



# **The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF): Budget and Operations for FY2008, FY2009, and FY2010**

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## Summary

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

For the past two fiscal years, FY2009 and FY2010, Congress has provided ATF with program increases to address illegal gun trafficking from the United States to Mexico under an initiative known as "Project Gunrunner." For FY2008, Congress also provided ATF with a program increase for domestic gun trafficking, but the focus of this program increase was also largely on the Southwest border. As a result, for those three fiscal years, Congress has provided over \$49 million in program increases to address gun trafficking. Congress has also provided nearly \$30 million for the construction of a National Center for Explosives Training and Research (NCETR).

In the Consolidated Appropriations Act, 2010 (P.L. 111-117), Congress matched the Administration's request and appropriated \$1.121 billion for ATF, or 3.9% more than the agency's FY2009 appropriations (\$1.078 billion). Conference report language (H.Rept. 111-366) indicated that the act included an increase of \$18 million for Project Gunrunner, the same amount requested by the Administration; \$10 million to increase the Violent Crime Impact Team program; \$6 million for construction (phase two) of NCETR; and \$1.5 million to complete ATF headquarters construction projects.

In the Omnibus Appropriations Act, 2009 (P.L. 111-8), Congress appropriated \$1.054 billion for ATF. This amount included at least a \$5 million increase for Project Gunrunner. Congress also appropriated ATF an additional \$14 million in the Supplemental Appropriations Act, 2009 (P.L. 111-32). This amount included a \$4 million increase to upgrade and share ballistic imaging technology with the government of Mexico, and an additional \$6 million increase for Project Gunrunner. In addition, Congress appropriated an additional \$10 million for Project Gunrunner in the American Recovery and Reinvestment Act of 2009 (P.L. 111-5). Hence, Congress provided \$25 million in FY2009 budget enhancements to address Southwest border gun trafficking. For FY2009, in sum total, Congress appropriated ATF \$1.078 billion, or 6.6% more than the FY2008 appropriation (\$1.012 billion).

In the Consolidated Appropriations Act, 2008 (P.L. 110-161), Congress appropriated \$1.008 billion for ATF. This act included an increase of \$6.3 million to address domestic gun trafficking and \$23.5 million for the construction of NCETR. In the Supplemental Appropriations Act, 2008 (P.L. 110-252), Congress appropriated an additional \$4 million for ATF to provide explosives and cigarette trafficking training and support to Iraqi authorities. The total FY2008 ATF appropriation was \$1.012 billion, or 2.4% more than the FY2007 appropriations (\$988.1 million).

In the 110<sup>th</sup> Congress, the House passed a bill (H.R. 6028) that would have authorized increasing ATF appropriations over three years, for FY2008 through FY2010, by nearly \$74 million to address Southwest border gun trafficking. Similar bills have been introduced in the 111<sup>th</sup> Congress (S. 205, H.R. 495, H.R. 1448, and H.R. 1867). This report will not be updated.

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This report provides an overview of the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) budget and operations for FY2008, FY2009, and FY2010. It chronicles congressional action on the annual Commerce, Justice, Science (CJS), and Related Agencies Appropriations bills for those fiscal years, as well as action on supplemental and stimulus appropriations bills.

## ATF Mission

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

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

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

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<sup>1</sup> P.L. 107-296, 116 Stat. 2135.

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

<sup>3</sup> U.S. Department of Justice, Office of the Attorney General, *Stewards of the American Dream: FY 2007—FY 2012 Strategic Plan*.

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

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

## ATF Appropriations

In three years, Congress increased appropriations for ATF by 13.4%, from \$988.1 million in FY2007 to \$1.121 billion in FY2010 (see **Table 1**). For this time period, the annual percent growth was 4.3%. Most of the program increases were provided to bolster ATF's capabilities in the areas of gun trafficking and explosives. For example, for the past two fiscal years, FY2009 and FY2010, Congress has provided ATF with program increases to address illegal gun trafficking from the United States to Mexico under an initiative known as "Project Gunrunner."<sup>6</sup> For FY2008, Congress also provided ATF with a program increase for domestic gun trafficking, and the focus of this program increase was also largely on the Southwest border. As a result, for those three fiscal years, Congress has provided over \$49 million in program increases to address gun trafficking, which is the diversion of firearms from legal to illegal markets. Congress has also provided nearly \$30 million for the construction of a National Center for Explosives Training and Research (NCETR).<sup>7</sup>

## ATF Budget Structure

Congress appropriates funding annually for ATF in a salaries and expenses account and, for some but not all years, in a construction account. Both accounts are given a line item in the CJS appropriations bill. As shown in **Table 1**, ATF subdivides its budget into three budget decision units:

- firearms compliance and investigations,
- arson and explosives investigations, and
- alcohol and tobacco diversion.

Under the construction line item, Congress appropriated \$23.5 million for FY2008 and \$6.0 million for FY2010 to fund the NCETR. As that funding was explosives-related, these amounts were added into the arson and explosives investigations decision unit in **Table 1**.

Although Congress does not appropriate monies for the ATF (or any other DOJ agency) by decision unit, the appropriators often address whether program increases requested specifically by the Administration are to be provided in report language, and more rarely in bill language, for the salaries and expenses account itself. As a consequence, the amounts requested for decision units are binding in the sense that the appropriators are aware of the increases that were provided for in the annual bureau appropriation and how those increases would affect the decision unit totals. If funding is shifted from one decision unit to another, statutory budget reprogramming

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<sup>6</sup> For further information, see CRS Report R40733, *Gun Trafficking and the Southwest Border*, by Vivian S. Chu and William J. Krouse.

<sup>7</sup> NCETR (pronounced "en-SEE-der") was authorized under section 1114 of the Homeland Security Act of 2002 (P.L. 107-296; 116 Stat. 2280). Although this provision designated Fort A.P. Hill as the location for this center, it has been established at Redstone Arsenal in Huntsville, AL. At NCETR, ATF is providing explosives-related research and training to federal, state, local, and international law enforcement personnel. Hence, it is co-located with the FBI Hazardous Devices School, where the FBI has been providing explosives-related training to federal state, local, and international law enforcement personnel since the 1980s. In addition, the FBI is relocating the Terrorist Explosive Device Analytical Center (TEDAC) to Redstone Arsenal. It is located currently in Quantico, VA.

requirements are triggered, under which DOJ and its agencies are required to notify the Appropriations Committees about such shifts.<sup>8</sup>

