

United States Senate

SENATE CAUCUS ON
INTERNATIONAL NARCOTICS CONTROL
HART SENATE OFFICE BUILDING, ROOM 818-C
WASHINGTON, DC 20510

November 15, 2011

Via Electronic Transmission

The Honorable Hillary R. Clinton
Secretary of State
U.S. Department of State
2201 C Street NW
Washington, DC 20520

Dear Secretary Clinton:

I write today to request copies of diplomatic cables to and from the Department of State and U.S. embassies in Mexico and nations in Central America and South America that discuss instances of, and the overall extent of, trafficking in weapons from, to, and within those regions. I am aware from news reports of the existence of such cables. I believe that the information contained in them is crucial to Congress's understanding of the threat posed by transnational drug trafficking organizations (DTOs) and other organized criminal groups, such as Mara Salvatrucha (MS-13).

As the Senate Caucus on International Narcotics Control detailed in a report we issued in September of this year, DTOs and other criminal groups in Mexico and Central America pose a national security threat both to the people of the United States and to the people of the countries where they operate.¹ As our report stated, "Violence in Central America...has grown out of control."² Murder rates in the Central American countries are so high that "Central America has become one of the most violent areas of the world."³ The Administration has recognized this threat in its *National Drug Control Strategy* and its *Strategy to Combat Transnational Crime*, as well as in its support to regional governments through, among other activities, the Merida Initiative and the Central American Security Strategy.

As you know, among the grave concerns regarding the threat posed by these criminals is that they are increasingly armed with sophisticated weapons. According to a press report, DTOs are "obtaining rockets and other heavy armament that make them more than a match for Central

¹ United States Senate Caucus on International Narcotics Control, "Responding to Violence in Central America," 112th Congress, First Session (September 2011), *available at*:

http://www.feinstein.senate.gov/public/index.cfm/files/serve?File_id=a67575d5-66dd-4e36-a4ae-6a4f70de500a&SK=689B2D014C1464F4CFD6561AA5FEDC4F (visited Nov. 9, 2011).

² *Id.* at p.3

³ *Id.* at p. 13.

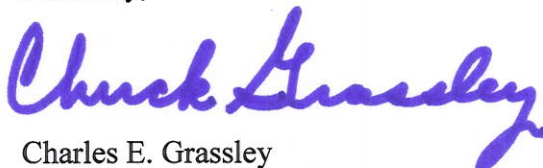
America's weak militaries.”⁴ For example, according to another press report, a raid on a drug trafficking organization’s warehouse in Guatemala City recovered 11 machine guns, a light antitank weapon, 563 rocket-propelled grenades, 32 hand grenades, 8 landmines, and a large amount of ammunition.⁵

According to these media reports, diplomatic cables from U.S. Embassies in Central America and Mexico provide significant information about these matters, including U.S. government assessments of the role of regional militaries in the proliferation of weapons to DTOs. I believe it is crucial that Congress review those cables and avail itself of the information contained therein as part of its duty to examine the threat to the United States posed by DTOs and other criminals. Furthermore, I believe that it is likely that there is relevant information on these matters in cables that has not been released or otherwise publicly referenced.

Accordingly, as Co-Chairman of the Senate Caucus on International Narcotics Control, I request that you provide (1) the four cables specifically referenced in the reports by Tim Johnson of McClatchy Newspapers, entitled, “Drug gangs move into new territory: Central America,” (April 21, 2011) and “Drug Gangs Help Themselves to Central American Military Arsenals,” (April 21, 2011); (2) all classified and unclassified cables from U.S. Embassies in Central America, South America, and Mexico that address weapons trafficking—including, but not limited to, trafficking of military weapons in host countries, security of military weapons stockpiles, and U.S. assistance to host countries in preventing illicit transfer of firearms from military bases; and (3) all classified and unclassified cables discussing the July 2, 2010 cable from the U.S. Embassy in Mexico entitled, “Mexico Weapons Trafficking – The Blame Game.”

I appreciate your prompt assistance in responding to this request. Given the serious nature of the subject matter and the urgent need for these documents, I expect your response to my request no later than November 30, 2011. If any of these documents are classified, please transmit them to the Office of Senate Security, located at the Senate Visitors’ Center, Room 217, and mark the documents “to the attention of Senator Grassley Co-Chairman, Senate Caucus on International Narcotics Control.”

