



United States Department of State

Washington, D.C. 20520

RELEASE IN
FULL

JUL 1 2011

Dear Senator Feinstein:

Thank you for your letter of June 14 regarding the Senate Caucus on International Narcotics Control's June 2011 report, *Halting U.S. Firearms Trafficking to Mexico*. We greatly appreciate your leadership on this issue.

We take particular note of the report's finding and recommendation six, calling on the Department of State to encourage the Mexican government to expand *eTrace* access for the Mexican Federal Police (SSP). We agree.

As noted in your report, when the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) deployed *eTrace* access for use by Mexican investigators, the Mexican government determined that the Procuraduría General de la Republica (Mexico's Office of the Attorney General) would manage its implementation and access. Under this arrangement, however, other Mexican agencies' criminal investigators, like those with the Federal Police, do not have direct access to the database for tracing weapons that they seize. The result is that many seized weapons are never traced, or the traces occur too late for the information gathered to be of use in investigations.

In support of expanded use of *eTrace*, U.S. assistance under the Merida Initiative has supported many training courses for criminal investigators in firearms identification and *eTrace* use. Trainees have included investigators from PGR, as well as SSP and other agencies. In addition, as you recommend, the U.S. government has and will continue to encourage the Mexican government to expand direct access to *eTrace*, especially for the SSP. We are prepared to support that expansion whenever it is approved for implementation.

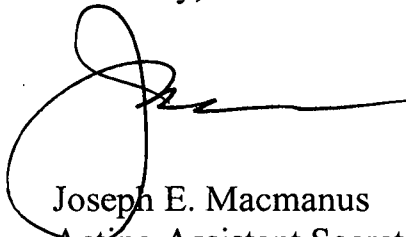
The Honorable
Dianne Feinstein,
United States Senate.

REVIEW AUTHORITY: Janina Slattery,
Senior Reviewer

-2-

Thank you again for your views on this important topic. If you have further questions or concerns related to this or any matter, please do not hesitate to contact us.

Sincerely,

A handwritten signature in black ink, consisting of a large, stylized loop followed by a horizontal line extending to the right.

Joseph E. Macmanus
Acting Assistant Secretary
Legislative Affairs

Incoming H20110617=004 Feinstein:

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Drafted: INL/LP - MSmith 3-1653, 6/22/11

Cleared:

INL	CPerez, Acting	ok
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INL/LP	ALeMar	ok
INL/PC	CLeming	ok
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H:	LDeWine	ok
P:	DHolmes	ok
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D/N:	Seiden, Maya D	info
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Congressional Correspondence

UNCLASSIFIED

Subject: Regarding the Senate Caucus on International Narcotics Control's June 2011 report, *Halting U.S. Firearms Trafficking to Mexico*

H20110617=004 Feinstein 6/29/11

Macmanus

Adams

6/23/2011 11:18 AM	Task Completed	Wells, Yvonne M	Task assigned to H_SpecialAssistants was approved by Wells, Yvonne M. Comments:	Approved by Wells, Yvonne M
6/23/2011 11:18 AM	Task Created	Harris, Amanda M	Task created for DeWine, LeighAnne. Due by: 6/24/2011 11:18:21 AM	
6/23/2011 6:22 PM	Task Completed	DeWine, LeighAnne	Task assigned to DeWine, LeighAnne was approved by DeWine, LeighAnne. Comments:	Approved by DeWine, LeighAnne
6/23/2011 6:22 PM	Task Created	Harris, Amanda M	Task created for Lang, Alan. Due by: 6/24/2011 6:22:21 PM	
6/27/2011 9:23 AM	Task Completed	Lang, Alan	Task assigned to Lang, Alan was approved by Lang, Alan. Comments:	Approved by Lang, Alan
6/27/2011 9:23 AM	Task Created	Harris, Amanda M	Task created for Pederson, Erik D. Due by: 6/28/2011 9:23:11 AM	
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DEPARTMENT OF STATE CONGRESSIONAL
CORRESPONDENCE TASKER



IPS CONTROL# **H2011** 0617=004 ACTION BUREAU: INL

DATE: 6/17/11

IPS:

SUBSTANTIVE CONSTITUENT

IMAGE ENTIRE DOCUMENT IMAGE ONLY FIRST PAGES

BUREAU:

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SECRETARY, LEGISLATIVE AFFAIRS

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DIRECT REPLY TO CONSTITUENT BY OFFICE DIRECTOR WITH COPY TO
CONGRESSIONAL OFFICE. PHONE 7-1608 WHEN COMPLETED

FYI ONLY/NO RESPONSE NECESSARY

REPLY FOR SIGNATURE DIRECTLY BY BUREAU

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[http://diplopedia.state.gov/index.php?title=Bureau of Legislative Affairs Reference Documents#Yellow Border](http://diplopedia.state.gov/index.php?title=Bureau_of_Legislative_Affairs_Reference_Documents#Yellow_Border)

Due Date 6/22/11


****BUREAUS MUST MAKE TRANSFERS OF ACTION DIRECTLY WITH RECEIVING BUREAU'S FRONT
OFFICE. The CCU has a listing of contacts. PLEASE NOTIFY CCU 7-1608 OF ALL TRANSFERS OF
ACTION****

FROM: Joseph E. Macmanus (H)

JUN 17 2011

Recommendation

_____ For the Secretary's
signature to the _____ bureau

 Tasked to the IM bureau for
signature by Joseph E.
Macmanus Acting Assistant
Secretary

_____ Provide copy of H signed
response

COMMENTS:

DIANNE FEINSTEIN
CALIFORNIA



SELECT COMMITTEE ON INTELLIGENCE - CHAIRMAN
COMMITTEE ON APPROPRIATIONS
COMMITTEE ON THE JUDICIARY
COMMITTEE ON RULES AND ADMINISTRATION

United States Senate

WASHINGTON, DC 20510-0504

<http://feinstein.senate.gov>

June 14, 2011

The Honorable William Brownfield
Assistant Secretary
Bureau of International Narcotics and
Law Enforcement Affairs
U.S. Department of State
2201 C Street NW, Room 7333
Washington, DC 20520

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0111

Dear Assistant Secretary Brownfield:

I write to advise you that I recently released a report entitled *Halting U.S. Firearms Trafficking to Mexico*. The report, which is also authored by Senators Charles Schumer (D-N.Y.) and Sheldon Whitehouse (D-R.I.), provides a number of recommendations for Congress and the Obama Administration which would help to curb firearms trafficking from the United States to Mexico. The report contains newly released data from the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) that shows that more than 70 percent of firearms recovered and traced in Mexico in 2009 and 2010 came from the United States.