**Table I. ATF Appropriations for FY2007 through FY2010**

Dollars in thousands

Decision Units	FY2007		FY2008		FY2009		FY2010	
	Dollars	FTE <sup>a</sup>	Dollars	FTE <sup>a</sup>	Dollars	FTE <sup>a</sup>	Dollars	FTE <sup>a</sup>
Firearms	\$710,550	3,599	\$708,560	3,474	\$779,272	3,547	\$802,636	3,614
Arson & Explosives <sup>b</sup>	\$257,865	1,361	\$283,355	1,316	\$277,852	1,320	\$295,841	1,321
Alcohol & Tobacco	\$19,682	93	\$19,682	90	\$21,091	90	\$22,295	90
Total	\$988,097	5,053	\$1,011,597	4,880 <sup>c</sup>	\$1,078,215	4,957	\$1,120,772	5,025

**Source:** Revised Continuing Appropriation Resolution, 2007 (P.L. 110-5); Katrina-Iraq Supplemental Appropriations Act (P.L. 110-28); Consolidated Appropriations Act, 2008 (P.L. 110-161); Supplemental Appropriations Act, 2008 (P.L. 110-252); Omnibus Appropriations Act, 2009 (P.L. 111-8); Supplemental Appropriations Act, 2009 (P.L. 111-32); American Recovery and Reinvestment Act of 2009 (P.L. 111-5) and Consolidated Appropriations Act, 2010 (P.L. 111-117).

**Notes:** Amounts may not add to totals due to rounding.

- a. A full-time equivalent (FTE) position represents the amount of funding necessary to provide for a single position for an entire year. Not all positions (new, temporary, and part-time) are fully funded for the entire year. New positions, for example, are often partially funded, as such positions are filled incrementally and at some point during the fiscal year. Hence, they do not require full funding for the first year.
- b. For FY2008, Congress appropriated \$23.5 million for construction. This amount has been folded into the arson and explosives decision unit, because it was provided for the National Center for Explosives Research and Training (NCETR). For FY2010, Congress appropriated \$6.0 million for phase two of this construction project. This amount has also been folded into the arson and explosives decision unit.
- c. The decrease of 173 FTE positions for FY2008, as compared with FY2007, reflects adjustments to base and other technical adjustments to the ATF budget that were made to eliminate “hollow” or “unfunded” positions.

Over three appropriation cycles, FY2008 through FY2010, the firearms decision unit allocation has increased by 13.0%; the arson and explosives, by 14.7%; and alcohol and tobacco, by 13.3%. Due to a reduction in “hollow” or “unfunded” FTE positions, there was a decreased in FTE positions from 5,053 for FY2007 to 4,880 for FY2008. While FTE positions increased to 4,957 for FY2009 and 5,025 for FY2010, the number of FTE positions funded for FY2010 is still lower than the 5,053 FTE positions that were budgeted for FY2007. As a result, funded FTE positions at ATF oscillated somewhat; however, the net decrease in FTE positions is less than 1%.

## FY2010 Appropriation

In the Consolidated Appropriations Act, 2010 (H.R. 3288), Congress matched the Administration’s request and appropriated \$1.121 billion for ATF, or \$24.0 million (3.9%) more

<sup>8</sup> The Consolidated Appropriations Act, 2010 (P.L. 111-117, section 505 of the CJS general provisions [123 STAT. 3149-3159]), includes several requirements regarding the reprogramming of funding provided under Division B of the act. Among other things, these requirements prohibit any reprogramming that proposes to use funds directed for a specific activity by either the House or Senate Appropriations Committees, unless both committees are notified 15 days in advance.

than the agency's total FY2009 appropriations (\$1.078 billion).<sup>9</sup> President Obama signed this bill into law on December 16, 2009 (P.L. 111-117).<sup>10</sup> In the absence of an FY2010 CJS appropriations act by the end of FY2009 (September 30, 2009), Congress passed a series of continuing resolutions that funded most of the federal government, including ATF, until the enactment of P.L. 111-117.<sup>11</sup>

## **Administration's FY2010 Request**

For FY2010, the Administration requested \$1.121 billion for ATF, or a proposed 6.3% increase compared to the FY2009-enacted appropriation of \$1.054 billion (at the time of the request).<sup>12</sup> The requested amount was projected to fund 5,025 FTE positions and 5,101 permanent positions. Compared to the FY2009-enacted level, the FY2010 request included a net increase of \$66.6 million, 68 FTE positions, and 93 permanent positions.<sup>13</sup> This proposed increase included

- \$23.6 million, 22 FTE positions, and 1 permanent position in base adjustments;<sup>14</sup>
- \$18 million, 46 FTE positions,<sup>15</sup> and 92 permanent positions (including 34 agents) to support "Project Gunrunner," an initiative focused on stemming illegal firearms trafficking to Mexico from the United States; and
- \$25 million for NCETR facility outfitting and expanded training.<sup>16</sup>

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<sup>9</sup> This amount includes \$10 million provided in the American Recovery and Reinvestment Act (ARRA; P.L. 111-5); \$1.054 billion provided in the Omnibus Appropriations Act, 2009 (P.L. 111-8); and \$14 million provided in the Supplemental Appropriations Act, 2009 (P.L. 111-32).

<sup>10</sup> The conference report on the bill included provisions for six of the seven FY2010 appropriations: Transportation-HUD; Commerce-Justice-Science; Financial Services; Labor-HHS; Military Construction-VA; and State-Foreign Operations. The Defense appropriations bill, H.R. 3326, was passed separately.

<sup>11</sup> For further information, see CRS Report RL30343, *Continuing Resolutions: Latest Action and Brief Overview of Recent Practices*, by Sandy Streeter.

<sup>12</sup> In the FY2010 ATF budget submission, the FY2009 appropriation was \$1.054 billion and did not reflect supplemental appropriations of \$10 million in P.L. 111-5 and \$14 million in P.L. 111-32.

<sup>13</sup> U.S. Department of Justice, Justice Management Division, *FY2010 Budget and Performance Summary* (May 2009), p. 139. Available at <http://www.usdoj.gov/jmd/2010summary/>.

<sup>14</sup> For most DOJ agencies, the Administration of President George W. Bush often proposed "base adjustments" to the number of FTE and permanent positions that were considered "authorized" (funded or appropriated for) as part of estimating an agency's base budget. For FY2010, the Obama Administration has proposed making a similar adjustment to the ATF base budget, as described above. The base budget essentially represents an estimated level of resources that an agency would need to provide the anticipated level of services for the current fiscal year in the next fiscal year. In the past, base budgets did not include adjustments to the number of permanent positions, and the number of "authorized" permanent positions was generally static, unless changed by Congress by increasing or decreasing funding associated with those positions. As happened in the FY2008 budget cycle, the Administration has periodically (about every 10 years) proposed eliminating "hollow" positions, for which the modular costs and underlying assumptions are no longer sufficient to fund those positions. Authorized or funded positions are generally displayed by job series in a "Table of Organization" in the agency's budget submissions to Congress.

