with the goal of identifying cross-border weapons smuggling networks. Overall, such a robust information-sharing platform will facilitate exchange of leads for coordinated investigation of U.S. leads by U.S. agencies, and Mexican leads by GoM agencies.

**Border Enforcement Security Task Force.** More than a DHS program, the Border Enforcement Security Task Force (BEST) is a law enforcement model which recognizes that confronting the multifaceted threat of border violence requires sharing resources, information, and expertise. BESTs serve as a platform from which interagency—and international—partners can work together to address cross-border crime. The BESTs operating on our land borders and in major maritime port cities incorporate personnel from ICE, CBP, DEA, ATF, the Federal Bureau of Investigation (FBI), U.S. Coast Guard (USCG), and respective U.S. Attorney's Offices, along with other key federal, state, local, tribal, and foreign law enforcement agencies. The Mexican Secretaria de Seguridad Publica (SSP) currently participates in BESTs, and the GoM has agreed to provide representatives to every BEST team on the SWB. Additionally, other GoM agencies and foreign partners are negotiating with ICE to expand their participation in the BESTs, thus enhancing the international scope and participation of the initiative. Since the SWB announcement on March 24, ICE has established two new BESTs in Las Cruces and Deming, New Mexico, resulting in a total of 15 BESTs covering high-threat smuggling corridors. The BEST model has been very successful. ICE, with the help of our partners, has cracked down on arms trafficking, human smuggling, bulk cash smuggling and narcotics smuggling organizations. These efforts have disrupted cartel operations in both the United States and Mexico. Since July 2005, the efforts of BEST teams, working in conjunction with the Department of Justice (DOJ) and other law enforcement agencies, have been responsible for 4,240 criminal arrests, 3,531 administrative arrests, 1,901 indictments and 1,292 convictions. In addition, BESTs have seized approximately 10,348 pounds of cocaine, 187,843 pounds of marijuana, 829 pounds of methamphetamine, 103 pounds of crystal methamphetamine, 1,257 pounds of ecstasy, 255 pounds of heroin, 97 pounds of hashish, 22 pounds of opium, 2,580 weapons, 870 vehicles, seven properties and \$26.3 million in U.S. currency and monetary instruments.

Just a few of our successes include the El Paso BEST's discovery and repatriation of one of Mexico's top ten most wanted fugitives; the Laredo BEST's arrest of a weapons trafficker supplying cartels with assault rifles used to murder Mexican police officer Navarro Rincon and others; the Laredo BEST's arrest of a member of the Mexican Mafia gang in possession of approximately 897 pounds of smuggled marijuana after he attempted to run over a Texas Department of Public Safety officer; and the Los Angeles Seaport BEST's arrest of an arms trafficker and seizure of 38 military style weapons.

**Law Enforcement Information Sharing Service.** ICE complements the innovative operational coordination facilitated by the BESTs through aggressively sharing information with an even broader array of federal, state and local law enforcement agencies. The Law Enforcement Information Sharing (LEIS) Service is a Web-based data exchange platform designed to aid investigations by allowing DHS and other law enforcement agencies to share pertinent case information, to the extent permitted by law, more rapidly and extensively. Beginning in FY 2008, the LEIS Service was deployed on a regional basis to law enforcement consortiums at SWB locations within California and Arizona. Additionally, the Service was expanded to DOJ's repository for shared law enforcement information, OneDOJ. During the current fiscal year, we are in the process of extending LEIS the Service to Texas, and anticipate connecting to a law enforcement consortium in New Mexico, as well as to national and international consortiums such as Interpol and Europol.

LEIS currently provides approximately 250 federal, state, local, and tribal law enforcement agencies access to more than 2.5 million subject records related to persons of interest, including suspects in child pornography, drug smuggling, immigration fraud, alien smuggling, and other immigration and customs cases. Approximately 65—70 of those agencies are located along the SWB. LEIS offers investigators a more efficient, automated system for obtaining information and helps to more quickly and appropriately identify relationships, patterns and connections between individuals and organizations that may not be immediately obvious. Since January 2009, the program has received nearly 20,000 queries for information. The LEIS Service is compliant with all existing privacy and security requirements as it relates to the safeguarding of personal information and user authentication and access.

**Border Violence Intelligence Cell.** The Border Violence Intelligence Cell (BVIC) supports the national effort to combat weapons smuggling and stem the surge in violence along the United States-Mexico Border. This unit facilitates timely information sharing with state, tribal, local, foreign, and other federal law enforce-

ment agencies, and serves as the focal point for analyzing all-source intelligence in support of the BESTs and ICE Attaché Mexico offices. Through the BVIC, the BESTs, ICE Attaché offices, and the U.S.-vetted GoM Arms Trafficking Group exchange cross-border weapons-related intelligence through a virtual intelligence network, creating a seamless investigation of the criminal networks that span the SWB. The BVIC, in cooperation with the ATF weapons desk at EPIC, serves as the central point for analyzing all-source intelligence and trends in firearms smuggling. Since March 30, 2009, analysts working with the BESTs, in coordination with the BVIC, have produced 213 intelligence reports, over 60 comprehensive target folders, and 114 investigative leads relating to suspected weapons traffickers operating along the SWB. Weapons Virtual Task Force. The Weapons Virtual Task Force (WVTF) is a community of interest within the Homeland Security Information Network, a secure, unclassified web-based platform. The community was created to assist information exchange between ICE and its Mexican law enforcement counterparts under the Armas Cruzadas initiative. Using the WVTF, law enforcement on both sides of the border can upload and share information pertinent to law enforcement actions along the SWB. While currently in its infancy, it is anticipated that the WVTF system will incorporate any GoM enforcement action results or intelligence developed by Mexican law enforcement related to Armas Cruzadas. The information will then be available for ICE investigators and analysts to view and analyze. Last month, ICE sent a team to Mexico to train Mexican law enforcement on the use of the system. This training is a strong step toward a closer relationship and better information exchange, and will continue as additional users on both sides of the border are added.

#### **FORMAL INTERAGENCY AGREEMENTS**

The successes of the BESTs, as well as Operations Armas Cruzadas and Firewall, illustrate how co-located taskforces and multi-agency initiatives can stem the flow of cross-border criminal activity. Interagency roles, responsibilities, and coordination are guided by numerous statutes, presidential directives and formal, interagency agreements. Given the extent of ICE authorities in enforcing the nation's customs and immigration laws, ICE has cooperation agreements with federal, state, local, and foreign law enforcement agencies in order to more effectively leverage our combined resources. I would like to highlight two of the more recent partnerships entered into by ICE. These are the June 18, 2009, Interagency Cooperation Agreement between ICE and DEA and the June 30, 2009, Memorandum of Understanding between ICE and ATF.

**Interagency Cooperation Agreement between ICE and DEA.** Recognizing the importance of implementing the recommendations made by the Government Accountability Office (GAO) in its March 2009 report, on June 18, 2009, ICE and DEA announced an Interagency Cooperation Agreement Regarding Investigative Functions Related to the Controlled Substances Act. The agreement addressed many of the recommendations outlined in the GAO report. Specifically, the June 18, 2009, agreement provides the following: (1) outlined a commitment by both ICE and DEA to share information through mechanisms including the Special Operations Division, the OCDETF Fusion Center and EPIC; (2) authorized the ICE Assistant Secretary to select an unlimited number of ICE agents for cross-designation by the Administrator of DEA; (3) delineated ICE authority to investigate narcotics smuggling with a clearly articulable nexus to the U.S. border, including related transportation and staging activities within the United States; and (4) procedures for deconfliction and operational coordination in both the domestic and foreign counternarcotics environments. The agreement took immediate effect and will be reviewed one year after its initial effective date. In addition, after the one-year review, the agreement will be reviewed thereafter every two years, or at any time, upon written request by either party.

**Memorandum of Understanding between ICE and ATF.** ICE and ATF recognize and respect each other's complementary authorities. When ICE and ATF join forces through joint investigations or via the BEST teams, both agencies bring complimentary authorities to any investigation. The June 30, 2009, Memorandum of Understanding between ICE and ATF established the clear roles that both agencies have over domestic and international trafficking of firearms, ammunition, explosives, weapons, and munitions. The agreement recognized that both law enforcement agencies are actively engaged in the fight against persons and criminal organizations involved in violent crime and gun trafficking.

The agreement requires that ATF report to ICE any information relating to attempted or planned violations of federal law within the jurisdiction of ICE. The agreement imposes a reciprocal requirement upon ICE to report to ATF any information relating to attempted or planned violations of federal law within the jurisdic-

tion of ATF. The agencies also agree to coordinate information concerning firearms and explosives investigations that involve each other's investigative jurisdiction.

Moreover, ATF and ICE will invite each other's participation in any investigations within the jurisdiction of the other agency. In addition, the agreement sets forth important policies concerning the shared use of human confidential sources of information and the control of intelligence. The agencies agreed to coordinate efforts as they relate to activities at Federal Firearms Licensees, Federal Explosives Licensees, gun shows, international borders and Ports of Entry.

#### **CONCLUSION**

The coordination and information sharing initiatives I have discussed today portray the extensive cooperation currently underway between ICE and our counterparts in state and local governments, the Federal Government, and the Government of Mexico. Taken together, all of these initiatives represent a substantial advancement towards operating in a truly complementary fashion, by harnessing each agency's particular authorities and expertise more efficiently.

I would like to thank the Subcommittee for its continued support of ICE and our law enforcement mission. I would be pleased to answer any questions you may have.

Ms. SANCHEZ. Thank you.

And now we will recognize for 5 minutes, Mr. Placido.

#### **STATEMENT OF ANTHONY PLACIDO, ASSISTANT ADMINISTRATOR FOR INTELLIGENCE, DRUG ENFORCEMENT ADMINISTRATION, DEPARTMENT OF JUSTICE**

Mr. PLACIDO. Thank you.

Chairman Sanchez, Chairman Thompson, distinguished members of the subcommittee, I appreciate the opportunity to share the perspectives of the Drug Enforcement Administration on countering drug violence and the importance of interagency coordination and cooperation.

The drug trade in Mexico has been rife with violence for decades. However, intentionally gruesome drug-related violence, kidnapping, torture and murder have remained at elevated levels since President Calderon initiated his comprehensive program to break the power and impunity of Mexico's drug cartels.

Drug-related killings in Mexico have escalated from approximately 1,200 in 2006, to more than 6,200 in 2008, and are on pace to exceed 7,000 this year.

In the past, the violence was largely confined to persons engaged in the drug trade. But there has been a disturbing new trend where the cartels are intentionally targeting Mexican military and law enforcement officials.

Drug violence is not restricted to areas along our southwest border. That is why the goal of the Merida Initiative is to break the power and impunity of the cartels, rather than to secure our nation's borders.

The problem we are facing includes the border, to be sure. But it actually is much bigger than the border itself.

Just a few days ago, as was referenced previously, 15 Mexican federal police officers were abducted, tortured and executed by enforcers associated with La Familia Michoacana Cartel in what appears to be retaliation for performing their official duties enforcing Mexican law. The attacks were not conducted in geographic proximity to our border, but, nonetheless, represent a potential threat to our national security.

Systematic attacks against Mexican police and military officials undermine respect for the rule of law and degrade confidence in



Mexican institutions by extension, causing instability in Mexico and throughout the region.

Through the Merida Initiative and the generous support of Congress, we are supporting President Calderon's valiant efforts to break the power and impunity of these cartels and to reduce the extent to which these transnational crime syndicates engage in all types of lawlessness affecting the United States.

There is justifiable concern that the violence Mexico will spill across our border and have an even more pronounced impact on Americans. Mexican cities along our southwest border, such as Juarez and Tijuana, have witnessed spectacular violence, despite the fact that El Paso and San Diego are among the safest cities in America.

The U.S. interagency has attempted to distinguish between the criminal-on-criminal violence that has always been associated with the Mexican drug trade, and the new phenomenon of retaliatory violence against Mexican officials and institutions.

Accordingly, as an interagency group, we have defined spillover violence to entail deliberate attacks by the cartels on U.S. government personnel, whether in the U.S. or Mexico, innocent civilians in the United States, or U.S. government facilities, including our embassies and consulates.

Based on this definition, we have not yet seen a significant level of spillover violence. However, as a government we must, and are, building contingency plans for the worst-case scenario.

DEA enjoys a decades-long history of working in cooperation with the Mexican government. DEA works closely with a number of trusted Mexican counterparts, who have undergone a rigorous vetting process to include robust background investigations and polygraph examinations.

Working with our Mexican counterparts, DEA and the U.S. interagency have taken the offensive against Mexico-based cartels on their own turf and systematically sought to identify, disrupt and dismantle these cartels, including their U.S.-based cells. Project Reckoning and Operation Xcellerator are recent examples of this U.S.-Mexico collaboration.

In addition to our ongoing investigations, interagency coordination and cooperation are critical. DEA continues to work in cooperation with our federal, state, local and foreign counterparts to address the threats emanating from Mexico.

DEA's organizational attack strategy is an effort to systematically dismantle the command and control of these criminal syndicates. Key to this strategy is sharing of information and coordinating with our counterparts through the Special Operations Division, the OCDETF Fusion Center and the El Paso Intelligence Center.

The recently signed interagency cooperation agreement between DEA and ICE underscores the mutual understanding between both agencies concerning the tremendous importance of information sharing and investigative coordination. Both Secretary Napolitano and Attorney General Holder have made clear that this agreement is the most efficient and effective way to promote interagency coordination and cooperation.

The agreement addresses the concerns of both agencies without requiring legislative action, and allows for the cross-designation of an unlimited number of ICE agents to exercise Title 21 investigative authority, and also strengthens information sharing and coordination protocols. It also requires ICE's full participation at EPIC, SOD and the OCDETF Fusion Center.

We recognize that interagency and international collaboration are fundamental. It is imperative that we sustain the progress and that we support the actions by President Calderon.

We must recognize that the violence we are witnessing represents the acts of truly desperate, wounded, criminal organizations. We remain committed to working with Mexico and our U.S. counterparts to stem the flow of bulk cash and weapons, while also working to sustain the disruption of drug transportation routes north.

Chairman Sanchez, members of the committee, we appreciate this opportunity, and I stand prepared to answer questions. Thank you.

[The joint statement of Mr. Placido and Mr. McMahon follows:]

JOINT PREPARED STATEMENT OF WILLIAM McMAHON

AND

ANTHONY P. PLACIDO

Chairwoman Sanchez, Ranking Member Souder, and Members of the Committee, I appreciate the opportunity to appear before you today to discuss the Department of Justice's (the Department) ongoing initiatives and programs to promote coordination and collaboration between investigative agencies regarding investigations of narcotics and weapons along our borders.

The Mexican drug cartels pose a national security threat to Mexico and an organized crime threat to the United States. Drug-related violence, including kidnappings and increasingly gruesome murders, has skyrocketed in recent years in Mexico, particularly near the border with the United States. Mexican drug traffickers and their enforcers are also engaging in other violent crimes, including kidnappings and home invasion robberies—primarily in Mexico but also in U.S. communities. Although violence has existed in Mexico over the years, the bloodshed escalated to unprecedented levels as the cartels use violence as a tool to undermine public support for the Mexican Government's vigorous counter-drug efforts. Traffickers display the bodies of their tortured victims to intimidate government officials and the public alike.

A significant portion of this increase in violence actually reflects progress by the governments of Mexico and the United States in disrupting the activities of the drug cartels. After President Felipe Calderon took office in 2006, the Government of Mexico, with support from the United States, undertook a comprehensive program to break the power of the narcotraffickers, making record seizures of drugs, clandestine laboratories, and currency. Mexican law enforcement agencies have arrested many high-level drug cartel members and the Mexican authorities are extraditing them in record numbers to face prosecution in the United States. This unprecedented pressure from the Government of Mexico has led to the retaliatory violence directed at Mexican law enforcement and the Mexican government as a whole. Also, as the Department and our federal agency partners work with Mexican authorities to disrupt and dismantle successive iterations of the most powerful cartels, their successors have escalated the fighting among themselves for control of the lucrative smuggling corridors along the Southwest Border.