Sincerely,



Charles E. Grassley
Co-Chairman

Cc: The Honorable Diane Feinstein
Chairman, Senate Caucus on
International Narcotics Control

⁴ Johnson, Tim, “Drug gangs move into new territory: Central America,” (April 21, 2011) *available at*: <http://www.mcclatchydc.com/2011/04/21/112617/drug-gangs-muscle-into-new-territory.html> (visited Nov. 9, 2011)

⁵ *Id.*

United States Senate

WASHINGTON, DC 20510

June 16, 2011

Via Electronic Transmission

Kenneth Melson
Acting Director
Bureau of Alcohol, Tobacco, Firearms, & Explosives
U.S. Department of Justice
99 New York Avenue, NE
Washington, DC 20226

Dear Acting Director Melson:

I write today in response to a June 10, 2011, article in *The Wall Street Journal* titled, "Mexican Guns Tied to U.S.", which cites a letter you sent to Senator Diane Feinstein, the Chairman of the Senate Caucus on International Narcotics Control ("Caucus"). As the Co-Chairman of the Caucus, and Ranking Member of the Senate Committee on the Judiciary ("Committee"), I have been investigating serious allegations raised by whistleblowers within the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) that agents knowingly allowed weapons to be sold to straw purchasers who then transferred those weapons to Mexican Drug Trafficking Organizations ("DTOs"). These allegations were the subject of two Congressional hearings this week and the timing of the release of this information raises questions about why the ATF would choose to release this information publicly now. Further, after reviewing the data presented in the article, I have questions about why ATF provided some select information, but not a more detailed analysis that would help Congress, and the American people, better understand the causes and sources of illegal firearms in Mexico.

Federal law prohibits the ATF from releasing firearm trace data or multiple handgun sales reports, but it does not prohibit the release of aggregate statistical data on illegal gun trafficking. However, I am concerned that the selective release of certain statistical data without further clarification and categorization may inaccurately reflect the scope and source of the problem of firearms in Mexico and the DTO violence. For example, the article states that ATF traced firearms in Mexico that were submitted for tracing by the Government of Mexico ("GOM") 21,313 firearms in 2009 and 7,971 firearms in 2010. The article further adds that of the firearms traced, 14,213 in 2009 were manufactured in the U.S. or imported to the U.S. from other countries. The article adds that 6,291 firearms in 2010 were either manufactured in the U.S. or imported from other countries. Taken together, these numbers provided the basis for the general estimate that 70% of firearms provided to the ATF from the GOM were traced back to the U.S.

The implication the article makes is that these firearms must come directly from U.S. manufacturers or U.S. Federal Firearms Licensees ("FFLs") selling guns to DTO members who smuggle the guns over the Southwest border. Unfortunately, this information paints a grossly inaccurate picture of the situation.

First and foremost, it is worth noting that the firearms data discussed in the article is based upon only the firearms that were submitted by the GOM to ATF for tracing. According to a May 6, 2009, article written by the Associated Press, over 305,424 confiscated weapons are locked in vaults in Mexico.¹ The weapons submitted for tracing represent only a small percentage of the number of weapons found to be part of the DTO related crime in Mexico. Further, there has been significant evidence in the media recently regarding the proliferation of weapons in Mexico smuggled out of Central America. For example, at a recent hearing before the Caucus on Central American security cooperation we heard testimony from witnesses that corrupt officers with access to unsecured arsenals in Guatemala and Honduras were an important source of weapons. In one recent media report, they discussed how over 1,100 fragmentation grenades, M-60 machine guns, and over a dozen grenade launchers were recovered in Guatemala at an alleged safe house of the Zetas DTO. That same article added that the Zetas had stolen over 500 weapons from a Guatemalan military base between 2007 and 2008.

