



# The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF): Budget and Operations

**William J. Krouse**

Specialist in Domestic Security and Crime Policy

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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.

From FY1999 to FY2008, Congress increased ATF appropriations from \$541.6 million to nearly \$1.012 billion, an increase of 87%. The FY2008 appropriation initially included \$984.1 million for salaries and expenses and \$23.5 million for construction. For the same 10 years, with some fluctuation, ATF staffing increased from 3,969 to 4,880 full-time equivalent (FTE) positions, a 23% increase. Despite increased funding, the then acting ATF Director, Michael Sullivan, testified before Congress that ATF had been operating under a \$37 million shortfall for FY2008, as funding for ATF salaries and expenses had not been increased. For FY2008, Congress provided another \$4 million in the Supplemental Appropriations Act, 2008 (P.L. 110-252) for ATF operations in Iraq. Congress provided an additional \$10 million in FY2008 funding for a Southwest border anti-gun trafficking initiative known as "Project Gunrunner" in the American Recovery and Reinvestment Act of 2009 (P.L. 111-5), but as this is one-time, economic stimulus funding, it is not included in the FY2008 total above.

The Omnibus Appropriations Act, 2009 (P.L. 111-8) included \$1.054 billion for ATF, an amount that was equal to the House-reported bill (H.R. 7322), almost 1.1% more than the Senate-reported bill (S. 3182), and 2.6% more than the FY2009 request. The enacted FY2009 appropriation is a 4% increase more than the total amount appropriated for FY2008. The 2009 appropriation includes at least \$5 million for Project Gunrunner. The House-passed FY2009 war supplemental (H.R. 2346) includes \$4 million for ATF; the Senate-passed bill (S. 1054) includes \$14 million. A conference agreement (H.Rept. 111-151) on the supplemental would provided the Senate amount.

For FY2010, the Administration has requested \$1.121 billion and 5,025 full-time equivalent (FTE) positions for ATF, or \$66.6 million and 68 FTE positions more than the amounts appropriated for FY2009 (\$1.054 billion and 4,957). Of the difference, \$23.6 million and 22 FTE positions are base adjustments. For Southwest border enforcement, the FY2009 request includes a budget enhancement of \$17.9 million to support Project Gunrunner and \$25 million for the new National Center for Explosives Training and Research Center (NCETR). Compared to the enacted FY2009 level of funding, the FY2010 request would provide a 6% increase. A House-reported bill (H.R. 2847) would provide ATF with \$1.106 billion for FY2010, or a 5% increase.

On the Southwest border with Mexico, firearms violence has spiked sharply in recent years as drug trafficking organizations have reportedly vied for control of key smuggling corridors into the United States. In March 2008, President Felipe Calderón called on the United States to increase its efforts to suppress gun trafficking from the United States into Mexico. In the 110<sup>th</sup> Congress, the House passed a bill (H.R. 6028) that would have authorized to be appropriated over three years, for FY2008 through FY2010, a total of \$73.5 million to increase ATF resources dedicated to stemming illegal gun trafficking into Mexico. Similar authorizations are included in the Southwest Border Violence Reduction Act of 2008 (S. 2867, H.R. 5863, and H.R. 5869). In the 111<sup>th</sup> Congress, bills with similar authorizations have been introduced (S. 205, H.R. 495, H.R. 1448, and H.R. 1867). This report will be updated as needed.

## Contents

ATF Mission .....	1
FY2010 Appropriations.....	2
House-Reported FY2010 CJS Appropriations Bill .....	2
Administration’s FY2010 Request.....	2
FY2009 Appropriations.....	3
FY2009 Supplemental Appropriation .....	3
Omnibus Appropriations Act, 2009 .....	4
House- and Senate-Reported FY2009 CJS Appropriations Bill .....	4
Administration’s FY2009 Request.....	5
FY2008 Appropriations.....	5
Economic Stimulus Funding .....	5
FY2008 Iraq Supplemental Appropriation .....	5
Consolidated Appropriations Act, 2008 .....	6
House- and Senate-Passed FY2008 CJS Appropriations Bills .....	6
Administration’s FY2008 Request.....	7
Funding and Staffing, FY1999-FY2009.....	7
Firearms Budget Program .....	8
Violent Crime and Gangs .....	8
Compliance Inspections of Licensed Gun Dealers .....	9
Project Gunrunner .....	10
Arson and Explosives Budget Program.....	13
Alcohol and Tobacco Budget Program .....	14

## Tables

Table 1. Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) Appropriations for Salaries and Expenses, FY1999-FY2009 .....	7
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## Contacts

Author Contact Information .....	14
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This report provides an overview of the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) budget and operations. It will be updated as needed to reflect congressional action on the FY2010 Commerce, Justice, Science (CJS), and Related Agencies Appropriations bill, the appropriations bill that includes the ATF account.