<sup>15</sup> New permanent positions are usually funded at half the FTE positions for the first year, as the positions will be filled incrementally and will not include a full-year's funding. If funded for the following fiscal year, it is usually necessary to annualize those positions so that the number of FTE positions are roughly equal with the number of permanent positions.

<sup>16</sup> U.S. Department of Justice, Justice Management Division, *FY2010 Budget and Performance Summary* (May 2009), p. 139.

## **House-Passed and Senate-Reported FY2010 CJS Appropriations Bills**

On June 12, 2009, the House Appropriations Committee reported an FY2010 CJS appropriations bill (H.R. 2847; H.Rept. 111-149). On June 17, 2009, the House passed this bill. It would have provided ATF with \$1.106 billion for FY2010, or \$9.0 million (1.3%) less than the FY2010 request. Report language indicated that this amount included the following budget increases: nearly \$18 million to combat gun trafficking on the Southwest border and \$10 million for ATF Violent Crime Impact Teams. As in the enacted FY2010 appropriation, however, the committee recommendation did not include \$25 million for phase two of the NCETR project. Although the committee expressed its support for this endeavor, fiscal constraints prompted the committee to dedicate limited resources to Southwest border, anti-gun trafficking efforts.<sup>17</sup> As a result, the committee recommended only \$10 million for the NCETR project.

On June 25, 2009, the Senate Appropriations Committee reported an FY2010 CJS appropriations bill (H.R. 2847; S.Rept. 111-34) that would have provided ATF with \$1.121 billion, the same amount as requested by the Administration. The Senate took no further action on this bill, however. Nevertheless, as noted in report language, the committee recommendation included a total of \$61 million to combat gun trafficking on the Southwest border, including an increase of \$18 million for Project Gunrunner.<sup>18</sup> Report language also conveyed the committee's support for the National Integrated Ballistic Information Network (NIBIN) and directed ATF to ensure that ballistic-imaging technology be routinely upgraded and made available to state and local law enforcement. The Senate recommendation, unlike the House bill, would have provided ATF with an increase of \$25 million for construction to fully fund phase two of the NCETR project.<sup>19</sup>

## **Consolidated Appropriations Act, 2010**

In P.L. 111-117, Congress appropriated \$1.121 billion for ATF for FY2010. The House agreed to the conference report on the underlying bill (H.R. 3288; H.Rept. 111-366) on December 10, 2009, by a recorded vote: 221-202, 1 present (Roll no. 949). The Senate agreed to the conference report on December 13, 2009, by a recorded vote: 57-35 (Record Vote Number: 374). Conference report language (H.Rept. 111-366) indicated that the act included the following increases:

- \$18 million for Project Gunrunner, the same amount requested by the Administration and included in the Senate-reported and House-passed bills (described below);
- \$10 million to increase for ATF-led inter-agency task forces known as Violent Crime Impact Teams, which are dedicated to reducing violent crime and illegal gang activity, as originally included in the House-passed bill;

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<sup>17</sup> U.S. House of Representatives, Committee on Appropriations, Commerce, Justice Science, and Related Agencies Appropriations Bill, 2010, H.Rept. 111-149, p. 66.

<sup>18</sup> U.S. Congress, Senate Committee on Appropriations, Subcommittee on Commerce, Justice, Science, and Related Agencies, *Departments o Commerce and Justice, and Science and Related Agencies Appropriations Bill, 2010*, committee print, 111<sup>th</sup> Cong., 2<sup>nd</sup> sess., June 25, 2009, p. 68.

<sup>19</sup> The Administration's FY2010 request for the NCETR included \$19 million for the ATF salaries and expenses account and \$6 million for the ATF construction account.



- \$6 million for construction (phase two) of the NCETR, instead of the \$25 million requested by the Administration, an amount included in the Senate bill, or the \$10 million under the House bill; and
- \$1.5 million to complete ATF headquarters construction projects.

## **FY2009 Appropriations**

Congress appropriated \$1.054 billion for ATF in the Omnibus Appropriations Act, 2009 (H.R. 1105). President Obama signed this bill into law on March 11, 2009 (P.L. 111-8). Prior to the omnibus's enactment, Congress passed a series of continuing resolutions to fund the federal government.<sup>20</sup> Congress also provided ATF with \$10 million in the American Recovery and Reinvestment Act of 2009 (ARRA; P.L. 111-5). In addition, Congress provided ATF with \$14 million in the Supplemental Appropriations Act, 2009 (P.L. 111-32). As a result, for FY2009, Congress appropriated a sum total of \$1.078 billion for ATF, or \$66.6 million (6.6%) more than the FY2008-enacted amount (\$1.012 billion).

### **American Recovery and Reinvestment Act of 2009**

Congress appropriated \$10 million for ATF in the American Recovery and Reinvestment Act of 2009 (ARRA; P.L. 111-5), as part of \$40 million that was provided for grants to state and local law enforcement along the southern border or in High-Intensity Drug Trafficking Areas. This amount was one-time, economic stimulus funding.

### **Administration's FY2009 Request**

For FY2009, the Administration had requested \$1.028 billion for ATF, including 4,942 FTE positions and 4,978 permanent positions, or \$44 million, 62 FTE positions, and 22 permanent positions more than the amounts appropriated for FY2008.<sup>21</sup> Of the difference, \$42.8 million, 56 FTE positions, and 10 permanent positions were base adjustments. For Southwest border enforcement, the FY2009 request included a budget enhancement of \$948 thousand and 6 FTE positions and 12 permanent positions.

### **House- and Senate-Reported FY2009 CJS Appropriations Bills**

While both the House and Senate Appropriations Committees reported FY2009 CJS appropriations bills, those bills were not acted upon by either chamber. On December 10, 2008, the House Appropriations Committee reported an FY2009 CJS appropriations bill (H.R. 7322; H.Rept. 110-919) that would have provided ATF with \$1.054 billion, or \$26.4 million (2.6%)

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<sup>20</sup> In the absence of such an enacted FY2009 appropriation at the end of FY2008, then-President George W. Bush signed a continuing resolution (CR) (P.L. 110-329) on September 30, 2008, that funded ATF, like most other DOJ agencies, at their FY2008 levels through March 6, 2009. On March 6, 2009, President Obama extended this CR through March 11, 2009, signing another resolution into law (P.L. 111-6; H.J.Res. 38). As described below, while both the House and Senate Appropriations Committees reported FY2009 CJS appropriations bills, neither chamber acted on those bills.