Additional evidence regarding the source of weapons in Mexico is contained in an unclassified cable from the U.S. Department of State ("DOS") dated July 2, 2010, obtained by my office and attached to this letter. The cable, titled, "Mexico Weapons Trafficking – The Blame Game" seeks to dispel rumors about the source of weapons trafficked to Mexico. The unclassified cable includes sections such as: "Myth: An Iron Highway of Weapons Flows from the U.S.," "Myth: The DTOs Are Mostly Responsible," "Myth: Mexico Aggressively Investigating Weapons Confiscated," "Myth: Mexico Methodically Registers and Tracks Weapons," and "Myth: The GOM Justice System is Tough on Violators of Gun Laws." While this cable is very candid about the true problem of weapons smuggling inside Mexico, the cover emails forwarding this cable suggest that the ATF and officials associated with the ATF disagreed.

In fact, one email written by Special Agent in Charge William Newell states, "I could go on and on but once our 'Fast and Furious' case breaks it will change this." Unfortunately, it now appears that Special Agent in Charge Newell's prediction was correct, but instead of an "Iron Highway" operating on its own, it was ATF who fueled the flow of weapons through its "Fast and Furious" investigation which knowingly sanctioned the sale of nearly 2,000 firearms to straw purchasers.

I understand that agents working on tracing weapons in Mexico back to the U.S. routinely instruct GOM authorities to only submit weapons for tracing that have a likelihood of tracing back to the U.S. The purpose of this policy is to direct resources to tracing firearms that may have a U.S. nexus, instead of simply wasting resources on tracing firearms that will not trigger a U.S. source. So, based upon this background information, it is not surprising that reviewing a sample of weapons that is purposefully directed to increase the likelihood of U.S. generated weapons would in fact skew toward the direction of making it look like U.S. gun dealers provide more weapons than they actually do.. However, further discussion of the data that is presented in the article is warranted.

¹ E. Eduardo Castillo, *AP Impact: Mexico's Weapons Cache Stymies Tracing*, May 6, 2009, available at <http://www.brownsvilleherald.com/common/printer/view.php?db=brownsville&id=97742> (last visited June 13, 2011).

Looking specifically at the information provided by the ATF to Senator Feinstein and the *The Wall Street Journal* raises some questions when compared more detailed data provided to my office. ATF actually traced 26,813 firearms in 2009 and 9,443 in 2010. Further, that data indicates that of those firearms actually submitted for tracing, a vast majority of those firearms did not come from FFLs (either U.S. based or Mexican based). In fact, of the 26,813 weapons traced in 2009, only 5,800 actually traced back to U.S. or Mexican FFLs. Table 1 illustrates a more detailed breakdown of the firearms data for both 2009 and 2010. The most noteworthy portion of the information is that nearly 78% of firearms traced in 2009 and 66% of firearms traced in 2010 were assigned to a catchall category “No Final Sale Dealer” which means the firearms did not trace back to a United States FFL. This category of firearms includes firearms that have no nexus with U.S. commerce. It also includes firearms where the only nexus to U.S. commerce is that they were manufactured by U.S. companies. This means they are not sold by FFLs in the United States. Instead, they may be sold to foreign countries or militaries requiring approval of the State Department and Homeland Security. Additionally, this category includes firearms in the ATF’s Suspect Gun Database—a category which would include nearly 2,000 firearms as part of ATF’s Fast and Furious Investigation where the ATF knowingly authorized firearm sales to straw purchasers before the weapons were trafficked to Mexican DTOs.

Table 1: Firearms Tracing Information for 2009 and 2010

Year	Number of Firearms Submitted for Tracing by Government of Mexico	Number of Firearms Traced to Federal Firearm Licensees (FFLs)	Number of Firearms Assigned to “No Final Sale Dealer”
2009	26,813	5,800 (22%)	21,013 (78%)
2010	9,443	3,176 (34%)	6,267 (66%)

Because the numbers provided to my office indicate that the data provided to Senator Feinstein and *The Wall Street Journal* may not be entirely accurate and because further questions and breakdowns of that data are necessary for Congress to make an informed decision about the sources of weapons that are fueling the DTO related violence in Mexico, I ask that you provide responses to the following questions:

- (1) Of the 21,013 firearms in the “No Final Sale Dealer” category for 2009, how many of those firearms can be traced back to military sales to the GOM? How many can be traced to the military of Guatemala? How many can be traced to the military of Honduras? How many can be traced to the military of El Salvador? How many can be traced to other Central American and South American militaries? How many can be traced to other foreign militaries? How many are in that category because they were in the Suspect Gun Database?
- (2) Of the 6,267 firearms in the “No Final Sale Dealer” category for 2010, how many of those firearms can be traced back to military sale to the GOM? How many can be traced to the military of Guatemala? How many can be traced to the military of Honduras? How many can be traced to the military of El Salvador? How many can

be traced to other Central American and South American militaries? How many can be traced to other foreign militaries? How many are in that category because they were in the Suspect Gun Database?