## 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*, available at <http://www.usdoj.gov/jmd/mps/strategic2007-2012/index.html>, last accessed on May 13, 2008.

<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.

## **FY2010 Appropriations**

Congress appropriates funding for ATF annually in the Commerce, Justice, Science, and Related Agencies (CJS) appropriations act.

### **House-Reported FY2010 CJS Appropriations Bill**

On June 9, 2009, the House Appropriations Committee ordered reported an FY2010 CJS appropriations bill. On June 12, 2009, the bill and report were filed (H.R. 2847; H.Rept. 111-149). This bill would provide ATF with \$1.106 billion for FY2010, or an increase of 4.9% more than the FY2009 enacted level, but 1.3% less than the FY2010 request. Report language indicates that this amount includes the following budget increases: nearly \$19 million to combat gun trafficking on the Southwest border and \$10 million for ATF Violent Crime Impact Teams, which are ATF-lead inter-agency task forces dedicated to reducing violent crime and illegal gang activity. However, the committee recommendation does not include \$15 million for Phase Two of the National Center for Explosives Training and Research (NCETR) project. Although the committee supports this endeavor, fiscal constraints prompted the committee to dedicated limited resources to Southwest border, anti-gun trafficking efforts.<sup>6</sup>

### **Administration's FY2010 Request**

For FY2010, the Administration has requested \$1.121 billion for ATF, or a proposed 6.3% increase compared to the FY2009 enacted appropriation. This amount is projected to fund 5,025 full-time equivalent (FTE) positions and 5,101 permanent positions. Compared to the FY2009 enacted level, the FY2010 request includes a net increase of \$66.6 million, 68 FTE positions, and 93 permanent positions.<sup>7</sup> This proposed increase includes

- \$23.6 million, 22 FTE positions, and 1 permanent position base adjustments;<sup>8</sup>
- \$17.9 million, 46 FTE positions,<sup>9</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

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<sup>6</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>7</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>8</sup> For most DOJ agencies, the Bush Administration 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>9</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 (continued...)

- \$25 million for NCETR facility outfitting and expanded training.<sup>10</sup>

According to ATF, the FY2010 request would be allocated among ATF budget decision units in the following amounts:

- \$802.6 million (72%) for firearms compliance and investigations,
- \$289.8 million (26%) for arson and explosives investigations, and
- \$22.3 million (2%) for alcohol and tobacco diversion.<sup>11</sup>

As described above, the Administration's budget request includes increases for specific purposes by decision unit. Although Congress does not appropriate monies for the ATF (or any other DOJ agency) by decision unit, the appropriators often address whether such increases are to be provided in report language and more rarely in the bill language for the salaries and expenses account itself. As a consequence, the requested amounts for decision units are binding in the sense that the appropriators are aware of the increases that were provided for and how they would affect the decision unit totals. In addition, if funding is shifted from one decision unit to another, statutory budget reprogramming requirements are usually triggered, under which the DOJ and its agencies are required to notify and seek the approval of the Appropriations Committees. ATF budget decision units, or budget programs, are described in greater detail below.

## **FY2009 Appropriations**

On March 11, 2009, President Barrack Obama signed into law the Omnibus Appropriations Act, 2009 (P.L. 111-8), providing ATF with its regular FY2009 appropriation. 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). While both the House and Senate Appropriations Committees reported FY2009 CJS appropriations bills, neither bill was considered on the House or Senate floor. As described below, Congress is considering a FY2009 supplemental appropriations bill that includes additional FY2009 funding for ATF.

## **FY2009 Supplemental Appropriation**

On May 14, 2009, the House passed an FY2009 supplemental appropriations bill (H.R. 2346; H.Rept. 111-105) that would provide \$4 million 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. On the same day, the Senate Appropriations Committee reported its own version of the bill (S. 1054; S.Rept. 111-20). The Senate passed its version of

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(...continued)

to annualize those positions so that the number of FTE positions are roughly equal with the number of permanent positions.

