

MONEY LAUNDERING AND BULK CASH SMUGGLING: CHALLENGES FOR THE MÉRIDA INITIATIVE

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THE SCOPE OF THE PROBLEM

It is widely accepted that cutting off the flow of money from the sale of cocaine in the United States to the Mexican drug trafficking organizations is one of the most efficient ways to decrease the power of the cartels. Without the cash influx there would be less money for corruption and the purchase of weapons, and cash seizures directly take away what the drug traffickers want most — profits from their illicit activities.

On both sides of the border the smuggling of bulk cash and money laundering tied to the billions of dollars in profits is not just viewed as a problem for Mexico, but as a significant security threat to the United States. Parts of Mexico have seen the homicide rate skyrocket in recent years, particularly Ciudad Juárez. The Calderón administration has felt obligated to deploy the military to support and in some cases supplant local law enforcement because of the strength of the cartels and the deep seated corruption among the law enforcement and judicial structures.

“The prevention of money laundering and the financing of terror are today a matter of high priority, both nationally and internationally because they concern complex phenomena with serious economic and social consequences because they allow organized crime to finance criminal activities,” said a recent Mexican policy statement. “These activities generate public insecurity and social destabilization and can severely damage the reputation of financial sectors and the country itself.”¹

The 2009 National Drug Threat Assessment of the U.S. Department of Justice (NDIC report) described Mexican drug trafficking organizations as “the greatest organized crime threat to the United States.”² The report found that drug trafficking organizations place a high priority on legitimizing the proceeds of their drug sales and that “bulk cash is a prominent method” for Mexican organizations to move their cash.³

Given the stated priorities of both governments to enhance the money laundering structures and halt bulk cash shipments, it is striking that direct funding for such

¹“Tipologías Del GAFI Aplicables a Los Sectores Asegurador y de Remesas,” Unidad de Inteligencia Financiera, Secretaría de Hacienda y Crédito Público Informe 2009.

²“National Drug Threat Assessment 2009,” National Drug Intelligence Center, Department of Justice, January 2009, p. 43.

³“National Drug Threat Assessment 2009,” *op cit.*, p. 45.

efforts is a very small part of the Mérida Initiative.⁴ Some components of the Initiative, such as the non-intrusive inspection equipment at border check points, the training of prosecutors in financial crime investigations, and exchange of personnel for financial intelligence work touch on the financial issues but very little is directly aimed at the structural issues of money laundering and bulk cash shipments.

While Mexico has taken significant steps to allow the state to seize illicit funds and goods obtained from illicit funds, the near-unanimous consensus of those interviewed and the available literature is that very little is effectively being done to either impede the movement of drug money into the formal economy or significantly reduce the flow of bulk cash across the U.S.-Mexico border.

A recent International Monetary Fund assessment of Mexico's money laundering efforts found that of the 149 indictments issued for money laundering from 2004 through 2007, only 30 have gone through the judicial system, resulting in only 25 convictions. That is roughly only six convictions a year. The IMF report noted that "most of those convictions resulted from uncomplicated investigations arising out of seizures of cash at the airports and borders where the defendants were unable to demonstrate the legal origin of the funds. Given the level and sophistication of organized criminal activity in Mexico, these results reflect a disappointing lack of effectiveness in Mexico's money laundering offense."⁵

More bluntly, Dr. Edgardo Buscaglia of the Instituto Tecnológico Autónomo de México said, summarizing the sentiment expressed by many experts, efforts to combat money laundering "are a small dam in the middle of a large ocean."⁶

Current border detection architecture on both sides of the border is designed almost entirely to detect and halt the northward flow of cocaine and heroin. Despite years of discussions about the importance of cutting off bulk cash shipments, only over the past year have serious efforts begun to effectively monitor and interdict southbound flows of bulk cash and weapons. Even so, there is almost none of the infrastructure in place that would be necessary seriously tackle the issue.

In addition to these broad structural and funding issues, there are significant challenges in assessing the amounts of bulk cash shipments and money laundered through Mexico's formal and informal economies, and the relative importance of different methodologies to the cartels. This is in part because it is an illicit business that is highly lucrative and designed to make the money movements as opaque as possible. The first challenge is defining the scope of the problem.

⁴The Mérida Initiative, announced in 2008, has provided roughly \$400 million a year for three years to support Mexico's counter-narcotics efforts, primarily equipment, and \$65 million a year for the Central American nations for the same purpose. See: Manuel Roig Franza, "Anti-Drug Assistance Approved For Mexico," *Washington Post*, June 28, 2008.

⁵"Mexico: Detailed Assessment Report On Anti-Money Laundering and Combating the Financing of Terrorism," International Monetary Fund, Country Report 09/7, January 2009, p. 8.

⁶Author interview, Mexico City, Feb. 4, 2010.

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Historically, Mexico has been the single greatest source of U.S. currency repatriated by a foreign country to the United States. Documented inflows from Mexico have customarily exceeded outbound reporting linked to legitimate sources such as worker remittances and cross-border commerce, exposing a substantial unexplained gap.

The gap has long been attributed, in part, to bulk cash smuggling associated with transnational criminal activity such as drug trafficking and alien smuggling activity.⁷ Regardless of the precise numbers, there is little doubt that bulk cash smuggling is an important element in the drug trade. The March 2007 seizure of \$207 million in cash from drug trafficking proceeds from a Mexico City residence is a dramatic example of the scope of the problem.⁸

The challenge is to accurately assess the size and meaning of that gap. While the Mexican government estimates the amount at about \$11 billion a year, the financial services firm KPMG estimates the amount at \$25 billion, while the estimates of respected academics range from \$6 billion to \$36 billion.⁹

A second challenge is determining how and why different methods of transferring money are used, and how they shift over time. This is useful particularly in seeking to identify points of vulnerability in the process. Historically much of the money — up to 80 percent by some estimates generated by the Mexican drug trafficking cartels are used to buy new shipments of cocaine, meaning that the total amount left in Mexico for the traffickers' use is considerably less than the amount of revenue generated by drug trafficking activities. For reasons described below the estimates of 80 percent in outbound payments is likely significantly higher than reality now indicates.

⁷Author interviews in the United States and Mexico.

⁸Mexican authorities on March 15, 2007, announced the seizure of approximately \$207 million in currency from the Mexico City home of pseudoephedrine trafficker Zhenli Ye Gon. Mexico's Office of the Attorney General (PGR) reported that \$205,564,763 in U.S. currency, €201,460 Euros, 17,306,520 Mexican pesos, \$20,000 in American Express Traveler's Checks, \$180 in Canadian currency, HK\$113,260, 17,000 yen, 9,935 Chinese renminbi (RMB), two Portuguese 20-denomination banknotes, and 53 counterfeit U.S. \$100 banknotes were seized from Ye Gon's residence. For details, see: Paul Duggan and Ernesto Londoño, "Not Your Average Drug Bust: Suspect Wanted in Mexico Found in Wheaton Restaurant," *Washington Post*, July 25, 2007.

⁹The government figure was given in interviews with senior members of the Mexican Financial Intelligence Unit, but they declined to provide any methodology for reaching that figure. Mexican Attorney General Eduardo Medina Mora, appearing before the Mexican Congress in October 2007, stated that Mexican banks receive about \$1 billion from their U.S. counterparts annually, but return up to \$16 billion, of which about \$10 billion "does not have an explanation ... and could be attributed to the flow of drug trafficking money." For KPMG information, see: Raúl Sierra, "Evolución y Situación Actual de la Prevención de Lavado de Dinero en el Sistema Financiera Mexicano," KPMG, April 2006. The lower figure comes from interviews and writings by Ricardo Gluyas Millán, in particular, "Ganancia Ilícita: Prevención Contra el Lavado de Dinero, México, 2005," p. 233. The upper-end figure was provided by numerous academic sources in interviews, and is the most generally accepted. According to Samuel Gonzalez of the Mexican Autonomous Institute of Technology (*Instituto Tecnológico Autónomo de México* — ITAM) drug proceeds laundered in Mexico account for as much as four percent of the country's GDP, or roughly \$35.7 billion annually. See: "Marching as to War," *Economist.com*, January 31, 2008. http://www.economist.com/world/la/displaystory.cfm?story_id=10608676

There have been at least two significant and related realignments in the cocaine trafficking world that need to be factored in to the current assessment. The first is that Mexican DTOs, as described below, have significantly displaced the traditional Colombian organizations and because of this are reaping higher profit margins because there are fewer middlemen. This coincides with the Mexican DTOs need for more cash to equip and maintain their growing military-style armed operations that wage war on both the state of Mexico and each other.

The second is that this realignment, and new cyber technologies, have given the Mexican DTOs faster and less risky methods of moving the cash to Colombia to purchase shipments of cocaine. This means that much of the money that used to have to be shipped through Mexico and then onward to Colombia is no longer smuggled into Mexico at all, but shipped through ethnic organized crime groups (primarily Russian and Chinese) directly to Colombia or Ecuador.

The net result is that a higher percentage of the money from cocaine sales stays in the hands of Mexican cartels because they are dealing with fewer middlemen in the Andes and, instead, making purchases directly from producers. This also means that the total amount of money smuggled into Mexico has likely declined because more of the money is flowing directly to the Andes to resupply the Mexican DTOs with cocaine.

There are no reliable and current estimates of exactly how much drug money is flowing back to Mexico given this new way of doing business for the cartels. Nonetheless, available estimates, even if dated, show the amount of money staying in Mexico is significant. If one uses the lowest estimate of \$6 billion that would still leave minimum earning of \$1.2 billion for profits and corruption inside Mexico (based on an assumption of a 20 percent profit margin). Using the conservative Government of Mexico estimates, the approximate earnings for Mexican DTOs would be \$2.2 billion. Using the more generally accepted number of about \$25 billion, the earnings would be \$5 billion, and using the upper estimates would yield at least \$7.2 billion.

A third challenge is data collection. No single entity in the U.S. government collects or consolidates bulk cash seizure figures from national, state and local enforcement efforts. The DHS's offices of Customs and Border Patrol (CBP) and Immigration and Customs Enforcement (ICE), the Drug Enforcement Administration (DEA), the Treasury Department and others all keep a sub-set of the data, and that data is largely separate from what state and local authorities seize. The Bulk Cash Shipment Center, established in December 2009 under the direction of ICE, is an effort to remedy both the reporting aspects and give national, state and local officials a one-shop stop for information, intelligence support and expertise.¹⁰

In Mexico the situation is similar. While the Financial Intelligence Unit keeps statistics on suspicious transactions in the formal sector, there is no consolidated center among the law enforcement, attorney general's office (Procuraduría General

¹⁰See: <http://www.ice.gov/pi/bcsc/index.htm>

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de la Republica — PGR) and Ministry of Finance and Public Credit (Secretaría de Hacienda y Crédito Público — SHCP).

Assessing Current Trends

Bulk cash smuggling across the U.S.-Mexico border cannot be viewed in isolation. Rather, the process of illegally moving large quantities of dollars across the border must be viewed as part of the movements in a larger recombinant pipeline that flows across the northern tier of South America, through Central America and Mexico and into the United States.

The pipeline, fed by many smaller feederlines, moves products both north and south. The drug trade and other illicit activities move as a circular flow of goods, rather than linear transactions. A significant portion of the violence in Mexico today, particularly that which occurs in Ciudad Juárez and environs, as well as among the maras in Central America, revolves around disputes over control of portions of that pipeline, its plazas and branches. The primary goods flowing northward are cocaine, human traffic, gang members hired by the drug cartels as enforcers, and marijuana. The primary products moving south are large amounts of cash generated from the illicit activities, stolen cars and other goods, and weapons.

Most of these products move through the same basic architecture and rely on many of the same facilitators to enable the flow of goods and services. This is not to say that the groups engaged in myriad criminal activities work together or maintain stable alliances. Sometimes drug trafficking groups, such as the Zetas, branch out to control other criminal activities such as human smuggling and extortion. More frequent, however, is the use of different criminal groups of the same set of facilitators or gatekeepers to the pipeline, to move their illicit products both north and south.

At the same time, new actors are constantly entering the arena of money laundering activities, leading to new challenges and new inputs for the trafficking pipeline. These are driven both by profit seeking and the ongoing shakeups and realignments within the drug trafficking world. Among the most important elements of the new geography of the cocaine trade is the growing strength of the Mexican drug trafficking organizations and the relative weakening of the traditional Colombian structures.

The demise of the Medellín, Cali, Northern Valley cartels and the formal structure of the paramilitary group known as the Autodefensas Unidas de Colombia (AUC) has atomized Colombian cocaine production and left the Fuerzas Armadas Revolucionarias de Colombia (FARC) as the main cocaine producing organization. Recent Colombian police and military reports estimate that the FARC now produces about 70 percent of Colombia's refined cocaine, while smaller organizations, including remnants of the AUC and Northern Valley organizations make up the remainder.¹¹

¹¹Author interview with Colombian National Police leaders, December 2009. This has not always been the case. During approximately 1990–2003 the AUC was a much more important cocaine producing and shipping organization than the FARC, in part because most of the early Colombia cartel leaders (Gonzalo Rodríguez Gacha, Pablo Escobar, the Northern Valley) had close ties to the AUC.

But the FARC, the oldest insurgency in hemisphere, has never built up the infrastructure necessary to move the cocaine to the international market. It traditionally relied on local cartel intermediaries to pick up the product and sell it abroad, primarily to Mexican trafficking organizations.

The result is that, for the first time in almost three decades there would appear to be no predominant Colombian drug trafficking organization in the international sales market. Mexican groups are taking advantage of the vacuum to increase their influence by directly buying — in Ecuador particularly — cocaine directly from the FARC and other cocaine producers, and moving it to market. Most importantly, this has greatly enhanced the financial returns the Sinaloa and Tijuana cartels, primarily, because these groups are taking control of more elements in the production cycle and bypassing Colombian intermediaries.¹² This implies, as noted earlier, that the Mexican DTOs have more cash at their disposal than usual.

This chapter will look at three distinct parts of the financial structure of the Mexican drug trafficking organizations. First, it will assess bulk cash shipments moved largely by vehicle across the U.S.-Mexican border. Another examines how other types of drug money circulate in Mexico's formal and informal economies. A third looks at how money obtained from the sale of cocaine in the U.S. is moved back across the border to purchase more cocaine to keep the enterprise operating

BULK CASH SHIPPING: HOW THE MONEY MOVES

Like much else in the drug trade, the current situation with bulk cash shipments is the product of adaptation and evolution by the drug cartels to law enforcement efforts. This means that any analysis of the movement is constantly subject to change, and at best we get a snapshot of relatively current conditions in a fluid environment. With this in mind, it is important to first understand the role bulk cash shipments play in the financial architecture of Mexican drug trafficking organizations, how the money is moved, and the efforts to halt that flow.

Using the pipeline analogy, products can be rerouted around whatever law enforcement obstacle is established, when cartel warfare raises unforeseen risks, or a blockage or bottleneck occurs. Globalization and the “dollarization” of the Mexican economy have opened a variety of new fronts for the movement of profits from drug cartels and other transnational criminal organizations.

However, the money derived from the sale of drugs and other illicit activities, and the need to move and place that cash, are vital to the criminal organizations that generate the revenue. This offers some vulnerabilities that can be exploited by law enforcement and intelligence operations on both sides of the border. The impact of cash seizures is high, in the short term because it deprives the criminal organizations

¹²Author Interviews with Mexican and Colombian intelligence officials, December 2009 and February 2010.

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of both profits (their reason for existing) and operating funds (the source of power, weapons and impunity). Over time the impact is lessened if more shipments are delivered and revenue streams are again opened.

According to U.S. and Mexican law enforcement officials, money from regional drug sales are generally taken to a central counting house in one of several major U.S. cities, including Atlanta, Chicago, Boston and Los Angeles.¹³ Either at the centers or in the original points of sale, the money, usually arrives from the street in the form of smaller bills and is, then, converted to \$100 or \$50 bills. This is done primarily to reduce the bulk of the cash and make it easier to conceal.

Once the cash is converted into larger bills it is vacuum sealed in plastic bags, to further reduce the bulk, and concealed in the wheel wells, panels and spare tire compartments of vehicles that are clean, meaning they have no reason to raise any suspicion if they are stopped. The cash is often concealed in tractor-trailer trucks as well, often the same vehicles that bring cocaine north.

Cartels utilize several tactics in an attempt to minimize the impact of potential seizures by authorities. For example, the cash transport vehicles are rotated often so as not to be detectable or raise suspicion. Most shipments range from \$150,000 to \$500,000, so that if any one vehicle is stopped the loss is not significant to its leader and does not disrupt operations. Typically multiple cars are sent, each carrying a relatively small percentage of any given cash shipment.

Each Mexican organization employs a group of constantly rotating drivers who drive the cash shipments from the city to the designated border town close to the *plaza* or drug trafficking center of that particular trafficking organization. While in the past the cash was often aggregated and vacuum packed in a safe house on the U.S. side of the border before being shipped into Mexico, officials said that the cartels often now have the drivers continue directly into Mexico to deliver the money. This change is likely due to several factors, including a growing U.S. law enforcement emphasis on monitoring the sales of particular equipment such as money counting machines and different types of packing equipment.

Crossing the Border

Border crossing times and locations are decided in large part by the flow of traffic across any of the main entry points and the information derived from lookouts, known as *halcones* or hawks. Each *halcón* watches specific lanes of a border crossing to determine traffic flows, patterns of cars being stopped and any unusual signs of searches. In addition to the *halcones*, the drug traffickers employ sophisticated communications networks along the border, often more sophisticated than federal agents have, and more than they can monitor. As the NDIC report stated:

¹³This description of the movement of cash across the United States and then across the U.S.-Mexico border is based on interviews with U.S. and Mexican law enforcement officials.

several Mexican DTOs maintain cross border communication centers in Mexico near the U.S.–Mexico border to facilitate coordinated cross-border smuggling operations. These centers are staffed by DTO members who use an array of communication methods, such as Voice over Internet Protocol, satellite technology (broadband satellite instant messaging), encrypted messaging, cell phone technology, two-way radios, scanner devices, and text messaging, to communicate with members. In some cases DTO members use high frequency radios with encryption and rolling codes to communicate during cross-border operations.¹⁴

“They shift as the border opens and shuts,” said one U.S. official. “They have very good intel on our operations. We are always one step behind. They are willing to lose two of 10 cars. We are only equipped to deal with half the problem (south-north), and we need to add the southbound part.”

Those seeking to smuggle goods south start out from a position of distinct advantage. While 10 percent of the vehicles crossing from the United States to Mexico are supposed to be stopped for secondary screening, the number is often less, according to Mexican and U.S. officials. This means that the chances of being stopped and searched are minimal from the start. In addition, only one lane at a time is usually closed to search vehicles. If any enforcement activity is detected, the courier is simply rerouted by *halcónes* to another crossing deemed to be less risky.¹⁵

The sheer numbers of vehicles and pedestrians crossing the border each day helps illustrate the magnitude of the problem of identifying and interdicting illicit cargo, akin to searching for the proverbial needle in a haystack.

In 2008, the last year for which complete statistics are available from the Bureau of Labor Statistics, 78,856,542 passenger vehicles entered the United States from Mexico, carrying 157,981,839 passengers. In addition, 4,844,250 freight trucks crossed the border. Unfortunately, no similar statistics are kept for southbound traffic. Pedestrian crossing totaled some 30 million just at the top five border crossings.¹⁶ A recent Texas A&M study estimated that in 2008 27 million vehicles crossed into Mexico from Texas alone.¹⁷

¹⁴“National Drug Threat Assessment 2009,” *op cit.*, p. 45.

¹⁵While the figure of 10 percent checks on southbound traffic is often used, in fact, according to U.S. and Mexican officials, the figure is less. There are compelling reasons for not increasing the inspection rate. The most pressing issue is to balance the needs to check cars with the imperative to keep traffic flowing and not cause backups that have a significant economic impact. That tension, between security concerns and trade concerns, is one that will likely grow in coming years as traffic grows.

¹⁶Table 1–45: U.S.–Mexico Border Land Passenger Gateways: Entering the United States,” Bureau of Transportation Statistics, accessed at: http://www.bts.gov/publications/national_transportation_statistics/#front_matter; “Table 1–49a: U.S.–Mexico Border Land-Freight Gateways: Number of Incoming Truck or Rail Container Crossings, accessed at: http://www.bts.gov/publications/national_transportation_statistics/#front_matter.

¹⁷“Mexican Drug War: Some Cash, Few Guns Found in Southbound Checks,” Associated Press, May 15, 2009.

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In this vast sea of vehicles and pedestrians, if couriers find themselves in lanes that could prove risky they have several options to avoid getting caught. One is to simply pull out of line and gun through the border point, a risky but viable option as the inspecting officers are protected only by plastic cones, and, according to authorities on both sides of the El Paso–Ciudad Juárez crossing, no one has been apprehended when doing this.

A second option is to simply get out of the vehicle, blend in with the crowd and walk into Mexico. As noted in interviews with border officials, there is essentially a no-man’s land between the two countries and, while there is the technical capability to call from one side of the border to the other to alert authorities to a runaway vehicle or driver, this has never actually been done.¹⁸

“We are simply not configured to deal effectively with southbound traffic,” said one U.S. official in El Paso. “It is something that is relatively new to us. What we do know is that what we are doing now is not working.”¹⁹

THE USES OF BULK CASH IN THE CARTEL FINANCIAL STRUCTURE

The primary role of bulk cash shipments from the United States into Mexico, largely by vehicle, is to pay the operating expenses of the different drug trafficking organizations, including the expense of bribes to political protectors and law enforcement officials, and allow the senior cartel leaders to enjoy the fruits of their illicit labor. This is a role that has changed over time.