- (3) How many of those weapons in the "No Final Sale Dealer" category for 2009 and 2010 were previously reported lost or stolen?
- (4) Has the ATF requested access to the 305,424 firearms held by the GOM military vault? How many of those firearms have been traced? How many of those firearms would trace back to the GOM and the Mexican military?
- (5) Data indicates that the top source dealer for illegal firearms traced in Mexico for 2009 was "Direccion General De Industria Milita" or the Directorate General of Military Industry in Mexico. They provided 120 firearms that were later traced back, likely after a crime. Why does this entity have a U.S. Federal Firearms License? Are sales to this and other foreign entities with U.S. FFL's included in the numbers the ATF provided as being a gun from a "U.S. Source". If so, why?
- (6) Why did the number of trace requests drop significantly from 2009 to 2010, but the percentage trace to U.S. FFLs go up? What is behind this trend?

Accordingly, as Co-Chairman of the Caucus and Ranking Member of the Committee, I request your prompt response to these important questions no later than June 23, 2011.

Sincerely,



Charles E. Grassley
Co-Chairman, Senate Caucus on International Narcotics Control
Ranking Member, Senate Committee on the Judiciary

Attachment

[REDACTED]

From: Newell, William D.
Sent: Wednesday, July 07, 2010 8:46 PM
To: [REDACTED]
Subject: Re: Mexico Weapons Trafficking - The Blame Game

"ends" up... Typing and eating dinner, shame on me.

Bill Newell

Special Agent in Charge

ATF Phoenix Field Division (AZ and NM)

Cell: 602-[REDACTED]

NOTICE: This electronic transmission is confidential and intended only for the person(s) to whom it is addressed. If you have received this transmission in error, please notify the sender by return e-mail and destroy this message in its entirety (including all attachments).

From: Newell, William D.
To: [REDACTED]
Sent: Wed Jul 07 23:44:18 2010
Subject: Re: Mexico Weapons Trafficking - The Blame Game

As for "large seizures" and "DTO related" what about the recent 147 guns in Laredo specifically intended for the Zetas? I could go on and on but once our "Fast and Furious" case breaks it will change this. [REDACTED] and crew know better and we (ATF) needs to be careful about feeding Dept of State with opinion instead of fact. It appears to me that this cable, "authored" by the Ambassador, was based largely on opinion and not fact. It may be the easy road but unfortunately always up being a dead end.

Bill Newell

Special Agent in Charge

ATF Phoenix Field Division (AZ and NM)

Cell: 602-[REDACTED]

NOTICE: This electronic transmission is confidential and intended only for the person(s) to whom it is addressed. If you have received this transmission in error, please notify the sender by return e-mail and destroy this message in its entirety (including all attachments).

From: [REDACTED]
To: Newell, William D.
Sent: Wed Jul 07 20:21:43 2010
Subject: Fw: Mexico Weapons Trafficking - The Blame Game

NOTICE: This electronic transmission is confidential and intended only for the person(s) to whom it is addressed. If you have received this transmission in error, please notify the sender by return e-mail and destroy this message in its entirety (including all attachments).

From: [REDACTED]
To: [REDACTED]
Sent: Wed Jul 07 20:19:05 2010
Subject: FW: Mexico Weapons Trafficking - The Blame Game

From: Gil, Darren D.
Sent: Tuesday, July 06, 2010 10:56 AM
To: [REDACTED]
Cc: [REDACTED]
Subject: FW: Mexico Weapons Trafficking - The Blame Game
Importance: High

All,

This is the cable that went to Main State. Quite extraordinary in its honest language of the situation here in Mexico.

Although not classified, this cable is sensitive and should not be distributed outside of our offices here in Mexico.

[REDACTED] Leadership should be advised, as I sent an earlier version up already.

Please note the Ambassador's comments which refer to your hard work and commitment here in Mexico, you all are to be commended.

d.