<sup>21</sup> U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives, *Congressional Budget Submission, Fiscal Year 2009*, (February 2008), Exhibit B—Summary of Requirements.

more than the FY2009 request. House report language indicated that the House bill would have provided an increase of \$5 million for Project Gunrunner.

On June 23, 2008, the Senate Appropriations Committee reported an FY2009 CJS appropriations bill (S. 3182; S.Rept. 110-397) that would have provided ATF with \$1.043 billion, or \$15 million (1.5%) over the FY2009 request. Senate report language indicated that the Senate bill would have provided an increase of \$15 million to expand ATF's Violent Crime Impact Teams (described below).

Both House and Senate report language expressed the Appropriations Committees' continued support of ATF's National Integrated Ballistic Information Network (NIBIN). Through NIBIN, federal, state, and local law enforcement agencies are able to image markings on bullets and cartridge cases and compare crime firearms evidence. The FY2006 budget for NIBIN was \$22.8 million.

### **Omnibus Appropriations Act, 2009**

In P.L. 111-8, Congress provided ATF with its regular annual appropriation of \$1.054 billion for FY2009, a 4.6% increase over the FY2008-enacted level (\$1.008 billion at the time of enactment), and a 2.6% increase over the Administration's request. On February 25, 2009, the House passed this bill by a recorded vote: 245-178 (Roll no. 86). On March 10, 2009, the Senate passed this bill by a voice vote without amendment. In an explanatory statements submitted by the House Appropriations Committee, language indicated that the act provided ATF with \$26.4 million in program increases of which no less than \$5.0 million was for Project Gunrunner and no less than \$200,000 was for hiring additional regulation writers to address ATF's administrative backlog.<sup>22</sup>

### **FY2009 Supplemental Appropriation**

On June 12, 2009, the House Committee on Appropriations filed a conference report on the Supplemental Appropriations Act, 2009 (H.R. 2346; H.Rept. 111-151). The House passed the conference agreement on June 16, 2009, and the Senate, on June 18, 2009. On June 24, 2009, the President signed this H.R. 2346 into law (P.L. 111-32). This act provided ATF with an additional \$14 million, bringing total enacted FY2009 funding for ATF to \$1.078 billion. Conference report language indicated that the ATF supplemental appropriation included

- \$4 million to support ATF's role in the global war on terror in Iraq and Afghanistan,
- \$4 million to upgrade and share ballistic imaging technology with the government of Mexico, and
- \$6 million for other ongoing efforts focused on stemming illegal gun trafficking to Mexico under Project Gunrunner.

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<sup>22</sup> "Explanatory Statement Submitted by Mr. Obey, Chairman of the House Committee on Appropriations Regarding H.R. 1105, Omnibus Appropriations Act, 2009," *Congressional Record*, daily edition, vol. 155 (February 23, 2009), p. H1764.

This language was parallel to Senate report language accompanying S. 1054 (S.Rept. 111-20), a bill that the Senate had passed on May 21, 2009. By comparison, a bill (also H.R. 2345) passed by the House on May 14, 2009, would have provided \$4 million for ATF. House report language (H.Rept. 111-105) indicated that this amount would have been provided for ATF to continue to deploy explosives enforcement officers to Iraq to provide training to U.S. government personnel on post-blast investigation and render safe procedures.

## **FY2008 Appropriations**

When conference negotiations on the House- and Senate-passed CJS appropriations bills (both bills were numbered H.R. 3093), congressional leaders opted to use the Department of State, Foreign Operations, and Related Appropriations bill, 2008 (H.R. 2764), as a vehicle for the CJS appropriations, as well as the other 10 remaining appropriations bills, in addition to emergency spending for military operations in Iraq and Afghanistan. On December 17-19, 2007, Congress completed action on H.R. 2764, the Consolidated Appropriations Act, 2008, through an exchange of amendments between the two chambers. President George W. Bush signed H.R. 2764 into law on December 26, 2007 (P.L. 110-161). In this act, Congress provided ATF with its regular FY2008 appropriation. Congress also provided ATF with additional \$4.0 million in an Iraq war supplemental appropriation bill. In sum total, Congress appropriated \$1.012 billion for ATF for FY2008, or \$23.5 million (2.4%) more than the FY2007 appropriations (\$988.1 million).

## **Administration's FY2008 Request**

The FY2008 request included \$1.014 billion for ATF, including 4,933 FTE and 5,032 permanent positions. At the time of the request, this amount was \$29.9 million more than the FY2007 appropriation of \$984.1 million. The request included \$10 million for the Arson and Explosives decision unit to make up for a previous budget reduction; \$6.3 million to expand ATF's domestic firearms trafficking enforcement efforts nationwide; \$2.2 million for the Project Safe Neighborhoods (PSN) initiative to expand gang and firearms enforcement efforts nationally; and \$400,000 for ATF agents dedicated to the National Gang Targeting Enforcement and Coordination Center (GangTECC).

## **House- and Senate-Passed FY2008 CJS Appropriations Bills**

On July 19, 2007, the House Appropriations Committee reported an FY2008 CJS appropriations bill (H.R. 3093; H.Rept. 110-240). On July 26, 2007, the House passed this bill by recorded vote: 281-142 (Roll no. 744). The House would have provided \$1.014 billion for ATF, an amount equal to the FY2008 request. Report language specified that the bill included program increases requested by the Administration for Firearms Trafficking/Gunrunner Program, PSN/Firearms Violence Reduction program, and GangTECC. In addition, the House bill would have directed ATF to submit a report on recommended improvements to upgrade its information technology systems, and the bill included \$1.0 million for this purpose.

On June 29, 2007, the Senate Appropriations Committee reported an FY2008 CJS appropriations bill (S. 1745; S.Rept. 110-124). On October 16, 2007, the Senate took up H.R. 3093 and amended it with language similar to S. 1745. On the same day, the Senate passed H.R. 3092 by a recorded vote: 75-19 (Record Vote Number: 372). The Senate-passed bill would have provided almost \$1.049 billion for ATF, an increase of \$35.0 million (3.5%) more than the Administration's FY2008

budget request. The Senate-passed bill included \$1.014 for ATF salaries and expenses and \$35 million for NCETR construction.