For many years, when Mexican drug cartels were largely dependent on Colombian organizations delivering the drugs to Mexico to be moved across the U.S. border and sold, bulk cash shipments and unregulated money exchange houses were the favorite ways to remit cash. Most of the money needed to be held in Mexico because the payment to the Colombian providers was usually made in Mexico and in dollars.²⁰

Now, bulk cash shipments, while remaining vital to overall cartel operations, are not necessarily the primary means of moving money to pay for ongoing cocaine shipments from Colombia. Other cartel affiliations with ethnic organized crime structures that span the globe, coupled with the official adoption of the dollar as the currency of Ecuador, Panama and El Salvador and new electronic transfer mechanisms have opened up new avenues for that type of large value movement as the Mexican DTOs have grown in wealth and importance.

The need to move larger amounts of money via bulk cash transfers has developed at the same time as stronger U.S. anti-money laundering regimes, particularly after the 9/11 attacks, have made other electronic methods (smurfing, layering through banks,

¹⁸ Author interviews in El Paso, Texas and Ciudad Juárez, Feb. 1–3, 2010.

¹⁹ Author interview in El Paso, Texas, Feb. 1, 2010.

²⁰ This information is based on interviews with counter-drug officials on the U.S.–Mexican border, Mexico City, Colombia and Ecuador.

and other uses of the formal financial sector) more difficult and risky. Greatly increased pressure on U.S. banks to enhance and comply with Know Your Customer protocols have also increased the risks of dealing with U.S. banks, at a time when many new and less stringent banking jurisdictions were becoming more accessible in the Internet age.

At the same time, the cartels need to rely far less on their own money service businesses such as *casas de cambio* and *centros cambiarios* to convert dollars to pesos because Mexico, through the NAFTA agreement, was much more “dollarized” or open to the use of dollars that it had historically been.

The revenue generated from drug trafficking and criminal activity is dispersed throughout Mexican society, including the business community, politicians, law enforcement and military personnel, the media, and scores of other individuals.

Recent political changes in Mexico have also led to a significant change in corruption patterns and how the criminal organizations distribute their cash. Under the one-party rule of the PRI, corruption was largely top down. That is to say that senior officials could be bribed and distributed the money down the chain of command. With the advent of multi-party rule, most states and towns have several parties that must be paid off at the local level, forcing the criminal organizations to pay less to each party but more overall to ensure continued freedom of operations. This has led to the need to buy into the electoral process earlier, as the winner is no longer guaranteed, spreading the corruption further throughout the body politic.²¹

Another unintended side effect of the growing controls, reporting requirements and regulations placed on the *casas de cambio* and *centros cambiarios* is that many of those companies are going out of business. For example, *casas de cambio*, which are allowed to move money internationally and exchange currencies, must now report all transactions above \$3,000 in an effort to detect suspicious activities. Customers must now present identification and register their names for all transactions over \$500 in an effort to end the anonymity that made them so useful for money laundering. *Centros Cambiarios*, which were almost entirely unregulated until 2009, must also identify their customers like the *casas de cambio* and are limited both in the amount individuals can exchange on a daily basis. Leaders of organizations representing both groups said the requirements were so onerous that the businesses could no longer remain profitable.²²

²¹In August 2008, *El Universal* reported that Mexican Defense Secretary Guillermo Galvan stated that 500,000 individuals in Mexico are tied to the illegal drug trade. According to Galvan, this includes 300,000 growers, 160,000 small-time drug dealers or transporters, and 40,000 individuals in leadership positions. These figures may be considerably understated, as private security forces, complicit public officials, and willing members of the business or financial community were not mentioned in Galvan’s remarks. See Brendan Walsh, “Mexico Estimates 500,000 Tied to Drug Trade, *El Universal* Says,” *Bloomberg.com*, August 9, 2008; <http://www.bloomberg.com/apps/news?pid=20601086&sid=a2CHFyvjv3gn8>.

²²Author interviews, Mexico, D.F., January 2010. This does not mean these types of companies no longer exist. Because of lax enforcement in Mexico, many of these institutions simply do not register their operations with the government and continue to carry out their business.

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These companies are being replaced by unregulated money remittance houses, including Western Union and other U.S. based companies.²³ In a stark admission of the vulnerability presented by money transfer systems, in February 2010 Western Union reached an historic agreement with four Southwest border states where the company agreed to pay \$94 million to help improve border enforcement of drug money movements and reimburse Arizona for the cost of a lengthy legal battle. In addition, Western Union agreed to grant investigators from Arizona, California, Texas and New Mexico “unprecedented” access to records of transactions to Mexico.²⁴

Other vulnerabilities include the lack of regulation in the registration of used car sales, as well as the purchase and sale of real estate, both favorite ways for drug trafficking organizations to launder and invest cash.

Particularly vulnerable are the 3,603 notary publics in Mexico, where land transactions and other sales are registered. They remain largely antiquated, limited computerization, not searchable and unable to communicate with other registries, meaning that land records are virtually impossible to trace.

This is important because proceeds from the drug trade are flowing directly into land purchases in Mexico. These purchases are highly valued by drug traffickers on a personal level, to enhance prestige and show power. But the expanses of land also allow criminal organizations to establish territorial control, set up training camps and safe havens and expand their influence in significant parts of the country.

Another vulnerability was outlined by a senior Mexican agricultural official, who warned that drug traffickers had become the principal source of credit for many farmers in rural Mexico who were cut off from the formal credit market. According to Ricardo García Villalobos, president of the Superior Agricultural Court (*Tribunal Superior Agrario*), some 30 percent of Mexico’s agricultural land is now dual use, with both licit and illicit crops, primarily marijuana and poppy for heroin, being planted together.

“They [the narcos] provide seeds and the illicit plants, and that allows the campesinos to buy other types of seeds, so that is why I call it dual use,” he said. “They are not purely marijuana or poppy, they are always mixed with legal crops.”²⁵

Among the most significant uses of bulk cash shipments for Mexican drug trafficking organizations are believed to be:

²³For an interesting look at the new concerns about Western Union, see: <http://www.supreme.state.az.us/opin/pdf2009/WesternUnionOpinion%20FINAL.pdf>; and Josh Meyer, “Blood Wires’ Over the Mexican Border,” *Los Angeles Times*, June 8, 2009, accessed at: <http://www.latimes.com/news/nationworld/nation/la-na-western-union8-2009jun08,0,4162344,print.story>

²⁴Sean Holstege, “Western Union \$94 Million Settlement Broadens Border States’ Investigative Powers,” *Arizona Republic*, Feb. 12, 2010. The settlement sets aside \$50 million to establish a Southwest Border Anti-Money Laundering Alliance to investigate international money laundering rings; \$21 million to reimburse Arizona for a decade-long investigation into Western Union; \$19 million to improve Western Union’s internal security methods to combat money laundering; \$4 million for an independent monitor to scrutinize Western Union’s anti-money laundering efforts elsewhere.

²⁵Carlos Avilés, “Cárteles Financian al Campo: Tribunal,” *El Universal*, Feb. 17, 2010.

- Money to pay gangs that act as muscle for the cartels, particularly those engaged by the different sides in the Ciudad Juárez plaza. These include the Barrio Azteca, working for the Juárez organization and the Artistas Asesinas (AKA AA or *doblados*), working for the Sinaloa cartel. Both gangs have developed relationships with the respective organizations to take over street corners for local sales enforce control of the *plaza*, in addition to providing manpower for specific jobs such as guarding safe houses, executions, and transportation of cash or personnel;²⁶
- Money for bribes to political, military and police structure in order to move goods through the *plaza* unimpeded and insure the protection of the political structure.
- Drug trafficking organizations in Mexico prefer to hold onto their cash in U.S. dollars, as U.S. dollars are considered more stable than the Mexican peso;
- Due to generational differences, while some of the younger drug traffickers are accustomed to using alternative forms of value transfer, many of the old guard, older generation leaders still only feel comfortable dealing with cash, and demand that their illicit proceeds be paid in a tangible form;
- Most weapons purchases, both in the United States and elsewhere are made with dollars, not local currencies. This is particularly true in the United States, but weapons purchases from Guatemala and further afield also are dollar transactions;
- Many legitimate businesses in Mexico accept U.S. dollars, thus providing an easy means for drug trafficking organizations to place their illicit proceeds into the formal economy. Among the favorite places to place the dollars are in real estate, luxury vehicles, construction and other cash-intensive businesses. Hoarding cash is also common, to hedge against lost drug shipments or cash seizures.

The cumulative cartel expenditures amount to millions of dollars a month, underscoring the importance of bulk cash shipments in keeping the cartel machinery running. One U.S. government analysis estimated that in 2007 one Mexican group, the Gulf cartel, paid about \$2.5 million a week in bribes and smuggled \$30 million to \$50 million per month through each major plaza such as Nuevo Laredo, Matamoros and Reynosa.²⁷

²⁶Author interviews in El Paso, Texas and Ciudad Juárez, Feb. 1–3, 2010.

²⁷While the total value of the current U.S. cocaine market is not known, some guess work is possible based on official government estimates, Official U.S. figures for 2008 estimate that a total of 295 tons of pure cocaine could be produced from the available coca, and that 40.5 tons had been interdicted, leaving 254.5 tons available. Of that, some 200 tons were destined to the U.S. market, and the average price was \$120 per gram or \$120,000 per kilo, or \$120 million per ton or \$24 billion dollars in total sales. This does not include sales in Europe and elsewhere, or the income from the marijuana and heroin sales. These numbers were taken from: National Drug Threat Assessment 2010, National Drug Intelligence Center, U.S. Department of Justice, January 2010.

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While extrapolation of inexact figures does not lead to definitive conclusions, it might be useful to help illustrate the magnitude of the problem. While the Gulf Cartel has fragmented and weakened, one could safely estimate that the Sinaloa cartel now operates on an even larger scale. If one adds the Juárez organization, which recently was estimated to handle up to 60 percent of the cocaine heading to the United States, the *Zetas*, the *Familia Michoacán*, Tijuana and other groups, one could conservatively estimate that at least \$250 million in bulk cash is shipped to Mexico each month (\$3 billion per year) and \$2 billion a year paid out in bribes.

The expenses of the cartels are also rising in the face of the sustained efforts by the Calderón administration to attack the drug trafficking organizations militarily, coupled with the intra-cartel wars that inflict an enormous human and social cost.

In addition to the costs associated with using the gangs as muscle (and the gangs are often paid in cocaine rather than cash), the cartels have expanded their military training programs and recruitment of outside groups from Central America to help them gain the upper hand against their rivals.

This could significantly impact the profits the cartels and their associated criminal organizations earn. The cartels are faced with escalating purchases of ammunition, sophisticated weapons, surveillance equipment, armored vehicles, and bulletproof vests, as well as the recruiting and training of security forces.

This includes training camps and active recruitment campaigns, even among young men enrolled in the U.S. military and living on bases near the border.²⁸ As one U.S. official told the Dallas Morning News, “Traffickers go to great lengths to prepare themselves for battle. Part of the preparation is live firing ranges and combat training courses ... and that is not something we have seen before.”²⁹

All of these activities and purchases require payments to be made, and the vast majority of those payments must be made in dollars. This internal dynamic could mean that, at least in the short to mid term bulk cash smuggling will increase and be even more important to the cartels’ financial structures because their internal costs of doing business have risen.

²⁸Numerous U.S. officials expressed their concern that the Mexican gangs such as Barrio Azteca were successfully recruiting among young enlisted men in Ft. Bliss, near El Paso, and that such recruitment could increase as the base was expanded by up to 30,000 people in coming years. For a look at the cartel recruitment and training tactics see: Alfredo Corchado, “Drug Cartels Operate Training Camps Near Texas Border Just Inside Mexico,” Dallas Morning News, April 4, 2008; and

²⁹Corchado, *op cit*. It should be noted that only an elite cadre of cartel hit men are trained in this fashion. U.S. and Mexican officials and members of civil society said repeatedly that the gang members on the street, tasked with street sales of cocaine, heroin and marijuana, are “disposable,” and that they received little if any training at all. There seems to be a significant distinction in training and operational capacity between squads that are directly tied to the cartels and those in loose alliance with the cartels through the gangs.

MEASURING INTERDICTION OF BULK CASH SHIPMENTS

Given the paucity of data on either side of the border it is difficult to determine with any precision how much bulk cash is being shipped or interdicted. While the rough calculations made above seem reasonable to numerous U.S. officials monitoring the process, they are simply ballpark figures that can fluctuate significantly to meet the drug traffickers' needs. Without even baseline data it is difficult to envision meaningful metrics for measuring success or if progress is being made. For example, even if seizures were to increase significantly, one would not know if it is because of enhanced enforcement techniques or because significantly more amounts of money were being shipped and the amount seized was a smaller percentage of the whole.

By their admission, U.S. and Mexican officials are getting only a small fraction of the money that flows across the border. How much is seized and how much flows through remains unquantifiable in any meaningful way. U.S. officials dealing with bulk cash transfers estimated that total seizures related to drug trafficking had risen from about \$19 million in 2006 to about \$30 million in 2008 due to increased focus. The officials said the large majority of seizures were intelligence-driven, meaning they had information on specific vehicles carrying cash, and had the vehicles stopped knowing it was likely to have money onboard. This is in contrast to detecting cash in a car that is randomly stopped at a border checkpoint.

Perhaps the most telling information came from Mexican border authorities who are monitoring an important border crossing area where two Gamma ray machines were installed in October for non-intrusive inspections vehicles, including south-bound vehicles. The inspections are part of the broader effort to install modern technology along the border to record license plates, vehicle weight and other data to detect anomalies and specifically installed to help detect the flow of bulk cash and weapons. Since the system was installed in November, it has led to no bulk cash seizures and had a limited impact on detecting weapons in that area. The system, Sistema Automático para la Revisión y Control Vehicular-SIAVE, remains unconnected to other data bases either geographically or with agencies outside the Mexican Customs service (Aduana). "We really cannot say SIAVE has helped us at all with bulk cash," said one Mexican official.

OTHER FACTORS IN THE SHIFTING MONEY LAUNDERING STRUCTURES

There are several new factors in the money laundering and financial structure of the Mexican drug cartels and their rapidly shifting relationships with the Colombian suppliers that have changed the way drug money is moved and used.

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As noted above, the growing dominance of the Mexican drug trafficking cartels has allowed them to extend their reach into Colombia, Ecuador, Bolivia and Peru. Given these new revenue streams, it is reasonable to assume that the revenues generated by these organizations has grown considerably in the past two years.

The primary reason for this assumption is that Mexican organizations, particularly those associated with the Sinaloa syndicate, are gaining control of cocaine factories that produce cocaine hydrochloride (HCL), the finished powder that has the greatest value. This is particularly true in Bolivia and Peru, where the Colombian organizations had long kept local organizations from manufacturing HCL, preferring to control that high end production themselves in Colombia.

Another primary reason for this assumption is the widely-espoused view on both sides of the border that several of the major Mexican drug trafficking organizations, particularly the Sinaloa cartel and Los Zetas have moved beyond the illicit drug trade as a source of income and have diversified into human trafficking, extortion, kidnapping and other criminal activities that also generate significant amounts of income.

A secondary reason for this assumption is the growing intelligence indications that cocaine (HCL) can be shipped directly to Mexican waters from Ecuador and Colombia via semi-submersible crafts that can carry loads of several tons of cocaine. Not only does this lower transportation costs, but also the protection costs of moving the product through the various borders and checkpoints across Central America.³⁰

THE GROWING DOMINANCE OF THE MEXICAN DRUG TRAFFICKING ORGANIZATIONS

With the demise of large-scale Colombian operations, Peru and Bolivia are again producing significant amounts of HCL and selling the product directly to Mexican buyers.³¹ The integrated supply of HCL from these regions has greatly increased the profitability of the Mexican groups, who no longer have to rely on Colombian intermediaries to receive the cocaine.

Perhaps nowhere is the change more noticeable and more important than in the Mexican organizations' ability to directly buy HCL from the FARC in Colombia, which now produces an estimated 70 percent of the Colombian cocaine.³²

The transactions take place along the porous Ecuador-Colombia border region near the town of Lago Agrio. The region has long been under the control of the

³⁰For a look at the growing use of semi-submersibles in cocaine transportation, see: Douglas Farah, *Ecuador at Risk: Drugs, Thugs, Guerrillas and the Citizens' Revolution*, International Assessment and Strategy Center, January 2010.

³¹For a look at Mexican penetration of the Andean market see: Eliot Brockner, "Mexican Cartels' Andean Stronghold," *ISN Security Watch*, Nov. 18, 2009; and Douglas Farah, *Into the Abyss: Bolivia Under Evo Morales and the MAS*, International Assessment and Strategy Center, July 2009.

³²"Las FARC se Fortalecen Como Cartel de Narcotráfico, revela Informe de la Policía," *Caracol Radio*, Feb. 18, 2010.

FARC's 48th Front, a military unit that has grown increasingly because of its control of cocaine shipments out of Colombia and the importation of precursor chemicals and cash into the FARC. According to Colombian, Mexican and Ecuadoran authorities, for the past several years the person in charge of handling the FARC's ties to Mexican drug trafficking organizations has been Oliver Solarte, a one-time petty criminal who has grown into the Front's chief cocaine handler.³³

Further adding to the attractiveness of Ecuador is that its economy is dollarized, meaning that transactions in dollars draw no scrutiny, and it has one of the least regulated and most secretive banking systems in the hemisphere. In February 2010 the multi-lateral Financial Action Task Force (FATF) placed Ecuador on its blacklist as an "Uncooperative Jurisdiction," along with Iran, North Korea and Ethiopia for failure to take meaningful action against money laundering.³⁴

The implications of this alliance with the FARC for money laundering in Mexico are important beyond the increased profits the trade has generated. For many years the Colombian cartels would collect their money — both profits and money to purchase more merchandise — in Mexico then use a variety of methods, from couriers to the Black Market Peso Exchange, to move the money back into Colombia. That routing is no longer essential.

Money can now be "smurfed"³⁵ directly from accounts in the United States to accounts in Ecuador, with no currency conversion necessary. With virtually unfettered access to the Ecuadoran banking system through accounts, ATMs and front companies, the FARC or any other HCL producing organization can presumably withdraw its payments with little risk and few fees.

Money can also be routed through other dollarized economies in the region, none of which have significant money laundering enforcement. These include El Salvador and Panama and other countries in Latin America use the U.S. dollar as an acceptable parallel currency. Of particular concern are Panama (especially the Colón Free Trade Zone) and El Salvador, which have some of the most rapidly growing banking systems in Latin America, while having little visible legitimate means to support such growth. In addition, multiple new electronic ways to move money outside the regulated financial structures are now readily available to the Mexican organizations, and will be discussed in more detail below.

There is growing evidence (part of which was made public in recent Colombian and U.S. statements) that Hezbollah is using the FARC/Venezuelan connection to raise and

³³"Colombian Rebels Linked to Mexico Drug Cartels," Associated Press, Oct. 7, 2008. For more details on the growing Mexican connection to the FARC and the role of Oliver Solarte see also: Douglas Farah, *Ecuador at Risk: Drugs, Thugs, Guerrillas and the Citizens' Revolution*, International Assessment and Strategy Center, January 2010; : Arturo Torres, *El Juego del Camaleón: Los Secretos de Angostura*, Eskeletra Editorial, Quito, 2009, pp. 63–105.

³⁴"Group Lists Iran on Money Laundering Blacklist," Reuters, Feb. 19, 2010.

³⁵Smurfing is a term used by law enforcement to describe an operation of breaking up a large amount of cash and depositing the cash in multiple accounts, with all deposits being just under the \$10,000 reporting threshold, thereby not raising alarms.

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move money. The importance of this link is the subject of debate within the U.S. government, with some viewing it as a paradigm shift with significant implications going forward and some viewing it as only a limited, short-term business transaction.

The clearest example to date of the potential breadth of this phenomenon was hinted at in Operation Titan, executed by Colombian and U.S. officials in 2008. Colombian and U.S. officials, after a 2-year investigation, dismantled a drug trafficking organization that stretched from Colombia to Panama, Mexico, the United States, Europe and the Middle East.

Colombia and U.S. officials say that one of the key money launderers in the structure, Chekry Harb, AKA “Taliban” acted as the central go-between among Latin American cartels and Middle Eastern radical groups, primarily Hezbollah. Among the groups participating together in Harb’s operation in Colombia were members of the Northern Valley Cartel, right-wing paramilitary groups and the FARC.³⁶

THE INTRODUCTION OF NEW FACTORS IN THE LAUNDERING PROCESS

While it is likely that bulk cash shipments will remain important and perhaps of primary method for the drug trafficking organizations to move money from the United States to Mexico, it is likely that new patterns in money laundering and bulk cash movement will emerge and could already be underway. Because these factors are relatively new, there is little academic literature examining them. However, law enforcement officials on both sides of the border and anecdotal evidence suggest that, though hard to quantify, they are in use and of growing importance.

THE CHINESE TRADE MODEL

One of these patterns is the reported growing use of over invoicing or under invoicing of products that are bought in China and shipped to Mexico. This makes sense in the context of the rapidly expanding trade between the two nations. Between 2000–2008 bilateral trade between Mexico and China grew from less than \$1 billion to \$17.56 billion. This is second in Latin America only to Brazil (\$48.5 billion).³⁷

There is credible anecdotal evidence that Mexican drug trafficking organizations are buying container loads of cheap plastic products in China, which are shipped to Mexico

³⁶While much of Operation Titan remains classified, there has been significant open source reporting, in part because the Colombian government announced the most important arrests. See: Chris Kraul and Sebastian Rotella, “Colombian Cocaine Ring Linked to Hezbollah,” *Los Angeles Times*, Oct. 22, 2008; and “Por Lavar Activos de Narcos y Paramilitares, Capturados Integrantes de Organización Internacional,” *Fiscalía General de la Republica (Colombia)*, Oct. 21, 2008.

³⁷“Growth Rate of China’s Trade with Latin America and Caribbean Decreased in 2008,” *People’s Daily Online (English Version)*, April 3, 2009.

at a substantially inflated declared value. Many of these containers are never claimed in Customs, but the person or company that ordered goods will most likely have successfully laundered the declared value of the products. This means the laundering organizations have moved their money from the point of origin, primarily the United States, to a bank outside of Mexico, and can now move it back through the banking system as clean money. The risk mitigation of this method, if it continues and is unchecked, could lessen the importance of bulk cash shipments for some cartel activities.