Darren D. Gil
ATF Attaché-Mexico

(011) 52 [REDACTED]

(011) 52 [REDACTED]

[REDACTED]

From: Gil, Darren D (Mexico City) [REDACTED]
Sent: Tuesday, July 06, 2010 9:51 AM
To: Gil, Darren D.
Subject: FW: Mexico Weapons Trafficking - The Blame Game

SBU
This email is UNCLASSIFIED.

From: [REDACTED]
Sent: Friday, July 02, 2010 10:32:43

To:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Cc:

Subject: Mexico Weapons Trafficking - The Blame Game

UNCLASSIFIED



Action Office: LEGAT, POL, ORA
Info Office: RSO, DAO, ATF, DOJ, USSS, ODC

MRN: 10 MEXICO 365
Date/DTG: Jul 02, 2010 / 021531Z JUL 10
From: AMEMBASSY MEXICO
Action: WASHDC, SECSTATE ROUTINE
E.O.: [REDACTED]
TAGS: PGOV, PINR, MX, PREL
Captions: SENSITIVE, SIPDIS
Reference: [REDACTED]
Pass Line: WHA
Subject: Mexico Weapons Trafficking - The Blame Game

1. (SBU) Summary. The Mexican Government (GOM) has consistently focused the blame for weapons trafficking into Mexico squarely on the United States. Recent articles in Mexico City daily, El Universal, however, have called into question whether all the responsibility rests with the United States, or whether there is also more Mexico can do to combat this problem. It appears that Mexico may be just starting to realize that the answer to the arms trafficking problem requires confronting the challenge on both sides of the border. Nevertheless, the GOM still has substantial work to do and institutional barriers to overcome in order to effectively play its role in stopping the violence associated with the illicit weapons trade. End Summary.

Myth: An Iron Highway of Weapons Flows from the U.S.

2. (SBU) The Mexican Attorney General's office (PGR) is quick to report that since the start of the Calderon administration in December 2006, Mexico security forces have seized 83,566 weapons. The sheer magnitude of weapons, as well as the general acceptance that most come from U.S sources,

suggests that there is an "Iron Highway" of weapons streaming across the border in identifiable patterns that make interdiction easy. Rather, it appears there maybe thousands of small streams. To date, despite U.S. Customs and Border Protection's (CBP) use of the latest detection equipment and agents trained in a wide range of interdiction techniques, our best efforts have not produced massive seizures of weapons on the U.S. side of the border, although some important seizures have been effected and are being investigated. Most illicit weapons confiscated in Mexico are from various crime scenes, checkpoints, or DTO camps inside of Mexico - not at the border. CBP reports that since 2009, it and Mexican Customs has conducted coordinated operations at border crossings. Mexican Customs, however, is in the nascent stages of transitioning from a tariff collection entity to a law enforcement agency and lacks full statutory authority to perform at an equivalent level to its CBP counterparts. At present, Mexican Customs relies on other Mexican law enforcement agencies (SSP, PGR or SEDENA) to effect detentions and arrests of smugglers. Additionally, the scarcity of interdiction technology at many of the Mexican ports of entry result in significant inconsistencies along the border. This, as well as the dispersed and small nature of the seizures, suggest that interdiction is not as simple as plugging the suspected holes on the U.S. side of the border. But perhaps the biggest gap is a strong disincentive. In the United States the average sentence for arms trafficking is only 12 to 30 months for straight weapons trafficking crimes. For U.S. prosecutors, there is a bigger pay off from focusing on other crimes. For traffickers and straw purchasers, the combination of cost and risk still is not too high to bear.

3. (SBU) In order to address this issue, the GOM has worked through the Merida Initiative to identify the need for significant investment in non-intrusive inspection equipment at the border. NAS and CBP are working with their Mexican partners and identifying exchanges and training opportunities under the 21st century border pillar in order to strengthen interdiction coordination.