The violence in Mexico has direct and serious effects in the United States. According to the National Drug Intelligence Center's (NDIC) *2009 National Drug Threat Assessment* (NDTA), within the realm of drug trafficking organizations (DTOs), Mexican organizations represent the "greatest organized crime threat to the United States," with cocaine being the leading drug threat. Mexican and Colombian DTOs generate, remove, and launder between \$18 billion and \$39 billion in wholesale drug proceeds annually, a large portion of which is believed to be transported via the

SWB. These proceeds, in turn further fuel the drug trade and its attendant violence. Additionally, Mexican DTOs obtain firearms, including handguns and rifles, from sources in the United States for use in DTO operations on both sides of the U.S.-Mexico border. These organizations and their violent paramilitary enforcement groups rely on such firearms and ammunition to control lucrative drug smuggling corridors along the border. We look forward to working in collaboration with Mexican authorities to build their capacity to assess all the weapons seized and provide better definition of arms trafficking across our shared border.

I want to share with you the Department's strategy to work, in cooperation with the Government of Mexico, to dismantle the Mexican drug cartels systematically, which currently threaten the national security of our Mexican neighbors, pose an organized crime threat to the United States, and are responsible for the scourge of illicit drugs and accompanying violence in both countries. Let me begin by emphasizing the priority that this issue commands at the highest level of the Department's leadership, including the Attorney General himself. Most recently, on June 5th, in Albuquerque, New Mexico, Attorney General Holder, Department of Homeland Security (DHS) Secretary Napolitano, and Office of National Drug Control Policy (ONDCP) Director Kerlikowske released President Obama's *National Southwest Border Counternarcotics Strategy* (Strategy), designed to stem the flow of illegal drugs and their illicit proceeds across the Southwest Border and to reduce associated crime and violence in the region.

This Strategy directs Federal agencies to increase coordination and information sharing with State and local law enforcement agencies, intensifies national efforts to interdict the southbound flow of weapons and bulk currency, and calls for continued close collaboration with the Government of Mexico in efforts against the drug cartels. The Strategy is an important component of the Administration's national drug control policy and complements the Administration's comprehensive efforts to respond to threats along the border.

In his remarks on the Strategy, Attorney General Holder stated, "Drug trafficking cartels spread violence and lawlessness throughout our border region and reach into all of our communities, large and small." He further noted, "By focusing on increased cooperation between the U.S. and Mexican governments as well as enhanced communication within U.S. law enforcement agencies, the *National Southwest Border Counternarcotics Strategy* we introduce today provides an effective way forward that will crack down on cartels and make our country safer."

Another important component of the United States Government's efforts to neutralize the powerful Mexican drug cartels is the Mérida Initiative, a partnership between the Government of Mexico and its counterparts in the United States. The Administration's Mérida Initiative presents new opportunities for expert collaboration on many fronts. With Mérida funding provided by the Department of State and the United States Agency for International Development, the Department efforts to support the Administration's initiative include, but are not limited to : (1) placing two experienced federal prosecutors in Mexico to work with their counterparts in prosecutorial capacity-building; (2) assigning a forensics expert in Mexico; (3) assisting Mexican law enforcement and our interagency partners in strengthening and developing vetted teams and task forces that can work with U.S. federal law enforcement agencies to attack the cartels across the range of their criminal conduct; (4) advancing fugitive apprehension with U.S. law enforcement agencies and extradition with our Criminal Division experts; (5) assisting Mexico in developing an assets management system to deal with the assets seized and forfeited in criminal cases; (6) assisting Mexican law enforcement and prosecutorial offices in strengthening their internal integrity; (7) assisting Mexican law enforcement officials and prosecutors in enhancing evidence collection, preservation and admissibility; (8) supporting the Mexican National Migration Institute efforts to develop biometric capabilities; and (9) providing expert consultations on victim assistance and witness protection issues. At the same time, as an operational matter, the Department continues to work closely with Mexico as it addresses the issue of cartel-related public corruption, including through investigative assistance.

#### ***Overview of the Department of Justice's Mexico and Border Strategy***

The Department's strategic approach—built on its proven track record of dismantling transnational organized criminal groups, such as the Mafia in the 1980s and 1990s—confronts the Mexican cartels as criminal organizations, rather than simply responding to individual acts of criminal violence. Pursued vigorously, and in coordination with the efforts of other U.S. government agencies and with the full cooperation of the Government of Mexico, this strategy can and will neutralize the organizations causing the violence.

The Department's strategy to identify, disrupt, and dismantle the Mexican drug cartels has five key elements and supports the *National Southwest Border Counter-narcotics Strategy*. First, the strategy employs extensive and coordinated intelligence capabilities. The Department pools information generated by our law enforcement agencies and federal, state, tribal, and local government partners, and then uses the product to promote operations in the United States and to assist the efforts of the Mexican authorities to attack the cartels and the corruption that facilitates their operations. Second, through intelligence-based, prosecutor-led, multi-agency task forces that leverage the strengths, resources, and expertise of the complete spectrum of federal, state, tribal, local, and international investigative and prosecutorial agencies, the Department focuses its efforts on investigation, extradition, prosecution, and punishment of key cartel leaders. As the Department has demonstrated in attacking other major criminal enterprises, destroying the leadership and seizing the financial infrastructure of the cartels undermine their very existence. Third, the Department of Justice, in concerted efforts with the Department of Homeland Security, pursues investigations and prosecutions related to the trafficking of guns and the smuggling of cash and contraband for drug-making facilities from the United States into Mexico. Much of the violence and corruption in Mexico is fueled by these resources that come from our side of the border. Fourth, the Department uses traditional law enforcement approaches to address the threats in the United States of cartel activity. These threats include the widespread distribution of drugs on our streets and in our neighborhoods and battles between members of rival cartels on American soil. This type of activity was exemplified in Laredo, Texas from 2003 through most of 2006 when a rash of drug related assassinations occurred between members of the Gulf and Sinaloa Cartels and culminated with the arrest of a Gulf Cartel assassin squad in April of 2006 by DEA-led operation assisted by state and local law enforcement, and other federal agencies, to include the FBI, USMS, ATF, IRS and ICE. These assassinations also resulted in injuries to innocent civilians and the death of a 15 year old juvenile who was killed because he was in the vehicle with his uncle, the assassins' intended target. This component of the Department's strategy will inevitably include investigations and prosecutions of U.S.-based gangs that forge working relationships with the Mexican DTOs. Fifth, the Department prosecutes criminals responsible for federal crimes involving trafficking, smuggling, money laundering, kidnapping and violence. The ultimate goals of these operations are to neutralize the cartels and bring the criminals to justice.

The strengths of the Department's strategy are illustrated by the tremendous successes of Operation Xcellerator and Project Reckoning in the U.S. government's battle against the Mexican cartels. On February 25, 2009, Attorney General Holder announced the arrest of more than 750 individuals on narcotics-related charges under Operation Xcellerator, a multi-agency, multi-national effort coordinated by the DEA-led Special Operations Division (SOD) that began in May 2007 and targeted the Sinaloa Cartel. This cartel is responsible for bringing tons of cocaine into the United States through an extensive network of distribution cells in the United States and Canada. Through Operation Xcellerator, federal law enforcement agencies—along with law enforcement officials from the governments of Mexico and Canada and state and local authorities in the United States—delivered a significant blow to the Sinaloa Cartel's operations in the United States. For example, authorities seized over \$61 million in U.S. currency, more than 12,000 kilograms of cocaine, more than 1,200 pounds of methamphetamine, approximately 1.3 million Ecstasy pills, and other illegal drugs. Also significant was the seizure of 191 firearms, 4 aircraft, and 3 maritime vessels.

Similarly, the Department's Project Reckoning, announced in September 2008, was a 15-month operation, also coordinated by SOD, which severely damaged the Gulf Cartel. It was one of the largest and most successful joint law enforcement efforts between the United States and Mexico. Project Reckoning resulted in over 600 arrests in the U.S. and Mexico, plus the seizure of nearly 20,000 kilos of cocaine, tens of thousands of pounds of marijuana, thousands of pounds of methamphetamine, hundreds of firearms and \$76 million in currency. Perhaps most importantly, Project Reckoning led to the indictment of a triumvirate of Gulf Cartel leaders.

Operation Xcellerator and Project Reckoning applied the classic law enforcement tools that the Department has successfully wielded against other large and sophisticated criminal enterprises to target the largest threats from the cartels. Neither would have been possible without the development and effective sharing of tactical and strategic intelligence between and among federal agency partners and the Government of Mexico and its law enforcement and special military components. They reflected multi-agency, bi-national efforts, coordinated by SOD and led by prosecutors and investigators from the Organized Crime Drug Enforcement Task Forces (OCDETF), a program that coordinates and channels elements of the federal govern-

ment—including the Drug Enforcement Administration (DEA), FBI, Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), the U.S. Marshals Service (USMS), U.S. Attorney's Offices, and the Department's Criminal Division, as well as Immigration and Customs Enforcement (ICE), Customs and Border Protection (CBP), and the Internal Revenue Service (IRS). In all, more than 200 Federal, state, local, and foreign law enforcement agencies contributed to the success of Operation Xcellerator and Project Reckoning. These multi-year investigations will result in extraditions and federal prosecutions in numerous states by various U.S. Attorney's Offices and the Criminal Division's Narcotic and Dangerous Drug Section.

We believe the Administration has the right strategy for stopping the violence spawned by the cartels. But despite recent successes by the Administration, we also recognize that there is much more work to do. Drug trafficking organizations remain powerful and continue to evolve and are determined to find new methods to bring illegal drugs into the United States, while also sending cash and guns back to Mexico. This smuggling pattern fuels the cycle of violence in Mexico and is a threat to the United States. As a result, the Department is working closely with our other federal partners, State, local, and tribal officials, and the Government of Mexico to address these issues and root out these criminal enterprises.

***Intelligence-Based Targeting Is the Foundation for a Successful Response***

For more than a quarter-century, the principal law enforcement agencies in the United States have recognized that the best way to fight the most sophisticated and powerful criminal organizations is through intelligence-based, prosecutor-led task forces that leverage the strength, resources, and expertise of the complete spectrum of federal, state, local, and international investigative and prosecutorial agencies. It was this approach, for example, that fueled the ground-breaking Mafia prosecutions in the United States and Italy in the late 1980s and 1990s. The Department is applying these same intelligence-driven tactics that broke the back of the Mob to fighting the Mexican drug cartels.

The Department works through several programs to develop a full range of strategic, operational, and tactical intelligence against the Mexican cartels.

First, since 2003, the Department has worked with the drug enforcement community to develop the Attorney General's Consolidated Priority Organization Target (CPOT) list of international "Most Wanted" drug kingpins. Of the approximately 55 worldwide cartels currently on the list, 20 of them are Mexican enterprises. The CPOT list is produced through the cooperative effort of the member agencies of the Organized Crime and Drug Enforcement Task Force (OCDETF) Program, and is the product of their shared information. Indeed, over the last several years lawyers and agents assigned to SOD have been coordinating on a number of cases concerning Mexican CPOT targets. This list helps the Department and our federal agency partners focus critical resources on the greatest threats.

Second, the Department leads three multi-agency intelligence centers and an operational center that provide tactical, operational, and strategic support in targeting the largest and most dangerous Mexican cartels and focusing law enforcement resources. The El Paso Intelligence Center (EPIC) currently involves the participation of more than 20 agencies. EPIC provides critical, case-specific tactical intelligence to law enforcement consumers. For example, if a highway patrol officer stops a vehicle in the middle of the night, EPIC may have information about the vehicle, driver or passengers that can be provided in real time. EPIC focuses specifically on the Southwest Border but also tracks broader tactical data. The ATF's "Gun Desk" at EPIC serves as a central repository for all Department intelligence related to firearms along the Southwest Border. EPIC also serves as the primary repository for Department of Homeland Security intelligence on firearms smuggling. In addition, the FBI, already a contributing member at EPIC, is in the process of increasing its participation there by creating its Southwest Intelligence Group (SWIG). The SWIG will be used to coordinate information and intelligence relating to the Southwest Border and to better disrupt and dismantle the ongoing violent criminal activity. The SWIG head will also serve as an Assistant Deputy Director of EPIC.

SOD, also led by DEA, is best described as an operations center, rather than an intelligence center, because its functions go beyond the gathering and processing of intelligence. It provides operational targeting, support, and coordination for long-term, multi-agency investigations. It passes leads that have been developed from intelligence sources to field investigators and coordinates the resulting investigations. SOD targets the command and control communications of major drug trafficking and narco-terrorism organizations. Special emphasis is placed on those major drug trafficking and narco-terrorism organizations that operate across jurisdictional boundaries on a regional, national, and international level, and the operations coordinated by SOD include OCDETF investigations. Operation Xcellerator and

Project Reckoning were OCDETF investigations that were both initiated and coordinated through SOD. The transnational nature of narcotics trafficking requires a combined Federal, state, tribal, and local agency response directed at stopping the flow of narcotics into our communities, often brought together through the OCDETF Program and coordinated through SOD. SOD also plays a critical role in deconflicting these operations.

The OCDETF Fusion Center (OFC) is a comprehensive data center containing drug and related financial data from DEA, ATF, FBI, IRS, the USMS, the U.S. Coast Guard, CBP, NDIC, EPIC, the Treasury Department's Financial Crimes Enforcement Network (FinCEN), the Department of State's Bureau of Consular Affairs, and other key players in the international drug enforcement world. The OFC provides critical law enforcement intelligence support for long-term and large-scale investigations, complementing the mission of SOD by providing non-communications intelligence at an operations level. The OFC conducts cross-agency and cross-jurisdictional integration and analysis of drug related data to create comprehensive pictures of targeted organizations through its fused database, Compass. Using the protocols established by SOD, the OFC passes actionable leads to field investigative units. In addition, pursuant to recent agreements finalized by leaders within the Department and DHS, by the end of this fiscal year ICE is expected to be a full participant in the OFC.<sup>121</sup>The third Department-led intelligence center is NDIC, which provides policy makers and resource providers with strategic drug intelligence. In addition to producing the *NDTA*, NDIC produces regional and subject-specific threat assessments. These include OCDETF Regional Assessments, including the Southwest Region. NDIC provides Document and Media Exploitation (DOMEX) support to field agents and prosecutors to facilitate the analysis of seized evidence. NDIC also provides DOMEX training and software to foreign law enforcement partners, including Mexico.

The work being done at these intelligence and operations centers is remarkable, and their activities form a key component of our multi-layered approach to dismantling this criminal threat.

#### ***Focused Law Enforcement Initiatives***

The Department's efforts are focused on three underlying aspects of the Southwest Border threat: drugs, guns, and illegal drug proceeds. These efforts include an integrated and coordinated operational response from Department law enforcement components in coordination with one another and federal agency counterparts.

##### **1. Movement of Drugs**

DEA has the largest U.S. law enforcement presence in Mexico with 11 offices in that country. DEA Mexico primarily focuses its resources on the command and control infrastructure of the Mexican cartel leaders with the goal of removing the top layers of cartel leadership, who are essential to the operation of these criminal enterprises. To achieve this goal, DEA Mexico works closely with Mexican law enforcement to help fight this criminal threat. Project Reckoning and Operation Xcellerator are recent examples of this successful partnership. DEA also sponsors the Sensitive Investigative Units, elite vetted units of Mexican law enforcement and military which undergo robust background investigations and polygraph examinations.

DEA also targets the cartels through its "Drug Flow Attack Strategy" (DFAS), an innovative, multi-agency strategy, designed to disrupt significantly the flow of drugs, money, and chemicals between the source zones and the United States by attacking vulnerabilities in the supply chains, transportation systems, and financial infrastructure of major DTOs. DFAS calls for aggressive, well-planned, and coordinated enforcement operations in cooperation with host-nation counterparts in global source and transit zones around the world.