I hope you will read the enclosed report carefully and take note of the policy recommendations that we have included. I look forward to hearing your thoughts on the report and to working with you to ensure that its recommendations are quickly implemented.

Sincerely,

A handwritten signature in black ink that reads "Dianne Feinstein". The signature is written in a cursive style with a large initial "D".

Dianne Feinstein
Chairman
Senate Caucus on International Narcotics Control

HALTING U.S. FIREARMS TRAFFICKING TO MEXICO

A REPORT BY SENATORS DIANNE FEINSTEIN, CHARLES SCHUMER
AND SHELDON WHITEHOUSE

TO THE

UNITED STATES SENATE CAUCUS
ON
INTERNATIONAL NARCOTICS CONTROL

ONE HUNDRED TWELFTH CONGRESS
FIRST SESSION

June 2011



Photograph from the Mexican Secretariat of Public Security of firearms recovered by the country's federal police

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LETTER OF TRANSMITTAL

UNITED STATES SENATE
CAUCUS ON INTERNATIONAL NARCOTICS CONTROL
Washington, DC

June 2011

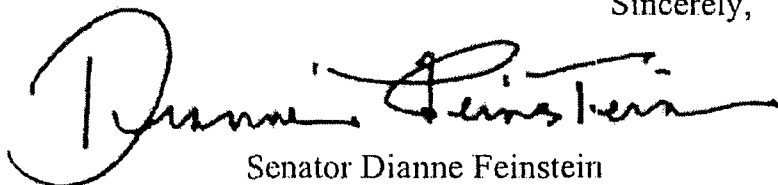
Dear Colleague:

Military-style weapons are arming Mexico's brutal drug trafficking organizations at an alarming rate. The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) has consistently found that the overwhelming majority of firearms recovered at crime scenes and traced by Mexican officials originate in the United States.

These guns have contributed to Mexico's dangerous levels of violence. Since the start of the Administration of President Felipe Calderón in December 2006, according to Mexican government estimates, 34,612 people have died in organized crime-related killings in Mexico. The killings reached their highest level in 2010, increasing by almost 60 percent to 15,273 deaths from 9,616 the previous year.

As the U.S. partners with Mexico to combat drug-related violence, we must enhance our efforts to curb firearms trafficking from the United States to Mexico. This report provides background information on firearms trafficking and makes recommendations to Congress and the Obama Administration on key next steps.

Sincerely,



Senator Dianne Feinstein
Chairman



Senator Charles Schumer



Senator Sheldon Whitehouse

FINDINGS AND RECOMMENDATIONS

1. ***Finding:*** Under federal law, background checks are not required for sales by unlicensed sellers at U.S. gun shows, making them a perfect point of purchase for traffickers working to arm Mexico's drug trafficking organizations. In their 2009 report, the Government Accountability Office said that since private sales at gun shows require no background checks, the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) is prevented from knowing what percentage of arms trafficked to Mexico come from unlicensed sales at gun shows.

Recommendation: Congress should pass legislation to require background checks for all firearms purchases, including those at gun shows.

On January 25, 2011, Senator Frank Lautenberg introduced the Gun Show Background Check Act of 2011 (S. 35) which would require background checks for firearms purchases at gun shows and similar events. The bill does this by requiring that all firearms sales at these events go through Federal Firearms Licensees. S. 35 has twelve co-sponsors: Senators Michael Bennett, Barbara Boxer, Richard Durbin, Dianne Feinstein, Kirsten Gillibrand, John Kerry, Carl Levin, Robert Menendez, Jack Reed, Charles Schumer, Sheldon Whitehouse and Ron Wyden.

2. ***Finding:*** Military-style weapons are readily available for civilian purchase in the United States. Many of these are imported from former Eastern bloc countries and then can be bought by straw purchasers and transported to Mexico. In addition, some importers bring rifle parts into the United States and reassemble them into military-style firearms using a small number of domestically manufactured components.

Recommendation: The ATF should enhance enforcement of a provision in the 1968 Gun Control Act – 18 U.S.C. 925(d)(3) – that bans the import of firearms for “non-sporting purposes” by denying applications for the import of semi-automatic rifles that it finds are not suitable for sporting purposes. The import ban was enforced by Presidents George H.W. Bush and Bill Clinton for this purpose and needs to be updated by the Obama Administration to keep up with new versions of firearms being imported into the U.S.

3. **Finding:** The Assault Weapons Ban was in effect from 1994 until it expired in 2004.

Recommendation: Congress should renew the Assault Weapons Ban which would help to prevent traffickers from obtaining the most deadly weapons now arming Mexico's drug trafficking organizations.

A new Assault Weapons Ban should include prohibitions on sales to civilians of military-style weaponry, assault rifles, .50 caliber sniper rifles and armor-piercing ammunition. It should also once again include a ban on high-capacity ammunition magazines.