Myth: The DTOs Are Mostly Responsible

4. (SBU) While DTOs are the largest consumer of illegal fire arms in Mexico, they are not the primary trafficking agents of weapons going south from the United States. ATF officials assess that, instead, straw purchasers buy small quantities of weapons at pawn shops, gun shows, and fully licensed firearm dealers (FFL) in the United States, illegally transport one to five weapons across the border, and sell them independently to the DTOs. They do not work directly for the organized criminal groups. For example, ATF officers cite as an emblematic case the 54 firearms recovered at a Mexican Customs check point on March 22, 2009. Using e-Trace, ATF traced all firearms recovered to a licensed dealer in St. Madera, CA. Further investigation by ATF agents identified twelve Mexican citizens, legally residing in the United States, who trafficked these weapons and as many as 442 additional firearms to Mexico between 2005 and 2009. Separate individuals with links to organized crime in Oaxaca State had requested the weapons. The case demonstrates general trends in arms trafficking, including: 1) the lack of a single large seizure, but rather multiple small shipments over a long period of time; 2) weapons were bought legally in the United States; 3) the purchasers were Mexicans living legally in the United States; and 4) the individuals who made the purchases were not directly linked to the organized criminal group requesting the transfers.
5. (SBU) The Mexican Attorney General's Office (PGR) agrees that individuals or small groups, not the DTOs, are primarily responsible for most trafficking. This represents a shift from its earlier position. In April 2008, PGR officially stated in their Monthly Arms Trafficking Report that the DTOs had specific members in their organization dedicated to procuring and transporting weapons into Mexico. In the same report for April 2009, PGR assessed that DTOs did not control the arms trafficking networks, but relied on semi-autonomous individuals or small, independent organizations to buy weapons and sell them to the cartels. This allowed the DTOs a more flexible distribution network where they were not directly involved in the transactions.

Myth: Mexico Aggressively Investigating Weapons Confiscated

6. (SBU) According to PGR records, ten of the 15 commercial brands of weapons regularly confiscated in Mexico are manufactured and sold by U.S. companies. To date, however, the GOM has done little to investigate the origin of these weapons. As a result, the United States has largely been unable to open investigations domestically on un reputable dealers or smuggling organizations on the U.S. side of the border. To assist in these efforts, ATF has made several attempts to implement e-Trace weapons trafficking software in Mexico. In September 2009, PGR's Center for Information, Analysis, and Planning to Fight Crime (CENAPI) requested ten accounts and ten computers to access to e-Trace. The request followed a presentation at the Bilateral Weapons Trafficking Conference in Phoenix, AZ by ATF (Reftel) that discussed the benefits of e-Trace as a tool in developing investigations for weapons smuggling. In October 2009, ATF provided CENAPI with ten computers and five accounts, corresponding to the number of specific individuals identified as E-trace users.
7. (SBU) To date, PGR has restricted the rollout of additional accounts to other agencies in the GOM reducing its effectiveness as an investigative tool. The Mexican Attorney General told the Ambassador in a March 2010 meeting that he wants all Mexican federal and state law enforcement agencies to have e-Trace access, but the process nevertheless has been mired in an administrative tug-of-war for control and access to the tool. The Mexican Federal Police (SSP) has requested 70 accounts, and three state governments have requested a total of 300 accounts, but PGR has only given ATF permission to train - not provide - other institutions on e-Trace. PGR/CENAPI insists that it must maintain control of the tool and that they are capable of tracing all weapons confiscated in Mexico without distributing it more broadly.
8. (SBU) ATF, meanwhile, assesses that CENAPI does not have the personnel, nor the infrastructure to accommodate the volume of traces of confiscated weapons in Mexico. The Secretariat of National Defense (SEDENA) claims to have seized over 5,000 firearms since January 1, 2010. As of April 23, 2010, CENAPI has traced 513 firearms – only 10%. U.S. law enforcement officials state that in order for e-Trace to be effective, weapons data seized at crime scenes must be immediately entered into e-Trace so that the U.S. sellers are investigated and held accountable. ATF touts the May 2010 seizure of a weapons cache from a Zeta training camp as an example of how the system can be used successfully. As ATF was granted immediate access to the firearms, it was able to quickly trace the semi-automatic weapons to a purchase in Las Vegas only 39 days prior to being confiscated in Mexico. ATF opened an investigation and is tracking down the smugglers based on the information received from the FFL. ATF's ability to quickly perform the traces, rather than having to wait to go through CENAPI, contributed to its launching an immediate investigation in the case. The same can be said for granting vetted state and deployed local forces e-Trace access, which would allow for the kind of swift turnaround on traces that would be virtually impossible through a centralized CENAPI system. Recent negotiations for a memorandum of understanding between PGR and ATF on e-Trace usage may open the door, but ATF remains skeptical that PGR will allow universal access. [Note: PGR and SRE finally completed their review of the MOU on 25 June and we expect for it to be signed shortly. End Note]