This system can also be used to justify the holding of large amounts of cash by cartel front companies, who can show a paper trail showing the “origin” of the money in the procurement and sale of fictitious Chinese goods. Due to the volume of legitimate trade, detecting and following through in tracking down the origin of the valueless shipment is not deemed by either side to be useful or cost efficient.³⁸

RUSSIAN MONEY LAUNDERING ACTIVITY

A second important shift is the growing presence of Russian organized crime in Mexico. These organizations, buying up large amounts of properties on Mexico’s west coast — particularly hotels and casinos because they are cash intensive businesses — offer new opportunities for Mexican organizations to launder and move their funds through the formal financial system as cash. Gambling in casinos is technically illegal in Mexico, but in fact is widespread. Casinos are not regulated by any government entity.³⁹

If money can be placed into the Russian laundering structures outside of Mexico, they can be delivered in Mexico again as clean cash via the casinos, hotels or other cash-intensive businesses. Alternatively, if Mexican organizations have large amounts of cash on hand in country, they can launder those funds through the Russians’ structures and have those funds delivered either inside or outside the country as clean funds. Finally, if the money is needed elsewhere to pay for resupplying to cocaine pipeline, particularly Ecuador or Panama that are dollarized and have growing casino industries, the money can be moved there as well.

Inroads by Russian organized crime, particularly in the field of money laundering, have been noted by U.S. and Mexican academics studying drug trafficking, but has been largely ignored by government reporting. The primary area of operation of the Russian groups is reportedly the San Diego-Tijuana corridor, and the primary activity is to aid in money laundering activities through hotels and other cash-intensive businesses.

In return for their cooperation Russian groups are allowed to operate unmolested in the area. The opening for the Russian groups came in 2002, following the arrest of Benjamín Arrellano Félix and other leaders of the Tijuana DTO. The cartel then

³⁸Author interviews in Mexico City, February 2010.

³⁹“Mexico: Detailed Assessment Report On Anti-Money Laundering and Combating the Financing of Terrorism,” *op cit.*, p. 28.

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fragmented into far weaker “cartelitos” or “small cartels,” who lacked the operational capability necessary to control their traditional pieces of the pipeline.⁴⁰

The University of Miami’s Bruce Bagley, a well-known drug trafficking expert, wrote in 2005 that:

The linkages or “strategic alliances” between various Russian organized crime groups and major transnational criminal organizations in Latin America and the Caribbean in the early 2000s were already substantial and expanding rapidly. Moreover, it raises the specter that, at least in some key countries in the region (e.g., Mexico, Colombia and Brazil), the alliances between home-grown and Russian criminal organizations may provide domestic criminal and/or guerrilla groups with access to the illicit international markets, money-laundering facilities and illegal arms sources that could convert them into major impediments to economic growth and serious threats to democratic consolidation and long-run stability in the Western Hemisphere.⁴¹

Regarding Mexico specifically Bagley found that:

a variety of Russian criminal organizations, operating through literally hundreds of small cells, are engaged in a wide range of illegal activities in Mexico. Russian mafia groups such as the Poldolskaya, Mazukinskaya, Tambovskaya and Izamailovskaya, all linked to one of Russia’s major transnational criminal organization — Vory v Zakone (or “ladrones de la ley”) — are among the most active. The Moscow-based Solntsevskaya gang is also reported to be present in Mexico as are other mafia gangs from Chechnya, Georgia, Armenia, Lithuania, Poland, Croatia, Serbia, Hungary, Albania and Romania. Their major activities include drug and arms trafficking, money laundering, prostitution, traffic in women from Eastern and Central Europe and Russia, emigrant smuggling, kidnapping, auto theft, and credit card fraud.⁴²

These external influences are seldom factored into the current analysis of border flows for both drugs and money, and are not exclusively tied geographically to the border area. However, they are likely to have enormous implications in several important areas, with unintended consequences that will not be discernible for some time.

⁴⁰Susana Hayward, “Russian Mafia Worms Way Into Mexican Drug Cartels,” Miami Herald, Aug. 11, 2003.

⁴¹Bruce Bagley, “Globalization, Ungoverned Spaces and Transnational Organized Crime in the Western Hemisphere: The Russian Mafia,” paper prepared for International Studies Association, Honolulu, Hawaii, March 2, 2005.

⁴²Bagley, *op cit*.

One of the impacts that is already being seen is that less money derived from drug proceeds are being laundered through the Mexican financial system, where such activity is cumbersome, vulnerable and expensive. Now the dollars can simply flow out through the Russian networks that route the money from Mexico to the Caribbean, Europe and Russia. This will make the money ever harder to trace.

Another, as Bagley notes, is to greatly increase the access of the cartels to weapons and money laundering facilities on the world market. This is particularly useful to the Mexican cartels as they wage war against each other and against the Mexican state. While there is only anecdotal evidence at this time, it seems reasonable to think that sophisticated weapons from Russia and the former Soviet bloc will also make the Mexican cartels more lethal.

A third consequence could be an increased presence of Russian organized crime in the United States, as they take advantage of the same routes as cartel operatives to enter the United States. Given the proximity to the border of many of the Russian mafia cells and the vast resources at their command, it would be a logical step in their expansion.

The New Electronic Age

While the involvement of Russian mafia in money laundering for other criminal organizations is relatively new in Mexico, it is an activity that has been ongoing since the fall of the Berlin Wall. The China trade model follow established methods of over invoicing and under invoicing for laundering purposes, similar to other schemes seen elsewhere. But there is also a series of new challenges posed by the rise of the Internet and electronic cash that have no historic precedent.

U.S. officials stressed the growth of whole new methods of money laundering by drug cartels whose contours are only vaguely understood and, if understood, are virtually impossible to combat because the regulatory and legal framework does not exist to criminalize the activities.

Among those methods identified in author interviews and law enforcement literature as most troublesome are:

- Open System prepaid cards, which are cards that allow their holders to access global credit and debit payment networks. Officials say the regulations governing these prepaid cards are unclear and poorly defined, often allowing the cardholder to use the product without forming a traditional account relationship with the depository institution. This allows the users of the cards to hide their identities and the proceeds of their money. As one law enforcement study noted, “this lack of accountholder relationship could enable the cardholder to anonymously transfer unlimited amounts of money across global payment networks.”⁴³

⁴³“National Drug Threat Assessment 2009,” *op cit.*, p. 50.

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- Digital currencies, which can be used by traffickers to anonymously fund digital currency accounts and send those funds, often in unlimited amounts, to other digital currency accounts worldwide, bypassing international regulatory oversight.⁴⁴
- Mobile payments through cell phones that provide traffickers with remote access to existing payment mechanisms such as bank and credit card accounts and prepaid cards.
- The more than 200 systems like PayPal that allow payment to be made through secure servers over the Internet. While PayPal wins high praise for its cooperation with law enforcement and strict monitoring of suspicious transactions, most of the hundreds of other similar services operate in a much more opaque manner, meaning that unlimited amounts of money can flow from one account to another with no regulation or oversight.⁴⁵
- Online role-playing games or virtual worlds, where in-game currencies can be bought and exchanged for real world currencies. This can allow drug traffickers to “legitimize their income through accounts established online game companies in various ways, such as accepting virtual money in exchange for illicit drugs or buying and selling game items between multiple accounts controlled by them or their associates in a cyber version of trade-based money laundering.”⁴⁶

What law enforcement officials say is most frustrating about these new methodologies is that they are almost totally beyond the reach of traditional anti-money laundering measures. Not only are there few laws and regulations that would make money laundering by those methods prosecutable, there is no need for any of the activity in the cyber world to pass through the United States, meaning that even if there were ways to monitor the new methods, there would be little U.S. officials could do.

In addition, while understanding in some cases how they work, they acknowledge they have no idea of the scope of the money being shipped through these electronic methods. While they believe there are billions of dollars, there are no quantifiable ways of measuring the flow of something one cannot see or trace.

“Drug traffickers have always been several steps ahead of law enforcement in acquiring and using technology,” one U.S. official said. “They can buy off the shelf and hire the best help. We have procurement processes we have to go through and very limited personnel that can deal with this. So we really have no idea what they are doing on the cyber front. And that is what should scare us.”⁴⁷

⁴⁴“National Drug Threat Assessment 2009,” *op cit.*, p. 51.

⁴⁵Presentation of Tom Kellerman, vice president of security awareness, Core Security Technologies, “Criminal Networks, Smuggling and WMD Conference,” sponsored by the Terrorism, Transnational Crime and Corruption Center and Defense Threat Reduction Agency, George Mason University, Feb. 25, 2010.

⁴⁶“National Drug Threat Assessment 2009,” *op cit.*, p. 53; author interviews with U.S. officials.

⁴⁷Author interview, February 2010.

FACING THE THREAT

The multiple and constantly evolving options available to drug trafficking and transnational criminal organizations to move and hide their funds highlights the extreme difficulty in combating the flow of illicit funds. As with the movement of drugs, people or weapons, the specific routing and methodology of movement of the commodity can be changed, concentrated or diversified as needed.

On the U.S. side of the border, combating the versatile organizations with rapidly shifting methods are primarily state and law enforcement officials. While receiving some federal aid and training, the local law enforcement units are often operating on their own, with little communication or information sharing with other units. On a federal level, resources and talent in the Treasury Department, particularly FinCen and OFAC, have been taken from the tracking of drug money to trying to track terror finance.

In the intelligence community the same trend has prevailed. Only the DEA has managed to keep a sustained focus on drug trafficking organizations, and is now in ongoing turf battles with the Department of Homeland Security (DHS) and other parts of the government. While the trend has reversed slightly in recent months, money movements of organized criminal organizations, unless they are directly linked to terrorism (and more and more are), have been a far lower priority than prior to 9/11.⁴⁸

There are some important signs this imbalance is being corrected. In January the Obama administration issued the first National Intelligence Estimate (NIE) on Organized Crime. The all-agency report remains largely classified but, given that it is the first NIE to focus on organized crime since 1995, it is an important step in recognizing the need to broaden the national security focus beyond radical Islamist terrorism.

On a smaller scale, the U.S. Embassy in Mexico City is coordinating a multi-agency study of drug money movements in an attempt to create a baseline study that will help determine reasonable parameters of phenomena. Again, this will be the first study of its kind in more than a decade and shows a growing recognition of the need for a far broader understanding of the problem in order to develop more effective policies.⁴⁹

On the Mexican side, significant strides have been made in creating the legal framework that will allow the Mexican government to more aggressively pursue the illicit proceeds of the drug gangs, but much of the implementing legislation remains to be written, and the governmental and judicial infrastructure is lacking.

The primary tools are preventative detention (*arraigo*) and asset forfeiture (*extinción de dominio*), which were part of a broad package of constitutional reforms that has passed both houses of the Mexican Congress in 2008. The reforms, after passing the

⁴⁸Author interviews with numerous U.S. money laundering officials.

⁴⁹Author interviews in Mexico City, Feb. 8, 2010.

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needed 16 of 31 Mexican state legislatures, were signed into law by president Calderón on June 17, 2008, giving the president a significant political victory. The reforms, which offer sweeping judicial reforms and anti-corruption measures, were hailed by Calderón as historic, saying: “What is at stake is not the liberty, security or integrity of the government, but above all the security and integrity of the governed.”⁵⁰

Previously, Mexico did not have a civil forfeiture regime and could seize assets only upon a final criminal conviction; it could also seize assets administratively if they were deemed to be “abandoned” or unclaimed.⁵¹ Under the new laws, the right to seize assets before trial solely in organized crime cases gives law enforcement officials the ability to seize any proceeds or property that are the result of, product of, or used in organized crime cases.⁵²

Funding for Mexico’s Financial Intelligence Unit (Unidad de Inteligencia Financiera — UIF) has been far from adequate. In 2006, the UIF received just 0.3 percent, or \$7.1 million, of the budget allotted to the Ministry of Finance and Public Credit (Secretaría de Hacienda y Crédito Público — SHCP), less than the ministry’s public relations department.

There are indications the situation may be changing. Under the Mérida Initiative the UIF is to receive \$5 million in IT assistance and FinCEN has begun a more intensive relationship with the UIF to modernize and improve its capabilities. Personnel to monitor cash flows are being exchanged in numerous entities, with FinCen and the UIF placing people in each other’s headquarters to enhance cooperation.

But there is a significant distance to travel. The number of actual cases investigated remains very low and the ability to share information across institutional lines, particularly the UIF and PGR is minimal. The IMF report noted that the UIF and PGR often fail to communicate on cases and the UIF cannot automatically obtain information on its investigations from prosecutors. While UIF personnel can request information, the PRG does not have to respond and often does not.

The IMF report noted that the “insufficient resources allocated to investigation units of the Deputy Attorney General’s Office for the Investigation of Organized Crime (SIEDO) have impeded Mexico’s capacity to conduct investigations and prosecutions of ML offenses in an effective manner.”⁵³

From 2005–2009, according to UIF statistics, there were 248,625 “unusual” financial activities reported, meaning activities of more than \$10,000 that can not be accounted for by normal, declared economic activities. Of these, only 741 were

⁵⁰Manuel Roig-Franzia, “Mexico Revises Its Justice System,” *The Washington Post*, June 18, 2007, A07.

⁵¹U.S. Department of State, Bureau of International Narcotics and Law Enforcement Affairs, 2008 *International Narcotics Control Strategy Report, Volume II: Money Laundering and Financial Crimes*, March 2008, p. 330.

⁵²Interview with César Camacho, chairman of the justice committee of the chamber of deputies, member of the PRI, and the lead author of the legislation.

⁵³“Mexico: Detailed Assessment Report On Anti-Money Laundering and Combating the Financing of Terrorism,” *op cit.*, p. 30.

deemed to be “worrisome” and meriting further investigation.⁵⁴ As noted earlier, this has led to only a handful of successful prosecutions.

THE ROAD AHEAD

It is not realistic to think in terms of eliminating or completely blocking bulk cash shipments and other forms of money laundering. Rather, policy options must examine ways of raising the cost of doing business to the cartels and other criminal organizations and creative ways of targeting their most successful types of operations. This requires an understanding that if one method is successfully tackled the cartels will already have several new ones operational.

This is particularly true in the case of new cyber methods of moving and laundering large sums of money through methods previously unknown to or outside the reach of law enforcement. Entirely new methods will likely require entirely new counter-measures. This will require understanding that does not currently exist, training, regulatory and legal remedies that balance personal freedoms with the dangers of multi-billion transnational criminal enterprises and host of other issues that are now only in the preliminary discussion phase.

There are daunting challenges in the rapidly evolving world of illicit money movements and it will take significant time to understand and disrupt the new cyber challenges. The amply-demonstrated abilities of the DTOs to adjust their strategies to law enforcement actions means that these new challenges must be addressed as soon as possible. There is virtually no regulatory framework to deal with these new issues, and, in order to be even moderately effective the framework must be multi-jurisdictional and enforceable. If the first step to dealing with a problem is to identify it, the U.S. law enforcement has barely taken the first step.

However, this paper’s recommendations will focus on the immediate challenges of disrupting the flows of bulk cash shipments, because successfully doing that will impair the cartels’ ability to maintain the level of violence and corruption in Mexico.

Key to any success is the effective use of human intelligence and financial intelligence, meaning the ability to sift through significant amounts of data for the anomalies that indicate illicit gain. The danger of over-relying on data extraction at the expense of human intelligence is the sheer volume of data makes it impossible to make significant determinations in a timely fashion. Human intelligence is also the key to understanding the new methodologies and the potential vulnerabilities in those systems.

Of primary importance (and one of the keys to the more successful targeting the FARC and other Colombian drug trafficking organizations) is the creation of vetted units on both sides of the border that can communicate with each other in real time.

⁵⁴“Inteligencia Financiera en Mexico,” Unidad de Inteligencia Financiera, Secretaría de Hacienda y Crédito Público Informe 2009. For a broader interpretation of this data see: José de Jesús González, “El Lavado de Dinero En Mexico: Escenarios, Marco Legal y Propuestas Legislativas,” Centro de Estudios Sociales y de Opinión Pública,” April 2009.

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Only with the ability to compare and share information can the financial side begin to be addressed.

The Mexican experience in this is not good, with supposedly vetted units often turning into particularly sophisticated drug trafficking organizations. The premier example of the recruitment of elite military units by the cartels is the formation of the Zetas by the Osiel Cárdenas organization. The original 30 Zetas deserted en masse from the elite, U.S.-trained Airborne Special Forces Group (Grupo Aeromóvil de Fuerzas Especiales, known by their Spanish acronym GAFES) to the Gulf cartel in 2000. Leaders of Zetas, among the most feared of cartel enforcers, have now taken operational control of some fragments of different drug trafficking organizations. The total number of trained Zetas has grown to several hundred.⁵⁵

The DEA (and recently in Iraq, SOCOM in the Pentagon) have worked, with some success, to track financial structures of criminal and terrorist groups. They have done this by maintaining a concerted focus on finances, including successfully exploiting “pocket litter,” telecommunications, and exploiting human intelligence. These lessons need to be studied and applied to the U.S.-Mexico border situation.

On the U.S. side, it is imperative that local and state law enforcement forces be given the training and tools to follow the money. Because the movement of money is often a multi-jurisdictional challenge, coordination among these groups across state lines and with the federal government is imperative. Most border police forces do not have the resources to do more than try to keep from being overrun by the flow of drugs, guns and illegal immigrants. Tracing finances is often only done when cash is seized coincidentally as part of an operation. There is not the training or the personnel to do more on the financial front.

Coordination among the federal government is not a small task. The DEA, FBI, FinCEN, DOD, intelligence community and DHS (ICE, CBP and other offices) all have equities in tracking illicit finances, particularly if a designated terrorist entity is involved. This comes into play in the Mexico situation because the Mexican cartels deal directly and indirectly with two designated terrorist organizations, the FARC and the United Self Defense of Colombia (AUC). The territorial disputes, lack of clear jurisdictional guidelines, and inter-agency rivalries make intra-governmental and inter-governmental coordination a daunting task.

On the Mexican side, the endemic corruption, the deep roots already laid down by the drug trafficking organizations, lack of technical training in police and military units and the lack of vetted units all make combating the financial flows particularly difficult. In addition, as describe above, the illicit money seeps into virtually every part of the Mexican national and local state structures, making executing existing laws a daunting task and the effective implementation of the new constitutional reforms on confiscation of properties and other important aspects even more challenging.

⁵⁵For details, see George W. Grayson, “Los Zetas: The Ruthless Army Spawned by a Mexican Drug Cartel,” Foreign Policy Research Institute, April 30, 2008; and Alfredo Corchado, “The Mexican Drug Cartel Enforcers Known as Zetas Are Growing in Strength,” *The Dallas Morning News*, September 29, 2006.

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The entire process is further hampered by the lack of coordination among the UIF, prosecutors and law enforcement investigators. While information on transactions or suspicious activities can be requested by the UIF, it cannot be required. Requests must still be hand delivered and there is no mechanism to allow the immediate sharing of information that could lead to action.

In order to significantly increase the cost to the drug cartels of moving bulk cash across the U.S. -Mexico border both nations will need to take several steps together. The opportunity to take these steps in coordination with Central American nations exists because of the joint participation in the Mérida Initiative. These are:

1. Make combating the illicit financial flows of central part of the counter-drug fight against organized crime on both sides of the border;
2. Create vetted units where language is not an obstacle and where information can be shared freely. This would allow law enforcement to jointly exploit what each side knows about personnel, routes and methods and coordinate activities in real time;
3. Substantially increase the financial and technical resources available to trace financial networks. This is particularly true in Mexico and at the state and local levels in the United States. This includes modernizing the way the UIF and other organizations in Mexico exchange information, access information and deal with law enforcement;
4. Develop human intelligence within the drug trafficking organizations specifically targeted at the financial structure with the goal of both identifying routes, but also key facilitators and exploitable weaknesses along the financial pipeline and anticipating future vulnerabilities;
5. Develop joint regulations on wire and other unrestricted money transfer systems, recognizing that such services are often an important financial lifeline to significant numbers of people, particularly in rural areas. Simply cutting the services or making them unviable would create significant hardship and generate sympathy for the drug traffickers;
6. Monitor and trace the purchase of land, particularly near the border, in order to anticipate where the cartels are likely to be able to exert significant pressure.

All of these steps would increase the cost of doing business for the organized criminal organizations. The more money they have to spend to move money, the less they have for other activities. Money that is seized deprives the criminal organizations of the final payoff for their activities, and hurts them more than interdicting the drugs or other products. Targeting cash remains one of the most effective ways of significantly hurting criminal organizations, therefore creative and flexible approaches to doing so are imperative.

U.S. FIREARMS TRAFFICKING TO MEXICO: NEW DATA AND INSIGHTS ILLUMINATE KEY TRENDS AND CHALLENGES

Colby Goodman and Michel Marizco

INTRODUCTION

During a routine inspection of a U.S. gun store in Houston, Texas, in January, 2007, an industry operations officer from the U.S. Department of Justice's Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) uncovered a suspicious trend.¹ Numerous individuals had purchased large quantities of military-style firearms² in a relatively short period of time. ATF later determined that 23 buyers had purchased 339 firearms — mostly AR-15 semi-automatic rifles, FN Herstal 5.7mm rifles and pistols, and Beretta pistols — worth \$366,450 in a 15-month period at Carter's County gun store. Mexican authorities also had recovered 88 of these firearms in Mexico; four of the firearms were found in Guatemala.³ One or more of these firearms had been found at various crime scenes in Mexico where police had been murdered, judicial personnel had been executed, the military had received gunfire, or a businessman had been kidnapped and murdered.⁴ Many, if not all, of the assailants were members of a Mexican drug trafficking organization (DTO).⁵ Mexican authorities also found several more of these U.S.-origin firearms during narcotics related searches and at various

¹United States of America vs. Juan Pablo Gutierrez, Criminal Complaint, Case Number H-08-695m, United States District Court Southern District of Texas, Filed on October 2, 2008, accessed document through the Public Access to Court Electronic Records (PACER) service in April 2010.