### **Consolidated Appropriations Act, 2008**

In P.L. 110-161, Congress appropriated \$1.008 billion for ATF's regular appropriation, including \$23.5 million for construction. The FY2008 appropriation for ATF salaries and expenses was \$984.1 million. Although this amount was \$19.5 million (2%) more than the FY2007 appropriation of \$988.1 million,<sup>23</sup> it was \$6.4 million less than the amount proposed in the FY2008 budget request. In an explanatory statement submitted by the House Appropriations Committee, ATF was directed to report on revocations of federal firearms dealers licenses based upon "largely recordkeeping errors" and upon administrative (regulatory) backlogs.<sup>24</sup> Program increases included \$23.5 million for the construction of NCETR and \$6.3 million for gun trafficking investigations.

### **FY2008 Iraq Supplemental Appropriation**

In the Supplemental Appropriations Act, 2008 (P.L. 110-252; H.R. 2642), Congress provided \$4 million for ATF operations in Iraq (H.R. 2642).<sup>25</sup> According to DOJ, ATF was in the process of establishing an attache office in the U.S. Embassy in Baghdad.<sup>26</sup> This office was charged with a threefold mission to

- create an Iraq Weapons Investigation Cell to investigate and account for U.S. government-issued munitions;
- establish an ATF Combined Explosives Cell, which would seek to identify the source countries for explosives recovered in Iraq; and
- engage in targeted investigations of cigarette theft and other diverted contraband throughout the country.<sup>27</sup>

Since December 2003, ATF has also been providing post-blast explosives investigative training to Iraqi police forces.<sup>28</sup> A Senate-passed version of H.R. 2642 included \$15 million for Project Gunrunner; however, this funding was not included in the enacted supplemental appropriation.

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<sup>23</sup> This amount includes \$4 million in supplemental appropriations provided under P.L. 110-28.

<sup>24</sup> "Explanatory Statement Submitted by Mr. Obey, Chairman of the House Committee on Appropriations, Regarding the Consolidated Appropriations Amendment of the House of Representatives to the Senate Amendment to H.R. 2764," *Congressional Record*, daily edition, December 17, 2007, p. H15799.

<sup>25</sup> For further information, see CRS Report RL34451, *FY2008 Spring Supplemental Appropriations and FY2009 Bridge Appropriations for Military Operations, International Affairs, and Other Purposes (P.L. 110-252)*, by Stephen Daggett et al.

<sup>26</sup> U.S. Department of Justice, "Fact Sheet: Department of Justice Efforts in Iraq," February 13, 2008.

<sup>27</sup> Ibid.

<sup>28</sup> Ibid.

## Appropriations and Staffing, FY1999-FY2009

As **Table 2** shows, from FY1999 to FY2010, Congress increased ATF appropriations from \$541.6 million to nearly \$1.121 billion, an increase of 107%. For this time period, the annual percent growth was 6.8%. With some fluctuation, ATF staffing increased from 3,969 to 5,025 FTE positions, a 27% increase.

**Table 2. ATF Appropriations, FY1999-FY2009**

Dollars in thousands

Fiscal Year	Salaries and Expenses Appropriation	Full-Time Equivalent (FTE) Positions <sup>a</sup>	Permanent Positions
1999	\$541,574	3,969	N/A
2000	\$565,959	4,221	4,492
2001	\$771,143	4,643	5,049
2002	\$854,747	5,029	5,143
2003	\$826,801	5,111	5,231
2004	\$827,289	4,735 <sup>b</sup>	4,862 <sup>b</sup>
2005	\$882,465	4,885	5,073
2006	\$935,817	5,040	5,128
2007	\$988,097	5,053	5,128
2008	\$1,011,597 <sup>c</sup>	4,880 <sup>d</sup>	4,956 <sup>d</sup>
2009	\$1,078,215 <sup>e</sup>	4,957	5,008
2010	\$1,120,772 <sup>f</sup>	5,025	5,101

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

**Notes:** N/A = not available.

- a. A full-time equivalent (FTE) position represents the amount of funding necessary to provide for a single position for an entire year. Not all positions (new, temporary, and part-time) are fully funded for the entire year. New positions, for example, are often partially funded, as such positions are filled incrementally and at some point during the fiscal year. Hence, they do not require full funding for the first year.
- b. The decrease of 376 FTE positions and 369 permanent positions for FY2004, as compared with FY2003, reflects the funding that remained at the Department of the Treasury for the regulatory components of ATF, which were designated the Trade and Tax Bureau, when the ATF enforcement components were transferred to the Department of Justice as the Bureau of Alcohol, Tobacco, Firearms and Explosives, pursuant to the Homeland Security Act (P.L. 107-296).
- c. This amount includes \$23.5 million for the ATF construction account.
- d. The decrease of 173 FTE positions and 172 permanent positions for FY2008, as compared with FY2007, reflects adjustments to base and other technical adjustments to the ATF budget that were made to eliminate “hollow” or “unfunded” positions.
- e. This amount includes \$24 million in supplemental appropriations, of which \$10 million was provided under the American Recovery and Reinvestment Act, 2009 (P.L. 111-5) and \$14 million under the Supplemental Appropriations Act, 2009 (P.L. 111-32).
- f. This amount includes \$6 million for construction.

Since its transfer to the DOJ in FY2003, ATF has also reported permanent positions, in addition to FTE positions. The FY2010 appropriation funds 5,101 permanent positions, including 2,485 special agents (SAs), 834 industry operations investigators (IOIs, formerly inspectors) and investigative research specialists (IRIs), and 1,769 “other” positions.<sup>29</sup> In addition, as has been the case in recent years, 55 ATF permanent positions (54 SAs and one other position) are to be funded through reimbursable resources.<sup>30</sup>

## **Firearms Budget Program**

ATF’s firearms budget program funds activities related to administering and enforcing federal laws related to the manufacture, importation, and distribution of firearms. The principal focus of ATF’s firearms-related activities, however, is the reduction of firearms-related violence. As part of this focus, the ATF has dedicated increased resources in recent years toward investigating the criminal activities of violent street gangs, ensuring that federally licensed gun dealers comply with the law, and suppressing gun trafficking. For FY2010, the firearms allocation is \$802.6 million, or 72% of the \$1.121 billion appropriated by Congress for ATF.

## **Violent Crime and Gangs**

As a full partner in the President’s Project Safe Neighborhoods (PSN), which was initiated in FY2001, ATF has joined with DOJ attorneys and other federal law enforcement agencies, along with state, local, and tribal authorities, to investigate and prosecute offenders, with a particular focus on armed violent and career criminals. ATF also leads the Attorney General’s Violent Crime Impact Teams (VCITs) in 29 cities<sup>31</sup> in an effort to reduce the number of homicides and other violent crimes committed with firearms.<sup>32</sup> According to ATF, the VCITs assist state and local authorities by

- systematically investigating all firearms-related leads;
- responding to all street recoveries of firearms and interviewing those involved to determine the source of the firearms;
- targeting and investigating violent and career criminals, and removing them from the streets;
- infiltrating criminal groups through undercover operations and confidential informants;
- tracing all recovered guns used in crime to determine their origin;

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<sup>29</sup> U.S. Department of Justice, *ATF Congressional Budget Submission, Fiscal Year 2011*, Exhibit I – Detail of Permanent Positions by Category.