Department law enforcement components cooperate with other federal agencies on EPIC's "Gatekeeper Initiative." A "Gatekeeper" is a person or group whose role is "to facilitate the taxation and protection of contraband loads (including illegal aliens) and to enforce the will of the cartel through bribery, intimidation, extortion, beatings, and murder." These Gatekeepers control territory along the border and are key to cartel smuggling operations in both directions. The Gatekeeper Initiative combines the statutory expertise and authorities of its multi-agency members—DEA, FBI, the USMS, IRS, ICE, ATF, and CBP—to: (1) establish multi-district investigations of the Gatekeepers and their organizations operating along the Southwest Border, including the identification and investigation of corrupt law enforcement officials on both sides of the border; (2) identify additional activities of the Gatekeepers in other regions and pass investigative leads to those jurisdictions; (3) disrupt drug trafficking patterns along the Southwest Border by attacking the smuggling of major cartels; and (4) target the illegal purchase and distribution of firearms by Gatekeepers.

Within the United States, DEA is working with DHS to implement its “License Plate Reader Initiative” in the Southwest Border region to gather intelligence, particularly on movements of weapons and cash into Mexico. The system uses optical character recognition technology to read license plates on vehicles in the United States traveling southbound towards the border. The system also takes photographs of drivers and records statistical information such as the date, time, and traffic lane of the record. This information can be compared with DEA and CBP databases to help identify and interdict vehicles that are carrying large quantities of cash, weapons, and other illegal contraband toward Mexico. DEA and other law enforcement agencies will be able to submit queries to the database, obtain near real-time responses, and place alerts on suspect license plates.

## **2. Trafficking of Guns**

ATF, in collaboration with other law enforcement entities, such as ICE and CBP, seeks to identify, investigate, interdict, and eliminate the sources of illegally trafficked firearms and the networks for transporting them.

Since 2006, Project Gunrunner has been ATF’s comprehensive strategy to combat firearms-related violence by the cartels along the Southwest Border. It includes special agents dedicated to investigating firearms trafficking on a full-time basis and industry operations investigators (IOIs) responsible for conducting regulatory inspections of Federal Firearms Licensees (FFLs) along the Southwest Border. For instance, from Fiscal Year 2004 through June 1st of this year, Project Gunrunner referred for prosecution 882 cases involving 1,838 defendants; those cases include 415 firearms trafficking cases involving 1,135 defendants and an estimated 13,382 guns.

To date, Congress has allocated \$25 million in support of Project Gunrunner, and has shown support for the President’s request of \$18 million in additional funds for Project Gunrunner. These funds will allow ATF to open new field offices staffed with special agents and IOIs. With these additional resources, ATF can identify and prioritize for inspection those FFLs with a history of noncompliance who represent a risk to public safety, as well as focus on primary retailers and pawnbrokers who sell the firearms of choice used by drug cartels. In addition, the funds will be used to send additional special agents to consulates in Mexico, and upgrade Mexico’s ballistic imaging technology, a key tool in assisting Mexican authorities in solving crimes involving firearms.

The tracing of firearms seized in Mexico and the United States is an essential component of the strategy to curtail firearms trafficking along the Southwest Border. When a firearm is traced, specific identifying information—including the make, model, and serial number—is entered into the ATF Firearms Tracing System (e-Trace), which is the only federal firearms tracing system. Using this information, ATF can establish the identity of the first retail purchaser of the firearm and then investigate how the gun came to be used in a crime or how it came to be located in Mexico. Furthermore, analyses of aggregate trace data can reveal trafficking trends and networks, showing where the guns are being purchased, who is purchasing them, and how they flow across the border. As a complement to the Merida Initiative efforts, ATF received \$4.5 million in asset forfeiture funds from the Treasury Department’s Asset Forfeiture fund to initiate a Spanish version of ATF’s e-Trace to Mexico. ATF is working with Mexican officials to increase their current usage of the e-Trace system, which will further improve, with deployment of Spanish e-Trace in December of this year.

As part of President Obama’s commitment to President Calderón on his recent trip to Mexico, ATF will also work to enhance the Integrated Ballistic Identification Systems that stores digital photos and arms-related information related to criminal investigations. This will allow the sharing of digital images, ballistic markings, and other arms-related information to help identify leads in violent crimes both in Mexico and in the United States. Our efforts will be further enhanced by the President’s commitment to urge the Senate to provide its advice and consent in order to ratify the Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials.

## **3. Bulk Currency Shipments and Money Laundering**

The spike in violence in Mexico among the cartels stems from fights over market share and profits as the Mexican and U.S. governments have, by working together, succeeded in applying greater pressure against them. In addition to removing the leadership ranks of the cartels, the Department is waging a war to seize and forfeit their assets as well. Again, as with any other criminal enterprise, the Department places a high priority on attacking and dismantling the financial infrastructure of the Mexican DTOs. Every OCEDEF-approved investigation must include a financial component designed to identify and ultimately forfeit the illegal assets of the targeted organization.

Additionally, the Department has established a "Bulk Currency Money Laundering Initiative," an OCDETF Southwest Region Strategic Initiative that investigates bulk currency movement along transportation routes in the Southwest. Although we do not know the exact amount of bulk cash flowing back across the U.S. border to the Mexican DTOs, NDIC estimates that Mexican and Colombian DTOs generate, remove, and launder approximately \$18-\$39 billion annually in gross wholesale proceeds from their distribution of illicit drugs in the United States, a large portion of which is believed to be smuggled in bulk across the border back into Mexico. State and local agencies, which encounter the vast majority of currency seizures on the highways, often lack the resources necessary to conduct follow-up investigations that will lead to the identification and prosecution of the major drug organizations that own the smuggled currency. Again, we have worked in partnership with other federal agencies with primary responsibility for securing the U.S. border. This Strategic Initiative is designed to enhance all the federal, state, tribal, and local agencies'; efforts through coordination and cooperative investigation. Federal agencies currently participating in this initiative include ATF, DEA, FBI, CBP, ICE, IRS, the USMS, and the U.S. Attorney's Offices.

Between 2007 and 2008, \$2.9 billion was forfeited under the Department's Asset Forfeiture Program. Under the National Asset Forfeiture Strategic Plan, asset forfeiture is integrated into every appropriate investigation and prosecution, recognizing that asset forfeiture is a powerful law enforcement tool that strips criminals of their illicit wealth.

Finally, under the Mérida Initiative, discussed above, the Department is sharing its expertise with Mexican investigators and prosecutors to strengthen Mexico's own asset forfeiture laws and authority.

#### ***Federal Prosecution Along The Border***

The United States Attorneys have over 540 prosecutors in the five Southwest Border districts handling national and district-level priorities including narcotics trafficking, firearms trafficking, violent crimes, and immigration offenses. Although the Assistant U.S. Attorneys (AUSAs) in these 5 border district offices comprise only 11 percent of the nation's AUSAs, in FY 2008, they were responsible for 35 percent of all felony cases, 68 percent of all felony immigration cases, and 35 percent of all non-OCDETF narcotics cases filed in U.S. District Courts nationwide. Each of the Southwest Border United States Attorney's Offices works closely with federal, state, tribal, and local investigative agencies on the initiatives described above. The United States Attorney's Offices are on the front lines of the national effort to prosecute both large-scale criminal enterprise cases involving significant trafficking organizations as well as other criminal offenses arising at the border with Mexico. The United States Attorneys also coordinate with Mexican prosecutors to share evidence in appropriate cases to ensure that justice is achieved either in U.S. or Mexican courts.

During the past three years, U.S. Attorney's Offices and the Department's Criminal Division have seen a significant increase in the number of international fugitives returned to face justice in the United States through international extradition. Colombia and Mexico have extradited fugitives to the United States during this time in unprecedented numbers. Some of those extradited were significant cartel leaders, including major figures of the Tijuana and Gulf Cartels. For example, Osiel Cardenas Guillen, leader of the Gulf Cartel, was extradited from Mexico in January 2007. In December 2008, Mexico extradited Juan Diego Espinosa Ramirez, "El Tigre," a Colombian associate of the Sinaloa Cartel. In February of 2009, Mexico extradited Miguel Caro-Quintero to the United States to face federal narcotics trafficking and racketeering charges brought by the Department; Caro-Quintero is the former head of the now-defunct Sonora Cartel and was responsible for trafficking thousands of metric tons of cocaine and marijuana to the U.S. in the 1980s and 1990s. In March of this year, the Mexican government announced the arrest of Vicente Zambada-Niebla, a top Sinaloa cartel figure, who has been indicted on federal narcotics charges in the U.S. In April, the Mexican army arrested Vicente Carrillo-Leyva, second in command of the Juarez Cartel and the son of the late Amado Carrillo-Fuentes, the original Juarez Cartel head.

To build upon these successes, and to handle the growing number of cases involving international extraditions and foreign evidence more effectively, the Department is in the process of establishing an OCDETF International Unit within the Criminal Division's Office of International Affairs, which will focus on OCDETF cases involving the highest-level Mexico-based targets. The Unit will expand the current level of cooperation with our foreign counterparts in the arrest, extradition, and successful prosecution of cartel leaders and their subordinates.



In addition, through its regional fugitive task forces and district-based violent offender task forces, the USMS works with state and local police agencies on both sides of the border to locate and arrest offenders who have committed drug crimes or drug-related crimes of violence in the United States and subsequently fled abroad, as well as those who have been charged in the United States but remain resident in other countries. These USMS-led task forces place a high priority on apprehending cartel-related fugitives both domestically and internationally. In FY 2008, USMS arrested 269 violent cross-border felony fugitives, and it currently has 200 cross-border violent felony fugitive arrests for FY 2009.

The USMS also leads the Mexico Investigative Liaison (MIL) Program, which focuses a coordinated effort on international fugitive matters along the Southwest Border. The purpose of this district-based violent crime initiative is to enhance the effectiveness of the USMS's apprehension of violent cross-border fugitives wanted in Mexico or the United States. The 42 Deputy U.S. Marshals currently assigned to the MIL program work under the auspices of the USMS Foreign Field Office in Mexico City. This program enhances international fugitive efforts by establishing and maintaining contact with USMS Mexican counterparts and sharing real-time law enforcement intelligence information.

***Responding to the Threat with Additional Resources***

Although the elements of the Department's proven prosecutor-led, intelligence-based strategy are in place, in order to be more effective in combating the Mexican cartels, the Department has taken the following steps to buttress our law enforcement resources along the Southwest Border and in Mexico.

- **Increased DEA presence on the border.** DEA is forming four additional Mobile Enforcement Teams to specifically target Mexican methamphetamine trafficking operations and associated violence, and anticipates placing 16 new positions in its Southwest Border field divisions. Twenty-nine percent (1,171) of the DEA's domestic agent positions are now allocated to the DEA's Southwest Border field divisions.

- **Re-allocation of 100 ATF personnel to Southwest Border.** Based on ATF intelligence, analysis of firearms trace data, and firearms trafficking patterns, ATF has deployed 105 employees, including 68 agents, to work on a temporary detail called Gunrunner Impact Teams. The personnel are located primarily in Houston and other areas of South Texas. The FY 2009 Budget, the Recovery Act, and the FY 2009 Wartime Supplemental include additional new funding for Project Gunrunner as well. In particular, \$10 million in American Recovery and Reinvestment Act funding is being used to hire 37 ATF employees to open, staff, equip, and operate new Project Gunrunner criminal enforcement teams (in McAllen, Texas; El Centro, California; and Las Cruces, New Mexico), and to assign two special agents to each of the U.S. consulates in Juarez and Tijuana to provide direct support to Mexican officials on firearms-trafficking-related issues. The FY 2009 Wartime Supplemental provides \$10 million to support ATF's firearms trafficking efforts, with \$4 million to upgrade Mexico's ballistic imaging technology and \$6 million in support of Project Gunrunner. ATF will also open new Gunrunner field offices in Phoenix, Arizona, and Houston under the FY 2009 Budget and will add 30 additional ATF personnel in those areas.

- **USMS Fugitive Apprehension and Violent Crime Response.** Over the last nine months, the USMS has deployed an additional 94 Deputy U.S. Marshals to district offices and sent two additional deputies, with another two to arrive by the end of the year, to assist the Mexico City Foreign Field Office in order to step-up efforts along the Southwest Border. In addition, new Criminal Investigators have been placed in the asset forfeiture field units along the Southwest Border. These new positions will support U.S. Attorneys' Offices and investigative agencies in the investigation of cartels and other large-scale investigations. To assist in securing the Mexican side of the border, USMS is providing training courses to our Mexican law enforcement counterparts, resulting in increased intelligence and operational reciprocity as it relates to fugitive investigations and violent crime initiatives. USMS has trained and equipped approximately 250 Mexican law enforcement officers since 2001, resulting in a 240 percent increase in the number of violent felony fugitives arrested.

- **OCDETF augmentation of its Strike Force capacity along the Southwest Border.** In order to foster the enhanced intelligence sharing and coordination necessary to achieve the optimum intelligence-driven, strategic enforcement approach against the most enduring and elusive targets, OCDETF has established Co-Located Strike Forces in key cities across the country, including San Diego and Houston. These Strike Forces operate as true task forces, whose multi-agency members are housed in a common office separate and distinct

from any of their parent agencies. Through constant, daily interaction with each other, while still enjoying the resources and support of their parent agencies, the members of the OCDETF Co-Located Strike Forces have achieved great success against the major Colombian and Mexican cartels. OCDETF is expanding the staffing of its San Diego and Houston Strike Forces. Within the last year, OCDETF has also established two new Strike Forces, one in Phoenix and one in El Paso. In addition, OCDETF is adding one full-time financial analyst contractor for each of the Strike Forces and has plans to place an NDIC DOMEX team with each Strike Force.

**Increased FBI focus.** The FBI is enhancing its efforts to disrupt drug activity and to dismantle gangs that may have connections to the violent Mexican drug cartels by participating on OCDETF task forces. Aside from operational task forces, each of the FBI's border offices has Border Liaison Officers who travel to Mexico on a weekly basis to liaison and coordinate with law enforcement partners. These tools provide local law enforcement on both sides of the border with a rapid response force to immediately pursue, locate and apprehend violent crime fugitives who commit their crimes and flee across the international border to elude capture.

• **Increased funding to combat criminal narcotics activity stemming from the Southern border.** The American Recovery and Reinvestment Act includes \$40 million, to the Department's Office of Justice Programs, to provide assistance and equipment to state, tribal, and local law enforcement to combat criminal narcotics activity along the Southern border and in High Intensity Drug Trafficking Areas, including the \$10 million that is required by statute to be transferred to ATF's Project Gunrunner.

• **Public relations campaign.** ATF, in partnership with the National Shooting Sports Foundation (NSSF), is doing a public education campaign, "Don't Lie for the Other Guy," in Houston and San Antonio, Texas, and other locations on the Southwest Border this summer on illegal straw purchasing of firearms. Efforts under this campaign will include press conferences, radio, TV, billboards, and seminars with people who have federal licenses to sell firearms.

#### **Updated Interagency Agreements**

In recent weeks, leaders within DEA, ATF, and ICE successfully finalized updated agreements to increase information sharing and case coordination mechanisms between DEA and ICE, and ATF and ICE, respectively. These negotiations were guided by the commitment of Attorney General Holder and Secretary Napolitano to alleviate existing concerns that resources could be more effectively focused to combat those responsible for the flow of drugs, weapons, and related proceeds across our borders.

On June 18, DEA and ICE entered into a new interagency agreement to increase the number of agents targeting international drug traffickers, improve and enhance information and intelligence sharing, and promote effective coordination between the agencies. Pursuant to the Agreement, the Assistant Secretary of ICE will select an unlimited number of ICE agents for cross-designation to investigate violations of the Controlled Substances Act, 21 U.S.C. §§ 801, et seq., ("Title 21") with a clearly articulable nexus to the United States border in coordination with DEA. These ICE agents will target smugglers who bring drugs into the country and transport them into our communities. In addition, ICE now will be able to investigate these violations overseas while coordinating with DEA. The agreement makes clear, however, that overseas DEA remains the focal point with foreign law enforcement officials on drug law enforcement operational and intelligence matters. ICE and DEA will fully share information electronically through the OCDETF Fusion Center. This will allow DEA, FBI, ATF, ICE, and other participating agencies to access each other's case information and more effectively target criminals. This sharing also promotes officer safety and avoids duplication of efforts.