Myth: Mexico Methodically Registers and Tracks Weapons

9. (SBU) While Mexico has a system in place for registering and tracking firearms, no central database exists and the GOM lacks an automated ability to track ownership. SEDENA is solely responsible for the import and distribution of legal firearms in Mexico. Moreover, U.S. law enforcement officers say that an individual can register a legal weapon with SEDENA without having to submit to a background investigation or having to provide information on how it was purchased. To remedy this, the GOM plans to eventually register all weapons in Mexico in Plataforma Mexico, SSP's comprehensive crime database, accessible to vetted federal and state law enforcement officers. Plataforma Mexico has yet to receive data from e-Trace due to institutional rivalries (the Federal Police controls Plataforma Mexico but does not have e-Trace access)

Myth: The GOM Justice System is Tough on Violators of Gun Laws.

10. (SBU) Mexican gun ownership laws as written are quite strict compared to U.S. laws. They prohibit personal ownership of rifles or shot guns greater than .22 caliber and pistols greater than .38 caliber. Additional restrictions apply to automatic weapons, various classes of revolvers, and semi-automatic pistols. Furthermore, owning more than two hand-guns and ten long guns is prohibited. U.S. law enforcement experts indicate that the stricter gun control laws should allow for more prosecutions and stiffer penalties for criminals involved in weapons trafficking. Little data is available, however, on the prosecution and sentencing of individuals involved with illegally possessing or trafficking a firearm. The case of Gregorio Salgado Lopez is a key example of how the Mexican justice system struggles to detain and prosecute egregious cases of firearms possession or trafficking. In March 2009 Salgado was arrested at a checkpoint in San Emerterio for possessing 55 disassembled firearms. ATF discovered the case through local press. Through its own investigation, ATF determined that Salgado was part of larger ring of smugglers. Although the magnitude of weapons alone should have been enough to bring him to trial and obtain a conviction, by the time ATF presented the additional information to the PGR, Salgado had already been released without a trial.
11. (SBU) Comment: Mexico understands that stopping the flow of illegal weapons into the country is paramount to achieving long-term success in the counternarcotics fight. Calderon made this a central theme of his address to the U.S. Congress. The responsibility does not lie solely on the northern side of the border. Just as demand fuels the flow of drugs north, it also drives the flow weapons south. With a combined operational effort, shared information, sustained investigations, and more prosecutions with serious sentences in the U.S. our relationship will be strengthened as we work together to cease the flow of weapons south. The first step will be to implement e-Trace across the board in Mexico and to train operators in its use as an investigative tool. This common platform will provide the springboard from which further investigative and judicial collaboration can occur. But if we cannot prosecute straw purchasers and traffickers in the United States, and put them in jail with serious sentences, then the trafficking will continue. There is too much money to be made, and it will not stop until there is a tough price to be paid in U.S. jails. End comment.

Signature:

[REDACTED]

Drafted By:

MEXICO [REDACTED]

Cleared By:

EXEC [REDACTED]

POL [REDACTED]

ATF:Gil, Darren

CBP [REDACTED]

ICE [REDACTED]

Approved By:

[REDACTED]

Released By:

MEXICO [REDACTED]

Info:

MEXICO, AMEMBASSY ROUTINE; NATIONAL SECURITY COUNCIL WASHINGTON DC ROUTINE; DEPT OF HOMELAND SECURITY WASHINGTON DC ROUTINE; DEPT OF JUSTICE WASHINGTON DC ROUTINE; CDR USNORTHCOM PETERSON AFB CO ROUTINE; CDR USSOUTHCOM MIAMI FL ROUTINE; ALL US CONSULATES IN MEXICO COLLECTIVE ROUTINE

Action Post:

Dissemination Rule:

LEGAT_Action, RSO_Info, POL_Action, DAO_INFO, ATF_Info, DOJ_Info, ORA_Info, USSS_Info, ODC_Info

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

**THE NATIONAL SHOOTING SPORTS
FOUNDATION, INC.,**

Plaintiff,

v.