<sup>30</sup> *Ibid.*

<sup>31</sup> Those cities are Albuquerque, NM; Atlanta, GA; Baltimore, MD; Baton Rouge, LA; Birmingham, AL; Camden, NJ; Columbus, OH; Fresno, CA; Greensboro, NC; Hartford, CT; Houston and Laredo, TX; Las Vegas, NV; Los Angeles, CA; Mesa, AZ; Miami, FL; Milwaukee, WI; Minneapolis, MN; New Orleans, LA; Orlando, FL; Philadelphia and Pittsburgh, PA; Richmond, VA; San Bernadino, CA; San Juan, PR; Tampa, FL; Tucson, AZ; Tulsa, OK; and Washington, D.C.

<sup>32</sup> U.S. Department of Justice, Bureau of Alcohol, Tobacco, and Firearms, “ATF Fact Sheet: ATF-Led Violent Crime Impact Teams Initiative,” May 2007.

- imaging and storing all ballistic evidence in the National Integrated Ballistic Information Network (NIBIN); and
- inspecting and, when appropriate, investigating corrupt federal firearms licensees.<sup>33</sup>

Under the VCIT initiative, defendants referred by ATF for prosecution in gang-related investigations have increased from 403 in FY2000 to 4,381 in FY2007, nearly a tenfold increase.<sup>34</sup>

## **Compliance Inspections of Licensed Gun Dealers**

ATF inspects federal firearms licensees (FFLs) to monitor their compliance with the Gun Control Act (GCA)<sup>35</sup> and to prevent the diversion of firearms from legal to illegal channels of commerce. In the past, despite its crime-fighting mission, ATF's business relationships with the firearms industry and larger gun-owning community have been a perennial source of tension, which from time to time has been the subject of congressional oversight.<sup>36</sup> Nevertheless, under current law, ATF Special Agents (SAs) and Industry Operations Investigators (IOIs) are authorized to inspect or examine the inventory and records of an FFL *without search warrants* under three scenarios:<sup>37</sup>

- in the course of a reasonable inquiry during the course of a criminal investigation of a person or persons other than the FFL;
- to ensure compliance with the record keeping requirements of the GCA—more than once during any 12-month period, or at any time with respect to records relating to a firearm involved in a criminal investigation that is traced to the licensee; or
- when such an inspection or examination is required for determining the disposition of one or more firearms in the course of a criminal investigation.

By inspecting the firearms transfer records that FFLs are required by law to maintain, ATF investigators are able to trace crime guns from their domestic manufacturer or importer to the first retail dealer that sold those firearms to persons in the general public, generating vital leads in homicide and other criminal investigations. In addition, by inspecting those records, ATF

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<sup>33</sup> U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives, *Congressional Budget Submission, Fiscal Year 2007* (February 2006), p. 47.

<sup>34</sup> U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives, *Congressional Budget Submission, Fiscal Year 2009* (February 2008), p. 22.

<sup>35</sup> 18 U.S.C. Chapter 44, §921 et seq.

<sup>36</sup> For example, in the 109<sup>th</sup> Congress, the House Judiciary Crime subcommittee held two oversight hearings examining ATF firearms enforcement operations at gun shows in Richmond, Virginia, in 2005. ATF agents reportedly provided state and local law enforcement officers with confidential information from background check forms (ATF Form 4473s), so that those officers could perform residency checks on persons who had otherwise legally purchased firearms at those gun shows. Questions were also raised as to whether ATF agents had profiled gun purchasers at those gun shows on the basis of race, ethnicity, and gender. See U.S. Congress, House of Representatives, Committee on the Judiciary, Subcommittee on Crime, Terrorism, and Homeland Security, *Oversight Hearing on the Bureau of Alcohol, Tobacco, Firearms, and Explosives (BATFE) Parts I & II: Gun Show Enforcement*, February 15 and 28, 2006. Also see Department of Justice, Office of the Inspector General, *The Bureau of Alcohol, Tobacco, Firearms and Explosives' Investigative Operations at Gun Shows*, I-2007-007, June 2007.

<sup>37</sup> 18 U.S.C. § 923(g)(1)(B).

investigators are often able to uncover evidence of corrupt FFLs transferring firearms “off the books,” straw purchases,<sup>38</sup> and other patterns of suspicious behavior.

In July 2004, the DOJ Office of Inspector General (OIG) reported on ATF inspections of FFLs. Among other things, the OIG reported that ATF inspected the operations of 4.5% of the 104,000 FFLs in FY2002.<sup>39</sup> Since then, according to ATF, 10,106 firearms compliance inspections were conducted in FY2007, covering about 9.3% of the nearly 109,000 FFLs in that fiscal year,<sup>40</sup> and 11,169 firearms compliance inspections were conducted in FY2008, covering nearly 10% of the 111,600 FFLs in that fiscal year.<sup>41</sup>

## **Project Gunrunner<sup>42</sup>**

On the Southwest border with Mexico, firearms violence has reportedly spiked sharply in recent years as drug trafficking organizations (DTOs) have competed for control of key smuggling corridors into the United States.<sup>43</sup> Beginning in December 2006, Mexican President Felipe Calderón responded by deploying elements of the Mexican Army and federal police to trouble spots around Mexico, including on the northern frontier.<sup>44</sup> The DTO’s, however, are reportedly buying semiautomatic versions of AK-47 and AR-15-style assault rifles, other military style firearms, and .50 caliber sniper rifles in the United States.<sup>45</sup> With those rifles and other small arms, the DTOs are reportedly achieving parity in terms of firepower in shootouts with the Mexican Army and law enforcement.<sup>46</sup> In March 2008, President Calderón called upon the United States to increase its efforts to suppress the flow of U.S. firearms into Mexico.<sup>47</sup>

ATF reports that there are 6,647 FFLs in the United States operating in the Southwest border region of Texas, New Mexico, Arizona, and California.<sup>48</sup> Moreover, ATF reports that DTOs are increasingly using surrogates (straw purchasers) in the United States to buy 10 to 20 military-

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<sup>38</sup> A “straw purchase” occurs when a person, who is otherwise eligible to purchase a firearm, purchases a firearm from a federally licensed dealer for another person, who is either prohibited from possessing a firearm or does not want a paper trail linking him to the purchased firearm. Under 18 U.S.C. § 922(a)(6), it is illegal to make a false statement to a federally licensed firearms dealer. Both the dealer and the buyer are required to fill out an ATF Form 4473, on which the buyer (transferee) attests to the dealer (transferor) that he is buying the firearm for himself and that he is not otherwise prohibited from possessing a firearm. Knowingly making a false statement on a ATF Form 4473 is punishable under 18 U.S.C. § 924(a)(2) by a fine or imprisonment for 10 years or both.