4. **Finding:** There are an estimated 8,479 Federal Firearms Licensees in Texas, New Mexico, Arizona and California. Currently, all Federal Firearms Licensees are required to report when they sell an unlicensed person two or more pistols or revolvers within five business days. The ATF recently proposed a one-year pilot project that would allow it to collect information on multiple sales of assault rifles. Under the proposal, Federal Firearms Licensees in California, Arizona, New Mexico and Texas would be required to report when they sell to an unlicensed person, within five business days, two or more long guns that are (1) semi-automatic; (2) of a caliber greater than .22; and (3) capable of accepting a detachable magazine.

Recommendation: Beyond the ATF's pending proposal, Federal Firearms Licensees should be required to report to the ATF on multiple sales of **all** firearms defined under Chapter 18 of U.S.C. 921. Additionally, Federal Firearms Licensees should be required to report multiple sales of two or more firearms within 30 days, instead of the current five business day period. This recommendation would build on the ATF's recent proposal and allow it to track all bulk firearm purchases. Additional information on bulk purchases would help the ATF and local law enforcement identify and apprehend potential gun traffickers.

5. **Finding:** The Inter-American Convention Against the Illicit Manufacturing of and Trafficking of Firearms, Ammunition, Explosives and Other Related Materials (CIFTA) was signed by President Clinton in 1997 and sent to the Senate in 1998. In April 2009, President Obama renewed calls for the Senate to ratify CIFTA.

Recommendation: The Senate should quickly ratify CIFTA.

6. ***Finding:*** In September 2010, the U.S. and Mexico signed a Memorandum of Understanding to increase tracing of firearms seized in Mexico. The Caucus commends Mexico's efforts to increase firearms tracing with this new agreement. According to the ATF, from January 1, 2010 to October 5, 2010, 5,329 weapons seized in Mexico were traced using ATF's firearms tracing system, known as eTrace. During the same period, the Mexican Defense Ministry reported approximately 16,000 weapons recovered throughout Mexico. Currently, only the Mexican Attorney General's Office has access to eTrace.

Recommendation: Due to high volume, a backlog in tracing seized weapons, and the fact that not all weapons seized by state and municipal law enforcement and the military are traced, expanded eTrace access is needed for the Mexican federal police.

The Mexican federal police force has thousands of analysts who could increase the number of firearms traced. This would assist in identifying investigative leads, suspects, trends, patterns and trafficking routes. The U.S. Departments of State and Justice should continue to encourage the Government of Mexico to grant this expanded access.

BACKGROUND

Firearms are trafficked from the United States to Mexico and into the hands of the country's drug trafficking organizations. Congress has been virtually moribund while powerful Mexican drug trafficking organizations continue to gain unfettered access to military-style firearms coming from the United States.

In a June 2009 report, the Government Accountability Office stated that around 87 percent of firearms seized by Mexican authorities and traced over the previous five years originated in the United States.

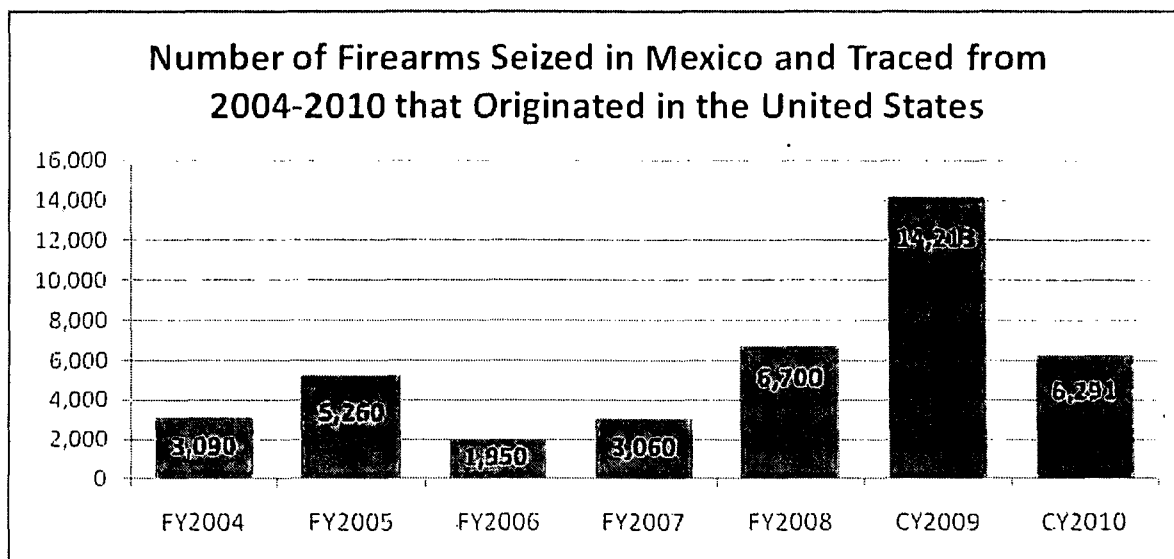
In a June 9, 2011 response to an inquiry from Senator Feinstein, Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) Acting Director Kenneth Melson stated that of the 29,284 firearms recovered in Mexico in 2009 and 2010 and submitted to the ATF National Tracing Center, 20,504 were United States-sourced. A country of origin for the remaining firearms could not be determined by ATF. A copy of this letter and the request letter from Senator Feinstein are attached in the report appendix. ATF explains:

“As of April 28, 2011, a total of 21,313 firearms recovered in Mexico in 2009 were traced by ATF. Of those, 10,945 were manufactured in the United States; 3,268 were imported into the United States; and 7,100 were of undetermined origin due to insufficient information provided.

“In addition, as of April 28, 2011, a total of 7,971 firearms recovered in Mexico in 2010 were traced by ATF. Of these firearms, 4,186 were manufactured in the United States; 2,105 were imported into the United States; and 1,680 were of undetermined origin due to insufficient information provided.”ⁱ

In 2009, according to tracing data from the ATF, the most frequently recovered caliber of firearms in Mexico included .223 caliber, 7.62 mm, 9 mm, .22 caliber and 5.7 mm. Other than the .22 caliber, these firearms are the most commonly found assault rifle and assault pistol calibers in the United States.