²By firearms, the authors mean any arm that is designed to expel a projectile by the action of an explosive such as a rifle, handgun, or machine gun or any arm that is a destructive device such as hand grenades and rocket-propelled grenades, which is similar to the definition of firearms in the U.S. Gun Control Act of 1968.

³United States of America vs. Juan Pablo Gutierrez. Statement of Kenneth E. Melson, Deputy Director of the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), before the U.S. House Committee on Appropriations, Subcommittee on Commerce, Justice, Science and Related Agencies, March 4, 2010, online at <http://www.atf.gov/press/releases/2010/03/030410-testimony-atf-dir-melson-fy11-appropriations.html>.

⁴*Ibid.* United States of America vs. John Phillip Hernandez, Criminal Complaint, Case Number H-08-317M, United States District Court Southern District of Texas, Filed on April 24, 2008, accessed document through the Public Access to Court Electronic Records (PACER) service in April 2010.

⁵United States of America vs. Juan Pablo Gutierrez and United States of American vs. John Phillip Hernandez, Criminal Complaint.

vehicle inspection points.⁶ In total, 18 Mexican law enforcement officers and civilians died using firearms purchased from this U.S. gun store.⁷

While the above example is disturbing, it provides only a small glimpse into a much larger problem. Mexican DTOs continue to use firearms, including many U.S. firearms, in similar and more lethal ways on a regular basis. Since President Felipe Calderon took office in December 2006, there have been an estimated 28,000 drug-related killings, and most of these deaths, including extremely violent ones, were in the last two years.⁸ According to Mexican official numbers, during the same period “a total of 915 municipal police, 698 state police and 463 federal agents have been killed at the hands of criminal gangs.”⁹ These deaths represent only the most immediate effects of seven years of combat between the rival DTOs and with the Mexican government.

Despite recent efforts to rid government agencies of corrupt officials linked to DTOs, criminal organizations continue to use firearm violence to either neutralize or force government officials to support their illegal enterprise. As a result, the Mexican public increasingly lacks confidence in their government. Additionally, while the flow of firearms and ammunition to organized crime groups in Mexico does not on its own cause violence, it can contribute to a group’s decision to attack a rival, increase the lethality of such an attack, result in the death of innocent by-standers, or pose a serious challenge to the government’s ability to curb such extreme violence.¹⁰

The exploding violence in Mexico has also raised concerns about violence “spilling over” into the United States. To date, this has not been the case. The kinds of shoot-outs that have become common place in northern Mexico have not materialized on the United States side of the border. There are exceptions, including two incidents in which gunfire in Ciudad Juarez resulted in public buildings being struck by bullets across the border in El Paso, but these have been the exception rather than the rule thus far.

⁶*Ibid.*

⁷Statement of Kenneth E. Melson, March 4, 2010.

⁸Arthur Rice, “Drug war death toll in Mexico since 2006 exceeds 28,000, officials say,” CNN, August 4, 2010, online at <http://edition.cnn.com/2010/WORLD/americas/08/03/mexico.drug.deaths/#fbid=xmlBaZOfuTn&wom=true>. Luis Astorga and David A. Shirk, *Drug Trafficking Organizations and Counter-Drug Strategies in the U.S.-Mexico Context*, Woodrow Wilson International Center for Scholars, Mexico Institute, Working Paper Series on U.S.-Mexico Cooperation, April 2010, page 3, online at <http://wilsoncenter.org/topics/pubs/Drug%20Trafficking%20Organizations.%20Astorga%20and%20Shirk.pdf>.

⁹Tim Johnson, “As death toll rises, Mexico rethinks drug war strategy,” McClathy Newspapers, August 13, 2010, online at <http://www.kansascity.com/2010/08/13/2149024/as-death-toll-rises-mexico-rethinks.html>.

¹⁰As an example, the Liberian armed group Liberians United for Reconciliation and Democracy (LURD) had run out of ammunition during the Liberian conflict between 1999 and 2003. As soon as LURD received a huge shipment of arms and ammunition, they attacked the Liberian government forces. See Lisa Misol, “Weapons Sanctions, Military Supplies, and Human Suffering: Illegal Flows to Liberia and the June–July 2003 Shelling of Monrovia,” A Human Rights Watch Briefing Paper, November 3, 2003, online at <http://www.hrw.org/en/news/2003/11/05/liberia-guinea-flouts-arms-embargo>.

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As DTOs have expanded their use of firearms, including more military-type of firearms, the U.S. and Mexican governments have increased collaboration efforts as well as independent work to tackle U.S. firearms trafficking to Mexico. For example, the U.S. Department of Homeland Security's Immigration and Customs Enforcement (ICE) launched Operation Armas Cruzadas in 2008 as a "bilateral law enforcement and intelligence-sharing operation between U.S. and Mexican law enforcement agencies" to combat weapons smuggling networks.¹¹ ICE also now leads five Border Enforcement Security Task Force (BEST) teams located in U.S. states along the southwest border and one team in Mexico City.¹² BEST teams include officials from U.S. Customs and Border Protection (CBP), ATF, Federal Bureau of Investigation (FBI), Drug Enforcement Administration (DEA), U.S. Attorney's Office, and Mexican federal police (Secretaria de Seguridad Publica) to coordinate approaches to firearms trafficking and other border security issues.¹³ In Fiscal Year (FY) 2009, the U.S. Congress also increased by \$29 million funding for Project Gunrunner, an ATF program started in 2005 to address U.S. firearms trafficking to Mexico.¹⁴ By the end of FY 2009, ATF had referred 497 cases to the Justice Department for possible prosecution for firearms trafficking violations to Mexico. These cases were the result of Project Gunrunner.¹⁵

The Mexican government has also stepped up its efforts to seize firearms from Mexican DTOs and submit these firearms to ATF for tracing. According to ATF, firearms tracing is one of the most important tools they have to curb U.S. firearms trafficking to Mexico; if successfully traced, it helps ATF link suspects to trafficked weapons, identify potential traffickers, and detect trafficking patterns.¹⁶ In late October 2009, the Mexican military submitted an extensive list of firearms seized over the last few years to ATF.¹⁷ This represented the largest number of trace requests submitted to the U.S. government to date and indicated a willingness amongst Mexican authorities to submit more trace requests to ATF. Additionally, both the

¹¹U.S. Immigration and Customs Enforcement (ICE), Fact Sheet on Operation Armas Cruzadas, November 3, 2009, online at http://www.ice.gov/pi/news/factsheets/armas_cruzadas.htm.

¹²U.S. Immigration and Customs Enforcement (ICE), Fact Sheet on Border Enforcement Security Task Force (BEST), August 5, 2010, online at http://www.ice.gov/pi/news/factsheets/080226best_fact_sheet.htm.

¹³*Ibid.*

¹⁴Vivian S. Chu and William J. Krouse, "Gun Trafficking and the Southwest Border," Congressional Research Service Report, R40733, September 21, 2009, page 14, online at <http://www.wilsoncenter.org/news/docs/CRS%20Gun%20Trafficking%20and%20the%20Southwet%20Border.pdf>.

¹⁵Statement of Kenneth E. Melson, Deputy Director of ATF, March 4, 2010.

¹⁶ATF Information on Project Gunrunner, ATF, online at <http://www.atf.gov/firearms/programs/project-gunrunner/>. Author phone conversation with ATF agent based in El Paso, Texas in March 2010. Once a firearm is seized or recovered in Mexico and submitted to ATF for a trace, ATF attempts to trace the firearm from its manufacturer or importer to the first retail purchase in the United States. ATF does not necessarily need to trace the firearm to the first purchase in the United States to determine the origin of the firearm.

¹⁷Author interview with ATF official in Washington, DC in August 2009.

Mexican and the U.S. governments have added staff to work with their counterparts in each country.

With information gleaned from increased Mexican firearm seizures and U.S. prosecutions, it is now possible to provide a better picture of some of the key questions about U.S. firearms trafficking to Mexico as well as some of the key trends and challenges. In May 2010, for example, the Mexican government, which has received training from ATF to better identify firearms, said that of the 75,000 firearms it seized in the last three years about 80 percent, or 60,000 firearms, came from the United States.¹⁸ Based on information from U.S. prosecutions, at least an estimated 4,976 U.S.-origin firearms were trafficked to Mexico during FY 2009, up more than 2,000 firearms from similar information for FY 2007.¹⁹ The top two firearms purchased in the United States and recovered in Mexico over the past three years were in order AK-47 type semi-automatic rifles and AR-15 semi-automatic rifle clones.²⁰ The Romarms (Romanian manufactured) AK-47 rifle and the Bushmaster AR-15 rifle clone have been particularly popular.²¹ According to several ATF officials, individuals or groups regularly use straw purchasing as part of a scheme to traffic U.S. firearms to Mexico.²² Straw purchasers are individuals who say they are purchasing a firearm for themselves but the real purchaser is someone else. While new data continue to show Texas, Arizona, and California as major source states for firearms recovered in Mexico, ATF in California says if the analysis is narrowed to firearms purchased in the United States in the last three years, California is not as much of a major source.²³

¹⁸Mary Beth Sheridan, "Mexico's Calderon tells Congress he needs U.S. help in fighting drug wars," *The Washington Post*, May 21, 2010, online at <http://www.washingtonpost.com/wp-dyn/content/article/2010/05/20/AR2010052002911.html>. Kara Rowland, "Calderon Blames U.S. guns for Violence," *The Washington Times*, May 21, 2010, online at <http://www.washingtontimes.com/news/2010/may/21/calderon-faults-us-guns-for-mexico-violence/>.

¹⁹Author interview with ATF staff in Washington, DC in February 2010.

²⁰Author communication with ATF official in August 2010. ATF analysis was presented at the International Terrorism Conference in Anaheim, CA. Because many U.S. states do not require private firearm sellers to keep records on whom they sold a firearm to, these data are based more on U.S. firearms sales from U.S. gun stores or licensed firearms dealers. According to California state law, all sales and transfers of firearms must be through a licensed firearm dealer, which is required to keep records on firearms sales among other requirements.

²¹Author communication with ATF official in August 2010.

²²Author interview with ICE and ATF agents in Arizona, California, and Washington, DC between December, 2009 and May 2010. The definition of an international arms broker is an individual or company that carry out activities to arrange, mediate, or facilitate an international arms transaction between a buyer and seller in return for a fee or a reward or material benefit. Authors accessed information on individual U.S. federal prosecutions related to firearms trafficking to Mexico using Public Access to Court Electronic Records (PACER).

²³Author phone conversation with ATF official in August 2010. Author phone conversation with retired ATF official based in Washington, DC in August 2010. Amy Isackson, "Recent San Diego Gun Smuggling Arrest Illustrates Well-Worn Route," March 4, 2010, KPBS, online at <http://www.kpbs.org/news/2010/mar/04/recent-san-diego-gun-smuggling-arrest-illustrates-/>.

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This report seeks to answer the following questions: 1) what are the main types of firearms DTOs are using, including those trafficked to Mexico from the United States, and how do these firearms compare with the firepower of Mexican authorities; 2) how are DTOs using these firearms; 3) what are the major methods firearms traffickers are using to buy these weapons and transport them to Mexico; 4) have there been any successes in curbing such firearms trafficking; 5) what are the remaining challenges; and, 6) what can be done to improve efforts to curb U.S. firearms trafficking to Mexico? As there has also been confusion regarding related statistics, the authors have elaborated on what the data show and what they do not show.

In order to answer these questions, the authors conducted field research trips to Phoenix, Tucson, El Paso, and San Diego in the United States and to Ciudad Juarez, Hermosillo, Nogales, and Tijuana in Mexico. During these research trips in the United States, the authors interviewed U.S. government officials from various agencies including the ATF,²⁴ ICE, CBP, FBI, as well as state, county, and local law enforcement in the United States. In Mexico, the authors interviewed officials from Mexican customs, federal, local, and municipal police, the Attorney General's Office (PGR), the Army, business and academic leaders, and the media, among others. Outside of the research trips, the authors communicated with many knowledgeable Mexican and U.S. government officials and staff from non-governmental organizations and academia.

BACKGROUND

Traditionally, Mexican DTOs used firearms to establish and maintain dominance over trafficking routes, access points into the United States, and territory (known as “plazas” in Spanish), usually by wresting rival drug syndicates away and establishing the environment necessary to maintain a reliable trafficking enterprise. Much of this was performed through specific assassinations, focused attacks that allowed for the establishment of regional control. Throughout much of the late 1990s and early 2000s, a relative peace had settled over the plazas, even in traditionally violent cities like Tijuana. However, as competition among DTOs increased and the Mexican government enhanced its efforts to confront DTOs the relative equilibrium began to breakdown.

While DTOs still use firearms to establish control over drug trafficking routes leading to the United States, in the last few years they more regularly use firearms in open combat with rival DTOs, Mexican authorities, and the public. Such open confrontations with the Mexican state indicate a move “into a sphere that is typically inhabited by groups with a much more overt political stance, such as terrorists,

²⁴The authors would like to thank the ATF officials they interviewed for providing key statistical data for the report and for their general openness to share information and help us understand the dynamics of the U.S. firearms trafficking to Mexico.

guerrillas or paramilitaries.”²⁵ Mexican DTOs are also demanding more sophisticated firearms and larger quantities of arms and ammunition. The resulting murder rate is now seven times what it was at the beginning of the decade, and Mexico’s democratic governance is at serious risk.

Once rare, assassinations of high level Mexican law enforcement figures including officials as high as directors of federal agencies and politicians now occur regularly in Mexico. In May 2007, for example, Nemesio Lugo Felix, director of Mexico’s National Center for Information, Analysis and Planning in order to Fight Crime (CENAPI) was murdered by a man who approached his SUV carrying a pistol in Mexico City and shot him in the face.²⁶ Nemesio Lugo had worked closely with U.S. intelligence officials in the DEA and the U.S. Department of State and was highly regarded as an effective director of intelligence working against organized crime syndicates.²⁷ No one was ever arrested for his murder. A year later, Edgar Millan Gomez, acting director of the Federal Preventive Police, was assassinated in his own home by a man wielding two 9mm pistols.²⁸ Holding a press conference in Culiacán one week before his death, Millan had announced the arrests of 12 hit men working for the Sinaloa Cartel. That same day, one of the directors of a federal organized crime unit, Roberto Velasco, was shot and killed in Mexico City. The following day, Jose Aristeo, chief of staff for the Federal Preventive Police, was shot and killed in the same city.²⁹

While those four men are a good indication of the high-level Mexican government officials targeted by DTOs, DTOs also target other Mexican authorities and recently U.S. officials in Mexico. For example, in Ciudad Juárez, it is believed gunmen used a .50 BMG caliber rifle to shoot Francisco Ledesma Salazar, the head of local police operations.³⁰ In this particular case, a Juárez cartel associate purchased the firearm in Phoenix, Arizona. Law enforcement, particularly local police, is still amongst the most targeted by the DTOs. In 2008, more than 530 police officers were murdered throughout Mexico; from high-level public security officials in

²⁵John Bailey and Matthew M. Taylor, “Evade, Corrupt, or Confront? Organized Crime and the State in Brazil and Mexico,” page 12, online at <http://hup.sub.uni-hamburg.de/giga/jpla/article/view/38/38>.

²⁶Gustavo Castillo Garcia, “Delincuencia organizada, vinculada al asesinato de Nemesio Lugo Félix,” *La Jornada*, June 16, 2007, online at <http://www.jornada.unam.mx/2007/06/16/index.php?section=politica&article=016n2pol>.

²⁷U.S. Embassy in Mexico, “Ambassador Garza Expresses his Condolences to the Family of Jose Nemesio Lugo Felix,” News release, May 14, 2007, online at <http://www.usembassy-mexico.gov/eng/releases/ep070514Lugo.html>.

²⁸James C. McKinley, “Gunmen Kill Chief of Mexico’s Police,” *The New York Times*, May 9, 2008, online at <http://www.nytimes.com/2008/05/09/world/americas/09mexico.html>.

²⁹Hector Tobar, “Ranking Security Official Slain in Mexico,” *Los Angeles Times*, May 9, 2008, online at <http://articles.latimes.com/2008/may/09/world/fg-mexico9/2>.

³⁰Drew Griffin and John Murgatroyd, “Smugglers’ deadly cargo, Cop-killing guns,” *CNN.com*, March 26, 2008, online at <http://www.cnn.com/2008/WORLD/americas/03/26/gun.smuggling/index.html>.

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Mexico City to street cops along the country's northern border.³¹ In March 2010, a U.S. Consulate employee, her husband, and the husband of another employee were also murdered in Ciudad Juárez, possibly signaling an escalation of the violence in that city against the U.S. government.³²

Although DTOs have engaged in limited attacks or confrontations with the Mexican military, the military's confrontations with DTOs have resulted in relatively few soldier deaths compared to police officer deaths. Between December 1, 2006 and February 19, 2009, 79 military officers and soldiers died and an additional 173 were wounded while combating the DTOs.³³ In a brazen attack on the military in Tijuana in October 2008, for example, a Mexican Special Forces soldier, Angel Guadalupe Aguilar Villatoro, was shot in the head as his unit drove into a neighborhood where a drug lord owned a home. After a two-hour standoff with Mexican Special Forces, police found a Barrett .50 BMG caliber sniper rifle, a .223 caliber assault rifle, and three .308 caliber rifles.³⁴ U.S. District Court documents show that the firearms were purchased in Las Vegas, Nevada by a man named Juan Valdez.³⁵

DTOs are also using firearms to attack and intimidate politicians, journalists, businesses, and the general public. In June 2010, a leading Mexican gubernatorial candidate, Rodolfo Torre Cantu, was killed by gunfire in Tamaulipas, just days before the July 4, 2010 elections.³⁶ In late 2008, Armando Rodriguez, a crime reporter for *El Diario de Juárez*, was shot in the head with a 9mm as he drove his daughter to school.³⁷ Rodriguez had reported extensively on the drug ties of the family members of state attorney general, Patricia Gonzalez. Between 1999 and 2009, 32 reporters and editors were killed in Mexico, and an additional nine disappeared, never to be found.³⁸ The high number of journalist murders makes Mexico among the deadliest countries in the world in which to work as a journalist and consequently many media companies now refuse to cover organized crime or corruption.

³¹Lizbeth Diaz, "Mexico drug gangs threaten cops on radio, kill them" Reuters, February 6, 2009.

³²Edwin Chen and Carlos Manuel Rodriguez, "Killings of 3 Connected to U.S. Consulate Bring Warning" *BusinessWeek*, March 15, 2010.

³³Roderic Ai Camp, "Armed Forces and Drugs: Public Perceptions and Institutional Challenges," Woodrow Wilson International Center for Scholars, Mexico Institute, and Trans-Border Institute at the University of San Diego, "Working Paper Series on U.S.-Mexico Cooperation," May 2010, online at <http://www.wilsoncenter.org/topics/pubs/Armed%20Forces%20and%20Drugs.%20Camp.pdf>.

³⁴Zeta Online, "CAF asesina a militares," online at <http://www.zetatijuana.com/html/Edicion1803/Principal.html>.

³⁵United States of America vs. Uvaldo Salazar-Lopez, Criminal Complaint, U.S. District Court of Nevada, Case 2:09-mj-00002-LRL-LRL, May 1, 2009, accessed through PACER online.

³⁶Naima Jabali-Nash, "Rodolfo Torre Cantu Assassinated; Drug Cartels Suspected, Say Reports," CBS News, June 28, 2010, online at http://www.cbsnews.com/8301-504083_162-20009074-504083.html.

³⁷USA Today, "Crime reporter killed in Mexico," November 13, 2008, online at http://www.usatoday.com/news/world/2008-11-13-mexico-crime-reporter_N.htm.

³⁸Committee to Protect Journalists, "Attacks on the Press: Mexico," accessed online in May 2010 at <http://cpj.org/2010/02/attacks-on-the-press-2009-mexico.php>.

The general public is also getting caught in the escalating conflict in various ways. In late 2006, for example, in the Sinaloan village of Zazalpa, 60 drug traffickers looking for a rival DTO gathered all the residents and destroyed the town, raking buildings with U.S.-purchased AR-15 fire.³⁹ According to Mexican President Calderon, the DTOs are also “imposing fees like taxes in areas they dominate and trying to impose their own laws by force of arms.”⁴⁰ In February 2010, U.S. and Mexican citizens waiting to cross into Mexico from Nogales, Arizona, were trapped in a firefight that erupted in the plaza on the Mexican side. In the spring of 2008, tourists returning through the Lukeville port of entry were also trapped in line waiting to cross when a gunfight ensued. In that same year, a woman from Nogales, Arizona, was murdered at a fake checkpoint on a federal interstate in Sonora. Authorities said she was shot with AK-47 gunfire.⁴¹ A Mexican government official familiar with the murder said three .50 BMG caliber rifle shells were found at the scene.⁴² A Phoenix businessman who led hunting expeditions in Sonora, Mexico, was also found shot dead with an AK-47 in May 2010.⁴³ The escalating crime and murder rates in Ciudad Juarez have also sparked an exodus from that city with some groups estimating that 60,000 have fled in the past few years to other parts of Mexico or the United States.⁴⁴

U.S. AND MEXICAN GOVERNMENT ACTIONS

In light of the widespread use of firearms by DTOs, the U.S. and Mexican governments have significantly increased their efforts both independently and collectively to curb Mexican DTO’s access to firearms and ammunition in the last few years. While much still needs to be done, both governments have had some tangible results.⁴⁵ Mexico has, by far, the most firearm seizures per year when compared to the United States; although, the U.S. government, particularly ATF, has seized thousands of firearms intended for trafficking to Mexico. It appears Mexico is seizing most of

³⁹U.S. guns pour into Mexico, Arizona Republic, January 16, 2007.

⁴⁰BBC News, “Calderon: Mexico drug gangs seeking to replace state,” August 5, 2010, online at <http://www.bbc.co.uk/news/world-latin-america-10877156>.