<sup>10</sup> U.S. Department of Justice, Justice Management Division, *FY2010 Budget and Performance Summary*, (May 2009), p. 139.

<sup>11</sup> *Ibid.*, p. 141.

this bill on May 21, 2005 (S. 1054; S.Rept. 111-20). The Senate-passed bill would provide \$14 million for ATF. This amount includes (1) \$4 million to support ATF's role in the global war on terror in Iraq and Afghanistan, (2) \$4 million to upgrade and share ballistic imaging technology with the Government of Mexico, and (3) \$6 million for other ongoing efforts focused on stemming illegal gun trafficking to Mexico under Project Gunrunner.

On June 12, 2009, the House Committee on Appropriations filed a conference report on the supplemental (H.R. 2346; H.Rept. 111-151) that would provide \$14 million for ATF for the same purposes as outlined in the Senate-passed bill's report language. The House passed this measure on June 16, 2009.

## **Omnibus Appropriations Act, 2009**

In the Omnibus Appropriations Act, 2009 (P.L. 111-8), Congress provided ATF with its regular annual appropriation of \$1.054 billion for FY2009, a 4.2% increase over the FY2008 enacted level, and a 2.6% increase over the Administration's request. This amount is projected to fund 4,957 FTE and 5,008 permanent positions, or a net increase of 77 FTE and 52 permanent positions. As described below, the FY2009 appropriation is equal to the recommended level in the House-reported bill (H.R. 7322) and almost 1.1% more than the recommended level in the Senate-reported bill (S. 3182). Of the FY2009 appropriation, DOJ budget documents indicated that the Administration plans to allocate the following amounts to ATF's three budget decision units:

- \$759.0 million (72%) towards firearms compliance and investigations,
- \$274.1 million (26%) towards arson and explosives investigations, and
- \$21.1 million (2%) towards alcohol and tobacco diversion efforts.<sup>12</sup>

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

By comparison, the House-reported bill (H.R. 7322; H.Rept. 110-919) would have provided \$1.054.2 billion for ATF, \$70 million (4.6%) more than the FY2008 enacted level (including \$23.5 million for construction) and \$26 million (2.6%) more than the FY2009 request. House report language indicated that the House bill would have provided an increase of \$5 million for Project Gunrunner.

The Senate-reported bill (S. 3182; S.Rept. 110-397) would have provided \$1,042.8 million, \$35 million (3.5%) more than the FY2008 enacted level and \$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

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<sup>12</sup> Due to rounding, these amounts do not total precisely to \$1.054 billion. U.S. Department of Justice, Justice Management Division, *FY2010 Budget and Performance Summary*, (May 2009), available at <http://www.usdoj.gov/jmd/2010summary/>.

cartridge cases and compare crime firearms evidence. The FY2006 budget for NIBIN was \$22.8 million.

## **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>13</sup> Of the difference, \$42.8 million, 56 FTE positions, and 10 permanent positions were base adjustments.<sup>14</sup> For Southwest border enforcement, the FY2009 request included a budget enhancement of \$948 thousand and 6 FTE positions and 12 permanent positions.

## **FY2008 Appropriations**

In the Consolidated Appropriations Act, 2008 (P.L. 110-161), Congress provided ATF with its regular FY2008 appropriation. Congress also provided ATF with additional FY2008 funding in economic stimulus legislation and an Iraq war supplemental appropriation bills.

## **Economic Stimulus Funding**

Congress also appropriated \$10 million in economic stimulus funding 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. These amounts are considered FY2008 funding. As one-time, economic stimulus funding, the \$10 million for ATF is not considered as part of ATF's FY2008 base funding.

## **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>15</sup> According to DOJ, ATF was in the process of

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<sup>13</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.

<sup>14</sup> For most DOJ agencies, the current Administration has often made “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. 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> 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.



establishing an attache office in the U.S. Embassy in Baghdad.<sup>16</sup> This office has been 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 will 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>17</sup>

Since December 2003, ATF has also been providing post-blast explosives investigative training to Iraqi police forces.<sup>18</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.