Firearms recovered in Mexico overwhelmingly come from the Southwest border. The Government Accountability Office found that between Fiscal Year 2004 and 2008, approximately 70 percent of firearms traced in Mexico to an original owner in the United States came from Texas (39 percent), California (20 percent), and Arizona (10 percent).ⁱⁱ



Sources: Government Accountability Office Report, *Firearms Trafficking: U.S. Efforts to Combat Arms Trafficking to Mexico Face Planning and Coordination Challenges* and Letter from ATF Acting Director Kenneth Melson to Senator Dianne Feinstein on June 9, 2011. (June 2009). Note: FY= Fiscal Year; CY= Calendar Year.

Firearms coming from the United States have been used against U.S. law enforcement personnel serving in Mexico. On February 15, 2011, Immigration and Customs Enforcement (ICE) Special Agents Jaime Zapata and Victor Avila were ambushed on a highway in San Luis Potosi, Mexico. Agent Zapata was shot and killed by gunmen from the Zetas – a major Mexican drug trafficking organization – and Agent Avila was seriously wounded. On March 1, 2011, the U.S. Attorney’s Office in the Northern District of Texas announced that they were able to trace one of the firearms used in the murder to Otilio Osorio from Lancaster, Texas, who was separately charged with possessing firearms with an obliterated serial number.ⁱⁱⁱ

Colby Goodman and Michael Marizco from the Woodrow Wilson International Center for Scholars explain that traditionally, Mexican drug trafficking organizations used firearms to establish and maintain control of drug trafficking routes and access points into the United States. However, in recent years, “they more regularly use firearms in open combat with rival drug trafficking organizations, Mexican authorities and the public.”^{iv} They further explain that Mexican drug trafficking organizations are “demanding more sophisticated firearms and larger quantities of arms and ammunition.”^v

As an example of the type of arsenal being stockpiled by Mexican criminal groups, on April 30, 2011, Mexican federal police found numerous weapons behind the mirrors of a home gym in Ciudad Juárez including three anti-aircraft guns, dozens of grenades, a grenade launcher, AK-47s, several makes of machine guns and more than 26,000 ammunition cartridges.^{vi}

Officials on both sides of the U.S. – Mexico border agree that illegal firearms trafficking from the U.S. to Mexico is fueling drug-related violence. In a March 2009 visit to Mexico, Secretary of State Hillary Rodham Clinton said, “Our inability to prevent weapons from being illegally smuggled across the border to arm these criminals causes the deaths of police, of soldiers and civilians.”^{vii}

In a May 2010 address to a Joint Meeting of the U.S. Congress, Mexican President Felipe Calderón called on the United States to stem firearms trafficking to Mexico saying that Mexico needs U.S. cooperation to “stop the flow of high-powered weapons and other lethal weapons across the border.”^{viii}

When the Mérida Initiative – a security partnership between the U.S. and Mexico that includes \$1.5 billion in foreign assistance – was announced by Presidents George W. Bush and Felipe Calderón on October 22, 2007, a joint statement was released that included a commitment by the United States to “intensify its efforts to address all aspects of drug trafficking (including demand-related portions) and continue to combat trafficking of weapons and bulk currency to Mexico.”^{ix} Much more needs to be done to fulfill the U.S. obligation to combat the trafficking of weapons to Mexico.

INITIATIVES TO CURB FIREARMS TRAFFICKING

Since the start of the Mérida Initiative, several actions have been taken to curb firearms trafficking from the U.S. to Mexico. These include the following initiatives:

- **Project Gunrunner** is an ATF-led initiative in cooperation with federal, state and local law enforcement agencies and the Mexican government intended to “stem firearms trafficking to Mexico by organized criminal groups.”

Since it began in 2006, Project Gunrunner has had notable success. The ATF has seized in excess of 10,000 firearms and 1.1 million rounds of ammunition destined for the Southwest border. It has also conducted 11,745 firearms licensee compliance inspections. As a result of Project Gunrunner investigations, 809 defendants are serving an average of 104 months in prison and an additional 260 are under court supervision.^x

The expansion of eTrace – an electronic firearms tracing system – is a critical component of Project Gunrunner in Mexico. This includes the deployment of eTrace technology in U.S. consulates throughout Mexico. A Spanish language version of eTrace was installed in Mexico in December 2009, and ATF has engaged its Mexican counterparts in extensive training on the system. Mexican officials are able to input information regarding recovered crime guns into the data system stored at ATF’s National Tracing Center. Prior to 2009, ATF’s eTrace program was only available in English.

A November 2010 report by the Office of the Inspector General at the Department of Justice noted that “through Project Gunrunner, the ATF has increased several of its program activities related to firearms trafficking, including the number of gun trace submissions, the number of investigations it initiated, the number of these investigations it subsequently referred for prosecution, and the number of defendants it referred for prosecution.”^{xi}

The Inspector General’s report also discussed challenges that Project Gunrunner has faced, including ATF’s lack of communication with other agencies and the lack of targeting of higher-level traffickers.

STRENGTHENING U.S. LAWS AND REGULATIONS

While the aforementioned initiatives have been useful, it will be difficult to successfully combat firearms trafficking from the U.S. to Mexico without enhancing U.S. firearms laws and regulations.

Gun Show Loophole

According to the ATF, 30 percent of guns involved in federal illegal gun trafficking investigations are connected in some way to gun shows.^{xiii}

A June 2007 report by the Department of Justice's Office of the Inspector General aptly describes gun shows which allow sales from two types of vendors – federal firearms licensees and unlicensed sellers.