On June 30, ATF and ICE updated a memorandum of understanding (MOU) that clearly establishes how the two agencies will work together on investigations of international firearms trafficking and possession of firearms by illegal aliens. This agreement clarifies the notification process each agency is expected to follow while investigating the international trafficking of firearms, ammunition, explosives, weapons, and munitions. The MOU will optimize the resources and minimize the duplication of efforts by each agency. This agreement establishes a framework for both agencies to conduct investigations and share intelligence. Both agencies are committed to working together to reduce firearms-related violence along the U.S. border.

#### **Conclusion**

Thank you for your interest in the Department's ongoing initiatives and programs to promote coordination and collaboration between investigative agencies regarding

investigations of narcotics and weapons along our borders. In order to attack the full spectrum of the drug cartels' operations—drug trafficking, kidnapping, bribery, extortion, money laundering and smuggling of profits, and trafficking and use of firearms—we must employ the full spectrum of our law enforcement agencies' resources, expertise, and statutory authorities. By continuing to work together, building on what we have done well so far, and developing new ideas to refresh our strategies, we can rise to the current challenge. Again, thank you for your recognition of this important issue and the opportunity to testify here today. I will be happy to answer any questions you may have.

Ms. SANCHEZ. Thank you.

And now for 5 minutes, Mr. McMahon?

**STATEMENT OF BILL MCMAHON, DEPUTY ASSISTANT  
DIRECTOR, BUREAU OF ALCOHOL, TOBACCO, FIREARMS  
AND EXPLOSIVES, DEPARTMENT OF JUSTICE**

Mr. MCMAHON. Thank you, Chairwoman Sanchez, Chairman Thompson, Congressman McCaul and other distinguished members of the committee.

On behalf of Acting Director Ken Melson, I am honored to appear before you today to discuss ATF's ongoing role in preventing firearms from being illegally trafficked from the U.S. into Mexico, and working to end the associated violence along the border.

For over 30 years, ATF has been protecting our citizens and communities from violent criminals and criminal organizations by safeguarding them from the illegal use of firearms and explosives. We are responsible for both regulating the firearms and explosives industry and enforcing the criminal laws related to those commodities.

The combination of ATF's crime-fighting expertise, specific statutory and regulatory authority, analytical capability and strategic partnerships is used to combat firearms traffic both along the U.S. border and throughout the nation.

We know we cannot fight this battle alone. We work together with our state and federal partners.

Just over 2 weeks ago, ATF hosted a Violent Crime and Arms Trafficking Summit in Albuquerque, New Mexico. This conference was monumental in formalizing a longstanding partnership between ATF and ICE. At this conference, a memorandum of understanding was signed by the leaders of both ATF and ICE.

The MOU establishes how ATF and ICE will work together on investigations of international firearms trafficking and possession of firearms by illegal aliens. This agreement also clarifies the notification process each agency is expected to follow while investigating the international trafficking of firearms, ammunition, explosives, weapons and munitions. A framework for conducting investigations and sharing intelligence is also formalized in the MOU.

ATF and ICE routinely conduct joint investigations. Both agencies are committed to working together to reduce firearms-related violence along the U.S. border. This agreement establishes a framework for both agencies to conduct investigations and share intelligence. With the signing of the MOU, we hope to better optimize the resources of each of our agencies and minimize any duplication of efforts.

ATF's strategy for disrupting the flow of firearms to Mexico, Project Gunrunner, has referred over 882 cases for prosecution involving 1,838 defendants. Those cases include 415 firearms trafficking investigations, which involve 1,135 defendants and an estimated 13,382 firearms either trafficked, or attempted to be trafficked, to Mexico.

The GAO report that was published in June of 2009, stated that over 90 percent of the firearms seized in Mexico and traced over the last 3 years had come from the United States.

We have established that the greatest proportions of firearms trafficked to Mexico originated out of states along the southwest border. ATF trace data additionally shows that traffickers are also acquiring firearms from states as far east as Florida, and as far north and west as Washington state.

Additionally, drug traffickers are known to supplement their firearms caches with explosives. Our expertise with explosives has proven to be another valuable tool to use in the fight against drug cartels.

In fact, in the past 6 months, we have noted a troubling increase in the number of grenades seized or used by drug traffickers, and we are concerned about the possibility of explosives-related violence materializing in U.S. border towns. We have had at least one such instance in San Juan, Texas, when a hand grenade was thrown into a crowd of 20 people.

ATF was able to identify the grenade and believes it is linked to a Mexican drug cartel. We believe this device was from the same source as those used during the attack on the U.S. Consulate in Monterrey, Mexico.

Along the southwest border, ATF's Project Gunrunner includes approximately 148 special agents dedicated to investigating firearms trafficking on a full-time basis, and 59 industry operations investigators responsible for conducting regulatory inspections of federally licensed gun dealers, known as federal firearms licensees, or FFLs.

We recently sent over 100 additional personnel to South Texas to support our push against the trafficking of firearms to Mexico. In addition, ATF received a total of \$25 million in new funding in fiscal year 2009 for Project Gunrunner.

As the sole agency that regulates FFLs—roughly 7,000, which are along the southwest border—ATF has the statutory authority to inspect and examine the records and inventories of its licensees, firearms trafficking trends and patterns, and revoke the license of those who are complicit in firearms trafficking.

For instance, ATF uses regulatory authority to review the records of an FFL that received thousands of firearms, removed their serial numbers and trafficked them to Mexico with the aid of a co-conspirator.

An essential component of ATF's strategy to curtail firearms trafficking to Mexico is the tracing of firearms seized in both countries. Using this information, ATF can establish the identity of the first retail purchaser of the firearm, and possibly learn pertinent information, such as how the gun came to be used in the furtherance of crime and how it came to be located in Mexico.

Furthermore, analysis of aggregated trace data has revealed trafficking trends and networks showing where the guns are being purchased, who is purchasing them and how they flow across the border. Let me share an example of how this trace data can be used to identify a firearms trafficker.

ATF analysis of trace data linked a man living in a U.S. city along the border to three gun crimes in Mexico. Further investigation revealed that he had a fourth firearm that was recovered in another crime in Mexico, and that he had purchased over 100 AR-15 type receivers and seven additional firearms within a short time span using nine different FFL wholesale distributors as a source of his guns.

In April of 2008, ATF seized 80 firearms from the subject and learned that he was manufacturing guns in his home. He sold over 100 firearms to an individual who is suspected of being linked to the cartels.

Lastly, I would like to briefly mention ATF's operational presence at the El Paso Intelligence Center, EPIC, located in El Paso, Texas.

EPIC is currently one of the most valuable tools for intelligence sharing, coordination and multiagency efforts to curb violence and firearms trafficking activities along the southwest border.

At EPIC, we operate what is known as the ATF Gun Desk. The mission of the Gun Desk is to identify and analyze all firearms and explosives related data acquired and collected from law enforcement and open sources. This would include Mexican military and law enforcement, and also U.S. law enforcement assets operating on both sides of the border.

The information gathered by the ATF Gun Desk is continually evaluated and vetted to determine if violations of federal firearms and explosives laws have occurred. The Gun Desk also generates investigative referrals for field agents.

We at ATF will continue with our efforts along the southwest border, and we will harvest our partnerships with not only our law enforcement partners within the U.S., but we will continue to work with the Mexican officials to obtain more information and better understand the flow of firearms from the U.S. to their country.

I thank you for having us here, and I look forward to answering your questions.

Ms. SANCHEZ. Thank you, gentlemen. I appreciate your testimony.

The chair will now recognize other members for questions. I remind each member that he or she will have 5 minutes to question the witnesses, and I will recognize myself to ask some questions.

I have one question first, and it is to Mr. McMahon. Because there are some—we have a wide range, even on this committee, of how people feel about guns. I happen to be, I think, one of those in-the-middle kind of people. But we have some who would not like your agency very much, because they would like no restrictions, and some that probably would like to melt down every gun in the world.

So, my question for you—because this has come up over and over—we keep hearing this number of 90 percent of the guns that are used in Mexico, or turned over from Mexico, are coming from

the United States, most of them from the southwest portion of the United States.

So, I guess my question is, can you just talk a little to what does that 90 percent mean? Does that mean of traceable guns? Does that mean—because maybe there are some guns that we do not have ballistics and, you know, chamber round information on, et cetera.

Can you speak to that a little, so we can have a better understanding when we are using these numbers out there?

Mr. MCMAHON. Sure. The 90 percent figure comes from what we receive from traces from Mexico. Over the past 3.5 years, Mexico has submitted a little over 20,000 firearms for tracing. Of those 20,000 firearms that we have traced, 90 percent are sourced from the U.S.—either manufactured or imported into the U.S.—before they were recovered in Mexico.

I have heard reports that there are over 100,000 firearms recovered in Mexico. I do not know. Just like in the United States, I do not know how many firearms are recovered in crimes here. I can only tell you about—I can only give you the information about the guns that we receive information on.

Ms. SANCHEZ. So, you have received about 20,000.

Mr. MCMAHON. About 20,000 over the past three—

Ms. SANCHEZ. And of those you have looked at, 90 percent which you could trace? Or 90 percent of those 20,000 had the traces on them that indicated they were from the U.S.?

Mr. MCMAHON. Ninety percent of those 20,000 were sourced from the United States. We talk about another percentage.

We rely mostly on successful traces, as well, because a successful trace is really the only investigative lead that we are ever going to have. And that is what we focus a lot of our resources on, because those successful traces are going to get us to a first, over-the-counter, retail purchaser. And that will give us a lead to follow up on.

Some firearms are not successfully traced. But we know that, if it is a Smith and Wesson revolver recovered in Mexico, we know that that was manufactured in the United States. We might not know who the first over-the-counter purchaser was, but we know it is a U.S.-source firearm.

Ms. SANCHEZ. Okay. Thank you for clearing that up.

I would like to yield the rest of my time to Ms. Kirkpatrick. She has several questions that she wants to ask, and this is a very important issue on her border in Arizona.

Mrs. KIRKPATRICK. It is. Thank you, Madam Chairman.

You know I have been paying a lot of attention to this issue since we have been here. And I appreciate the cooperation.

I do have some concerns, though. The new MOU still does not give ICE drug enforcement powers, but allows for an unlimited number of agents to receive certification, and levels the playing field for how the agencies cooperate.

But I am skeptical about whether the new MOU goes far enough, as I believe the only agency with investigative power of over border related crime should have legal authority to look into drug-related crime. This MOU, though, is clearly a major step. It will be important to observe how this agreement works in practice.

And my first question is for you, Mr. Kibble. The ICE–DEA MOU states that ICE agents “will investigate only illegal drug importation-exportation schemes, including the transportation on staging activities, within the United States or between the source or destination country and the United States.”

So, my question is, would this prevent ICE from pursuing a drug investigation in a situation where they have arrested an individual for a separate crime such as human trafficking, and then happen to find narcotics in the person’s possession, but it is not clear that the location is a staging area?

Mr. KIBBLE. Congresswoman, for that particular scenario, we would be able to leverage our arrest authorities to take the person into custody. But if it was purely a domestic narcotics issue, we would certainly get DEA involved or state and local agencies.

But our focus, with respect to the exercise of our Title 21 authority, is directly focused on the smuggling conspiracies. So, unless there were some other factors that indicated that that same human trafficking network was involved in a conspiracy to smuggle narcotics across our border, we would not be relying on our Title 21 authority in that context.

Mrs. KIRKPATRICK. I have been talking with some of the law enforcement officers in my district. And some of them are certified through ICE to provide some investigative help, and that has made a big difference.

Does this MOU expand that authority in rural Arizona?

Mr. KIBBLE. Ma’am, I believe you might be referring to our Title 29 cross-designation authority, which allows state and local officers to assist us with customs matters. But the interagency agreement we reached with the DEA specifically refers to ICE agents, cross-designation of ICE agents. So, that is the limit of that.

Now, we have, particularly on our Border Enforcement Security Task Forces, where we have multiple agencies that support our investigations, and they are vested—some of them are vested—with Title 19 authority, it may be that they are supporting some of these investigations.

But with respect to the principal investigation of a Title 21 importation or exportation matter, it would need to be a cross-designated ICE agent.

Mrs. KIRKPATRICK. Okay. I might be wrong about that, but I thought the law enforcement officer I was talking to had the cross-certification. But I will look into that as well on my end, and we will continue the conversation.

Thank you, Madam Chairman. I yield back.

Ms. SANCHEZ. Thank you to the gentlewoman from Arizona.

I will now recognize Mr. McCaul, of Texas, for his 5 minutes of questioning.

Mr. MCCAUL. I thank the Madam Chair.

And I would like to follow up on my good friend from California’s line of questioning about the weapons being smuggled into Mexico.

Mr. McMahan, the number, it was 20,000 weapons were given to us from Mexico. Is that right? Is that correct?

Mr. MCMAHON. That is correct. Over the past 3–1/2 years, we have traced approximately 20,000 firearms from Mexico.

Mr. MCCAUL. Okay. And how do they determine which weapons to send to you to be traced?

Mr. MCMAHON. It is really up to them, just like it is for every law enforcement agency. We provide a service, which is tracing. It is no different than the NYPD sending us the traces.

Mr. MCCAUL. Do we know how many weapons they seize in Mexico versus how much they give to us to be traced?

Mr. MCMAHON. No. We do not know that total number. We just know open source reporting. There have been some statements from different people.

We only know what we know, is what it comes down to, based on what they trace.

Mr. MCCAUL. Okay. So, the weapons that they did give to you, of those 20,000, all 20,000 were traceable? Or were they not?

Mr. MCMAHON. Well, there is a difference between traceable. We consider a firearm traceable that will lead us to the first over-the-counter purchaser. And only about 44 percent of those are traceable.

But as far as a source of supply, we know that, just based on the manufacturing markings, whether or not it is a U.S.-source firearm, either imported or manufactured.

Mr. MCCAUL. So, based upon either a serial number or the manufacturer, you are able to determine the source, essentially.

Mr. MCMAHON. The source country, yes. But a successful trace leads us to a first over-the-counter purchaser, because that is what we are dealing, the lead that we will be able to push out to the field.

Mr. MCCAUL. And so, out of those 20,000, 90 percent, according to your review, based upon serial number or manufacturer, came from the United States.

Mr. MCMAHON. That is correct.

Mr. MCCAUL. Yes, we talked about hand grenades, both found in Texas and in Mexico, the threat to the U.S. Consulate's office in Mexico with hand grenades. Do you know where these hand grenades are coming from?

Mr. MCMAHON. We do. The majority of them are coming from Central America, from the Guatemala area, further south in Central America. They may be manufactured in places such as Israel or other countries, but we know through tracing that those types of hand grenades were sold to certain Central American countries.

Mr. MCCAUL. Can you just very briefly expand on the threat that was posed to the U.S. Consulate's office in Mexico?

Mr. MCMAHON. I believe it was in October of this past year. Two individuals—there were two or more individuals—fired some rounds at the consulate, and then also threw a hand grenade that did not detonate at the consulate. We have agents working in that consulate.

We identified the hand grenade. And then, based on the markings, we know where it sourced from. And then it was tied directly to that hand grenade that was also recovered in San Juan, Texas.

Mr. MCCAUL. Were the suspects captured?

Mr. MCMAHON. I believe they were at some point down the road. I am not totally sure of that.



Mr. MCCAUL. Okay. If you could follow up with us on that, I would like to know who they were. I assume it may be drug cartel related, but we do not know.

Mr. MCMAHON. Absolutely.

Mr. MCCAUL. I would like to get the answer to that.

The more heavy style, military-grade weaponry, what is your assessment as to where that is coming from?

Mr. MCMAHON. We know that over the past 3-1/2 years, any military-grade weaponry that has been recovered is not U.S.-sourced. We believe, again, that is from the Central America region.