⁴¹Juan Carlos Ruiz Olvera, “Un reten de sicarios mata a una mujer en Sonora “Es inaceptable la situación es en extremo delicada” dice Bours,” Dossier Politico, August 11, 2008, <http://www.dossierpolitico.com/vernoticiasanteriores.php?artid=40767&relacion=dossierpolitico>.

⁴²Author interview with CISEN agent on September 25, 2008.

⁴³El Imparcial.com, “Hallan en Santa Ana a desaparecido de EU, May 9, 2010, online at <http://www.elimparcial.com/EdicionImpresa/ejemplaresanteriores/BusquedaEjemplares.asp?numnota=837791&fecha=9/5/2010>.

⁴⁴Alfredo Corchado, “Families, businesses flee Juárez for U.S. pastures,” The Dallas Morning News, March 7, 2010, <http://www.dallasnews.com/sharedcontent/dws/news/world/mexico/stories/030710dnintexodus.3eab4f7.html>.

⁴⁵It remains difficult to assess the impact of these tangible results because there are no good estimates on how many firearms Mexican DTOs have in their arsenal or the total number of firearms crossing the U.S.-Mexico border per year.

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the firearms from house or site raids and vehicle inspections inside Mexico. In the last couple of years, there has also been a large increase in the number of Mexican firearm trace requests to ATF, and Mexico is providing other important information on Mexican prosecutions of firearms traffickers. The United States has convicted hundreds of individuals on charges related to firearms trafficking to Mexico, which increases the risks and costs for would-be traffickers. The United States has also been providing technology, training, and equipment that will assist Mexico's efforts to identify and trace firearms, and/or prosecute firearms traffickers.

MEXICAN GOVERNMENT ACTIONS

The Mexican government has significantly increased the number of firearms it has seized per year since the start of the Calderon Administration (see Figure 1). According to the latest figures from Mexico, the Mexican government confiscated 32,332 firearms in 2009, an increase of more than 22,770 firearms over 2007 seizures.⁴⁶ The authors were unable to find reliable numbers for total firearms seizures for 2006, which is why it was excluded from the graph below. Nevertheless, Mexico has seized more than 85,000 total firearms from the start of the Calderon Administration in December 2006 to August 2010, including 50,000 AK-47 and AR-15 rifles.⁴⁷ An estimated 5 million rounds of ammunition has been confiscated from December 2006 to May 2010.⁴⁸

Although Mexican authorities seize firearms unrelated to DTOs such as through common crime, it appears they seize the largest quantity of firearms per year from DTO members in two ways: from raids on houses or sites believed to be associated with Mexican DTOs and from vehicle inspection points inside Mexico.⁴⁹ Mexican Customs officials monitor passage of goods through the port of entry, and a secondary

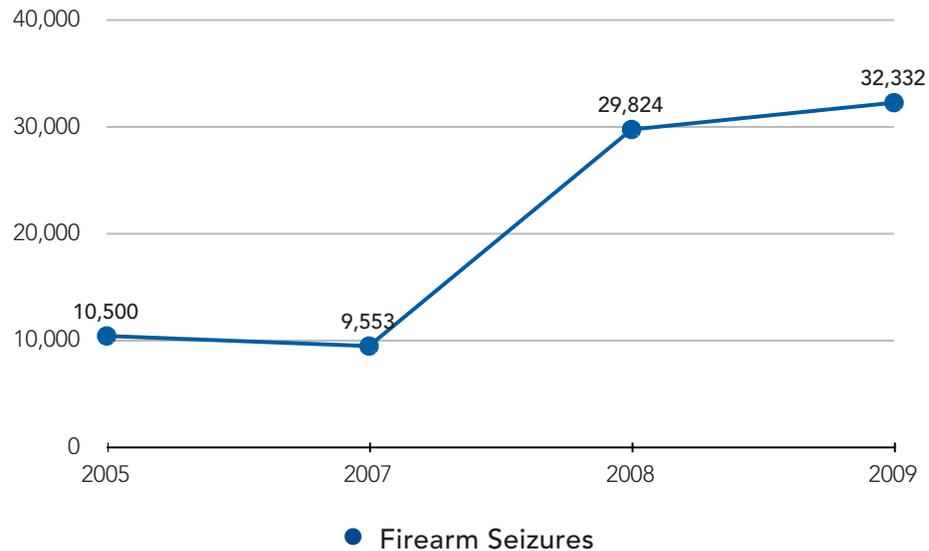
⁴⁶Author interview with Mexican government officials in Washington, DC in May 2010. U.S. Embassy in Mexico, Mérida Initiative at a Glance, Fact Sheet on Combating Arms Trafficking. Government Accountability Office (GAO), "U.S. Efforts to Combat Arms Trafficking to Mexico Face Planning and Coordination Challenges," GAO-09-709, June 2009, page 66, online at <http://www.gao.gov/new.items/d09709.pdf>. The authors chose these numbers because they represent the best calculations among various Mexican government reports when comparing these figures to ATF information about firearms recovered in Mexico in the same years. Over the past year, Mexican authorities have provided several different numbers for total annual firearm seizures. For example, some Mexican authorities reported to the authors that the government seized 21,041 firearms in 2008 while CENAPI, under PGR, said they seized 29,824 firearms in 2008, see GAO reference above.

⁴⁷Tom Ramstack, "Mexican President Calls on U.S. to Close Border to Illegal Arms," AHN News, August 9, 2010, online at <http://www.allheadlinenews.com/articles/7019538251?Mexican%20President%20Calls%20on%20U.S.%20to%20Close%20the%20Border%20to%20Illegal%20Arms>. Author interview with Mexican government officials in Washington, DC in May 2010. U.S. Embassy in Mexico, Mérida Initiative at a Glance, Fact Sheet on Combating Arms Trafficking. Milenio, "Incautó el Ejército más de 55 mil armas con Calderón," May 13, 2010, online at <http://www.milenio.com/node/442669>.

⁴⁸Author interview with Mexican government officials in Washington, DC in May 2010.

⁴⁹Author phone conversation with ATF official in August 2010.

FIGURE 1: FIREARM SEIZURES BY MEXICO PER YEAR



Customs unit, or a military unit, establishes a second post at the 21st kilometer south of every major Mexican border city.⁵⁰ In an example of a site raid in May 2010, the Mexican military found an estimated 140 semiautomatic rifles and 10,000 rounds of ammunition at a Zeta training camp in Nuevo León, Mexico.⁵¹ Mexican officials at the border between El Paso, Texas and Ciudad Juárez, Mexico, said they confiscate only a small number of firearms and ammunition.⁵² Mexican authorities also seize firearms after shoot-outs between opposing DTOs and between DTO members and Mexican authorities.

A Government Accountability Office (GAO) report found that eight Mexican states — Baja California, Chihuahua, Guanajuato, Jalisco, Michoacán, Oaxaca, Tamaulipas, and Mexico City — ranked highest in order for Mexican firearms

⁵⁰Author interview with Mexican official in Nogales, Mexico, in March 2010. As an example of a firearms seizure at vehicle inspection point inside Mexico, Mexican authorities seized 30,000 rounds of ammunition from a civilian bus heading into Mexico at a vehicle checkpoint several miles from the Nogales border inside Mexico in March 2010.

⁵¹Michel Isikoff, “Is the Flow of U.S. Weapons to Mexican Drug Cartels Increasing Under Obama?,” *Newsweek*, accessed online in May 2010 at <http://blog.newsweek.com/blogs/declassified/archive/2010/05/17/is-the-flow-of-u-s-weapons-to-mexican-drug-cartels-increasing-under-obama.aspx>. In another example, the Mexican military seized “a rocket launcher, 10 rifles, a grenade launcher attachment, five grenades, 55 magazines, three machine gun belts, two thousand 769 cartridges” (translated text) at a house during Operation Conjunto Culiacan-Navolato Guamuchil in January 2010, according to *Noroeste.com*, “Incautan un arsenal, vehículos y droga,” January 18, 2010, online at <http://www.noroeste.com.mx/publicaciones.php?id=548833>.

⁵²Author interview with Mexican Customs officials in Ciudad Juárez in January 2010.

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seizures in 2008.⁵³ Tijuana and Ciudad Juarez were among the top six Mexican cities where U.S. firearms had been recovered in 2008.⁵⁴

Recognizing that submitting firearm trace requests to the United States is key to combating U.S. firearms trafficking, the Mexican authorities have also significantly increased the number of firearm trace requests to ATF. In late October 2009, for example, the Mexican military submitted an extensive list of firearms seized over the past few years to ATF for tracing.⁵⁵ While ATF was not able to use many of the firearms because it either already had information on the firearm or there were duplicates in the list, among other challenges, the list provided ATF with new data on tens of thousands of firearms recovered in Mexico. As of May 2010, ATF said they had inputted data on a total of 69,808 firearms recovered in Mexico from 2007 to 2009.⁵⁶ See Figure 2 for a comparison of the number of firearms ATF had information on in June 2009 with what ATF had information on in May 2010 from 2007 to 2009 per year.⁵⁷ Although ATF received the list in late 2009, the numbers rose for more than one year because ATF calculates the total number of firearms recovered in Mexico based on the year they were seized.⁵⁸ ATF also said Mexico has already provided them with tens of thousands of firearm trace requests in 2010.⁵⁹

Mexico is also providing information to the U.S. government on its own firearms trafficking investigations and prosecutions and additional, related cooperation is planned for the near future. See Figure 3 for an example of one way Mexico is providing information to ATF on its firearms seizures.⁶⁰ For Figure 3, it is likely many of the firearms confiscated for the Mexican crime of “illegal firearms possession” were connected to house or vehicle seizures of DTO members. In May 2010,

⁵³Government Accountability Office (GAO), “U.S. Efforts to Combat Arms Trafficking to Mexico Face Planning and Coordination Challenges,” page 65.

⁵⁴U.S. Department of Justice, “Interim Review of ATF’s Project Gunrunner,” Office of the Inspector General, Evaluation and Inspections Division, September 2009, page 16, online at <http://www.justice.gov/oig/reports/ATF/e0906.pdf>.

⁵⁵Author communication with ATF officials in May 2010. Author phone conversation with retired ATF agent with responsibilities for combating U.S. firearms trafficking to Mexico in August 2010. See below sections for more detail on challenges ATF faces in tracing firearms from Mexico.

⁵⁶Author phone conversation with ATF official based in Washington, DC in May 2010. Claire Ribando Seelke and Kristin M. Finklea, “U.S.-Mexico Security Cooperation: The Mérida Initiative and Beyond,” Congressional Research Service (CRS), R41349, July 29, 2010, page 34, online at <http://www.wilsoncenter.org/topics/docs/CRS%20Report%20US%20Mexico%20Security%20Cooperation%20July%2029%202010.pdf>.

⁵⁷New data provided to authors by ATF on June 1, 2010 based on a ATF query of the Firearms Tracing System in May 2010. Old data based on information contained in GAO report (<http://www.gao.gov/new.items/d09709.pdf>). There are two plausible reasons as to why ATF has more total annual firearm seizures for some years than Mexico does. One, different Mexican authorities may have different amounts for total annual firearm seizures. Two, ATF agents in Mexico are increasingly submitting firearm trace requests themselves and Mexico may not include all of the firearms ATF traces in its annual firearm seizure number.

⁵⁸Author interview with ATF official in May 2010.

⁵⁹Author communication with ATF official in March 2010.

⁶⁰Author phone conversation with ATF official based in Washington, DC, in May 2010.

FIGURE 2: COMPARISON OF INFORMATION ON FIREARMS RECOVERED IN MEXICO PER YEAR

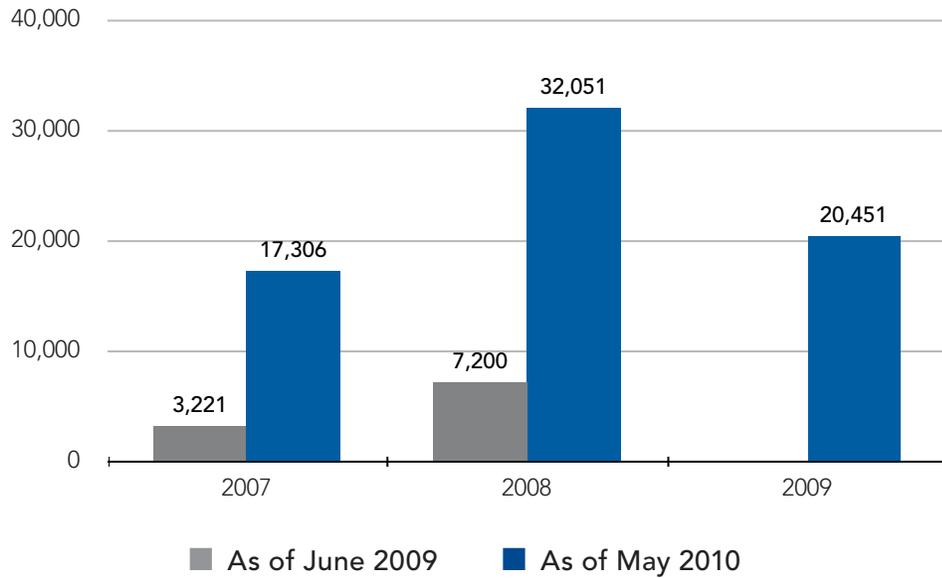


FIGURE 3: TOP SEVEN MEXICAN CRIMES ASSOCIATED WITH FIREARMS RECOVERED IN MEXICO IN 2009 AND SENT TO ATF

Crime under Mexican Law	Amount of Firearms
Illegal possession of weapon	12,264
Trafficking a weapon	4,428
Carrying a prohibited weapon	339
Related to dangerous drugs	311
Firing a weapon	298
Weapon used in a homicide	99
Weapon used in kidnapping	82

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the U.S. Embassy in Mexico reported that Mexico is also sharing “data and information in preliminary investigations, investigations into straw purchasers, prosecutions, and other judicial proceedings with U.S. authorities.”⁶¹ PGR personnel now work with ATF directly in Phoenix, Arizona, and they have sent a PGR specialist to work with U.S. authorities at the El Paso Intelligence Center (EPIC) in El Paso, Texas. Both governments also have a plan in place to enhance judicial cooperation, intelligence sharing, and the detection of firearms movement between the two.⁶² For the future, the United States and Mexico will reportedly establish a working group to increase the number of firearms trafficking prosecutions on each side of the border and create a unit to help link firearms to drug cartels for prosecution.⁶³ Mexico also plans to develop a list of individuals who have a history of obtaining firearms in Mexico to share with the U.S. government.

U.S. GOVERNMENT ACTIONS

The U.S. government, primarily through ATF, ICE, and CBP, has increasingly been engaged in combating U.S. firearms trafficking to Mexico by, for example, pursuing investigations and prosecutions of firearms traffickers in the United States, seizing firearms in the United States illegally headed for Mexico, and assisting Mexico with technology, equipment, and training. According to ATF in March 2010, “between fiscal year 2005 and fiscal year 2009, ATF recommended 984 cases involving 2,034 defendants for prosecution” associated with its Project Gunrunner.⁶⁴ Four hundred and ninety-seven (497) of the 984 cases included charges specifically related to firearms trafficking.⁶⁵ Amongst the 497 cases there were 852 defendants, of whom 811 have been indicted and 533 convicted with an average 45.5 months of incarceration.⁶⁶ From the inception of ICE’s Operation Armas Cruzadas in 2008 until October 2009 “257 individuals [have been arrested] on criminal charges, resulting in 147 criminal indictments and 96 convictions.”⁶⁷ As of May 2010, the number of individuals arrested since the Operation began rose to 749.⁶⁸

⁶¹U.S. Embassy in Mexico, Mérida Initiative at a Glance, Fact Sheet on Combating Arms Trafficking.

⁶²U.S. Embassy in Mexico, Mérida Initiative at a Glance, Fact Sheet on Combating Arms Trafficking.

⁶³According to a U.S. Embassy in Mexico fact sheet, “ATF is currently assisting the PGR in prosecuting two firearms trafficking cases and has identified five additional trafficking cases for PGR review.” http://mexico.usembassy.gov/eng/Mérida/eMérida_factsheet_armstrafficking.html

⁶⁴Statement of Kenneth E. Melson, Deputy Director of ATF, March 4, 2010.

⁶⁵*Ibid.*

⁶⁶Data provided to the authors on June 1, 2010, by ATF official in Washington, DC.

⁶⁷It is unclear how many of these individuals were charged with crimes specifically related to firearms trafficking to Mexico as specified in the ATF cases. Statement of Janice Ayala, Deputy Assistant Director, Office of Investigation, U.S. Immigration and Customs Enforcement, U.S. House of Representatives Committee on Homeland Security Subcommittee on Border, Maritime, and Global Counterterrorism, October 22, 2009, page 6, <http://www.ice.gov/doclib/pi/news/testimonies/091022ayala.pdf>.

⁶⁸Statement of Janice Ayala, Deputy Assistant Director Office of Investigation, U.S. Immigration and Customs Enforcement, U.S. Senate Caucus on International Narcotics Control, May 5, 2010, page 14, online at <http://www.ice.gov/doclib/pi/news/testimonies/100505ayala.pdf>.

From April 28 to August 28, 2009, ATF redeployed 100 ATF staff from around the country to the ATF Houston field office to help address U.S. firearms trafficking to Mexico, which resulted in some success.⁶⁹ Prior to the start of Operation Gunrunner Impact Team (GRIT), also part of Project Gunrunner, the ATF Houston Field Division Office had over 700 investigation leads obtained through U.S. and Mexican firearm trace results.⁷⁰ Once the 100 ATF agents, including special agents, industry operations investigators, and support staff, were redeployed, the staff helped follow up on over 1,100 investigative leads;⁷¹ ATF also discovered 400 additional leads after GRIT began.⁷²

Based on those leads, ATF staff opened 276 criminal cases, 81 cases more than ATF opened related to Project Gunrunner in the Houston division for the whole year of 2008 (see Figure 4).⁷³ ATF industry operations investigators also inspected nearly 1,100 gun shops in the area, up from 855 inspections for the Houston area for all of 2008. As a result, ATF revoked the license of one gun dealer and issued 77 warning letters to other firearms dealers. In addition, ATF seized 443 firearms, 141,442 rounds of ammunition, three explosive devices, and various amounts of illegal narcotics and cash during the GRIT operation. For all of FY 2009, ATF revoked the license of 11 U.S. gun stores along the U.S. southwest border.⁷⁴ ATF is also planning another GRIT operation in 2010.⁷⁵

In the last few years, the U.S. government has also been seizing more U.S. firearms intended for illegal transfer to Mexico. In the last six months of FY 2009, for example, ICE and CBP staff reportedly seized nearly 600 illegal weapons (including ammunition magazines, rounds of ammunition, components including primers and shell casings, silencers, night vision devices, and firearms), which is 50 percent higher than the last six months of FY 2008.⁷⁶ From March 25, 2009 through March 12, 2010, ICE's Operation Armas Cruzadas seized 125 firearms and 13,386 rounds of ammunition.⁷⁷ Since its creation in 2008, the U.S. Department of Homeland

⁶⁹Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), Gun Runner Impact Team (GRIT), Houston Field Division, April 28–August 28, 2009, Powerpoint Overview of Successes, online at <http://www.atf.gov/press/releases/2009/10/100109-doj-gunrunner-success-stats.pdf>.

⁷⁰*Ibid.*

⁷¹*Ibid.*

⁷²*Ibid.*

⁷³*Ibid.*

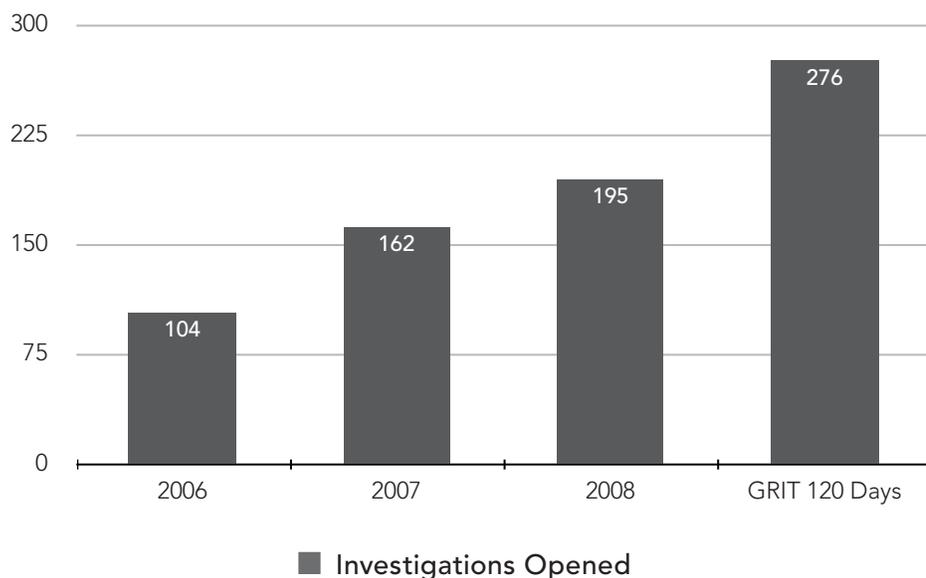
⁷⁴U.S. Embassy in Mexico, Mérida Initiative at a Glance, Fact Sheet on Combating Arms Trafficking.

⁷⁵U.S. Embassy in Mexico, Mérida Initiative at a Glance, Fact Sheet on Combating Arms Trafficking.

⁷⁶Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), Border contraband seizures soar as DHS, ATF hold summit in San Diego, News Release, November 3, 2009, online at <http://www.atf.gov/press/releases/2009/11/110309-atf-dhs-contraband-seizures.pdf>.

⁷⁷Statement of John Morton, Assistant Secretary, U.S. Immigration and Customs Enforcement, regarding a Hearing on “Update on Southwest Border; The Challenges that DHS Continues to Face,” before the U.S. House of Representatives Committee on Appropriations, Subcommittee on Homeland Security, April 14, 2010, online at http://www.dhs.gov/ynews/testimony/testimony_1274112299629.shtm.