“A gun show is an exhibition or gathering where guns, gun parts, ammunition, gun accessories, and literature are displayed, bought, sold, traded and discussed... These shows provide a venue for the sale and exchange of firearms by federal firearms licensees who are licensed by the federal government through ATF to manufacture, import or deal in firearms. Such shows also are a venue for private sellers who buy and sell firearms for their personal collections or as a hobby. In these situations, the sellers are not required to have a federal firearms license. Although federal firearms laws apply to both federal firearms licensees and private sellers at gun shows, private sellers, unlike Federal Firearms Licensees, are under no legal obligation to ask purchasers whether they are legally eligible to buy guns or to verify purchasers' legal status through background checks.”^{xiv}

Federal firearms licensees are required to conduct background checks on every buyer in the National Instant Criminal Background Check System to prevent sales to felons, domestic violence misdemeanants or other federal categories of prohibited purchasers. Federal firearm licensees are also required to maintain the paperwork that connects each gun sold to its buyer. Unlicensed sellers, on the other hand, are not required to run background checks or keep records of their gun sales allowing for a so-called “gun show loophole.” According to a 1999 report by the U.S. Departments of Justice and Treasury, “gun shows leave a major loophole in the regulation of firearms sales” because they “provide a large market where criminals can shop for firearms anonymously.”^{xv} Presidents Bill Clinton, George W. Bush, and Barack Obama have all called for the end of sales without instant background checks at gun shows.

An undercover investigation conducted by the City of New York in October 2009 shed light on illegal firearms purchases at gun shows. Undercover investigators examined seven gun shows in three states: Ohio, Tennessee, and Nevada. The investigators conducted “integrity tests” on 47 licensed and unlicensed sellers at gun shows by simulating illegal gun purchases. The investigators found that: 19 of 30 (63 percent) unlicensed sellers approached by investigators sold to a purchaser who said he “probably couldn’t pass a background check.” Additionally, 16 of 17 (94 percent) licensed dealers approached by investigators sold to apparent straw purchasers (those buying a weapon to illegally transfer it to another person). In total, 35 of 47 (74 percent) sellers approached by investigators appeared to have made an illegal sale.

In July 2008, staff from Senator Feinstein’s office visited the *Nation’s Gun Show* in Chantilly, Virginia. The .50 caliber Browning Machine Gun – a military-style machine gun that is accurate up to 1.5 miles and can fire armor piercing bullets – was sold at the gun show. A vendor at the show offered to sell it to a member of Senator Feinstein’s staff.

Congress must pass legislation to require background checks for all firearms purchases, including those at gun shows.^{xvi} On January 25, 2011, Senator Frank Lautenberg introduced the Gun Show Background Check Act of 2011 (S. 35) which would require background checks for firearms purchases at gun shows and similar events. The bill does this by requiring that all firearms sales at these events go through Federal Firearms Licensees. Currently, the Gun Show Background Check Act of 2011 has 12 co-sponsors: Senators Michael Bennett, Barbara Boxer, Richard Durbin, Dianne Feinstein, Kirsten Gillibrand, John Kerry, Carl Levin, Robert Menendez, Jack Reed, Charles Schumer, Sheldon Whitehouse and Ron Wyden.

Polls consistently show that the vast majority of Americans, including gun owners, support closing the gun show loophole. For example, a December 2009 poll conducted by Republican pollster Frank Luntz for the Mayors against Illegal Guns showed that 69 percent of National Rifle Association (NRA) members and 85 percent of non-NRA gun owners support closing the gun show loophole.^{xvii}

Enforcing the Import Ban

Military-style weapons, such as high-caliber and high-powered semi-automatic assault rifles, are readily available for civilian purchase in the United

States. Many of these are imported from former Eastern bloc countries and then can be bought by straw purchasers and transported to Mexico.

Of the 87 percent of firearms traced from Mexico to the United States from 2004 to 2008, about 68 percent of those firearms were manufactured in the United States, and about 19 percent were manufactured in third countries and imported into the United States before being trafficked into Mexico. Many of these firearms are high-caliber and high-powered, such as AK-type semi-automatic rifles and AK-type pistols that are becoming increasingly popular with traffickers.^{xviii}

Under the Gun Control Act of 1968, the President has the authority to prohibit the importation of non-sporting firearms. In 1989, in response to growing drug gang violence, the ATF under President George H. W. Bush denied applications to import a series of semi-automatic rifles that it found were designed and intended to be particularly suitable for combat rather than sporting applications. Similarly, in 1997, President Bill Clinton used this authority and ordered the ATF to conduct an expedited review to determine whether modified semiautomatic assault-type rifles were properly importable under the statutory sporting purposes test. In April 1998, the ATF determined that rifles with the ability to accept a detachable large capacity military magazine “are not generally recognized as particularly suitable for or readily adaptable to sporting purposes and are therefore not importable.”^{xix}

Since the Clinton Administration’s efforts, the Gun Control Act of 1968’s prohibition against non-sporting firearms has not been aggressively enforced, and many military-style, non-sporting rifles have flowed into the United States civilian market. Some of the rifles are cheap AK-type variants from former Eastern bloc countries, while others are more expensive, high-tech weapons. All of them, however, share military-style characteristics that should make them ineligible for import. Better enforcement of the import ban is necessary to curb the flow of these weapons to Mexico, many of which have become the weapons of choice for the country’s drug trafficking organizations. Senator Feinstein sent a letter to President Obama on January 31, 2011 urging him to better enforce the import ban. A copy of this letter is included in the report’s appendix.