There are some reports that, you know, a .50-caliber rifle mounted on the back of a pickup truck may have been a military-grade weapon. That was not. That was a domestic weapon here in the United States. But some of the LAWS rockets, grenade launchers, those are not being sourced from the United States.

Mr. MCCAUL. And they come from Central America.

Do you think the source where they are getting it in Central America could possibly be from, say, China or Russia?

Mr. MCMAHON. It possibly could come in from that way into Central America, and then up into the southern border of Mexico.

Mr. MCCAUL. Just an overall—I know this is on information sharing and MOUs, and all that. The MOUs that we are talking about here today are between these three agencies. But I wanted to see if we could expand upon also the cooperation that we have with Mexico in this effort.

And Mr. Placido, you talked about the Merida Initiative, which is a very, very important initiative. And in terms of how we are sharing information with Mexico, I know it is a very dicey situation in terms of who you can trust.

Having gone down to EPIC, I saw what they are capable of doing. They are doing some very great work, and I commend all three of you for the work you are doing.

Can you just expand a little bit upon your three agencies' roles, EPIC, and how you are working with our Mexican partners?

Mr. PLACIDO. Certainly, sir.

I guess, beginning with our cooperation with Mexico, the foundation—the bedrock, if you will—for our collaboration with our Mexican counterparts is through a process we know as vetting, which essentially entails conducting the same kind of robust background investigation that we would do on a special agent for any of our three agencies. It would include financials, a psychological assessment, drug use testing. And then it is concluded with a polygraph examination.

But that gives us a snapshot in time in terms of the trustworthiness of the folks that we are dealing with and our ability to share information with them.

When they pass through that process, they then come here and spend anywhere from 4 to 9 weeks in an intensive training program that we put them in Quantico, Virginia.

And probably most importantly, then these vetted units all have at least one DEA special agent assigned, who has unfettered drop-in rights 24 hours a day, 7 days a week. And because these folks are now deemed to be both trustworthy and competent investiga-

tors, we can then share that sensitive investigative information that allows us to build these investigations that span the border, and fight transnational crime.

And, of course, a critical component of that is that the information sharing with our Mexican counterparts is only as good as the sharing that we do on this side of the border. And so, organizations such as EPIC, which you visited, or the OCDETF Fusion Center, our special operations division, are designed so that we can coordinate investigations that cross geographic boundaries, that cross federal, state and local agency involvement, and actually focus the full weight of the United States against these criminal enterprises.

Mr. McCAUL. Well, thank you so much. I see my time has expired.

Ms. SANCHEZ. I thank the gentleman from Texas.

And we will now recognize the chairman of the full committee, Mr. Thompson, for as long as he would like.

Mr. THOMPSON. Thank you very much, Madam Chairman.

One of the reasons this hearing was called was this notion that the outdated MOUs had long since served their usefulness, and a notion of sharing intelligence was required. And I want to just get each one of you on the record as to whether or not you think that there presently exists some stovepiping of intelligence that an expanded MOU or another MOU could resolve, or, in your humble opinion, we have resolved all the stovepiping issues that would negate interagency communication.

Mr. KIBBLE. Chairman Thompson, I think with this—particularly with the interagency agreement with the DEA, as well as the process that we are forwarding with the OCDETF Fusion Center and the International Organized Crime Fusion Center—that we are pretty much going to make available a comprehensive—our reports of investigation and our investigative data, so that we can find opportunities for collaboration and get a more holistic picture of the threat we face.

So, I do believe that this—of course, we need to implement this bill—but this represents a substantial advancement towards eliminating these stovepipes.

Mr. PLACIDO. Mr. Chairman, I would concur with my colleague, Mr. Kibble. We believe that the agreement as it is currently drafted, if it is executed faithfully, will bring about a new era in information sharing among and between law enforcement officials, not only at the federal level, but with our state and local counterparts, as well.

The OCDETF Fusion Center—and now, the International Organized Crime Center, which has become an appendage of that—fuses for the first time in a single repository, all of the investigative reporting of the seven agencies involved in the OCDETF program, and adds to that information on transnational and organized crime that is not really the drug trafficking.

What we believe this will allow us to do is that kind of cross-cutting analysis that will drive investigations, build better coordination. And we think that that kind of coordination on the front end will eliminate many of the problems which historically have plagued interagency cooperation on the rear end as we do the investigations themselves.

Mr. MCMAHON. I agree with my colleagues, obviously. We have been participating in the OCDETF Fusion Center for a number of years. All of our data is there at the Fusion Center, but then also, the ATF Gun Desk at EPIC. All of our information on firearms is located right there, available to every participant at EPIC.

So, I believe we are sharing everything that we have, and I believe we are getting everything we need from the other agencies.

Mr. THOMPSON. Well, thank you. So, the assumption is that, if the MOUs are properly implemented, the past issues that have prevented this interagency cooperation will not be around anymore.

I am trying to just get it real clear.

Mr. KIBBLE. Yes, sir. I mean, as a process and as a framework, yes. There of course will always be individual personality conflicts—

Mr. THOMPSON. Sure, sure.

Mr. KIBBLE. —that will bubble up.

Of course, the key there will be holding those leaders accountable for living up to the spirit of the agreements that we have reached.

Mr. THOMPSON. Well, and I think one of the reasons I think both this committee and Judiciary kind of encouraged the rewrite of some of these MOUs was because times have changed. And if we all are fighting one common enemy, the last thing we needed was turf battles in the middle of this issue.

So, in that respect, I think all of us support the rewrite. We are just cautiously optimistic that its implementation will give us what we are looking for. And I think that is the spirit.

A couple of other issues. DEA issued a moratorium on travel to the Caribbean and a couple of other areas. Have we lifted that moratorium?

Mr. PLACIDO. Mr. Chairman, I think it is an excellent question. And I think it demonstrates the need for this collaboration.

I was led to believe that that question might be asked, so I did some research before coming to this meeting.

What I can tell you is that that travel ban was related to a specific case. It was a temporary measure. It has been lifted.

And the issue in question was not about whether, fundamentally, DEA and ICE could cooperate, but how important it is that, when we do work together, that we are coordinating and talking to each other.

I believe that the outgrowth of that matter was that some ICE individuals traveled into the Caribbean to conduct an investigation without contacting the local office as required by the old MOU. And the individuals that they were actually going to meet with as confidential sources, or informants, were, in fact, people who had already been indicted by DEA, and we were seeking—they were fugitives—we were seeking their extradition.

And so, until that matter could be resolved—it has been—there was a ban on those particular individuals coming down so we could work through those specific issues.

It is my belief that this new sense of cooperation, the new agreement that we have, and the sharing of information on the front end through the OCDETF Fusion Center would eliminate—we would never get to the point that the travel would occur and that they would be targeting these individuals as confidential sources, be-

cause the right record checks and the right communication would have been done, and they would have realized that these individuals were already indicted and were actually fugitives from U.S. justice.

Mr. THOMPSON. So, your testimony is that, with the new MOUs, if that same situation would happen right now, there would be no need to issue the travel ban or anything else, because ICE and any other agency would already have the knowledge and information necessary to go forward?

Mr. PLACIDO. Yes, sir.

Mr. THOMPSON. Good. Thank you very much.

Ms. SANCHEZ. Thank you, Mr. Chairman.

And now we will hear from Mr. Rogers, for 5 minutes.

Mr. ROGERS. Thank you, Madam Chairman.

Mr. Kibble, I want to talk about the 287(g) program. And I preface my remarks by letting you know I think it is outstanding. Alabama, as you are probably aware, is one of the three pilot states that started the program. It has been a stellar success.

There have been zero complaints about abuse of the process, profiling, or anything like that. And the only thing I have heard is demand for more. Not just the state troopers, but sheriffs and police officers would like to have this training, as well.

Now, having said that, I understand it has been suggested that you may revisit the MOUs for 287(g). Tell me, is that true?

Mr. KIBBLE. Sir, I apologize. The Office of State and Local Coordination within ICE administers that program, so I am not completely up to speed. But I would be happy to go back and get you a more comprehensive answer.

Mr. ROGERS. If you would, I would like to know if they are going to be revisiting it. And if so, what changes are they suggesting would be part of that, and how might it change, if any, the task force model that we have with those MOUs?

I would like to go back to your border security implementation. And I want to ask, do you use canines as a part of your efforts, canine teams?

Mr. KIBBLE. Sir, as part of the Border Enforcement Security Task Forces, we have robust participation by Customs and Border Protection, the uniformed arm that secures our border. And they have access to canines, so that when we need to leverage canines in support of a particular interdictive activity in support of an investigation, we can reach and resource that.

Mr. ROGERS. In looking at just your department, ICE, I have talked about this repeatedly to this committee. While we have dramatically increased CBP and the number of agents, ICE has remained flat for the last 6 years as far as adding manpower.

Do you feel like you have enough manpower to do your—to feel like you fulfill your role in these agreements in our border security initiative?

Mr. KIBBLE. Sir, actually, with the generosity of the Congress in terms of the supplemental that was passed a number of months ago, and the president's budget that is currently being considered, we feel that is an appropriate resourcing.

It is true—and we have gotten enhancements in previous years—it is true that our ratio of support, in terms of an investigator

mapped against the CBP officer, has not been consistent—I mean, has fallen off somewhat.

But we do feel that the Congress has been very generous in providing us with resources, particularly with respect to the violence we face along the border in terms of surging our resources to deal with that threat.

Mr. ROGERS. Well, my concern, though, is that you have been pulled from other important areas that you are already devoting attention to in order to meet this new role. And we have not added additional ICE agents to backfill.

And I am very concerned about that continued level of funding of manpower in ICE.

And just for the record, I know you are in a situation where you probably cannot tell me candidly on the record that you need more agents. But I know you need more agents, and I want to make sure in every forum where we have a chance, I want to bring that point up.

I want to go back to the guns and talking about 90 percent of those that you could trace. I thought you said at one time from open sources that there had been 100,000 seized. Is that one of the open source numbers you had mentioned?

Mr. MCMAHON. Yes, I have heard that, that there have been some statements from Mexico that they have seized over 100,000 firearms.

Mr. ROGERS. Yes. So, I want to emphasize that, because not mentioning, not including the weapons grade, the military weapons grade items, that 90 percent is really misleading if you look at the overall stockpile of weapons they have there. Ninety percent of the 20,000 that we could trace were from the U.S., but that was just a fraction of the weapons.

So, I think it is misleading when anybody says that the overwhelming majority of the weapons going into Mexico are from domestic sources here in America.

And also, I find it surprising we hear so much talk about our southwest border being where these weapons are going across, when it seems to me it would be much easier to go into their coastal borders.

Do you all have any knowledge of weapons coming in at our coastal borders?

Mr. MCMAHON. The cases that we are putting together, the majority of them are coming across our land borders. We have seen some recent cases that may be going down into Central America. They may be coming up that way.

But as far as the tracing picture, I mean, obviously, the more we know, the more we know. And we are trying to do our best to make it easier for Mexico to trace all of their firearms.

We should at the end of the year be implementing our Spanish e-Trace, and hopefully to push that to every state in Mexico. And hopefully, that will enhance our numbers.

The numbers have gone up steadily over the past couple of years. But obviously, we need to know the whole picture, just as we need to know the whole picture of firearms recovery here in the United States.

Mr. ROGERS. Thank you.

And I yield back.

Ms. SANCHEZ. And next we have Ms. Lofgren, for 5 minutes.

Ms. LOFGREN. Thank you, Madam Chairwoman. And I think this is an important hearing.

When we meet with officials from Mexico, one of the—this is one of the most important things they want to talk to us about.

I remember, I think almost 3 years ago, meeting with the attorney general of Mexico. He said almost all of the guns that they find in the drug cartels are coming from the United States. And he expressed his recognition that we have a Second Amendment, understands that we are not going to change that, but really begged us, consistent with that, to do something about just the river of guns going into Mexico.

And I was able to tell the Mexican congress when we met a month ago, that we have got a new effort underway. And they are very appreciative of the effort.

And it is interesting. Across the political spectrum, from the far left to the far right, they are united on this one, because they know that, if they do not win their fight against the drug cartels, civil society in Mexico is very much jeopardized.

So, I am happy to hear that there is this new coordination. I will express some anxiety. And we are hearing that everything is fine. I hope that is true.

But I am wondering if there are some metrics that we ought to be looking at, because I am sure the chairwoman will want to have another hearing in a few months to get a report on—you know, everything is fine today. Let us measure our progress.

What metrics would you suggest?

Any of you?

Mr. MCMAHON. I know one of the things that we will be looking at is the number of joint investigations we have, the number of joint operations that we have with ICE. I think, as we work through this process, I think we have always had a very good relationship with ICE and notifying each other on cases.

But now, with the specifics in this MOU, I think it will make easier. It will spell it out a little bit more easily for our troops on the ground on how they should be coordinating. And I know that is one of the things we will be looking at.

Mr. PLACIDO. Madam, if I may, one of the things that I would add to that response is that the participation at the OCDETF Fusion Center and the provision to that center of investigative reporting from the various agencies lends itself to counting and to monitoring by means of metrics. And that will be an approximate measure, I believe, of our success, because as the participants of the various investigative agencies have access to information from other agencies, that should naturally sort of lower the number of conflicts we have later on during the investigations.

So, I would suggest to you that one of the key metrics to be addressed would be the extent to which all of the participating agencies are, in fact, honoring the agreement and providing their most sensitive investigative information to the center.

Mr. KIBBLE. I agree with my colleagues. And the rigor of metrics will be helpful and useful in monitoring that.

I also think, though, it is important that we as the senior leaders in our agencies meet regularly and speak with our principal field officers in the field to ensure that, if there are any issues that are arising, we are resolving them as quickly as possible.

I can tell you that we have had a number of conference calls with all of our SACs. We have placed messages to the field. They have already engaged their DEA counterparts to really make sure we are off on—and our ATF counterparts—to make sure we are off on the right foot in terms of getting this agreement implemented.

Ms. LOFGREN. Let me ask this. We have got a problem of gun flow south, drug and human smuggling north. But we also have money laundering. And that is not the focus of this hearing, but I am wondering how we incorporated our need to follow the money with the coordination that you are doing here.

Mr. KIBBLE. Well, for example, the interagency agreement with DEA talks about sharing of records through the OCDETF Fusion Center. And that will include our financial investigations, as well—an area that ICE has more than 30 years of experience in, in terms of money laundering.

So, there certainly will be—we have also agreed to share data at EPIC in the National Seizure System.

So, a lot of the coordination mechanisms that are contained in these agreements will serve the money laundering and the flow of illicit proceeds south, as well.

Mr. PLACIDO. I would only add to my colleague's testimony by saying that, at the Drug Enforcement Administration, every criminal investigation must have a financial component to look at the money laundering. That is certainly the case in all of the interagency OCDETF investigations. It is required.

And I will let my colleagues speak for themselves, but I believe that is an integral part of all of our investigations today. The grease and the glue that makes this transnational crime business work is illicit money. And it is clearly in our crosshairs.

Ms. LOFGREN. I see my time has expired, and I will yield back.

Mr. THOMPSON. [Presiding.] Thank you. The gentlelady is returning.

The gentleman from Texas, Mr. Green, for 5 minutes.

Mr. GREEN. Thank you. Thank you, Mr. Chairman.

And I thank the witnesses for testifying.

And I might also add that I am grateful that we have one more day to try to get it right. And because we have this additional day and so little time, I want to apologize if my questions seem to be somewhat overbearing, or if I should say something that creates a little bit of friction.

But time is so limited, and we never know for whom the bell will toll next. So, I want to make sure that I use my time as efficaciously as I can.

Do we agree, all of us—meaning the three of you and me—that we have a gunrunning problem? And I assume that your answer is “yes,” because you would not have a Project Gunrunner if you did not have a problem.

So, you all agree that there is a problem?

All right. Given that we all agree there is a problem, then the question becomes, if we gave you everything that you need within reason to resolve the problem, could you resolve it?

Mr. MCMAHON. I think it is a resolvable problem, yes. Maybe not totally. I mean—

Mr. GREEN. I understand. You would never get 100 percent.

Mr. MCMAHON. Right.