FIGURE 4: NUMBER OF INVESTIGATIONS OPENED BY THE ATF HOUSTON, TEXAS DIVISION



Security said Armas Curzadas has resulted in the seizure of 3,877 weapons and 396,414 rounds of ammunition.⁷⁸ In 2009, ATF seized 2,630 firearms and 267,963 rounds of ammunition specifically related to investigations on U.S. firearms trafficking to Mexico.⁷⁹ For FY 2009, ATF took into custody a total of 16,383 firearms, some of which could have had been headed for Mexico.⁸⁰ From the start of Project Gunrunner in FY 2005 until the end of FY 2009, ATF seized 6,688 firearms associated with Project Gunrunner prosecutions.⁸¹

Although some firearms are seized at the U.S.–Mexican border, most of the annual seizures of firearms intended for Mexico are happening away from the border.⁸² According to ATF officials and a review of dozens of U.S. prosecutions, firearms are often taken from homes, vehicles, and people away from the border.⁸³ CBP reportedly seized only 70 firearms heading to Mexico in FY 2008, some of which may not have been intended for trafficking to Mexico.⁸⁴ According to CBP in El Paso, Texas

⁷⁸Statement of Janice Ayala, U.S. Immigration and Customs Enforcement, May 5, 2010, page 14.

⁷⁹Author communication with ATF official in Washington, DC, in May 2010.

⁸⁰Author communication with ATF official in August 2010.

⁸¹Statement of Kenneth E. Melson, Deputy Director of ATF, March 4, 2010.

⁸²Author communication with ATF official in January 2010.

⁸³Author communication with ATF official from March to May 2010.

⁸⁴Government Accountability Office (GAO), “U.S. Efforts to Combat Arms Trafficking to Mexico Face Planning and Coordination Challenges,” page 34.

some of their southbound firearm seizures are related to random or target inspections at the U.S.-Mexican border. ATF officials say CBP has also seized U.S. firearms illegally heading south because ATF tipped off CBP to inspect a certain vehicle heading for the border.⁸⁵

To assist Mexican authorities with firearms tracing and related investigations, ATF and ICE have recently added and plan to add more officials to U.S. consulates in Mexico (see Figure 5 for ATF) and have provided Mexican officials with training and support on electronic firearms tracing or eTrace.⁸⁶ In late December 2009, ATF started the initial rollout of a bilingual (Spanish and English) version of eTrace with limited deployment to Mexico and other Central American countries for testing.⁸⁷ Through eTrace, Mexican officials can submit a firearm trace request to ATF electronically and with greater accuracy than the older paper-based tracing system.⁸⁸ If ATF is able to trace the firearm to the name of the person that first purchased the firearm, Mexican government officials can also use this information to build leads on firearms trafficking investigations in Mexico.⁸⁹ From FY 2007 to 2008, ATF personnel trained 375 Mexican law enforcement officials on eTrace.⁹⁰ Once eTrace is expanded to all 32 PGR branch offices throughout Mexico, as planned, ATF expects to provide more training to Mexican authorities.⁹¹ ATF and ICE officials have also been tracing some firearms seized in Mexico themselves, particularly in cities close to the U.S.-Mexico border.⁹²

The U.S. government has also provided and plans to provide training, technology, and equipment to assist the Mexican government with prosecuting firearms traffickers

⁸⁵Author interview with CBP officials in El Paso, Texas in January 2010. Author communication with ATF official in January 2010.

⁸⁶Author interview with ATF official based in Washington, DC in May 2010. U.S. Department of Justice, "Interim Review of ATF's Project Gunrunner," September 2009, page 5. Author interview with ATF officials in Washington, DC in April 2010. Author interview with ICE official in Arizona in December 2009. ICE has officials in Mexico City and is planning or has already added officials to the U.S. Consulate in Hermosillo, Mexico.

⁸⁷Bureau of Alcohol, Tobacco, Firearms and Explosives, "ATF Deploys Spanish eTrace to Mexico, Guatemala and Costa Rica," December 30, 2009, online at <http://www.atf.gov/press/releases/2009/12/123009-atf-deploys-spanish-etrace.html>.

⁸⁸One of the reasons the trace requests are more accurate under eTrace is because of the pull-down menus. Pull-down menus such as on the make and model of the firearm give suggestions on what types of information is needed. Author communication with ATF official in April 2010.

⁸⁹Author interview with ATF official in Washington, DC in April 2010. If a trace is successful, Mexican authorities receive information from ATF such as when the firearm was purchased, the name of the person that purchased the firearm, and the total number of firearms the person may have purchased.

⁹⁰Government Accountability Office (GAO), "U.S. Efforts to Combat Arms Trafficking to Mexico Face Planning and Coordination Challenges," page 45.

⁹¹Author interview with ATF official in Washington, DC in May 2010.

⁹²When ATF officials hear about a major shootout in Mexico, they have approached Mexican officials to inspect and trace the firearm themselves. In Ciudad Juarez alone, one ATF agent has traced around 2,000 firearms in the last five years. Author interview with ATF official in Ciudad Juarez in January 2010.

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FIGURE 5: STATUS OF ATF OFFICIALS STATIONED IN MEXICO

Total ATF Officials			Total ATF Officials		
Location	Currently	Planned	Location	Currently	Planned
Ciudad Juarez	2		Mexico City	10	14
Guadalajara		2	Monterrey	2	
Hermosillo		2	Nogales		2
Matamoros		2	Nuevo Laredo		2
Merida		2	Tijuana	2	

and identifying firearms. For instance, the United States recently delivered four Integrated Ballistics Identification Systems (IBIS) to Mexican authorities for use in their crime labs; Mexico will receive two more in the near future.⁹³ IBIS is a “computerized digital imaging system which captures digital photographs of fired bullets and cartridge cases. These images are stored in a database and are electronically compared to one another.”⁹⁴ Law enforcement personnel can use this information to help determine the specific firearm used in a crime. ATF is also considering providing Mexican authorities with access to the related National Integrated Ballistic Information Network (NIBIN), which would allow U.S. and Mexican authorities to see, for example, that the same firearm used in Mexico was used in the United States and vice versa.⁹⁵ CBP also trained 14 Mexican Customs officials on how to use dogs to detect drugs, firearms, ammunition, and cash in April 2010.⁹⁶ For a complete list of all the specific ways in which the U.S. government is providing training and equipment to the Mexican government related to firearms trafficking, see the U.S. Department of State’s fact sheet entitled “Combating Arms Trafficking.”⁹⁷

⁹³U.S. Department of State, “United States–Mexico Partnership: Anti-Arms Trafficking and Anti-Money Laundering,” Office of the Spokesperson, March 23, 2010, online at <http://www.state.gov/r/pa/prs/ps/2010/03/138924.htm>. U.S. Embassy in Mexico, Mérida Initiative at a Glance, Fact Sheet on Combating Arms Trafficking.

⁹⁴Michigan State Police, “Firearms, Tools, Toolmarks, Serial Restoration,” accessed online in May 2010 at http://www.michigan.gov/msp/0,1607,7-123-1593_3800-15966--,00.html.

⁹⁵Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), “National Integrated Ballistic Information Network (NIBIN),” Fact Sheet, February 2010, online at <http://www.atf.gov/publications/factsheets/factsheet-nibin.html>.

⁹⁶U.S. Embassy in Mexico, Mérida Initiative at a Glance, Fact Sheet on Combating Arms Trafficking.

⁹⁷U.S. Embassy in Mexico, Mérida Initiative at a Glance, Fact Sheet on Combating Arms Trafficking.

TRENDS IN U.S. FIREARMS TRAFFICKING AND USE

With increased bi-national cooperation and independent action in each country to combat U.S. firearms trafficking, it is now possible to provide a clearer picture of some of the key related issues. For instance, based on increased firearm trace requests to ATF and U.S. prosecutions, among other information, one can gain a better sense of the average number of U.S. firearms crossing the border per year. Such information as well as interviews with government officials also provides insights into the types of U.S. firearms Mexican DTOs are acquiring and the common schemes used to purchase and transport firearms to Mexico. But there are limits to the data as well. ATF has only been able to trace a relatively small number of the U.S.-origin firearms recovered in Mexico to the first purchaser. In 2009, for example, of the estimated 20,451 (see Figure 2) firearms recovered, ATF was only able to trace 4,999 firearms to the first purchaser.⁹⁸ As a result, some of the findings on types of U.S. firearms seized in Mexico, where the firearms are being purchased in the United States, and the time it takes from when a firearm is purchased in the United States until it is seized in Mexico, also known as time-to-crime, are somewhat limited.

Magnitude of U.S. Firearms Trafficking

According to information provided by the Mexican government, which has received training from ATF on identifying firearms, U.S.-origin firearms account for the vast majority of firearms seized in Mexico over the last few years. In May 2010, for example, President Calderon said that of the 75,000 firearms Mexico has seized in the last three years an estimated 80 percent or 60,000 firearms came from the United States.⁹⁹ Because of the large increase in Mexican firearm trace requests to the U.S. government in the last couple of years (see Figure 2) ATF is now in a position to come close to verifying the total amount of U.S.-origin firearms recovered in Mexico over the last three years.¹⁰⁰ However, ATF has yet to publish such information even though it has released similar information to the public in the past.¹⁰¹

⁹⁸Author phone conversation with ATF official based in Washington, DC in May 2010. While ATF was not able to trace many of the firearms to the first purchaser, ATF can and has determined that many of the firearms recovered in Mexico came from the United States. ATF does not need to trace the firearm to the first purchaser in the United States to determine whether it came from the United States. That information can be determined by inspecting the firearm and checking with the manufacturer or distributor among other methods.

⁹⁹Mary Beth Sheridan, "Mexico's Calderon tells Congress he needs U.S. help in fighting drug wars," *The Washington Post*, May 21, 2010, online at <http://www.washingtonpost.com/wp-dyn/content/article/2010/05/20/AR2010052002911.html>. Kara Rowland, "Calderon Blames U.S. guns for Violence," *The Washington Times*, May 21, 2010.

¹⁰⁰As of May 2010, ATF had information on a total of 69,808 firearms recovered in Mexico from 2007 to 2009 (see Figure 2). Although ATF was not able to trace many of these firearms to the first purchaser in the United States, it is able to determine whether the firearm originated in the United States by knowing the make, model, and serial number, the import number, or through several other methods.

¹⁰¹On page 15 of the GAO report entitled "U.S. Efforts to Combat Arms Trafficking to Mexico Face Planning and Coordination Challenges," ATF had provided detailed numbers of U.S.-origin firearms of the total amount of firearms it had information on from Mexico for public distribution.

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Although the above information is important for understanding the total amount of U.S.-origin firearms seized in Mexico, it does not provide a clear sense of the number of firearms regularly and illegally crossing the U.S.-Mexico border.¹⁰² Data on U.S. prosecutions shines some light on this issue. According to ATF congressional testimony in March 2010, individuals illegally transferred an estimated 14,923 U.S. firearms to Mexico from FY 2005 to FY 2009.¹⁰³ In FY 2009 alone, an estimated 4,976 U.S. firearms were trafficked to Mexico, up more than 2,000 firearms from FY 2007.¹⁰⁴ A Violence Policy Center (VPC) study that reviewed just 21 indictments alleging illegal firearm trafficking filed in U.S. federal courts from February 2006 to 2009 showed that defendants also participated in trafficking 70,709 rounds of ammunition to Mexico.¹⁰⁵ It is likely these annual trafficking numbers only represent a small percentage of the total amount of trafficking per year. These numbers, for example, are only based on U.S. prosecutions and do not include thousands of U.S. firearms seized in Mexico per year that are not part of U.S. prosecutions.¹⁰⁶

As ATF does not regularly attempt to trace rounds of ammunition, it is much more difficult to assess the annual trafficking of ammunition to Mexico. Hundreds of thousands of rounds of ammunition intended for Mexico and seized each year in the United States, suggests it is a significant problem. In addition, several U.S. law enforcement authorities in El Paso, Texas, say DTOs regularly use large amounts of ammunition in their firearm attacks.¹⁰⁷ It also appears the quantity of rounds of ammunition owned by some DTOs has helped them win some firefights with Mexican authorities. For instance, in May 2008 seven Mexican federal police officers were gunned down trying to raid a home in Culiacán, Mexico.¹⁴ The traffickers inside the house responded to the Mexican federal police officers' raid with AK-47s and overpowered the federal police after a period of time because the police ran out of ammunition.¹⁵

TYPES OF FIREARMS RECOVERED IN MEXICO

While there is a wide range of U.S.-origin firearms being seized in Mexico, from U.S.-made hand grenades to 12-gauge shotguns, semiautomatic assault rifles are

¹⁰²The average time-to-crime for all U.S. firearms recovered in Mexico in 2009 and traced to the first purchaser was 15.7 years. Author phone conversation with BATFE official based in Washington, DC, in May 2010.

¹⁰³Statement of Kenneth E. Melson, ATF, March 4, 2010.

¹⁰⁴Author interview with ATF staff in Washington, DC in February 2010.

¹⁰⁵Violence Policy Center, "Indicted: Types of Firearms and Methods of Gun Trafficking from the United States to Mexico as Revealed in U.S. Court Documents," April 2009, page 7, <http://www.vpc.org/studies/indicted.pdf>.

¹⁰⁶One of the reasons ATF has not been able to use information on seized firearms in Mexico to bring charges against individuals in the United States for trafficking is ATF is only able to trace a low amount of firearms to the first purchaser. See subsection entitled "Top Source States and Entities" and the section entitled "U.S. and Mexican Government Challenges" for a more detailed explanation.

¹⁰⁷Author interview with U.S. law enforcement officials, including FBI and the High Intensity Drug Trafficking Areas (HIDTA), in El Paso, Texas, in January 2010.

the most sought after and widely used by Mexican DTOs.¹⁰⁸ These military-style firearms are far superior to the typical firearms used by local and municipal police in Mexico and make confrontations with DTO members a much more risky endeavor. According to analysis presented by an ATF Agent in August 2010, the top two firearms recovered in Mexico that had been purchased in the United States in the past three years were in order AK-47 type semi-automatic rifles (7.62x39mm caliber) and AR-15 semi-automatic rifle clones (.223 caliber).¹⁰⁹ The Romarms (Romanian-manufactured) AK-47 rifle and the Bushmaster AR-15 rifle clone have been particularly popular.¹¹⁰ While these firearms were likely purchased in the United States in a semiautomatic configuration before being seized in Mexico, many of them were converted to fire as select-fire machine guns.¹¹¹ Mexico seized a combined total of more than 4,400 firearms of .762 and .223 caliber in 2009.¹¹² The AK-47 and AR-15 respectively are common types of firearms for these calibers.

Known as the “cuerno de chivo,” or “the goat’s horn,” for the banana clip it uses, Mexican authorities also say various types of AK-47s are frequently seized from DTOs by Mexican military and police forces. Jesse, a former Sinaloa Cartel trafficker, told the authors that AK-47s are highly valued, especially those fitted with an “underfolder, instead of it being fitted with a standard buttstock, hence making them shorter, more concealable, and highly requested by DTOs.”¹¹³ Many of the Romanian-manufactured AK-47s that found their way to Mexico have been imported into the United States from Europe as a whole firearm or in parts as a kit despite a U.S. ban on the importation of semi-automatic assault rifles.¹¹⁴ Other types of AK-47s were also recovered in 2009. For example, Mexico seized 281 Chinese Norinco AK-47s from January 1, to June 30, 2009, based on an ATF trace analysis in July 2009.¹¹⁵ In addition, DTOs are increasingly obtaining 7.62x39mm caliber drum magazines with 50, 75, or 100 rounds of ammunition for AK-47s

¹⁰⁸Author communication with ATF official in August 2010.

¹⁰⁹Author communication with ATF official in August 2010. ATF analysis was presented at the International Terrorism Conference in Anaheim, CA. Because many U.S. states do not require private firearm sellers to keep records on whom they sold a firearm to, this data is based more on U.S. firearms sales from U.S. gun stores or licensed firearms dealers. According to California state law, all sales and transfers of firearms must be through a licensed firearm dealer, which is required to keep records on firearms sales among other requirements.

¹¹⁰Author communication with ATF official in August 2010.

¹¹¹Author communication with ATF official in August 2010.

¹¹²Author phone conversation with ATF official based in Washington, DC in May 2010.

¹¹³Author Interview, March 2, 2010, Phoenix, Arizona.

¹¹⁴Author communication with ATF official in August 2010. Author phone conversation with staff from Violence Policy Center in May 2010.

¹¹⁵Author phone conversation with Violence Policy Center (VPC) in March 2010. VPC based this information on data ATF provided to the U.S. Congress in July 2009 on the manufacturer, type, and caliber of U.S. firearms recovered in Mexico from January 1, 2009 to June 30, 2009.

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from the United States, and the PGR has seen many of these drums associated with court cases in Tijuana.⁸

Mexican authorities have also seized a wide range of other types and calibers of firearms sold in the United States, some just as powerful, or more, than the AK-47s and AR-15s. According to ATF, the top four most frequent types of firearms recovered in Mexico in 2009 were in order from the most to the least rifles, pistols, shotguns, and revolvers (see Figure 6). In particular, ATF officials have said DTOs continue to seek .50 BMG caliber rifles, which are especially lethal because they can strike accurately from more than a mile away and penetrate light armor.¹¹⁶ A VPC study, for example, found that 11 .50 BMG caliber rifles were involved in 21 firearm trafficking prosecutions filed from February 2006 to 2009.¹¹⁷ In Sonora, Jesus Angel, a former drug trafficker for the Juarez Cartel turned U.S. informant describes one of the ways the Sinaloa Cartel uses .50 caliber rifles. “They have four of them positioned at different ranches along the highway, you understand. They were brought in to protect this terrain from outsiders after the convoy attacks.”¹¹⁸ DTOs have also used .50 BMG caliber rifles to assassinate Mexican police and other government officials traveling in armored vehicles.¹¹⁹ A total of 88 FN Five-seveN 5.7mm pistols, called the “matapolicias” or the police killer, were also involved in 21 U.S. prosecutions between February 2006 and 2009. The FN Five-seveN 5.7mm pistols can fire armor-piercing ammunition capable of defeating Kevlar body armor.¹²⁰

Although hand grenades and rocket-propelled grenades (RPG) are reaching Mexico from Central America, some of the hand grenades Mexico has seized in the last few years have been manufactured in the United States.¹²¹ It is also possible some of the 42 destructive devices could be U.S. manufactured hand grenades. In July 2010, the Washington Post indicated DTOs were using U.S. manufactured hand grenades in Mexico for attacks almost on a weekly basis.¹²² Mexican authorities have reportedly seized more than 5,800 live hand grenades in Mexico since 2007. Many of the U.S.-manufactured hand grenades were reportedly sent by the United States

¹¹⁶Violence Policy Center, “Indicted: Types of Firearms and Methods of Gun Trafficking from the United States to Mexico as Revealed in U.S. Court Documents,” April 2009, page iii. Author communication with ATF official in January 2010.

¹¹⁷<http://www.vpc.org/studies/indicted.pdf>, page 6.

¹¹⁸Author interview with Jesus Angel on April 19, 2010.

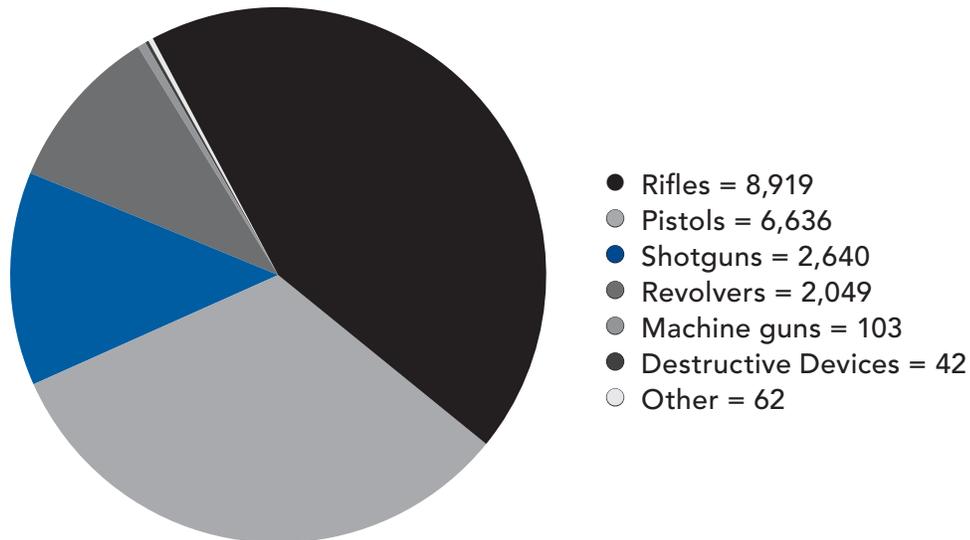
¹¹⁹Violence Policy Center, “Iron River: Gun Violence & Illegal Firearms Trafficking on the U.S.-Mexican Border,” April 2009, page 20, online at <http://www.vpc.org/studies/ironriver.pdf>.

¹²⁰Violence Policy Center, “Indicted: Types of Firearms and Methods of Gun Trafficking from the United States to Mexico as Revealed in U.S. Court Documents,” April 2009, page, 4.

¹²¹Regarding RPGs and hand grenades reaching Mexico from Central America, author interview with ATF official in Washington, DC in October, 2009.

¹²²Nick Miroff and William Booth, “Mexican drug cartels’ newest weapon: Cold War-era grenades made in U.S.,” The Washington Post, July 17, 2010, online at <http://www.washingtonpost.com/wp-dyn/content/article/2010/07/16/AR2010071606252.html>.