<sup>39</sup> U.S. Department of Justice, Office of the Inspector General, *Inspections of Firearms Dealers by the Bureau of Alcohol, Tobacco, Firearms and Explosives*, Report Number I-2004-005, (July 2004), p. xi.

<sup>40</sup> U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives, *Congressional Budget Submission, Fiscal Year 2008*, (February 2007), p. 29.

<sup>41</sup> U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives, *Congressional Budget Submission, Fiscal Year 2010*, May 2009, p. 5.

<sup>42</sup> For further information, see CRS Report R40733, *Gun Trafficking and the Southwest Border*, by Vivian S. Chu and William J. Krouse.

<sup>43</sup> Anna Gilmour, “Gulf War—Pressure Mounts on Mexico’s Gulf Cartel,” *Jane’s Intelligence Review*, December 3, 2007.

<sup>44</sup> *Ibid.*

<sup>45</sup> Sara Miller Llana, “US Guns Arm Mexico’s Drug Wars,” *Christian Science Monitor*, July 19, 2007, p. 1.

<sup>46</sup> Oscar Becera, “Firing Line—Tracking Mexico’s Illegal Weapons,” *Jane’s Intelligence Review*, April 28, 2008.

<sup>47</sup> *Ibid.*

<sup>48</sup> ATF briefing provided to CRS on May 5, 2008.



style firearms at a time from FFLs. These firearms are reportedly routinely smuggled into Mexico in smaller shipments of four or five firearms as part of a process known as the “ant run.”<sup>49</sup>

During FY2006 and FY2007, ATF dedicated approximately 100 SAs and 25 IOIs to a Southwest border initiative known as “Project Gunrunner” to disrupt the illegal flow of guns from the United States to Mexico. In FY2007, ATF agents investigated 187 firearms trafficking cases and recommended 465 defendants for prosecution.<sup>50</sup> By the end of FY2008, ATF had deployed 146 SAs and 68 IOIs to the Southwest border to bolster that initiative at an estimated cost of \$32.2 million.<sup>51</sup>

The ATF FY2009 budget request included \$948,000 to fund 12 industry operations investigator positions to bolster efforts already underway as part of Project Gunrunner.<sup>52</sup> This was the only program increase/budget enhancement in the ATF FY2009 budget request. As described above, House reported language accompanying the FY2009 CJS appropriations bill indicated that the House bill (H.R. 7322; H.Rept. 110-919) included \$5 million for Project Gunrunner. Corresponding report language accompanying a Senate bill (S. 3182; S.Rept. 110-397) was silent as to whether such an increase would be provided under that bill. The Senate, however, had included \$15 million for Project Gunrunner in the FY2008 supplemental appropriations bill (H.R. 2642), but that funding was not included in the enacted appropriation (P.L. 110-252). As described above, the Omnibus Appropriations Act, 2008 (P.L. 111-8) included \$1.054 billion for ATF, including an increase of not less than \$5 million for Project Gunrunner. In addition, to ramp up Gunrunner, the American Recovery and Reinvestment Act (ARRA; P.L. 111-5) included \$10 for ATF and \$30 million to assist state and local law enforcement with counter-narcotics efforts in FY2008 funding.

The ATF FY2010 budget request includes \$1.121 billion for ATF, including a proposed increase of \$18 million and 92 permanent positions (including 34 SAs) to support Project Gunrunner.<sup>53</sup> The House-reported FY2010 Commerce, Justice, Science, and Related Agencies appropriations bill (H.R. 2847; H.Rept. 111-149) would have provided ATF with \$1.106 billion, including the requested increase of \$18 million for Gunrunner. According to the House Committee, such an increase would bring total funding for Southwest border firearms trafficking efforts to \$59.9 million.<sup>54</sup> The Senate-reported version of H.R. 2847 (S.Rept. 111-34) would have provided ATF with the same total amount as requested by the Administration, as well as the \$18 million increase for Gunrunner. Senate report language noted that under its recommendation total funding for Southwest border gun trafficking would be over \$61 million. In the Consolidated Appropriations

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<sup>49</sup> Oscar Becera, “Firing Line—Tracking Mexico’s Illegal Weapons,” *Jane’s Intelligence Review*, April 28, 2008.

<sup>50</sup> Statement of William Hoover, Assistant Director for Field Operations, Bureau of Alcohol, Tobacco, Firearms and Explosives, before the Subcommittee on the Western Hemisphere, Committee on Foreign Affairs, House of Representatives, concerning “U.S. Obligations under the Mérida Initiative,” February 7, 2008.

<sup>51</sup> CRS conversations with Bureau of Alcohol, Tobacco, Firearms and Explosives, Office of Legislative Affairs, May 14, 2008.

<sup>52</sup> U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives, *Congressional Budget Submission, Fiscal Year 2009* (February 2008), Exhibit C—Program Increases/Offsets by Decision Unit.

<sup>53</sup> U.S. Department of Justice, Justice Management Division, *FY2010 Budget and Performance Summary*, (May 2009), p. 139. Available at <http://www.usdoj.gov/jmd/2010summary/>.

<sup>54</sup> U.S. Congress, House Committee on Appropriations, Subcommittee on Commerce, Justice, Science, and Related Agencies, *Commerce, Justice, Science, and Related Agencies Appropriations Bill, 2010*, To accompany H.R. 2847, 111<sup>th</sup> Cong., 1<sup>st</sup> sess., June 12, 2009, H.Rept. 111-149, p. 66.

Act, 2010 (P.L. 111-117), Congress provided ATF with the same amount as requested by the Administration, including a program increase of \$18 million for Project Gunrunner.