Mr. GREEN. But you could resolve it, if we gave you everything that you need within reason?

Mr. MCMAHON. I believe so.

Mr. GREEN. Okay. Then the question becomes, what do you need to get?

Do not tell me now that you need a certain amount of money. I do not want you to put yourself in a position such that, when you go back to the office, you may have some additional questions to answer. Rather than tell me about money, tell me, what do you need to get the job done?

Mr. MCMAHON. One of the things we have done is, we—

Mr. GREEN. Remember now, this is one of those cases where time—remember, we never know for whom the bell will toll next. We have got to do everything that we can to resolve the problem, with the limited time that God has given us.

Mr. MCMAHON. When we see an uptick in violence like we did in Mexico about 5 years ago, we redeployed assets. Obviously, when we redeployed assets, we had to take them from somewhere.

Right now we have a 120-day detail going down in South Texas, with 100 agents from across the country that are no longer doing what they were doing in New York and Washington—

Mr. GREEN. So, you need to replace those 100 agents?

Mr. MCMAHON. At least that, yes.

Mr. GREEN. Well, this is a day to talk about a wish list. Okay? Let us get the wish list out there. What is on the wish list?

Mr. MCMAHON. We know at ATF that, for the next 4 years, if we could bring on 250 agents, 125 IOIs, investigators, and 50 support personnel—each year—that will get us up to where we believe we need.

Mr. GREEN. So, 250 agents.

Mr. MCMAHON. Each year for the next 4 years—

Mr. GREEN. Each year.

Mr. MCMAHON. —125 industry operation investigators and 50 support personnel.

Mr. GREEN. Okay. So—

Mr. MCMAHON. Everything that goes along with those personnel.

Mr. GREEN. Okay. Agents and equipment.

Mr. MCMAHON. Correct. Personnel and equipment.

Mr. GREEN. Personnel and equipment, 250, the next 4 years.

Okay, what else, sir?

Anything else? That would do it for you?

Mr. MCMAHON. That is what—our plan is to—

Mr. GREEN. All right. Let us go to the next gentleman.

What would it take? You have got your wish list.

Mr. PLACIDO. Well, sir, the good news from our perspective is that we are largely getting what I think the Drug Enforcement



Administration can contribute to this, and that is, we are building out a—

Mr. GREEN. Let me just make sure that I have got you right now. You do not need anything.

Mr. PLACIDO. Not at this point on guns, sir.

Mr. GREEN. Okay. Well, all right. But not at this point, maybe at this second. But will you need it next year? Give me your wish list as you are projecting. What will you need?

Mr. PLACIDO. Clearly, we can always do more with more resources. But the focus of the Drug Enforcement Administration is not guns, so I am hesitant to sit here and tell you that my agency needs additional resources to help on investigations of firearms.

We will do everything we can within our power—

Mr. GREEN. I will make a note that you have indicated that you do not need anything right now. And we will look forward to seeing you when you come back.

Okay, let us go to—is that Mr. Kibble?

Mr. KIBBLE. Yes, sir.

Mr. GREEN. All right. What do you need, sir?

Mr. KIBBLE. Congressman, we are actually already in the process of receiving enhanced resources. I think we need to bring them on board and assess how we are doing in terms of mitigating the threat. And then let me come back and give you an after-action report.

Mr. GREEN. Okay. Now, let us talk about the gunrunning rather quickly, because my time is about to expire.

Have we employed the latest in technology to assist us with the gunrunning?

For example, do you make recommendations about firearms and how they can be manufactured? If you are privy to some technology that would be of benefit to you, do you make those kinds of recommendations to us?

Mr. MCMAHON. When a new firearm comes onto the market, it is reviewed by us in our firearms technology branch to make sure it is in compliance with the law.

Mr. GREEN. Do you make recommendations to Congress?

Mr. MCMAHON. I do not believe we do, no.

Mr. GREEN. Okay. Do you make recommendations to Congress, sir?

Mr. PLACIDO. No, sir.

Mr. GREEN. Do you make recommendations to Congress, sir?

Mr. KIBBLE. No, sir.

Mr. GREEN. Mr. Chairman, if I may, I would like to explore the possibility of crafting some legislation that would allow them to make recommendations to Congress, so that we could benefit from the intelligence that they receive on the ground.

Mr. THOMPSON. Well, I think, perhaps as we had a classified briefing from the people, we could probably get some additional information that could probably give us what we want.

Mr. GREEN. I yield to the wisdom of the chair.

Mr. THOMPSON. Well, we will set it up. It is good.

But I think one question that I would like to put on the gun issue, of those 90 percent guns that we identified, can you tell me the source of a majority of those guns?

Mr. MCMAHON. The source as far as the country, state, individual?

Mr. THOMPSON. No, the source as to—

Ms. SANCHEZ. He said 44 percent.

Didn't you say 44 percent?

Mr. MCMAHON. Well, 44 percent is about our success rate to get to an individual, over-the-counter purchaser.

Mr. THOMPSON. Yes, okay.

Mr. MCMAHON. But—

Mr. THOMPSON. All right. So, 44 percent of the 90?

Mr. MCMAHON. Yes, 44 percent of the total is what we consider successfully traced, that we have traced that to an over-the-counter purchaser.

Mr. THOMPSON. All right. Is that, you know, from gun shows or firearm dealers? Or just break out the 44 percent.

Mr. MCMAHON. The way the tracing system works, it will have to—we can only trace it to a gun dealer, because that is where the records are.

The way a trace works is, we will identify a firearm. We will call up the manufacturer. The manufacturer to the wholesaler, the wholesaler to distributor, the distributor to the FFL, and then contact the FFL to find out who they actually sold the firearm to.

Their records do sometimes say that they sold this at a gun show. But the majority of them just say that they sold that themselves from their inventory.

Mr. THOMPSON. So, if I bought that weapon at a gun show, what would I have to produce to buy it?

Mr. MCMAHON. If you bought that weapon from a gun show, from a licensed dealer, you fill out your record, you have the background check. All of that would be in place.

Mr. THOMPSON. What if Mr. Green brought his daddy's .50-caliber—

Mr. MCMAHON. There is no—

Mr. THOMPSON. —to the gun show?

Mr. MCMAHON. There would be no record of that, other than when Mr. Green's father purchased the firearm.

Mr. THOMPSON. And I could buy that weapon and not have to produce any identification or whether I happened to have been a convicted felon, or anything?

Mr. MCMAHON. Individual sales to each other, there is no record-keeping. There is no requirement for background checks or that sort of thing.

Mr. THOMPSON. And our trace system right now is unable to pick that up.

Mr. MCMAHON. We can only trace firearms to the first over-the-counter purchaser.

Mr. THOMPSON. From the legitimate dealer to an individual.

Mr. MCMAHON. Correct.

Mr. THOMPSON. And so, with that classified briefing that we are talking about, would you be able to offer some suggestions to us about how that loophole could be closed?

Mr. MCMAHON. I can talk with our people and see if we can do that. Yes, sir.

Mr. THOMPSON. Let me suggest you talk to them.

Mr. MCMAHON. I will, sir.

Mr. THOMPSON. All right. Thank you very much.

Ms. SANCHEZ. [Presiding.] Thank you, Mr. Chairman. You have just pointed out one of the reasons why I hate gun shows so much.

We have legitimate people who are in our community, paying taxes, paying rent, being real gun dealers, taking information on people, et cetera. And a gun show comes into town, and you have people who do not have to do any of that.

And this is a problem. And it speaks specifically to problems like we see at the border.

I have one last question before we end this. The reason I brought up this whole issue of this 90 percent when we began, is to bring it back to the whole idea that, if there is something as policy-makers and as lawmakers that the Congress can do—some legislation or some program or something—that will help us to actually go after these people who are trafficking guns, who are running guns into Mexico, or bad sellers, who might be licensed correctly, but who are in fact selling to people who are pushing guns into Mexico.

And again, I come from the perspective of, I am not against guns, and I do not want to limit the ability for everyday people to buy a gun to go hunt or to protect their own home, or to go and, you know, shoot at the firing range.

What I want to figure out is how—is there a way in which we pass legislation that will help you do your job to stop what looks like legitimate gun dealers, who are really bad guys, or to stop illegitimate people, gun types of people, sellers, from helping to move these arms, in particular into Mexico?

And I would ask that of all of you.

Mr. MCMAHON. Well, first of all, the regulating firearms industry, right now there are about 59,000 federal license dealers that have gun shops. We actually have 540 investigators to regulate them.

So, obviously, the math is, right now we are trying to get to—along the border we are getting to all of those licensed dealers once every 3 years. That would be our goal across the country. But obviously, with the resources we have, there is no way we can get to 59,000 licensees.

That is on top of another 40,000 licensees that are either collectors or manufacturers, and then, on top of another 35,000 explosives licensees that those same 550 investigators have to regulate.

Ms. SANCHEZ. And so, when you asked for those additional resources every year, what category of worker was that?

Mr. MCMAHON. That was the industry operation investigators, the IOIs. We are looking for about—our plan is for 125 each year for the next 5 years—or 4 years, I am sorry.

Mr. PLACIDO. Madam Chairwoman, I have long marveled that my colleagues at ATF, and others who have to enforce gun laws, have a much more difficult situation than we have at the Drug Enforcement Administration. Drugs are contraband from the beginning, and we can proactively investigate people who traffic in these contraband substances.

Unfortunately, the Second Amendment oftentimes makes it lawful to have the weapons, and you can only conduct the investigation after the crime has occurred.

So, barring some change to our constitutional scheme, I do not know how we could investigate firearms in the same manner that we traditionally investigate drug trafficking.

Ms. SANCHEZ. But you would think that maybe we would need to, if we really want to stop some of this from happening. We acknowledge that.

It is just that, constitutionally, we really do not want—I mean, I do not want to take away the right to bear arms to the individual in the United States. It is just when they are buying 300 semiautomatic weapons, or something, I do not think they are going to hunt with all of those at the same time on the same day.

But, okay.

Mr. McCAUL. Will the gentlelady yield?

Ms. SANCHEZ. Yes, Mr. McCaul.

Mr. McCAUL. I would just like to make the point that, you know, it is illegal to smuggle weapons into Mexico. That is already a violation of the law, and we need to enforce that.

I think these BEST teams that I saw down in El Paso, for instance, I think enhancing that resource capability down there with the BEST teams—and perhaps, you know, and actually having Mexico do its job screening what is coming into its country—is perhaps one of the answers, one of the best answers to this.

I saw the dogs down there, and they were apprehending weapons and currency.

Of course, there are other points of entry and other ways to get it into Mexico.

And so, I share the gentlelady's concern about this issue. And I think that, you know, from a resource standpoint, we need to look at what can we do to enhance our efforts to capture the currency and the weapons going into Mexico.

Ms. SANCHEZ. Thank you, Mr. McCaul.

Mr. Kibble, would you have any—

Mr. KIBBLE. Chairwoman Sanchez, just to say that—

Ms. SANCHEZ. —words of wisdom?

Mr. KIBBLE. —with respect to our mission, the ICE mission, in terms of targeting cross-border smuggling, we feel we had the authorities we need between the Arms Export Control Act and our other export authorities. And that is one component—a significant component—of the broader interagency effort to deal with threat.

But obviously, with more resources we could more.

Ms. SANCHEZ. Thank you, Mr. Kibble.

I would like to recognize the gentlewoman from Texas, for 5 minutes.

Ms. JACKSON LEE. Thank you to the witnesses. And I thank the chair and ranking member for holding this meeting.

Mr. Placido, we have had an encounter some weeks ago. I hope we will have a better one this time.

The concern has gotten extensive. And we appreciate your service, and we appreciate the service that all of the officers of your various units give us every day. They are on the front lines.

I would like to start with Alcohol, Tobacco and Firearms. And I focus on my city, primarily because I have served on Homeland Security since 9/11, and on Judiciary since coming to the United States Congress. And I would view my questioning to be reflective of how we can improve our circumstances.

Why is Houston such an attractive site for gunrunning and for drugs? And the combination is explosive.

You are obviously aware of how hard our law enforcement are working. Just 2 weeks ago, I held a roundtable with Texas Rangers, Department of Public Safety, the sheriff, the police, constables, and it was very effective.

And I do thank your agencies that were participating—some of the agencies. ICE participated. We thank them very much.

So, tell us why they are such—it is such an attractive place? Speak openly about gun laws in Texas.

And as you well know, we have been suffering from what seems to be the acts of bad actors who happen to be undocumented aliens, who we are all collectively supporting. But that is not the face of immigration.

And so, we have a dual problem.

Can you share that with us, Mr. McMahon?

Mr. MCMAHON. Yes, I can.

Ms. JACKSON LEE. And the efforts that you have been making. And I would like you to add the Texas Rangers, if you are not, and the Texas Department of Public Safety officers as part of this team.

Mr. MCMAHON. Absolutely.

I believe why Houston and South Texas is one of our major sources of supply to Mexico is obviously the proximity to the border, the large population there. There are a large number of dealers there. There is a large supply of firearms in Texas. So, that makes it attractive to those who want to take advantage of our laws.

Our efforts, as I said earlier, we have an additional 100 personnel in South Texas right now. We are a small agency. We have to partner with people like the—

Ms. JACKSON LEE. So, if, for example, we would have enough interest that we would up your budget, could you use that money?

Mr. MCMAHON. Absolutely.

Ms. JACKSON LEE. You could use more than 100.

Mr. MCMAHON. I think, you know, when we move those 100 down there, the results are astronomical.

Ms. JACKSON LEE. And how well without—you have some in the Houston area.

Mr. MCMAHON. Yes. Houston and then—

Ms. JACKSON LEE. Do the laws of our state impact on it being a lightning rod—Houston, for example—for this gunrunning?

Mr. MCMAHON. Well, obviously, the laws—guns are accessible in the Houston area, more accessible there than some other states. But I think it is more so the proximity to the border, and then, obviously, the population size of the Houston area.

Ms. JACKSON LEE. And you think the effective roundtable or coordinating—and have you established—is it in a MOU, or you all just put together a task force?

Mr. MCMAHON. We have worked on task forces. Obviously, because of—an agency the size of us, we have to—

Ms. JACKSON LEE. You have to leverage your numbers.

Mr. MCMAHON. Absolutely.

Ms. JACKSON LEE. Mr. Placido, very quickly, I asked this question before, because Mr. Poe and I have legislation about dispatching extra numbers. So, let me put it in a different way.

Could you use more financial resources to help in the DEA effort? And particularly, how and why is Houston a lightning rod for, I assume, what is quite a bit of drug running?

Mr. PLACIDO. Thank you for the question. Clearly, we could do more with additional resources.

Houston historically has been a very important location in transnational drug trafficking. If you go back to the 1980s, it became in many senses a corporate headquarters for Colombian drug trafficking organizations, owing to a large population of Colombians there. And I do not mean to disparage ethnic groups, but there was a very large concentration of drug trafficking organizations based with their roots in Colombia.

As that traffic shifted and Mexican organizations began to take over transportation and retail distribution, Houston had a history—had the infrastructure, is close to the border—as a staging area. And it remains one of the critical nodes in smuggling of—

Ms. JACKSON LEE. So, if we can make a dent in Houston, we can make a large dent in some of the cross-border problems.

Mr. PLACIDO. Yes, ma'am.

Ms. JACKSON LEE. Madam Chairman, I ask unanimous consent for an additional minute for Mr. Kibble to answer as this time runs out.

Mr. Kibble, if you would. And as I indicated, Mr. Poe and I have legislation that helps to dispatch individuals—

Ms. SANCHEZ. Ms. Jackson Lee, would you have him answer the question? I have Mr. McCaul, who needs to—

Ms. JACKSON LEE. And so, if you would answer that question.

Ms. SANCHEZ. —would like to say something, if we have time.

Ms. JACKSON LEE. And then I can share with you the legislation. Mr. Kibble, thank you.

Mr. KIBBLE. Ms. Congresswoman, I mean, with the finite resources we have, we prioritize our efforts. With additional resources we could broaden those priorities to address more.