FIGURE 6: ATF DATA ON FIREARMS RECOVERED IN MEXICO IN 2009 BY TYPE



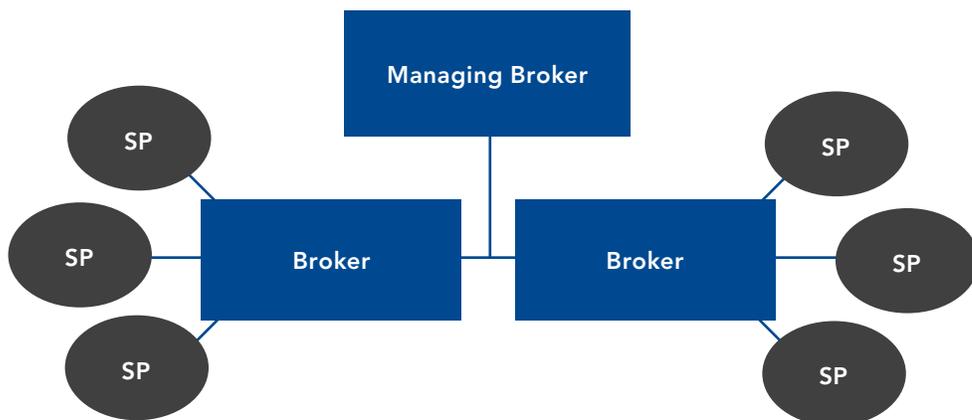
to El Salvador, Guatemala, Honduras, and Nicaragua more than 20 years ago.¹²³

Compared to DTOs, most of Mexico's local and state police forces, which make up 90 percent of the country's law enforcement personnel, have far less sophisticated types of firearms and limited levels of training on the use of firearms. City police, for example, typically the first to encounter drug traffickers, are armed with old revolvers, few rounds of ammunition, little training, and no bulletproof vests. This situation is similar to municipal police officers. In the border city of Agua Prieta, Sonora, officers travel alone or in pairs in Ford F-150 police trucks or sedans, often with no body armor and only a pistol for protection. This lack of firepower comes despite its former police chief's public murder in 2007 among other problems in the area.¹⁷ The Tijuana police chief, Julian Leyzaola, who acquired scores of AR-15s to help his police force combat DTOs last year, says many police officers also receive little in the way of training in firearms.¹²⁴ He tells a story of watching one officer in Tijuana practicing on a firing range with a pistol before he started to train them. "It was a little worrisome. He seemed to hit everything except the target," he said.

¹²³*Ibid.*

¹²⁴Author interview, April 22, 2010, Nogales, Sonora. Author interview with Tijuana Police Department official in January 2010.

FIGURE 7: FIREARM BUYING SCHEME



Firearms Buying Schemes

According to officials from ICE and ATF, individuals and groups seeking to traffic U.S. firearms to Mexico use several different schemes to purchase and transport U.S. firearms to Mexico. In a large majority of cases, several straw purchasers and one or more intermediaries or brokers¹²⁵ are used to traffic the firearms to Mexico.¹²⁶ The straw purchasers are eligible to purchase firearms in the United States while the brokers are usually legally prohibited from purchasing firearms because they are convicted felons, not U.S. citizens or residents, or for other reasons.¹²⁷ Sometimes taking orders from a person in Mexico, the U.S.-based broker may hire three or more straw purchasers, often young women, to buy a few firearms each at various locations.¹²⁸ In a more complex scheme intended to better hide trafficker's identity and avoid prosecution, a managing broker hires additional brokers, and these brokers then hire the straw purchasers.¹²⁹ See Figure 7 for a visual representation of the more complex scheme; SP stands for straw purchaser.

For example, according to the indictment in a case investigated by ICE in Tucson, Arizona starting in the spring of 2008 Saul Rodriquez, on orders from his uncle in Mexico, Olegario Gutierrez-Martinez, asked Aaron Weeks based in Tucson to arrange for the purchase of several semi-automatic assault rifles in the United States and transport

¹²⁵International arms broker: Individuals or companies that carry out activities to arrange, mediate, or facilitate an international arms transaction between a buyer and seller in return for a fee or a reward or material benefit.

¹²⁶Author interview with ICE and ATF agents between December 2009 and January 2010.

¹²⁷Author interview with ICE agent in Phoenix, Arizona in December 2009.

¹²⁸Author interview with ICE and ATF agents between December 2009 and January 2010.

¹²⁹Author interview with ICE and ATF agents between December 2009 and January 2010.

them to Mexico in return for a profit.¹³⁰ Acting as a broker, Weeks then hired nine individuals to pose as straw purchasers and buy various types of AK-47s and AR-15s at different gun shops and pawn shops in Tucson.¹³¹ Soon after the U.S. firearms were purchased, Weeks took possession of a few of the firearms and transported them through the Nogales port of entry and into Mexico.¹³² On July 30, 2008, CBP stopped Week's vehicle and found five semi-automatic AR-15 firearms and 150 rounds of ammunition in five magazines zip-tied to the bottom of Week's vehicle.¹³³ According to the U.S. federal court indictment in May 2009, Weeks and 12 other individuals were charged with smuggling firearms and making false statements when purchasing a firearm, among charges.¹³⁴ Gutierrez-Martinez appears to still be at-large.¹³⁵

Perhaps not surprisingly, some brokers arranging firearms trafficking to Mexico are also involved in other illegal activities. According to ATF, ICE, and DEA officials based along the U.S.-Mexican border, there are cases in which individuals involved in distributing illegal narcotics in the United States are also engaged in trafficking U.S. firearms to Mexico.¹³⁶ In October 2009, for instance, the U.S. Department of Justice announced the arrest, with the help of Mexican authorities, of 303 people in 19 U.S. states associated with the La Familia Michoacana Cartel; some of those arrested allegedly shipped hundreds of firearms purchased in the United States to Mexico.¹³⁷ U.S.-based gangs are also connected with arranging and moving U.S. firearms into Mexico illegally. According to ATF statistics on U.S. prosecutions of individuals charged with firearms trafficking to Mexico from FY 2005 to FY 2009, 159 out of a total 497 cases involved gang-related trafficking of over 3,665 firearms.¹³⁸ U.S. authorities have also stated that in cases where brokers are involved in distributing illegal drugs in the United States or are part of a U.S.-based gang, straw purchasers are often the girlfriends or drug purchasers.¹³⁹

While many U.S. citizens previously unconnected to Mexican DTOs have been lured into firearms trafficking as straw purchasers, it appears there are other

¹³⁰United States of America vs. Aaron Loren Weeks, Third Superseding Indictment, U.S. District Court of Arizona, CR08-1197-PHX-MHN, May 26, 2009, accessed through PACER online.

¹³¹U.S. vs. Aaron Loren Weeks, Third Superseding Indictment.

¹³²U.S. vs. Aaron Loren Weeks, Third Superseding Indictment.

¹³³U.S. vs. Aaron Loren Weeks, Third Superseding Indictment.

¹³⁴U.S. vs. Aaron Loren Weeks. Third Superseding Indictment

¹³⁵Google search of Gutierrez-Martinez's name and found no accounts of an arrest.

¹³⁶Author interview with U.S. federal law enforcement officials from DEA, ICE, and ATF from December 2009 to February 2010.

¹³⁷U.S Department of Justice, "More Than 300 Alleged La Familia Cartel Members And Associates Arrested In Two-Day Nationwide Takedown," News Release, October 22, 2009, online at <http://www.atf.gov/press/releases/2009/10/102209-doj-over-300-la-familia-cartel-arrests.html>. Here is another somewhat similar case: <http://www.atf.gov/press/releases/2009/08/080309-dal-fifteen-defendants-sentenced.html>.

¹³⁸Statement of Kenneth Melson, ATF, March 4, 2010.

¹³⁹Author interview with ICE agent in Phoenix, Arizona in December 2009.

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U.S. citizens and residents acting as brokers and transporters, both for monetary reasons.¹⁴⁰ Related U.S. prosecutions show that straw purchasers can make from \$100 to \$500 per firearm depending on the firearm model and particular trafficking scheme.¹⁴¹ A former drug trafficker turned U.S. informant indicated that one can sell an AK-47 in Mexico for three to four times its purchase price in the United States along the southwest border.¹⁴² If one sells the same AK-47 farther from the border, say in Oaxaca, the firearm can be sold between \$2,000 and \$4,000 above the purchase price.¹⁴³ According to Abram Sprenger, a U.S. citizen from Oklahoma stopped by CBP in March 2009 on the U.S.–Mexican border, he was paid \$4,500 to transport dozens of firearms and some ammunition from the United States to Oaxaca, Mexico.¹⁴⁴

Top Firearm Sources in United States

New data on firearms recovered in Mexico from 2007 to 2009 confirms the GAO's previous report that Texas, California, and Arizona respectively are the top three U.S. states where U.S. firearms are purchased and later trafficked to Mexico (see Figure 9). It, however, is important to note that these data do not show when the firearm was purchased in the United States. As the average time-to-crime was 15.7 years for U.S. firearms recovered in Mexico and traced to the first purchaser in 2009, it is possible there are significant differences in which U.S. states account for the most firearm purchases in the last three to five years.¹⁴⁵ Despite California being a top source state in Figure 8, for example, ATF in California has said California is not among the top three U.S. source states if one limits the analysis by firearms purchased in the United States in the last three years.¹⁴⁶ ATF in California also reports that most of their investigations in the last few years involve individuals

¹⁴⁰Author communication with ATF official from January to May 2010.

¹⁴¹Author communication with ATF official in January 2010. Statement of Kenneth Melson, ATF, March 4, 2010.

¹⁴²Author Interview, March 2, 2010, Phoenix, Arizona.

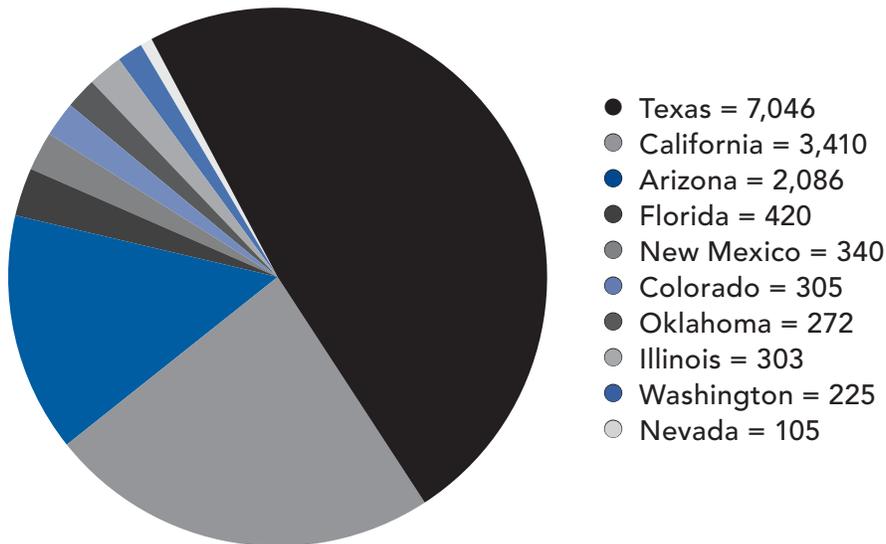
¹⁴³*Ibid.*

¹⁴⁴Customs Border Patrol, "CBP Officers Seize Cache of Weapons, Arrest 1 at Laredo Port of entry," March 3, 2009, online at http://www.cbp.gov/xp/cgov/PrintMe.xml?xml=/content/newsroom/press_releases/2009/march/03032009_7.ctt&location=/newsroom/news_releases/archives/2009_news_releases/march_2009/03032009_7.xml

¹⁴⁵According to ATF in May 2010, of the 20,451 firearms recovered in Mexico in 2009 and for which they had identifying information, they were able to trace 4,999 to the first purchaser. Of the 4,999, 156 firearms were recovered in Mexico three months after they were purchased in the United States, 112 firearms three to seven months, 141 firearms seven months to a year, 223 firearms one to two years, 270 firearms two to three years, and 3,968 firearms three years and over. Author phone conversation with ATF official based in Washington, DC in May 2010.

¹⁴⁶Author communication with ATF official in August 2010. Author phone conversation with retired ATF official based in Washington, DC in August 2010. Amy Isackson, "Recent San Diego Gun Smuggling Arrest Illustrates Well-Worn Route," March 4, 2010, KPBS, online at <http://www.kpbs.org/news/2010/mar/04/recent-san-diego-gun-smuggling-arrest-illustrates-/>.

FIGURE 8: TOP 10 U.S. SOURCE STATES 2007–2009



transporting firearms through California to Mexico instead of purchasing the firearms in California.¹⁴⁷ For instance, ATF investigated a case in 2009 where a resident of California was involved in a trafficking scheme in which he traveled to Nevada to help purchase over 20 firearms, including a Bushmaster “BA50” 50-caliber rifle. He then brought these weapons back to California and smuggled them into Mexico.¹⁴⁸ This shift in purchasing patterns for firearms trafficked to Mexico appears to be the result of stiffer laws on buying firearms in California.¹⁴⁹

ATF officials also say firearms traffickers continue to purchase firearms at gun shows and other secondary sources, which require fewer checks on a person’s identity and criminal history, as well as at U.S. gun stores. In Arizona, for example, traffickers are increasingly buying their firearms at U.S. gun shops and pawn shops, according to ATF and ICE officials.¹⁵⁰ These officials attribute this trend to continued efforts to watch for illegal activity at U.S. gun shows in Arizona.¹⁵¹ U.S. officials also believe U.S. gun shops are a logical option for illegally trafficking

¹⁴⁷Author communication with ATF official from January to May 2010. Amy Isackson, “Recent San Diego Gun Smuggling Arrest Illustrates Well-Worn Route,” March 4, 2010.

¹⁴⁸United States of America vs. Jonnatan Weiss, Criminal Complaint, Magistrate Number 2:09-mj-00465-PAL, United States District Court of Nevada, Filed on June 15, 2009, accessed document through the Public Access to Court Electronic Records (PACER) service in April 2010.

¹⁴⁹Author communication with ATF official from January to May 2010.

¹⁵⁰Author interview with ICE and ATF agents based in Arizona in January 2010.

¹⁵¹Author interview with ICE and ATF agents based in Arizona in January 2010.

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because these shops have large quantities of firearms and ammunition.¹⁵² While there are only a few known cases involving individuals working at U.S. gun shops engaged in activities supporting U.S. firearms trafficking to Mexico,¹⁵³ their potential collusion with firearms traffickers poses an enormous risk.¹⁵⁴ In Phoenix, Arizona, for instance, U.S. authorities in May 2008 arrested the owner of the X-Caliber gun store, George Iknadosian, who allegedly worked with others to traffic more than 650 AK-47 rifles to Mexican DTOs.¹⁵⁵ Some of the firearms purchased at X-Caliber were reportedly used to kill dozens of people in Mexico.¹⁵⁶

Transportation Routes and Techniques

According to U.S. authorities, it appears there has been little change in the main routes used by traffickers to transport firearms purchased in the United States across the border into Mexico. In September 2009, for instance, the U.S. Department of Justice's Inspector General included the most recent official map of trafficking routes in an interim review of ATF's Project Gunrunner. The map indicated that the three main trafficking corridors are: "(1) the "Houston Corridor," running from Houston, San Antonio, and Laredo, Texas, and crossing the border into Nuevo Laredo, Reynosa, and Matamoros; (2) the "El Paso Corridor," running from El Paso, Texas, across the border at Ciudad Juarez; and (3) the "Tucson Corridor," running from Tucson, Arizona, across the border at Nogales.¹⁵⁷ ATF officials, however, are increasingly concerned that an additional corridor could be from Florida to Guatemala to Mexico.¹⁵⁸ ATF officials say that once the firearms reach Mexico, they mostly follow major transportation routes through Mexico.¹⁵⁹

By far, the most common method of transporting the firearms across the U.S.-Mexican border is by vehicle using U.S. highways.¹⁶⁰ While U.S. authorities sometimes catch individuals with dozens of firearms, most are carrying smaller numbers

¹⁵²Author interview with ICE and ATF agents based in Arizona in January 2010.

¹⁵³Government Accountability Office (GAO), "U.S. Efforts to Combat Arms Trafficking to Mexico Face Planning and Coordination Challenges," GAO-09-709, June 2009.

¹⁵⁴Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), "Following the Gun: Enforcing Federal Laws Against Firearms Traffickers," June, 2000, http://www.mayorsagainstilllegalguns.org/downloads/pdf/Following_the_Gun%202000.pdf.

¹⁵⁵Brian Ross, Richard Esposito, and Joseph Ree, "ATF: Phoenix Gun Dealer Supplied Mexican Drug Cartels," ABC News, May 6, 2008, online at <http://abcnews.go.com/print?id=4796380>.

¹⁵⁶*Ibid.*

¹⁵⁷U.S. Department of Justice, "Interim Review of ATF's Project Gunrunner," September 2009, page 11-12.

¹⁵⁸Author interview with ATF official in Washington, DC in April 2010.

¹⁵⁹Author communication with ATF official in January 2010.

¹⁶⁰Government Accountability Office (GAO), "U.S. Efforts to Combat Arms Trafficking to Mexico Face Planning and Coordination Challenges," June 2009, page 22.

of firearms in order to avoid detection. ATF officials have said a good time to catch firearm smugglers is right after a U.S. gun show in Arizona or Texas.¹⁶¹ A source within the Mexican Center for Research and National Security (CISEN) said most weapons now cross through remote Arizona ports of entry, such as Lukeville and Sasabe.¹⁶² These two ports see very little traffic compared to nearby Nogales or Tijuana and, more importantly, there is no checkpoint infrastructure beyond that of Mexican Customs at the port of entry.¹⁶³

Both U.S. and Mexican citizens are also engaged in smuggling firearms with commercial and non-commercial vehicles, and they use various techniques to do so.¹⁶⁴ Using cars, trucks, vans, or buses, traffickers employ techniques such as zip-tying the firearms to a hidden compartment of the vehicle, or they stuff the firearms under a truck bed liner or in a fuel tank.¹⁶⁵ In other cases, the transporters have no fear of capture. For example, traffickers had about 30,000 rounds of ammunition sitting near the front seat of a civilian passenger bus when Mexican authorities caught them at an inspection point several miles inside Mexico from the Arizona border in March 2010.¹⁶⁶

A U.S. federal drug enforcement informant told the authors about another method traffickers have used: detergent boxes. “What you do is you cut open the bottom of the box, you know, and you pack in whatever weapon you’re going to carry, and you just glue that slice back in. The Mexican Customs don’t care as long as you’re not bringing in more than three boxes of detergent on a trip,” the informant said.¹⁶⁷

ICE officials in Arizona have also said firearms traffickers are increasingly using sophisticated and unsophisticated tunnels under the U.S.-Mexican border to smuggle firearms, which they say is an indicator of traffickers feeling some enforcement pressure from U.S. authorities.¹⁶⁸ An estimated 62 tunnels have been found along the border in Arizona and near San Diego, California since September 11, 2001.¹⁶⁹ ICE officials have also said firearms traffickers sometimes just throw firearms over the border fence, to be picked up by a cohort on the other side.¹⁷⁰

¹⁶¹Author communication with ATF official in May 2010.

¹⁶²Author interview with CISEN official in Sonora, Mexico in March 11, 2010.

¹⁶³*Ibid.*

¹⁶⁴Author interview with ATF and CBP officials in based on a review of U.S. prosecutions against firearms traffickers to Mexico.

¹⁶⁵*Ibid.*

¹⁶⁶Author interview with CISEN official in Sonora, Mexico in March 11, 2010

¹⁶⁷Interview, Jesus Angel, April 19, 2010.

¹⁶⁸Author interview with ICE official in Arizona in January 2010.

¹⁶⁹Alexis Madrigal, “Bots vs. Smugglers: Drug Tunnel Smackdown,” WIRE, May 16, 2009, online at <http://www.wired.com/wiredscience/2009/05/tunnelbots/#ixzz0oDjVTRDn>

¹⁷⁰Author interview with ICE official in Arizona in January 2010.

U.S. AND MEXICAN GOVERNMENT CHALLENGES

Despite increased efforts by the U.S. and Mexican governments to combat firearms trafficking, both countries continue to face significant challenges in bringing the phenomenon under control. One major challenge is the incompleteness and timeliness of some of Mexico's firearm trace requests to ATF. ATF also lacks sufficient resources and abilities to more effectively investigate leads from U.S. and Mexican firearm trace data and other sources. Even when ATF and ICE have developed cases against individuals engaged in firearms trafficking to Mexico, some ATF officials say there are limitations on where they can refer prosecutions. Relatively weak U.S. firearm laws and a few U.S. government practices also limit U.S. authorities from getting important tips on potential firearms traffickers and curtail their abilities to hold accountable individuals and gun stores that act irresponsibly. In addition, there are few restrictions on purchasing large quantities of ammunition. Although several CBP officials have said they would like to increase vehicle inspections going south, for the most part, it appears CBP has neither the staff, means, or the infrastructure to conduct effective southbound vehicle inspections at most of the U.S. ports of exit along the U.S.-Mexico border.

While Mexico has significantly increased its firearm trace requests to ATF in the last few years, there continue to be major challenges with incomplete trace requests. As mentioned earlier, of the estimated 20,451 firearms recovered in Mexico in 2009, ATF was only able to trace 4,999 firearms to the first purchaser.¹⁷¹ According to ATF, one major reason is that Mexican authorities often leave out the import stamp number for AK-47 variants.¹⁷² Since many AK-47s sold in the United States are imported from other countries, ATF needs that number to determine where the firearm was first sold in the United States. ATF officials face difficulties with AK-47 part kits imported to the United States as well as because there are no markings on the parts that indicate they have been imported into the United States.¹⁷³ Firearms traffickers are also increasingly obliterating the serial numbers on the firearms.¹⁷⁴

ATF officials say there is also a strong need to submit more timely trace requests.¹⁷⁵ For instance, it takes on average one year from the time a firearm is seized in Mexico

¹⁷¹Author phone conversation with ATF official based in Washington, DC in May 2010. ATF does not need to trace the firearm to the first purchaser in the United States to determine whether it came from the United States. That information can be determined by inspecting the firearm and checking with the manufacturer or distributor among other methods.