ATF also maintains a foreign attache in Mexico City to administer an Electronic Trace Submission System (ETSS), also known as the eTrace program, for Mexican law enforcement authorities. From FY2005 through FY2007, ATF traced just over 11,700 firearms recovered by Mexican authorities, and approximately 90% of those firearms were traced back to the United States.<sup>55</sup> Caution should be exercised when drawing conclusions from ATF firearm trace data. Although it is valid to say that 90% of traced firearms originated in the United States, it would be incorrect to conclude that 90% of all guns used in crime in Mexico originated in the United States. Although crime gun trace data are useful measurements of crime gun trends, in most cases the issues of consistent, random, and unbiased data collection have not been adequately addressed through comprehensive tracing and other controls. Hence, it is often not possible to test for statistical significance. Nevertheless, even though a statistically valid percent estimate of U.S.-sourced firearms used in crime in Mexico cannot be made based on trace data, criminal investigations have documented that there is great demand for certain firearms that are available in normal (non-military) commercial channels in the United States and that those firearms have been illegally trafficked to Mexico in large numbers.

Moreover, successful firearm traces are instrumental in developing investigative leads in homicide and gun trafficking cases. According to ATF, some of those cases uncover corrupt FFLs who were involved in larger criminal conspiracies to smuggle firearms into Mexico.<sup>56</sup> In January 2008, ATF announced that e-Trace technology would be deployed to an additional nine U.S. consulates in Mexico (Mérida, Juarez, Monterrey, Nogales, Hermosillo, Guadalajara, Tijuana, Matamoros, and Nueva Laredo).<sup>57</sup> The number of traces performed by ATF for Mexican authorities during FY2008 increased markedly. During FY2008, ATF traced 7,743 firearms recovered by Mexican authorities, as compared with the 11,700 firearms traced over a three-year period, FY2005-FY2007.<sup>58</sup> Of those firearms, 63.5% were determined to have been manufactured in the United States and 29.5% were determined to have been manufactured abroad, but imported into the United States.<sup>59</sup> Consequently, 93% of firearms traced by ATF during FY2008 for Mexican authorities were either made in, or imported to, the United States.<sup>60</sup>

In the 110<sup>th</sup> Congress, the House Committee on Foreign Affairs ordered reported the Mérida Initiative to Combat Illicit Narcotics and Reduce Organized Crime Authorization Act of 2008 (H.R. 6028; H.Rept. 110-673) on May 14, 2008.<sup>61</sup> This bill would have authorized to be appropriated over three years, for FY2008 through FY2010, a total of \$73.5 million to increase the number of ATF positions dedicated to Project Gunrunner (\$45 million) and assign ATF agents to Mexico (\$28.5 million). The House passed this bill on June 10, 2008, by a roll call vote of 311 to 106 (Roll no. 393). Similar authorizations are included in the Southwest Border Violence

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<sup>55</sup> ATF briefing provided to CRS on May 5, 2008.

<sup>56</sup> *Ibid.*

<sup>57</sup> Bureau of Alcohol, Tobacco, Firearms and Explosives, Office of Public Affairs, "ATF Expands Efforts to Combat Illegal Flow of Firearms to Mexico," January 16, 2008.

<sup>58</sup> ATF briefing provided to CRS on April 16, 2009.

<sup>59</sup> *Ibid.*

<sup>60</sup> *Ibid.*

<sup>61</sup> For further information, see CRS Report R40135, *Mérida Initiative for Mexico and Central America: Funding and Policy Issues*, by Clare Ribando Seelke.

Reduction Act of 2008 (S. 2867, H.R. 5863, and H.R. 5869). In the 111<sup>th</sup> Congress, similar bills have been introduced (S. 205, H.R. 495, H.R. 1448, and H.R. 1867).

## **Arson and Explosives Budget Program**

ATF's arson and explosives budget program covers activities related to administering and enforcing federal laws governing the manufacture, importation, and distribution of explosives, as well as investigating arson cases with a federal nexus. Among law enforcement agencies, the ATF is recognized for its investigative expertise in responding to both arson and explosive incidents. The Attorney General (AG), for example, made the ATF responsible for maintaining a consolidated database of all arson and explosive incidents that occur in the United States. Reportedly, as part of the department's law enforcement information-sharing program, this and other databases are to be linked and made Web-accessible, and first responders anywhere in the United States are to have access to critical information about arson and explosive cases nationwide.<sup>62</sup>

Congress made ATF responsible for more closely regulating the explosives industry in the United States under the Safe Explosives Act.<sup>63</sup> The act made ATF responsible for fully investigating all explosive thefts and losses, as well as providing background checks for licensees and permittees to prevent prohibited persons from acquiring explosives. This act also requires ATF to inspect explosive licensees and permittees every three years to ensure that all explosive materials are properly stored and accounted for. ATF reports that there are about 12,000 licensees and permittees nationwide, so that to comply with the act, about 4,000 inspections would need to be conducted by ATF annually.<sup>64</sup> According to ATF, 3,291 explosives compliance inspections were conducted in FY2007, or about 28% of licensees/permittees.<sup>65</sup> For FY2010, the arson and explosives allocation is \$295.8 million, or 26% of the \$1.121 billion appropriation. As discussed above, for FY2008 and FY2010, Congress appropriated a total of nearly \$30 million for the construction of a ATF-administered National Center for Explosives Training and Research.

## **Alcohol and Tobacco Budget Program**

The ATF alcohol and tobacco budget program covers expenses related to agency efforts to counter a rising trend in the illegal diversion of tobacco products, as well as the illegal movement of distilled alcohol products. According to the General Accounting Office (now the Government Accountability Office), the illegal diversion and smuggling of cigarettes in the United States results in an unknown but significant loss in tax revenues.<sup>66</sup> In addition, ATF criminal intelligence

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<sup>62</sup> The Federal Bureau of Investigation reportedly continues to maintain its own bomb data center despite the AG's memorandum. See Jerry Markon, "FBI, ATF Battle for Control of Cases: Cooperation Lags Despite Merger," *Washington Post*, May 10, 2008, p. A1.

<sup>63</sup> P.L. 107-296, 116 Stat. 2280.

<sup>64</sup> U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives, *Congressional Budget Submission, Fiscal Year 2007* (February 2006), p. 53.

<sup>65</sup> U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives, *Congressional Budget Submission, Fiscal Year 2009* (February 2008), p. 48.

<sup>66</sup> U.S. General Accounting Office, *Cigarette Smuggling: Federal Law Enforcement Efforts and Seizures Increasing*, GAO-04-641 (May 2004), p. 7.

indicates that cigarette bootlegging is a lucrative criminal venture that terrorist groups have used and would possibly use in the future to finance their activities.<sup>67</sup> Neither the FY2009 or FY2010 budget requests included any new resources for this program. For FY2010, the alcohol and tobacco program allocation is \$22.3 million, or 2% of the \$1.121 billion appropriation.

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<sup>67</sup> Ibid., p. 7.