And very quickly, to the other issue that you had identified in terms of the criminal alien—

Ms. JACKSON LEE. Criminal aliens.

Mr. KIBBLE. —impact. We have other programs, such as Secure Communities, that we are rapidly deploying in order to—and prioritizing criminal aliens—in order to remove them as threats from our communities, as well.

Ms. JACKSON LEE. Let me thank you all very much. I look forward to working with you on this very severe problem. And I look forward to you looking at my legislation—

Ms. SANCHEZ. The gentlewoman's time has expired.

Ms. JACKSON LEE. —as it relates to more resources.

Thank you, Madam Chair, very much. This is an important—

Ms. SANCHEZ. We thank the witnesses for their valuable testimony, and the members for their questions. And the members of the subcommittee may have additional questions for the witnesses. We will ask you to respond quickly in writing to those questions. And hearing no further business, the subcommittee stands adjourned.

[Whereupon, at 11:34 a.m., the subcommittee was adjourned.]

## FOR THE RECORD

### QUESTIONS AND RESPONSES

QUESTIONS FROM THE HONORABLE LORETTA SANCHEZ, CHAIRWOMAN,  
SUBCOMMITTEE ON BORDER, MARITIME, AND GLOBAL COUNTERTERRORISM,

RESPONSES FROM KUMAR KIBBLE

**Question 1.:** GAO recently reported (GAO-09-709) that there was a lack of information sharing between ATF and ICE on firearms trafficking issues at the El Paso Intelligence Center (EPIC), which was established to facilitate coordinated intelligence gathering and dissemination among member agencies related to southwest border efforts to address drug, alien, and weapons smuggling. Separately, GAO reported (GAO-09-63) that ICE has not participated fully in DEA-operated intelligence centers, which leaves them lacking an important source of information and intelligence.

**What steps are being taken to improve cooperation and information sharing between ATF and ICE at EPIC and DEA and ICE at DEA-operated intelligence centers?**

**Response:** On June 30, 2009, the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) and U.S. Immigration and Customs Enforcement (ICE) updated a memorandum of understanding (MOU) that clearly establishes how the two agencies will work together on investigations of international firearms trafficking and possession of firearms by illegal aliens.

The MOU will optimize the resources and minimize the duplication of efforts by each agency. This agreement establishes a framework for both agencies to conduct investigations and share intelligence. ATF and ICE routinely conduct joint investigations. This agreement clarifies the notification process each agency is expected to follow while investigating the international trafficking of firearms, ammunition, explosives, weapons and munitions. Both agencies are committed to working together to reduce firearms-related violence along the U.S. border.

More recently, ATF's Acting Director and ICE's Assistant Secretary visited with Mexican officials to discuss ways to coordinate firearms trafficking and smuggling investigations on both sides of the border.

The ICE Office of Intelligence (Intel) assigned personnel to the "EPIC Gun Desk," which is located within the Watch Operations area at the El Paso Intelligence Center (EPIC). Prior to the integration of ICE personnel into the "Gun Desk" operation, the function had been known as the "ATF Gun Desk." In keeping with the collaborative initiative of ICE personnel working closely with ATF personnel, the name of the operation was changed to the "EPIC Gun Desk" to reflect the inclusion of ICE in the operation. Previously, the "Gun Desk" served as a central repository for weapons-related intelligence information. ICE personnel review weapon seizures received from multiple domestic and foreign sources and coordinate with ATF personnel to link the seized weapon information to active investigations. However, in August, ATF, in coordination with EPIC, created the Special Projects Unit (SPU). ICE has agreed to provide two analysts to this team. Now the SPU will serve as the central repository for weapons-related intelligence and information. ICE works closely with ATF to conduct outreach and education for weapons dealers through the ATF Federal Firearms License Inspections Program.

ICE Intel has been given access to E-trace, ATF's electronic tracing tool. ICE personnel coordinate with ATF to proactively utilize this tool to develop potential leads for investigative field agents. In 2006, ICE signed an E-trace memorandum of understanding (MOU) with ATF.

In addition, ICE has assigned personnel to the Watch Operations Unit and the Southwest Border Unit at EPIC to coordinate with the Drug Enforcement Administration (DEA) on all drug-related issues.

Through Operation Archangel, ICE Intel partnered with DEA to provide real-time intelligence to law enforcement on drug trafficking operations along the southwest border. DEA and ICE share a strong interest in stopping the unlawful flow of narcotics into the United States. By harnessing DEA's expertise in enforcing controlled substance laws and ICE's expertise in investigating the unlawful importation and exportation of contraband, the agencies can most effectively dismantle and disrupt trafficking organizations like those which are engaged in violence along the Southwest Border.

On June 18, 2009, ICE and DEA entered into a new interagency agreement to increase the number of agents targeting international drug traffickers, improve and enhance information and intelligence sharing, and promote effective coordination between the agencies. The interagency agreement greatly strengthens the sharing of drug intelligence and the coordination and deconfliction of drug enforcement investigations. Under the new agreement, ICE will select special agents for cross-designation by DEA. These ICE agents will be authorized to investigate drug cases with a clear nexus to the U.S. borders or ports of entry. On August 6, 2009, ICE also entered into an agreement to participate in the Department of Justice's Organized Crime Drug Enforcement Task Force (OCDETF) fusion center. ICE's full participation in the OCDETF Fusion Center will enable federal law enforcement partners to more closely coordinate investigations. ICE and others will also be able to share information about the seizure of money and other contraband from those engaged in criminal conduct. This type of information sharing enables the agencies to make important links between these seizures and international drug trafficking organizations.

ICE continually looks for ways to improve cooperation and information sharing between partner law enforcement agencies.

**Question 2.:** ICE and DEA signed an MOU in June to ensure that law enforcement efforts are more fully coordinated on investigations involving firearms trafficking and related crimes.

**What sort of formal mechanisms are ICE and DEA putting in place to ensure that they coordinate and share information?**

**What additional steps, beyond the MOU, if any, do the agencies plan to take to improve interagency coordination and cooperation?**

**What metrics will be used to assess implementation of the MOU?**

**Response:** U.S. Immigration and Customs Enforcement (ICE) and the Drug Enforcement Administration (DEA) are committed to information sharing which will lead to the dismantling and disrupting of drug trafficking organizations. The interagency cooperation agreement between ICE and DEA signed on June 18, 2009, outlines formal mechanisms that will ensure interagency coordination and information sharing. The following are the formal mechanisms outlined in the agreement:

- On August 6, 2009, ICE entered into an agreement to participate in the Organized Crime Drug Enforcement Task Force (OCDETF) Fusion Center (OFC) through which ICE will share and coordinate investigative information with a number of agencies, including the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) and DEA. ICE will fully participate in and staff the OCDETF OFC and the Special Operations Division (SOD).
- ICE fully intends to participate and share information to the same extent as other major federal partners in the OFC and SOD. ICE has committed to sharing all investigative reports, records, and subject indexing records from open and closed investigations, including those related to drugs, money laundering, bulk cash smuggling, and financial crimes, gangs, and weapons.
- CE has agreed to provide access to data related to all seizures of money, drugs, and firearms, including date, type of contraband, amount, place of seizure, and geospatial data when known, at the El Paso Intelligence Center (EPIC).
- The attached memorandum of understanding (MOU) stipulates that all entry level supervisors are responsible for ensuring that personnel under their supervision fully de-conflict and comply with the MOU.
- The MOU also requires the establishment of a Title 21 Coordinator. ICE and DEA will select a Title 21 coordinator at a level no lower than an assistant special agent in charge, for each office. The Title 21 coordinator will ensure cooperation, communication, coordination, and de-confliction for Title 21 matters affecting their respective offices.



- ICE and DEA also will form a headquarters review team comprised of senior managers from the respective agencies to resolve de-confliction and coordination issues.
- The agreement directs ICE and DEA to utilize established local and regional de-confliction centers and/or procedures prior to engaging in enforcement activity.

In addition to the formal mechanisms in the agreement, ICE plans to improve interagency coordination and cooperation. These mechanisms center on joint investigations and investigative task forces. ICE and DEA routinely conduct joint investigations and combine resources through established investigative task forces such as the Border Enforcement Security Task Force, the Organized Crime Drug Enforcement Task Force, the High Intensity Drug Trafficking Area, High Intensity Financial Crimes Area, Panama Express, and Caribbean Corridor.

No metrics have been developed at this time; however, ICE will continue to look at successes to measure joint partnerships. The new agreement will be reviewed after one year. Following that review, the agreement will be reviewed every two years. The MOU is attached for further clarification.

**Question 3.:** The 2009 National Southwest Border Counternarcotics Strategy contains some goals for agencies for combating firearms trafficking but lacks details about how to accomplish those goals. GAO recently reported that ONDCP said that an implementation plan for the 2009 Strategy, due some time this year, will contain details on how the agencies should accomplish those goals.

**What role are ATF and ICE playing in the creation of this implementation plan?**

**What mechanisms will be put in place to ensure agencies are accomplishing the goals outlined in the strategy and the detailed tasks ONDCP stated will be laid out in the Strategy's implementation plan?**

**What are ATF and ICE's plans for funding any new activities or efforts laid out in the Strategy, or in the forthcoming implementation plan for the Strategy?**

**Response:** U.S. Immigration and Customs Enforcement (ICE) and the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) participated in drafting Chapter 7, "Weapons," of the 2009 National Southwest Border Counter Narcotics Strategy (NSBCNS). ICE and ATF led a working group through the development and coordination of the specific chapter, collected and consolidated all input and ensured consensus among working group members for all material submitted. ICE and ATF also are working with interagency partners on the strategy's implementation process. The working group is also currently working on performance measures for a strategy that will support future progress updates.

ICE has temporarily detailed, utilizing base funds, 110 special agents from around the U.S., to various offices along the Southwest Border and in Mexico City in support of Border Enforcement Security Task Forces to combat weapons and bulk cash smuggling into Mexico. The operation focuses on contraband, firearms, ammunition, undeclared U.S. currency, stolen vehicles, and human smuggling among other things, at and between ports of entry along the U.S./Mexico border. ICE recently completed a spending plan for the Fiscal Year (FY) 2009 supplemental resources to fund 110 permanent special agent positions along the Southwest Border; these positions would replace the need for the 110 temporarily detailed special agents currently assigned there. ICE has requested an additional \$25 million in the fiscal year 2010 budget to address arms, drugs, and cash smuggling along the southwest border that is specifically called for in the 2009 NSBCNS. No other funding is envisioned at this time.

In addition to the steps already mentioned, both ICE and ATF have assigned Liaison Officers to the Office of National Drug Control Policy who in turn are able to address all issues that impact the implementation of the Southwest Border Strategy and the needs/requirements of their respective agencies with ONDCP. ICE continually looks for ways to improve cooperation and information sharing between partner law enforcement agencies.

**Question 4.:** GAO's report (GAO-09-709) also recommended that ATF and ICE improve their data on arms trafficking, including regarding firearms trace data, assessments of southbound arms smuggling trends, and the results of their efforts to combat arms trafficking.

**What plans does ATF have for updating its reporting on aggregate firearms trafficking data and trends?**

**Will ATF and ICE share comprehensive data and leverage each other's expertise and analysis on future agency assessments, including DHS assessments of southbound weapons smuggling trends?**

**How will ATF and ICE ensure the systematic gathering and reporting of data related to results of their efforts to combat arms trafficking, including firearms seizures, investigations, and prosecutions of individuals involved in their investigations?**

**Response:** On June 30, 2009, the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) and U.S. Immigration and Customs Enforcement (ICE) updated a memorandum of understanding (MOU) that clearly establishes how the two agencies will work together on investigations of international firearms trafficking and possession of firearms by illegal aliens.

ICE defers to ATF to respond to the question regarding ATF's plans to update its reporting on aggregate firearms trafficking data and trends.

The MOU will optimize the resources and minimize the duplication of efforts by each agency. This agreement establishes a framework for both agencies to conduct investigations and share intelligence. ATF and ICE routinely conduct joint investigations. This agreement clarifies the notification process each agency is expected to follow while investigating the international trafficking of firearms, ammunition, explosives, weapons and munitions. Both agencies are committed to working together to reduce firearms-related violence along the U.S. border.

The ICE Office of Intelligence (Intel) provided ATF with the Strategic Assessment: U.S. Southbound Weapons Smuggling for review and comment prior to production. ICE Intel is currently updating the Assessment and will provide it to ATF for review and comment. In addition, ICE Intel continues to share products with ATF and other partners at the El Paso Intelligence Center (EPIC).

ICE is committed to working with ATF in the development of joint intelligence assessments relevant to southbound weapons smuggling trends. Intelligence sharing between ICE and ATF typically involves exchanges of finished intelligence assessments and the routine daily interaction of each agency's intelligence analyst personnel assigned to EPIC's Special Projects Unit (SPU). Recognizing the need for increased interaction, ICE has assigned a permanent full-time equivalent to the SPU housed at EPIC which serves as the central repository for weapons-related intelligence information. SPU personnel review reports of weapons seizures, conduct research through ICE, ATF and EPIC data resources, and link the seized weapons to active investigations and/or reports of stolen or lost weapons. Intelligence collaboration between ICE and ATF will assist in the production of joint tactical and operational intelligence assessments that will result in significant weapons-related investigations and prosecutions.

ICE continually looks for ways to improve cooperation and information sharing between partner law enforcement agencies. ATF's Office of Strategic Intelligence and Information maintains a good ongoing collaborative relationship. Our analysts routinely collaborate on matters of mutual interest through information sharing. At EPIC, ATF and ICE make up a team dedicated to the collection, analysis and dissemination of weapons-related intelligence and information. This intelligence and information is shared with all partner agencies at EPIC.

**Question 5:** ICE and ATF signed an MOU at the end of June to ensure that law enforcement efforts are more fully coordinated on investigations involving firearms trafficking, drug trafficking, and other serious crimes.

**Recognizing that both ATF and ICE have a role in combating arms trafficking to Mexico, will one agency assume a lead role on investigations and efforts to combat arms trafficking to Mexico, or how will efforts be organized?**

**What sort of formal mechanisms are ATF and ICE putting in place to ensure that they coordinate and share information?**

**What additional steps, beyond the MOUs, if any, do the agencies plan to take to improve interagency coordination and cooperation?**

**Response:** The lead role for any investigation involving firearms, drug trafficking and other serious crimes is contingent on many circumstances including, but not limited to, international trafficking/smuggling violations, sources of information, investigative activities at the ports of entry, and federal firearms licensees. Since U.S. Immigration and Customs Enforcement (ICE) and the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) have complementary investigative roles, they will work together to combat arms trafficking to Mexico. The June 30, 2009, memorandum of understanding (MOU) between ICE and ATF formalizes a partnership to promote effective, coordinated and collective law enforcement efforts both nationally and internationally.

ATF's investigative jurisdiction is broad and includes administration and enforcement of firearms and explosive laws and regulations, to include investigating federal

crimes involving the possession, licensing, transportation, sale and receipt of firearms, explosives, and ammunition, in interstate or foreign commerce.

ICE is responsible for the enforcement of export and smuggling laws, including those pertaining to firearms. ICE enforces a number of export-related laws, including 18 U.S.C. §§ 541–555 (customs), 19 U.S.C. § 1627 (stolen vehicles), and 31 U.S.C. § 5332 (bulk cash smuggling). ATF is responsible for administration and enforcement of the importation provisions of section 38 of the Arms Export Control Act (AECA), relating to the importation of arms, ammunition, and implements of war. ATF also enforces the Gun Control Act of 1968, the National Firearms Act, Title VII of the Omnibus Crime Control and Safe Streets Act of 1968, and Title II of the Organized Crime Control Act of 1970. These statutes provide for ATF's administration and enforcement of licensing, sales, possession and related domestic violations.

ICE has broad authority to enforce and investigate violations of law governing the illegal export, and temporary import, of arms, ammunition and implements of war, pursuant to the AECA, and its implementing regulations. ICE has been provided with the authority to investigate violations of the export provisions of AECA, as noted in 22 C.F.R. § 127.4. Through the Export Administration Act (EAA), and its implementing regulations, ICE has the authority to investigate, seize and detain any export or attempted export of dual-use commodities. In certain circumstances, ICE may also employ the International Emergency Economic Powers Act or the Trading with the Enemy Act.