**B. TODD JONES, Acting Director
Bureau of Alcohol, Tobacco, Firearms
& Explosives, in his official capacity,**

Defendant.

**Civil Action No. 1:11-cv-01401-RMC
(consolidated with 11-cv-1402)**

DECLARATION OF STUART L. LOWREY

I, Stuart L. Lowrey, pursuant to 28 U.S.C. § 1746(2), do hereby declare and state as follows:

1. I am the Chief, Firearms Operations Division, Office of Field Operations, Bureau of Alcohol, Tobacco, Firearms and Explosives ("ATF"). In that capacity, I serve as an advisor to the Director, Deputy Director, Executive Staff, the Office of Field Operations, and other ATF directorates on matters related to ATF's firearms criminal investigative programs and training. I am responsible for the development, oversight, and evaluation of criminal enforcement and training policy, programs and initiatives related to firearms trafficking, interdiction and deterrence. My duties also include the compilation and review of statistical data related to ATF's firearms related initiatives. This declaration is based on my personal knowledge as well as knowledge made available to me in the course of my duties as the Chief of the Firearms Operations Division.

2. Between fiscal year 2004 and fiscal year 2008, an estimated 20,060 firearms were recovered in Mexico and traced back to the United States, either as firearms manufactured in the United States or imported into the United States.¹

3. According to data reported in April 2011, 29,284 firearms were recovered in Mexico and submitted to ATF for tracing in 2009-2010. Of these, 20,504 were United States-sourced firearms: 15,131 were manufactured in the United States and 5,373 were imported into the United States.

4. The statistics in paragraphs 2 and 3 above are derived from ATF's eTrace data, the only systematic trace data available to the agency. It is important to note, however, that ATF's eTrace data is based only on gun trace requests actually submitted to ATF by law enforcement officials in Mexico, and not on all of the guns seized in Mexico. Administrative Record ("A.R.") at 51 (U.S. Government Accountability Office, Firearms Trafficking: U.S. Efforts to Combat Arms Trafficking to Mexico Face Planning and Coordination Challenges 3 (June 2009) ("GAO Report")). By way of example, in 2008, of the approximately 30,000 firearms that the Mexican Attorney General's Office informed ATF that it had seized, only 7,200, or one quarter of those firearms, were submitted to ATF for tracing. *Id.* Given the under-inclusive nature of the data available to ATF, the total number of guns trafficked to Mexico from the United States may be far greater than the data in paragraphs 1 and 2 above indicates. Relying on similar statistics, the Justice Department's Inspector General recommended that ATF and the Department of Justice "explore options for seeking a requirement for reporting multiple sales of long guns." A.R. at 288, 289 (U.S. Department of Justice, Office of the Inspector General, Review of ATF's Project Gunrunner (Nov. 2010)). The Government Accountability Office also noted that "limitations on

¹ ATF tracks traces by the year the firearm is recovered, not the year the trace is initiated.

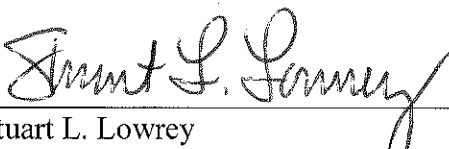
reporting requirements for multiple sales” were a “significant challenge” for ATF in combating the trafficking of arms across the Southwest Border, and recommended that this issue be “address[ed] by the agency.” A.R. at 39-40, 42 (GAO Report).

5. Operation Fast and Furious was formally opened as an investigation in November 2009. As previously reported to Congress, as of May 26, 2011, ATF had identified:

- a. 602 firearms purchased by Operation Fast and Furious suspects before they had been identified in the investigation; and
- b. 1418 firearms purchased by Operation Fast and Furious suspects after they had been identified in the investigation.

Of the 1418 firearms noted in Paragraph 5.b., 274 firearms were recovered in the United States, 96 were recovered in Mexico, and 1048 have not yet been recovered. ATF is in the process of updating these May 2011 numbers.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 8th day of November, 2011.



Stuart L. Lowrey
Chief, Firearms Operations Division
Office of Field Operations