¹⁷²According to an ATF official, one of the reasons why Mexican authorities don't include the import number is that they are not required to include it on judicial case files. Author communication with ATF officials from February to April 2010.

¹⁷³Author communication with ATF official in August 2010.

¹⁷⁴Author interview with ATF and ICE officials from December 2009 to January 2010.

¹⁷⁵Author interview and phone conversation with ATF officials from January to April 2010.

to the time PGR officials in Mexico City submit the firearm trace request to ATF.¹⁷⁶ This lag time makes it much harder for ATF to catch traffickers because the first firearm buyer in the United States, or the straw purchaser, may not remember the name of the person to which he or she sold the firearm, among other challenges.¹⁷⁷ It appears one major reason why it takes so long to submit the requests is that all Mexican firearm trace requests are submitted by the PGR in Mexico City, which has a limited number of staff working on eTrace, instead of having federal field staff throughout Mexico submit the requests to ATF directly.¹⁷⁸

When U.S. officials ask Mexican authorities to inspect and trace a firearm used in a crime in Mexico, the U.S. officials also sometimes run into problems.¹⁷⁹ In some cities such as Tijuana, where U.S. law enforcement has a fairly strong relationship with Mexican law enforcement and the military, ATF receives regular access to the firearms.¹⁸⁰ As a result, ATF has been able to trace a firearm within a few days after Mexican authorities seize it.¹⁸¹ In other Mexican states such as Sinaloa, where ATF has little presence and corruption is a larger problem, ATF is relatively restricted from accessing the firearms.¹⁸² ATF agents working with Mexican authorities say the key to getting access to firearms is a physical presence in the Mexican city and building personal relationships with the respective Mexican officials.¹⁸³ These same ATF agents say it would also help if Mexico City provided clear support for ATF to physically inspect the firearms.¹⁸⁴ In some cases, Mexican law enforcement has to seek approval for each firearm by a Mexican judge in order for ATF to inspect the firearm.¹⁸⁵

Thanks to some increased funding from the U.S. Congress in the last few years, ATF has received some additional staff to follow up on firearms trace requests and address U.S. firearms trafficking to Mexico in general. Starting in FY 2007, ATF had around 100 special agents and 25 industry operations investigators working for Project Gunrunner.¹⁸⁶ According to ATF, as of mid-February 2010 they have about 190 special agents, 145 Industry Operations Investigators, and 25 support staff

¹⁷⁶Author communication with ATF official in April 2010.

¹⁷⁷Author interview with various ATF officials in Washington, DC from February to April 2010.

¹⁷⁸Author communication with ATF officials in April 2010.

¹⁷⁹Author communication with ATF officials in March and April 2010.

¹⁸⁰Author communication with ATF official in January 2010. Author interview with Mexican General based in Tijuana in January 2010.

¹⁸¹Author communication with ATF official in April 2010.

¹⁸²Author phone conversation with ATF official based in Texas in March 2010.

¹⁸³Author interview with a couple of ATF officials in Washington, DC in April 2010. Author phone conversation with ATF official in April 2010.

¹⁸⁴Author phone conversation with ATF official in March 2010.

¹⁸⁵Author phone conversation with ATF official in March 2010.

¹⁸⁶Vivian S. Chu and William J. Krouse, "Gun Trafficking and the Southwest Border," Congressional Research Service Report, September 21, 2009, page 13.

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working on Project Gunrunner in states along the southwest border.¹⁸⁷ While this staff increase appears to have helped with firearms seizures and prosecutions, ATF officials stationed along the U.S. southwest border say they still do not have enough staff to investigate many leads.¹⁸⁸ ATF agents attribute the lack of resources to the fact that ATF started with an extremely low staff level when the U.S. Congress started to increase resources for them.¹⁸⁹ Although ATF plans to add staff at the U.S. consulates in Hermosillo, Guadalajara, Matamoros, Mérida, Nogales, and Nuevo Laredo, Mexico, by the end of 2010, which are key to improving Mexico's firearm trace requests, this plan requires additional funding from the U.S. Congress. And, the funding was not included in the supplementary appropriations approved by the U.S. Congress in August 2010 for border-related efforts.¹⁹⁰

When ATF investigates a case they also face several challenges with U.S. courts accepting the case and successfully prosecuting it. As with other crimes, such as drug smuggling or seizures, U.S. attorneys sometimes place minimum requirements on the types of cases they will accept for prosecution related to firearms trafficking.¹⁹¹ While U.S. federal attorneys told the authors they will look at any firearms trafficking case given to them, some ATF agents have said U.S. attorneys often will not prioritize a case if it involves less than 10 to 20 firearms trafficked and no one was killed or injured from one of the firearms.¹⁹² As a result, some ATF agents believe they must wait until a known firearms trafficker moves 10 or more firearms and someone is killed with one of those firearms before they can pursue a case.¹⁹³ In some cases, U.S. federal authorities have referred firearms trafficking cases to U.S. state courts, but it is uncommon to do so because the most common crime, lying on Federal Form 4473 or straw purchasing, is often only a federal crime with no comparable state law.¹⁹⁴ In one unique case, the Arizona Attorney General brought charges against the X-Caliber gun store owner, mentioned above, based on Arizona state law regarding "fraudulent schemes" for lying on Federal Form 4473. The Arizona county judge presiding over the case, however, ruled that the Attorney General could not prove that the firearms purchased went to a prohibited person and threw out the case.¹⁹⁵

¹⁸⁷Statement of Kenneth E. Melson, ATF, March 4, 2010..

¹⁸⁸Author interview with ATF agents from December, 2009 to January 2010.

¹⁸⁹Author interview with ATF officials in from October, 2009 to January 2010.

¹⁹⁰Author interview with ATF official in Washington, DC, in May 2010.

¹⁹¹Author interview with ATF officials in from January to May 2010.

¹⁹²Author interview with ATF official in May 2010 and in January 2010. Author interview with U.S. Attorney from the Southern District of California in January 2010.

¹⁹³Author interview with ATF official in Washington, DC, in May 2010.

¹⁹⁴Author interview with ATF officials in Washington, DC.

¹⁹⁵State of Arizona vs. George Iknadosian, Honorable Robert L. Gottsfield, Superior Court of Arizona Maricopa County, CR2008-006471-001 DT, March 18, 2009, online at <http://webcache.googleusercontent.com/search?q=cache:6Q6bEKRMhOkJ:www.courtminutes.maricopa.gov/docs/Criminal/032009/m3628712.pdf+Maricopa+County+Superior+Court+Judge+Robert+Gottsfield+iknadosian&cd=13&hl=en&ct=clnk&gl=us&client=firefox-a>.

While there are several relatively weak U.S. gun laws and a few government practices that limit U.S. efforts to curtail firearms trafficking to Mexico, the authors found a few especially challenging. Since 1993, the U.S. government has required U.S. gun stores to notify state or local law enforcement whenever a gun store sells “more than one handgun to any non-licensee within five consecutive business days.”¹⁹⁶ Outside of situations in which ATF or ICE officials inspect a gun store or when a gun store tips off U.S. authorities, however, in most states authorities are not notified if an individual is buying dozens of military-style assault rifles in a short period of time, which is a key indicator of potential firearms trafficking. U.S. authorities are also only allowed to inspect a gun store unrelated to a specific warrant once a year, and many gun stores located along the U.S. southwest border are not inspected on an annual basis.¹⁹⁷ Also, if ATF finds that the gun store has violated the law, the crime is often a misdemeanor instead of felony, and ATF rarely revokes the license of a gun store for violating the law.¹⁹⁸

Unlike sales at gun stores, in many states private individuals are not required to conduct a background check or keep records when they sell or transfer a firearm to another person.¹⁹⁹ These two loopholes continue to make it much easier for prohibited persons to purchase firearms and much harder for U.S. authorities to successfully trace how a firearm illegally reached Mexico. In addition, because rounds of ammunition, unlike firearms can only be used once and have a relatively shorter life span, DTOs engaging in fighting are often in constant need of more rounds. As such, ammunition poses just as much or more of a threat to Mexican authorities and civilians. Yet, many U.S. states do not require U.S. gun stores to run a background check or check IDs on individuals buying ammunition and maintain records on ammunition sales.²⁰⁰

Because it is difficult for federal and local authorities to search vehicles for illegally possessed firearms in the United States, ATF officials have said they sometimes prefer to call ahead to CBP and ask them to inspect a vehicle ATF suspects is smuggling firearms across the U.S.-Mexican border.²⁰¹ However, sometimes CBP is not able to identify the vehicle before it crosses the border because some U.S. ports of exit do not have license plate readers or they are using license plate readers that sometimes confuse “8s” with

¹⁹⁶Vivian S. Chu and William J. Krouse, “Gun Trafficking and the Southwest Border,” Congressional Research Service Report, September 21, 2009, page 11.

¹⁹⁷Violence Policy Center, “Iron River: Gun Violence & Illegal Firearms Trafficking on the U.S.-Mexican Border,” April 2009, page 23.

¹⁹⁸Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), “Following the Gun: Enforcing Federal Laws Against Firearms Traffickers,” June 2000, pages xi and xii.

¹⁹⁹Vivian S. Chu and William J. Krouse, “Gun Trafficking and the Southwest Border,” Congressional Research Service Report, September 21, 2009, page 11.

²⁰⁰Legal Community Against Violence (LCAV), Ammunition Regulation, February 2008, online at http://www.lcav.org/content/ammunition_regulation.pdf.

²⁰¹Author communication with ATF agent in from January 2010 to May 2010.

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“Bs.”²⁰² CBP officials may also attempt to stop a vehicle heading south by just standing in front of the cars, which could be dangerous if a vehicle decided to speed through the border check point.²⁰³ Compared with vehicles going north or into the United States from Mexico, U.S. authorities also conduct relatively few checks on vehicles going south.²⁰⁴

CONCLUSION AND RECOMMENDATIONS

The Mexican and United States governments are facing growing and menacing problems because of increased access to high powered weapons by Mexican DTOs. Since President Felipe Calderon took office in December 2006, there have been an estimated 28,000 drug-related killings, and most of these deaths, including extremely violent ones, were in the last two years.²⁰⁵ According to Mexican official numbers, during the same period “a total of 915 municipal police, 698 state police and 463 federal agents have been killed at the hands of criminal gangs.”²⁰⁶

Despite increased efforts by both governments to reduce Mexican DTOs access to large volumes of firearms and rounds of ammunition, the DTOs continue to obtain and use such firearms and ammunition from the United States and elsewhere to attack Mexican police, justice officials, and recently officials from the U.S. Department of State. In some cases, the large volume of ammunition or the military-style firearms used by the DTOs enabled them to overpower Mexican federal or local police or assassinate Mexican officials. DTOs are also increasingly using firearms to attack or kidnap journalists, politicians, and businesses and levy “taxes” on the public. As a result of all of these actions, the Mexican government’s efforts to provide public security to its citizens is seriously eroding, putting Mexican citizens at significant risk both from targeted attacks and as collateral damage. DTO actions are also contributing to major migration away from the violence and, in some cases, towards the United States.

New information shows that a significant amount of military-style assault rifles, other types of rifles and pistols come directly from the United States and are being used by Mexican DTOs. According to the Mexican government in May 2010, an

²⁰²Author communication with ATF agent from January 2010 to May 2010.

²⁰³Author interview with CBP officials in El Paso, Texas, in January 2010.

²⁰⁴Author interview with CBP officials in El Paso, Texas, in January 2010. Government Accountability Office (GAO), “U.S. Efforts to Combat Arms Trafficking to Mexico Face Planning and Coordination Challenges,” page 35.

²⁰⁵Arthur Rice, “Drug war death toll in Mexico since 2006 exceeds 28,000, officials say,” CNN, August 4, 2010, online at <http://edition.cnn.com/2010/WORLD/americas/08/03/mexico.drug.deaths/#fbid=xmlBaZOfuTn&wom=true>. Luis Astorga and David A. Shirk, Drug Trafficking Organizations and Counter-Drug Strategies in the U.S.-Mexico Context, Woodrow Wilson International Center for Scholars, Mexico Institute, “Working Paper Series on U.S.-Mexico Cooperation,” April 2010, page 3, online at <http://wilsoncenter.org/topics/pubs/Drug%20Trafficking%20Organizations.%20Astorga%20and%20Shirk.pdf>.

²⁰⁶Tim Johnson, “As death toll rises, Mexico rethinks drug war strategy,” McClatchy Newspapers, August 13, 2010, online at <http://www.kansascity.com/2010/08/13/2149024/as-death-toll-rises-mexico-rethinks.html>.

estimated 60,000 U.S.-origin firearms were seized in Mexico from 2007 to 2009.²⁰⁷ A review of U.S. prosecutions associated with ATF's Project Gunrunner concludes that an estimated 14,923 firearms were trafficked to Mexico from FY 2005 to FY 2009; 4,976 of these firearms were from FY 2009 alone.²⁰⁸ And, these numbers don't include the thousands of firearms and hundreds of thousands of rounds of ammunition headed for Mexico that U.S. authorities have seized. The price differential between U.S.-origin AK-47 semi-automatic rifles sold just across the U.S.-Mexican border (\$1,200 to \$1,600) and U.S.-origin AK-47s sold in southern Mexico (\$2,000 to \$4,000) is another indicator of the demand for U.S. firearms in Mexico and the lack of quality assault rifles from Central America. Information provided to ATF by Mexico also shows that U.S.-origin firearms are regularly used by DTOs to commit crimes in Mexico.

The top two U.S. firearms recovered in Mexico that had been purchased in the United States in the past three years were AK-47 type semi-automatic rifles and AR-15 semi-automatic rifle clones.²⁰⁹ ATF officials say many of the Romanian manufactured AK-47s are imported to the United States as a whole firearm or as a parts kit from Europe despite a U.S. ban on the importation of semi-automatic assault rifles.²¹⁰ ATF officials and a review of U.S. prosecutions also indicate that DTOs are increasingly seeking, receiving, and using U.S.-origin .50 BMG caliber rifles and 5.7mm pistols and rifles and AK-47 drum magazines with 50, 75, to 100 rounds of ammunition.

Given the Calderon administration's commitment to confront the DTOs, both the U.S. and Mexican governments are working in unprecedented ways to address U.S. firearms trafficking to Mexico. Nevertheless, to get this troubling phenomenon under control the U.S. government should consider taking several additional steps. First, the U.S. Congress could more significantly ramp up funding for ATF programs that have demonstrated a positive impact on prosecutions and seizures, including adding ATF staff along the southwest U.S. border and in Mexico where U.S. firearms are being seized. As demonstrated by ATF's GRIT operation in Houston, Texas, in 2009, an influx of 100 ATF agents into an area of heavy U.S. firearms trafficking resulted in a large increase in U.S. prosecutions, as well as, firearms and ammunition seizures. Additionally, since the Mexican government is seizing a large amount of firearms in the Mexican states of Michoacan, Sinaloa, Tamaulipas, and Jalisco, it would seem logical to increase funding for ATF to add agents to U.S. consulates in Guadalajara (for Jalisco and Michoacan), Hermosillo (for Sinaloa),

²⁰⁷Kara Rowland, "Calderon Blames U.S. guns for Violence," *The Washington Times*, May 21, 2010.

²⁰⁸Statement of Kenneth E. Melson, ATF, March 4, 2010.

²⁰⁹Author communication ATF official in August 2010. ATF analysis was presented at the International Terrorism Conference in Anaheim, CA.

²¹⁰Author communication with ATF official in January 2010. Author phone conversation with staff from Violence Policy Center in May 2010.

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and Nuevo Laredo and Reynosa (for Tamaulipas). Although the authors did not fully research ICE's staffing needs, they have contributed numerous U.S.-related prosecutions and should also be considered for additional funding.

To better address some of the challenges ATF and ICE have faced in referring firearms trafficking cases for U.S. prosecution, there are a few options. Similar to the Arizona state attorney's experience, other state attorneys general could bring charges against individuals engaged in straw purchasing based on state laws related to "fraudulent schemes." ATF and ICE, however, will need to avoid the problems ATF encountered with the X-Caliber case. States should also consider adding a law on straw purchasing as Colorado has done or adding a separate state form similar to the federal form 4473 for individuals to fill out when purchasing a firearm as California has done. New congressional funding to add 30 U.S. attorneys to support cases on firearms and cash smuggling along the U.S. southwest border should also help.²¹¹ In partnership with the gun industry trade association, the National Shooting Sports Foundation, ATF developed a campaign entitled "Don't Lie for the Other Guy" designed to reduce firearm straw purchasing by educating gun dealers, U.S. citizens, and residents of the illegality of such practices and started implementing it in some but not all key U.S. cities along the southwest border in 2008.²¹² The campaign educates people by putting signs in U.S. gun stores, billboards along the highway, and at bus stops.²¹³ Although there doesn't seem to be any evaluation of the program, it appears the campaign could help to reduce straw purchasing if the threat of sanctions is real. Having more ATF staff working to enforce this law and perhaps increasing the penalties for a straw purchase could make it more effective. Also, U.S. authorities could add a phrase to form 4473 about the illegality of transferring firearms to Mexico unless one obtains a license, to improve U.S. prosecutions on cases related to smuggling of firearms into Mexico.²¹⁴

The U.S. government should also consider changes in federal law related to firearms purchasing and some federal enforcement practices. Similar to when individuals buy multiple handguns, for example, a federal or state law could be created so that U.S. authorities would be notified when individuals buy a certain amount of military-style firearms in a short period of time. As the example in the introduction

²¹¹U.S. Department of Justice, "New Congressional Funding to Enhance Department of Justice Southwest Border Strategy," August 12, 2010, online at <http://www.atf.gov/press/releases/2010/08/081210-doj-new-congressional-funding-for-southwest-border.html>.

²¹²Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), "Don't Lie for the Other Guy Campaign," Fact Sheet, June 2008, <http://www.atf.gov/publications/factsheets/factsheet-dont-lie-campaign.html>.
<http://www.dontlie.org/tour.cfm>

²¹³Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), "Don't Lie for the Other Guy Campaign," Fact Sheet, June 2008.

²¹⁴U.S. authorities in Arizona have encountered difficulties with prosecutions related to smuggling as the law requires individuals to know that they are breaking the law when they transport firearms from the United States to Mexico without first obtaining a license from the U.S. government.

shows, this information is key to helping stop firearms trafficking to Mexico. With added staff, ATF could also increase their annual inspections of U.S. gun stores along the southwest border and be more aggressive in revoking the license of U.S. gun stores that repeatedly violate U.S. law. Adding a way for ATF to fine U.S. gun stores for violations, much as the U.S. government has fined U.S. arms manufacturers that violate U.S. arms export control laws, could be an effective intermediate method to help curb illegal activities. Since the U.S. government already bans the importation of semi-automatic assault rifles into the United States and many assault rifles that reach Mexican DTOs come from U.S. imports, ATF could better enforce this law.

The U.S. government should also ensure some type of import markings are placed on AK-47 semi-automatic rifle part kits imported into the United States. As private sales through gun shows and other means are easy ways for prohibited buyers to obtain firearms, it also remains critical to require private sellers to check the background of the seller and keep records of their sales. To better curb the large volume of ammunition to DTOs, U.S. gun stores and other sellers should also conduct a background check on individuals buying ammunition and keep essential records on those purchases. Similar efforts have been used by authorities in Los Angeles, and it has prevented prohibited buyers from purchasing ammunition.²¹⁵

While the authors believe the most effective way to curb firearms trafficking to Mexico is by focusing on how to prevent and stop illegal firearms buying in the United States, both the U.S. and the Mexican governments could strengthen some of their efforts at the border that would help stem firearms smuggling and not curtail the flow of civilian vehicle traffic significantly. For instance, U.S. authorities at the border could improve their ability to detect and stop vehicles they are aware are attempting to smuggle firearms from the United States to Mexico, including increasing the number of quality license plate readers for southbound operations at the border.²¹⁶ Building some infrastructure at U.S. southbound areas would also help prevent vehicles from escaping inspection by speeding across the border and protect CBP and ICE staff. Both the U.S. and Mexican governments could also engage in random inspections of vehicles at times when the likelihood of firearms smuggling may be high. For example, it is more likely that one would find a few cars attempting to smuggle firearms into Mexico several hours after a U.S. gun show in U.S. cities along the U.S.-Mexico border.

Lastly, the Mexican government should consider improving some of its efforts related to tracing firearms. In order to speed up the time between when a firearm is seized in Mexico and when it is submitted for tracing to ATF, the PGR could more

²¹⁵Legal Community Against Violence (LCAV), *Ammunition Regulation*, February, 2008.

²¹⁶Testimony of Allen Gina, Assistant Commissioner, Office of Intelligence and Operations Coordination, U.S. Customs and Border Protection, Department of Homeland Security, before the House Homeland Security Committee, Subcommittee on Border, Maritime and Global Terrorism and the House Foreign Affairs Committee, Subcommittee on Western Hemisphere, May 27, 2010, online at http://www.cbp.gov/xp/cgov/newsroom/congressional_test/gina_mexico.xml.

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quickly move ahead with plans to provide field staff in all Mexican states with the capacity to independently submit an electronic trace request to ATF. This action would be key for ATF to track down criminal suspects in the United States and thwart future firearm trafficking to Mexico. Once PGR's plan is approved, it would help if ATF provided PGR officials in Mexican states with Spanish eTrace, training on identifying firearms and filling out the eTrace forms, and eventually and potentially full access to ballistics information through NIBIN. The PGR should also create a formal policy that allows ATF to physically inspect firearms housed eized and stored in Mexico along with Mexican authorities to speed up the tracing and assist with U.S. criminal prosecutions in the United States. Although it appears the Mexican government is prosecuting many individuals related to firearms trafficking in Mexico, this could be researched further and perhaps improved.

The U.S. government continues to have a unique opportunity to assist the Calderon administration to weaken Mexican DTOs before the situation worsens. Helping curb DTOs' easy access to large quantities of sophisticated firearms and ammunition and thus their ability to overpower Mexican authorities is one critical way the U.S. government can address a serious threat to Mexico and increasingly to the United States.