The 2009 MOU between ICE and ATF includes provisions within section VI that delineate the steps to monitor the implementation of the MOU, and to resolve inter-agency conflicts. Monitoring of the MOU's implementation and the resolution of conflicts will begin at the lowest possible level and will rely on the sound judgment of the ICE and ATF special agents in charge to ensure deconfliction of issues or activities in the field. In addition, the MOU establishes formal guidelines to ensure that ICE and ATF will coordinate and share information.

In those instances where competing equities prevent the field elements from reaching a mutually satisfactory conclusion on any matter under the purview of the MOU, the ICE Director, Office of Investigations, and the ATF Assistant Director, Field Operations, will adjudicate the conflict, if necessary.

ICE is committed to working with ATF to develop joint intelligence assessments relevant to southbound weapons smuggling trends. Intelligence sharing between ICE and ATF typically involves exchanges of finished intelligence assessments and the routine daily interaction of each agency's analysts assigned to the El Paso Intelligence Center (EPIC) Special Projects Unit (SPU). Recognizing a need for increased interaction, ICE has assigned a permanent analyst to EPIC's SPU, which serves as a central repository for weapons-related intelligence information. SPU personnel review reports of weapons seizures, conduct research through ICE, ATF and EPIC data resources, and attempt to link the seized weapons to active investigations and reports of stolen or lost weapons. Intelligence collaboration in this manner between ICE and ATF will assist in the production of joint tactical and operational intelligence assessments that may result in significant weapons-related investigations, and will serve as the basis for large-scale operations. As previously noted ATF's Office of Strategic Intelligence and Information and ICE's Office of Intelligence will continue to collaborate and share intelligence and information.

ICE constantly looks for ways to improve cooperation and information sharing between partners and law enforcement agencies. For instance, ATF participates in several of ICE's Border Enforcement Security Task Forces.

The MOU is attached for further clarification.

QUESTIONS FROM THE HONORABLE ANN KIRKPATRICK, A REPRESENTATIVE IN  
CONGRESS FROM THE STATE OF ARIZONA

**Question 6:** The MOU states that ICE will invite the DEA to participate in investigations involving Title 21 authority.

**How will this participation work?**

**Would ICE remain the lead agency on the investigation?**

**Would the DEA have any authority to either change the course of the investigation or take over the case?**

**Response:** The Interagency Cooperation Agreement between U.S. Immigration and Customs Enforcement (ICE) and the Drug Enforcement Administration (DEA) states that ICE will notify DEA of investigations involving the exercise of Title 21 authority. Further, ICE will invite DEA to participate in the Title 21 investigation. However, this invitation provision does not apply to arrests and seizures at the border or port of entry where no follow-up investigation is conducted. The cognizant ICE and DEA special agent in charge (SAC) will determine the manner of notifica-

tion and invitation. An invitation from ICE to DEA to participate in a Title 21 investigation will materialize through individual joint investigations and through established interagency task forces such as the Border Enforcement Security Task Force, the Organized Crime Drug Enforcement Task Force, the High Intensity Drug Trafficking Area, High Intensity Financial Crimes Area, Panama Express, and Caribbean Corridor. The agreement states that ICE and DEA will invite each other to participate in joint task forces.

ICE will remain the lead agency for investigations in which it invites DEA to participate.

The issue of authority to either change the course of the investigation or take over the case would be resolved by the following process:

- In the event non-exigent disputes over investigations cannot be resolved by either the designated ICE and DEA Title 21 assistant special agent in charge (ASAC), or the respective SAC's, then the ICE/DEA headquarters review team (HRT) comprised of three senior managers from each agency will resolve coordination issues.
- In the event that a dispute cannot be resolved at either the ASAC or SAC level, the DEA SAC will make a decision and the agencies will act in accordance with that decision.

The MOU is attached for further clarification.<sup>1</sup>

QUESTIONS FROM THE HONORABLE LORETTA SANCHEZ, CHAIRWOMAN, SUBCOMMITTEE ON BORDER, MARITIME, AND GLOBAL COUNTERTERRORISM

RESPONSES FROM ANTHONY PLACIDO

**Question 1:** GAO recently reported (GAO-09-709) that there was a lack of information sharing between ATF and ICE on firearms trafficking issues at the El Intelligence Center (EPIC), which was established to facilitate coordinated intelligence gathering and dissemination among member agencies related to southwest border efforts to address drug, alien, and weapons smuggling. Separately, GAO reported (GAO-09-63) that ICE has not participated fully in DEA-operated intelligence centers, which leaves them lacking an important source of information and intelligence.

**What steps are being taken to improve cooperation and information sharing between ATF and ICE at EPIC and DEA and ICE at DEA-operated intelligence centers?**

**Response:** Under the June 18, 2009, Interagency Cooperation Agreement (ICA) between DEA and ICE, ICE has committed to sharing all investigative reports, records, and subject indexing records from open and closed investigations, including those related to drugs, money laundering, bulk cash smuggling and financial crimes, gangs, and weapons. DEA will continue to participate fully in and share all information at the OCDETF Fusion Center (OFC) and Special Operations Division (SOD).

ICE also agrees to provide, and will have access to, data related to all seizures of money, drugs, and firearms, including date, type of contraband, amount, place of seizure, and geo-spatial data, when known, at the El Paso Intelligence Center (EPIC). DEA will continue sharing this data at EPIC.

The EPIC Gun Desk serves as a central repository for weapons-related intelligence information. Co-located ICE Office of Intelligence (OINT) and ATF Gun Desks personnel review reports of weapons seizures, which are acquired from multiple U.S. domestic and foreign law enforcement sources. ATF and ICE Gun Desk analysts research the reported weapon-related information through ICE, ATF and EPIC data resources and attempt to link the seized weapons to ATF and other agency investigations and reports of stolen or lost weapons.

The Border Violence Intelligence Cell (BVIC) at EPIC is a central point within ICE to better support efforts to combat outbound weapons smuggling and overall border violence along the United States-Mexico Border. The BVIC produces strategic intelligence products that provide partner agencies at EPIC and within the ICE Border Enforcement Security Task Forces (BESTs) with a global view of the criminal activity fueling acts of border violence. Plans are underway, which include facility workspace modifications, to incorporate ICE personnel into the EPIC Southwest Border Unit (currently comprised of DEA, FBI, CBP, ATF and Texas DPS personnel) to enhance information and intelligence sharing.

<sup>1</sup>[The referenced MOU is maintained in the committee files.]

**ICE and DEA**

**Questions 2.:** ICE and DEA signed an MOU in June to ensure that law enforcement efforts are more fully coordinated on investigations involving firearms trafficking and related crimes.

**What sort of formal mechanisms are ICE and DEA putting in place to ensure that they coordinate and share information?**

**Response:** The ICA authorizes the Assistant Secretary for ICE to select an unlimited number of ICE agents for cross-designation by the Administrator of DEA whose duties include the investigation of narcotics with a clearly articulable nexus to the borders or Ports of Entry, including the transportation and staging activities within the United States or between the source or destination country and the United States. Deconfliction between DEA and ICE is paramount and mandatory in investigations. ICE and DEA supervisors at every level are responsible for ensuring personnel under their supervision fully deconflict and comply with the inter-agency agreement.

DEA and ICE have established a Title 21 Coordinator position in each division who will be the liaison for Title 21 investigations.

ICE will establish a Title 21 Coordinator in foreign locations where ICE has an office. The Title 21 Coordinator will be the liaison with the DEA office head in that country.

Both DEA and ICE committed to extensive information sharing in the interagency agreement. ICE has committed to full participation in the OCDETF Fusion Center and SOD. They will also provide seizure data to EPIC, but have not committed to full staffing at EPIC. DEA will continue to participate fully in and share all information at the OCDETF Fusion Center and SOD.

The interagency agreement calls for use of existing regional coordination centers in addition to locally agreed upon deconfliction methods.

DEA is responsible for the coordination of all Federal drug investigations to ensure deconfliction and compliance with all relevant protocols. Through the Office of International Affairs (OIA) and its ICE Attachés, ICE works with domestic and foreign counterparts to identify and combat criminal organizations *before* they can adversely impact the United States and to facilitate domestic ICE investigations involving transnational criminal organizations, including drug smuggling investigations. ICE Attachés are the Department of Homeland Security's (DHS) investigative component in U.S. Embassies responsible for coordinating operations within DHS and between DHS and other Federal agencies regarding the interdiction of illegal drugs entering the United States and investigating connections between illegal drug trafficking and transnational criminal organizations. Accordingly, ICE Attachés are responsible for coordinating and deconflicting any drug enforcement activities with the DEA Attaché or designee.

ICE and DEA have agreed upon establishment of a Headquarters Review Team (HRT) to address coordination issues. In the field, the strategy and manner of operational deconfliction will be left to the sound discretion of DEA and ICE Special Agents in Charge (SACs) at the local level.

Furthermore, the interagency agreement sets forth procedures for both ICE and DEA to coordinate investigations. ICE and DEA will invite each other to participate in each other's task forces. ICE will invite DEA to participate in all ICE Title 21 investigations. DEA will notify ICE if they are conducting a pass through operation. In addition, if during the course of a Title 21 investigation in either the domestic or foreign arena, if DEA determines that a case has a connection to alien smuggling, nondrug-related international illicit financial schemes, human trafficking, or significant quantities of counterfeit or other nondrug contraband, DEA will notify and invite ICE to participate in the investigation or refer these non-Title 21 offenses to ICE.

**Question 3.: What additional steps, beyond the MOU, if any, do the agencies plan to take to improve interagency coordination and cooperation?**

**Response:** The ICA provides for DEA and ICE Special Agents in Charge (SACs) to agree on local coordination protocols which will implement the terms of the ICA. They will also invite each other to participate in the other's task forces when an investigation involves criminal conduct falling under the jurisdiction of more than one agency. These task forces include, but are not limited to, the OCDETF Strike Forces, the BESTs, and the High Intensity Drug Trafficking Areas (HIDTAs). These coordination procedures, when coupled with the strong information sharing procedures, will greatly improve interagency relationships.

**Question 4.: What will be used to assess implementation of the MOU?**

**Response:** DEA and ICE will conduct a review of the ICA one year after the initial effective date. The Headquarters Review Team provided for in the ICA will also

identify global issues so that they may be addressed and resolved. Subsequent reviews will occur every two years thereafter.

**DEA**

**Question 5.:** The DEA has the largest federal law enforcement presence overseas. The MOU recognizes this presence by making clear that DEA remains the “single point of contact” for drug investigations in foreign countries. The MOU also makes clear, however, that such a responsibility does not mean that DEA will supervise ICE’s investigative activities overseas.

**Please describe foreign law enforcement activities and the oversight you generally perform on the investigations of other agencies, including ICE. How does the MOU change DEA’s overseas activities or oversight responsibilities?**

**Response:** DEA has global responsibilities for enforcing U.S. drug laws. As part of a Country Team within a U.S. embassy, DEA acts as the focal point with foreign law enforcement officials on drug law enforcement operational and intelligence matters. This role assures coordination, maximizes investigative effectiveness, promotes agents’ safety, and unifies the U.S. Government’s drug control efforts undertaken in foreign countries. However, ICE Attachés serve as DHS’ investigative component in U.S. embassies for coordinating policy and operations within DHS and between DHS and other Federal agencies regarding the interdiction of illegal drugs entering the U. S . and investigating connections between illegal drug trafficking and transnational criminal organizations.

The oversight by DEA is maintained by DEA ensuring: (a) that the foreign extensions of all U.S. drug investigations are coordinated properly within the U.S. embassy in the host country, as well as with the relevant law enforcement authorities of that host country; and (b) that the foreign extension of any U.S. drug investigation complies with all relevant legal obligations and understandings of and between the U.S. Government and the host country.

Operational foreign drug investigative activities require coordination of those activities, between both the requesting agency and DEA, as well as with the Ambassador and other relevant agencies. As noted in the ICA, DEA does not directly supervise ICE’s investigative activities, direct the strategy or set the objectives of ICE investigative matters. Instead, DEA’s review of the planned foreign drug investigative activities ensures the compliance discussed above and prevents conflict with other ongoing investigative matters.

ICE may investigate drug smuggling cases with a clearly articulated nexus to the U.S. borders. The investigation may take place abroad in coordination with DEA. This agreement will continue to ensure the U.S. Government speaks with one voice, while also expanding our investigative efforts overseas.

**Questions 6.:** Under a 1996 MOU between the former Immigration and Naturalization Service and the DEA, Border Patrol agents transfer drug and related intelligence intercepted between the ports of entry to the DEA. Many, including and DHS’ Office of Counternarcotics, have questioned whether this practice makes sense from an operational standpoint, since ICE could be utilized to perform the same investigation within the same department.

**Will the Title 21 MOU between ICE and DEA affect Border operations?**

**Response: The DEA/ICE ICA does not change the existing procedure between DEA and CBP (INS) as established in the MOU dated March 25, 1996.**

**Question 7: Are there any plans to update the 1996 between Border Patrol and DEA?**

**Response:** There are no plans to update the 1996 at the present time.

QUESTIONS FROM THE HONORABLE ANN KIRKPATRICK (AZ-01), SUBCOMMITTEE ON BORDER, MARITIME, AND GLOBAL COUNTERTERRORISM:

**Question 1.:** The MOU states that ICE will invite the DEA to participate in investigations involving Title 21 authority.

**How will this participation work?**

**Response:** ICE will notify DEA of investigations involving the exercise of Title 21 authority by contacting the appropriate DEA Title 21 Coordinator. The manner of notification will be determined by the ICE and DEA SACs. As part of the notification, ICE will invite DEA to participate in the investigation. Furthermore, the use of joint task forces like the Organized Crime Drug Enforcement Task Force (OCDETF) Strike Forces, the Border Enforcement Security Task Forces (BESTs), and the High Intensity Drug Trafficking Areas (HIDTAs) will also serve as a mechanism for participation. Aside from ICE notification to DEA, DEA will notify ICE if they are conducting a pass through operation. In addition, if during the course of

a Title 21 investigation in either the domestic or foreign arena, if DEA determines that a case has a connection to alien smuggling, nondrug-related international illicit financial schemes, human trafficking, or significant quantities of counterfeit or other nondrug contraband, DEA will notify and invite ICE to participate in the investigation or refer these non-Title 21 offenses to ICE.

**Question 2.: Would ICE remain the lead agency on the investigation?**

**Response:** The Interagency Coordination Agreement (ICA) does not specify which agency would be the lead agency in the event investigations are of interest to both DEA and ICE. Therefore, designation, if merited, of the lead agency will be made at the local level and will be determined by the circumstances of the investigation, including whether it relates to a long-term ongoing investigation already in existence, whether the target organization is also engaging in non-drug crimes (for example, alien smuggling) and whether investigative resources available to each agency under non-exigent circumstances. However, under exigent circumstances if the line supervisors, the respective Title 21 coordinators and the DEA and ICE SACs cannot resolve the conflict or issue, the DEA SAC will make a decision and the agencies will act in accordance with the decision followed by a written explanation within 48 hours which may be elevated to a Headquarters Review Team (HRT).

**Question 3.: Would the DEA have any authority to either change the course of the investigation or take over the case?**

**Response:** Both DEA and ICE bring independent expertise to a Title 21 investigation. Case direction should be determined by input of both agencies. If a conflict arises which cannot be resolved locally, it may be referred to the HRT for resolution. The HRT is comprised of three senior managers from DEA and ICE, including the DEA Chief of Operations and the ICE Director of Investigations. The DEA Chief of Operations chairs the HRT and the ICE Director of Investigations is the vice chair. While the HRT has not convened to date, the HRT will resolve disputes by majority vote. If the HRT is unable to resolve the issue arising under the ICA by majority vote, the DEA Chief of Operations will provide a decision which ICE may appeal to the agency heads.