Reinstating the Assault Weapons Ban

The Assault Weapons Ban^{xx} was in effect from 1994 until it expired in 2004. Through the Assault Weapons Ban, Congress banned the possession, transfer or further domestic manufacture of semi-automatic assault weapons and large

a one-year pilot project that would allow it to collect information on multiple sales of assault rifles. Under this proposal, Federal Firearms Licensees in California, Arizona, New Mexico and Texas would be required to report to ATF when they sell to an unlicensed person, within five business days, two or more long guns that are (1) semi-automatic; (2) of a caliber greater than .22; and (3) capable of accepting a detachable magazine. This proposal by ATF, which collected public comments until May 31, 2011, must quickly be implemented. When it is implemented, it will provide valuable information on sales of certain firearms that have been identified by the ATF as being used in drug-related crimes in Mexico. On December 22, 2010, Senator Feinstein sent a letter to President Obama expressing her support for this proposal. A copy of this letter is included in the report's appendix.

As an example of the possible impact of a strong multiple sales reporting requirement, Pablo Castaneda was sentenced to one-year in prison on August 3, 2010 for purchasing 70 firearms from Federal Firearms Licensees, 50 of which were rifles that would meet the criteria of the ATF's proposal. The firearms were purchased on 14 separate occasions. As of this date, 18 of the firearms have been recovered in Mexico from various crime scenes.

Beyond the ATF's pending proposal, Federal Firearms Licensees should be required to report multiple sales of **all** firearms defined under Chapter 18 of U.S.C. 921. In addition, Federal Firearms Licensees should be required to report multiple sales of two or more firearms within 30 days, instead of the current five business day period.

CONCLUSION

Violence in Mexico has reached dangerous levels. U.S. assistance has been crucial in supporting Mexico's security forces and institutions as they combat the country's drug trafficking organizations.

Unfortunately, Mexico's security forces can only do so much. It will be very difficult to successfully reduce drug-related violence in Mexico without starving the country's drug trafficking organizations of their military-style weapons.

To do this, the United States **must** strengthen current firearms laws and regulations. This can be done through a small number of key actions by the Obama Administration and Congress.

This should include:

- (1) Enactment of legislation to close the gun show loophole;
- (2) Better enforcement of the existing ban on imports of military-style weapons;
- (3) Reinstatement of the expired Assault Weapons Ban;
- (4) Reporting by Federal Firearms Licensees on all multiple firearms sales; and
- (5) Senate ratification of the Inter-American Convention Against the Illicit Manufacturing of and Trafficking of Firearms, Ammunition, Explosives and Other Related Materials (CIFTA).

ENDNOTES

ⁱ Letter from Bureau of Alcohol, Tobacco, Firearms and Explosives Acting Director Kenneth Melson to Senator Dianne Feinstein, June 9, 2011.

ⁱⁱ United States Government Accountability Office. "Firearms Trafficking: U.S. Efforts to Arms Trafficking to Mexico Face Planning and Coordination Challenges." GAO-09-709. Washington: June, 2009. <http://www.gao.gov/new.items/d09709.pdf>.

ⁱⁱⁱ U.S. Department of Justice, United States Attorney James T. Jacks, "Three Dallas-Area Men Arrested on Federal Firearms Charges Related to Trafficking Firearms to a Mexican Drug Cartel." Dallas, TX, March 1, 2011. http://www.justice.gov/usao/txn/PressRel11/osorio_morrison_compl_pr.html

^{iv} Goodman, Colby and Michael Marizco. "U.S. Firearms Trafficking to Mexico: New Data and Insights Illuminate Key Trends and Challenges," *Woodrow Wilson International Center for Scholars Working Paper on U.S. – Mexico Security Cooperation*, September 2010.

^v Ibid.

^{vi} "Mexican Federal Police Discover Arsenal of Heavy Weapons in Ciudad Juarez Home." *Associated Press*, April 30, 2011.

^{vii} "Clinton: U.S. Drug Policies Failed, Fueled Mexico's Drug War." Mary Beth Sheridan, *Washington Post*, March 26, 2009.

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<http://www.atf.gov/firearms/guides/importation-verification/documents/report-on-importability-of-semi-automatic-rifles.pdf>

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<http://www.c-spanvideo.org/program/293616-2>.

APPENDIX

- I. Letter from Senator Dianne Feinstein to ATF Acting Director Kenneth Melson requesting traced firearms data: May 27, 2011
- II. Response letter from ATF Acting Director Kenneth Melson to Senator Dianne Feinstein providing trace data of guns traced in Mexico: June 9, 2011
- III. Letter from Senator Dianne Feinstein to President Barack Obama expressing support for multiple sale regulations: December 22, 2010
- IV. Letter from Senator Dianne Feinstein to President Barack Obama urging enforcement of import ban on non-sporting firearms: January 31, 2011

DIANNE FEINSTEIN
CALIFORNIA


United States Senate

WASHINGTON, DC 20510-0504
<http://feinstein.senate.gov>

May 27, 2011

Mr. Kenneth E. Melson
Acting Director
Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF)
99 New York Avenue, NE
Washington, D.C. 20226

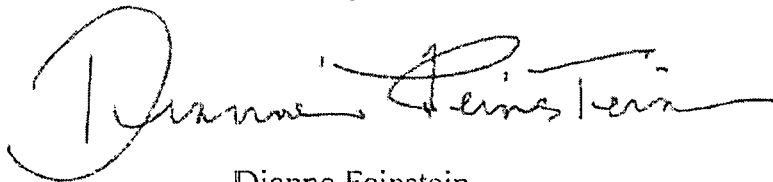
Dear Acting Director Melson,

I write to request data from 2009, 2010 and 2011 on the number of firearms recovered by the Government of Mexico and traced through ATF that were manufactured in, or imported into, the United States prior to being recovered in Mexico. In addition, I would like to know the total number of firearms recovered by the Government of Mexico and traced through ATF in 2009, 2010 and 2011. As you know, ATF has not released this information for these years. The latest data publicly available is from 2008.

Military-style weapons are arming Mexico's brutal drug trafficking organizations at an alarming rate. These weapons have contributed to Mexico's dangerous levels of violence. Since December 2006, according to Mexican government estimates, 34,612 people have died in organized crime-related killings in Mexico. The killings reached their highest level in 2010, jumping by almost 60 percent to 15,273 deaths from 9,616 the previous year.

Releasing data on firearms recovered in Mexico that originate in the United States will ensure that the American public and policymakers are aware of the severity of this problem. Please provide this information to me by June 10, 2011. Should you have any questions, please do not hesitate to contact me.

Sincerely,



Dianne Feinstein



U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Office of the Director

Washington, DC 20226

JUN - 9 2011

The Honorable Dianne Feinstein
United States Senate
Washington, DC 20510

Dear Senator Feinstein:

This is in response to your letter of May 27, 2011, to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). Thank you for your interest in the firearms trace information produced by ATF.

The ATF National Tracing Center (NTC), located in Martinsburg, West Virginia, is the country's only crime gun tracing facility. As such, the NTC provides critical information that helps domestic and international law enforcement agencies solve firearms crimes, detect firearms trafficking and track the intrastate, interstate and international movement of crime guns. The NTC traced over 354,000 firearms in calendar year 2009 for the United States and 55 foreign countries, including Mexico.¹ In calendar year 2010, the NTC traced over 285,000 firearms for the United States and 57 foreign countries, including Mexico.

There are no United States Government sources that maintain any record of the total number of criminal firearms seized in Mexico. ATF reports relate only to firearms recovered in Mexico that were subsequently traced by ATF based upon firearms identifiers submitted to ATF by the Mexican government. The Mexican government does not submit every recovered firearm to ATF for tracing, so the numbers below are less than the total number of firearms recovered in Mexico in a given year. Please also note that the numbers provided below are accurate as of April 28, 2011, but will likely change in the future. If a trace is submitted in the future for a firearm recovered in a past year, the trace will be associated with the year the firearm was originally recovered, not the year it was subsequently traced.

As of April 28, 2011, a total of 21,313 firearms recovered in Mexico in 2009 were traced by ATF. Of these, 10,945 were manufactured in the United States; 3,268 were imported into the United States; and 7,100 were of undetermined origin due to insufficient information provided.

¹ In September 2009, the government of Mexico provided ATF with electronic files containing firearms identifiers and recovery data. The electronic files contained information that was used to initiate over 43,000 firearm traces, most of which involved firearms recovered between 2007 and 2009. ATF tracks traces by the year the firearm is recovered, not the year the trace is initiated. As a result, the influx of trace data received in September 2009 concerning firearms recovered in prior years has resulted in a change to the numbers previously released by ATF concerning the total number of firearms recovered for years 2007 to 2009.

-2-

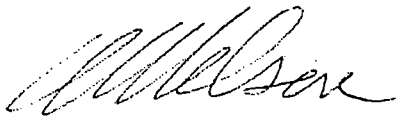
The Honorable Dianne Feinstein

In addition, as of April 28, 2011, a total of 7,971 firearms recovered in Mexico in 2010 were traced by ATF. Of these firearms, 4,186 were manufactured in the United States; 2,105 were imported into the United States; and 1,680 were of undetermined origin due to insufficient information provided. So, in aggregate, of the 29,284 firearms recovered in Mexico in 2009 and 2010 that were subsequently submitted to the NTC for tracing, 20,504 are United States-sourced firearms. A country of origin for the remaining firearms could not be determined because of a lack of information supplied on the trace request.

You requested trace information for 2011 as well. Unfortunately, we are unable to produce 2011 information at this time because the year has not yet ended.

We hope this is responsive to your request. If we may be of further service, please do not hesitate to contact me.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "K. Melson".

Kenneth E. Melson
Acting Director

DIANNE FEINSTEIN
CALIFORNIA

SELECT COMMITTEE ON
INTELLIGENCE - CHAIRMAN
COMMITTEE ON APPROPRIATIONS
COMMITTEE ON THE JUDICIARY
COMMITTEE ON RULES AND
ADMINISTRATION

United States Senate

WASHINGTON, DC 20510-0504

<http://feinstein.senate.gov>

December 22, 2010

President Barack H. Obama
The White House
1600 Pennsylvania Avenue
Washington, D.C. 20500

Dear Mr. President:

I am writing to thank you and indicate my support for the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) initiative to collect information on multiple sales of semi-automatic assault rifles from Federal Firearms Licensees (FFLs) in California, Arizona, New Mexico, and Texas. This effort will help prevent drug gangs and other criminals from trafficking firearms both within our nation and also to Mexico, which continues to battle violence fueled in part by guns from the United States.

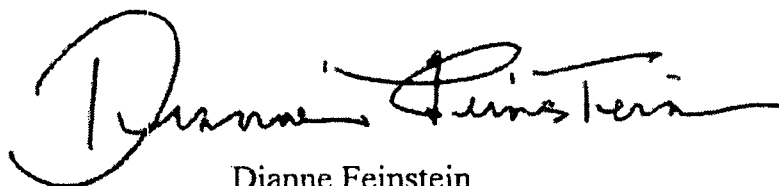
The deadly results of gun trafficking are seen very vividly in Mexico. Of the firearms recovered by the Government of Mexico and traced through ATF in the past 4 years, more than 50,000 were manufactured in, or imported into, the United States prior to being recovered in Mexico. During that time, Mexico has suffered more than 30,000 deaths as drug trafficking organizations battle each other and terrorize the innocent. It is both disturbing and shameful that guns from our nation are fueling the brutal and vicious violence perpetrated by drug gangs. To put it simply, no one should seek to profit from the sale of guns to criminals, and those who do should face swift and severe punishment.

Because of the drug and firearms-related violence in Mexico and along the Southwest border, I have been working to find additional tools to help law enforcement efforts. On June 11, 2009, I wrote to Attorney General Holder and urged him to change Department of Justice regulations to require FFLs to report multiple sales of all firearms, and not just pistols and revolvers as required under current law. This ATF initiative takes an important step in that direction and will provide law enforcement with important information on sales of assault rifles, weapons coveted by drug cartels.

Multiple purchases of firearms are strong indicators of firearms trafficking. When ATF's effort is fully implemented, law enforcement will have additional real-time leads for trafficking investigations, and a better chance of stopping trafficked guns before they can be used to murder and maim. At the same time, the new multiple sales requirement will not unduly burden law-abiding gun owners and legitimate gun dealers. It will only take FFLs a few minutes to complete a brief form.

While stronger multiple sales requirements are helpful, much more will be needed in the battle against gun traffickers and other gun criminals. I look forward to working with you in the months ahead to ensure that law enforcement has the necessary resources and tools to fight gun violence, including legislation to strengthen federal gun laws.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Dianne Feinstein". The signature is fluid and cursive, with a large initial "D" and a long horizontal stroke extending to the right.

Dianne Feinstein
Chairman
United States Senate Caucus on
International Narcotics Control

cc: Eric Holder, Attorney General
Kenneth Melson, Acting Director of the ATF

DIANNE FEINSTEIN
CALIFORNIA

SELECT COMMITTEE ON
INTELLIGENCE - CHAIRMAN
COMMITTEE ON APPROPRIATIONS
COMMITTEE ON THE JUDICIARY
COMMITTEE ON HOMELAND
ADMINISTRATION

United States Senate

WASHINGTON, DC 20510-0504

<http://feinstein.senate.gov>

January 31, 2011

President Barack H. Obama
The White House
1600 Pennsylvania Avenue
Washington, D.C. 20500

Dear Mr. President:

I write to urge you to review enforcement of the Gun Control Act of 1968 (GCA) provision, 18 U.S. Code Section 925(d)(3), which prohibits the importation of firearms except those that are "generally recognized as particularly suitable for or readily adaptable to sporting purposes." Previous Administrations have used this authority to limit the importation of military-style assault firearms, and it could once again be a helpful tool in preventing the gun trafficking that is fueling the horrific gun violence in Mexico, the Southwest border region, and many cities and towns across our nation.

Since December 2006, more than 30,000 people have been killed in Mexico in drug-related violence. Every day, there are reports of ruthless and brutal gun murders as Mexican drug trafficking organizations (DTOs) fight for control of smuggling routes and terrorize anyone who might get in their way. The DTOs have killed mayors, judges, and other officials who have tried to stop the carnage. They have even targeted young people, murdering 14 teenagers at a birthday party in Ciudad Juarez in October of last year.

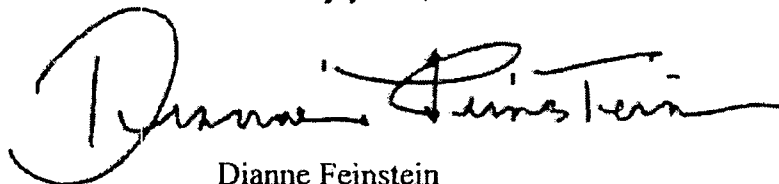
Regrettably, firearms trafficked from the United States help fuel the violence in Mexico. Of the firearms recovered by the Government of Mexico and traced through ATF in the past 4 years, more than 50,000 were manufactured in, or imported into, the United States prior to being recovered in Mexico. The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) and other federal, state and local law enforcement are working to stop this gun trafficking and related violence, but they need additional help. The Administration recently took an important step forward with ATF's initiative to collect information on multiple sales of semi-automatic assault rifles from Federal Firearms Licensees (FFLs) in California, Arizona, New Mexico, and Texas. I applaud you for this initiative. However, much more must be done.

Under the GCA, the Administration has the authority to prohibit the importation of non-sporting firearms. In 1989, in response to growing drug gang violence, the ATF under President George H.W. Bush denied applications to import a series of semiautomatic rifles that it found were designed and intended to be particularly suitable for combat rather than sporting applications. Similarly, in 1997, President Clinton used this authority and ordered ATF to conduct an expedited review to determine whether modified semiautomatic assault-type rifles were properly importable under the statutory sporting purposes test. In April 1998, ATF determined that rifles with the ability to accept a detachable large capacity military magazine "are not generally recognized as particularly suitable for or readily adaptable to sporting purposes and are therefore not importable."

Since the Clinton Administration's efforts, the GCA's prohibition against non-sporting firearms has not been aggressively enforced, and many military-style, non-sporting rifles have flowed into the United States civilian market. Some of the rifles are cheap AK-type variants from former Eastern bloc countries, while others are more expensive, high-tech weapons. All of them, however, share military-style characteristics that should make them ineligible for import. Furthermore, it appears that some importers are bringing in rifle parts and reassembling them with a small number of domestically manufactured components. This practice has gone unchecked, despite Section 922 (r) of the GCA, which prohibits using imported parts to assemble any semiautomatic rifle or any shotgun which is identical to any rifle or shotgun prohibited from importation under 18 U.S. Code Section 925(d)(3).

I urge you to review enforcement of the GCA and take any regulatory steps necessary to stop the both the importation of all military-style, non-sporting firearms, and the assembly of those firearms from imported parts. We must ensure that law enforcement has all the necessary resources and tools needed to stop the gun violence that is taking a deadly toll in Mexico and in our country. I look forward to working with you toward that goal. Thank you for your attention to this urgent issue.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Dianne Feinstein". The signature is fluid and cursive, with a large initial "D" and a long horizontal stroke at the end.

Dianne Feinstein
Chairman
United States Senate Caucus on International
Narcotics Control

cc: Eric Holder, Attorney General
Kenneth Melson, Acting Director of the ATF