## **Consolidated Appropriations Act, 2008**

For FY2008, Congress appropriated \$1.008 billion for ATF's regular appropriation, including \$23.5 million for construction in the Consolidated Appropriations Act, 2008 (P.L. 110-161). The FY2008 appropriation for ATF salaries and expenses was \$988.1 million, an amount that supported 4,880 FTE and 4,956 permanent positions. Although this amount was \$23.5 million greater than the FY2007 appropriation, it was \$6.4 million less than the amount proposed in the FY2008 budget request.

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

The House-passed bill (H.R. 3093) would have provided almost \$1.014 billion for ATF, an amount equal to the FY2008 request, and similarly included specified amounts to be directed at the same initiatives found in the request for the Firearms Trafficking/Gun Runner Program, PSN/Firearms Violence Reduction program, and the National Gang Targeting Enforcement and Coordination Center (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.

The Senate-passed bill (also H.R. 3093) would have provided almost \$1.049 billion for ATF, an increase of \$35.0 million over the Administration's FY2008 budget request as well as \$64.9 million over the FY2007 appropriation. The Senate-passed bill directed that \$35 million of the ATF FY2008 appropriation would have been provided for the construction of the National Center for Explosives Training and Research.

Conference negotiations on H.R. 3093 broke down, however. In lieu of further action on that bill, 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

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<sup>16</sup> U.S. Department of Justice, "Fact Sheet: Department of Justice Efforts in Iraq," February 13, 2008.

<sup>17</sup> Ibid.

<sup>18</sup> Ibid.

in Iraq and Afghanistan. On December 17-19, 2007, Congress completed action on H.R. 2764 through an exchange of amendments between the two chambers. President Bush signed H.R. 2764 into law on December 26, 2007 (P.L. 110-161).

## Administration's FY2008 Request

The FY2008 request included \$1.014 billion for ATF, including 4,933 FTE and 5,032 permanent positions. 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 thousand for ATF agents dedicated to GangTECC.

## Funding and Staffing, FY1999-FY2009

From FY1999 to FY2008, Congress increased ATF appropriations from \$541.6 million to nearly \$1.012 billion, an increase of 87%. The FY2008 funding includes \$988.1 million for salaries and expenses and \$23.5 million for construction. Congress appropriated the latter amount for the construction of an ATF National Center for Explosives Training and Research. As **Table 1** shows, for the same 10 years, with some fluctuation, ATF staffing increased from 3,969 to 4,880 FTE positions, a 23% increase.<sup>19</sup>

**Table 1. Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) Appropriations for Salaries and Expenses, FY1999-FY2009**

Fiscal Year	Salaries and Expenses Appropriation (in \$000)	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	\$823,316	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	\$878,465	4,885	5,073
2006	\$911,817	5,040	5,128
2007	\$984,097	5,053	5,128
2008	\$988,097 <sup>c</sup>	4,880 <sup>d</sup>	4,956 <sup>d</sup>
2009	\$1,054,215	4,957	5,008

<sup>19</sup> These staffing amounts do not reflect FTE positions provided for law enforcement availability pay (LEAP), overtime pay, or FTE positions funded with reimbursable resources.

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

- 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. For FY2008, Congress also appropriated an additional \$23.5 million for the ATF construction account, which is not included in this amount as such funding is usually not associated with FTE or funding positions. Nor, is the \$10 million provided in the American Recovery and Reinvestment Act of 2009 (P.L. 111-5) for ATF included in this amount.
- 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.

Since its transfer to the DOJ in FY2003, ATF has also reported permanent positions, in addition to FTE positions. The FY2008 appropriation provided for 4,956 permanent positions, including 2,428 special agents (SAs), 773 industry operations investigators (IOIs, formerly inspectors) and investigative research specialists (IRIs), and 1,755 “other” positions.<sup>20</sup>

For FY2009, Congress appropriated \$1.054 billion for ATF. As compared to the FY1999 enacted appropriation, this amount represents a 94.6% increase. This amount also provides for 5,008 permanent positions, including 2,450 SAs, 789 IOIs and IRIs, and 1,769 other positions.<sup>21</sup> In addition, for FY2008 and FY2009, 55 ATF permanent positions (54 SAs and one other position) have been funded through reimbursable resources.<sup>22</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.

### **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

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<sup>20</sup> Ibid., Exhibit I—Detail of Permanent Positions by Category.

<sup>21</sup> U.S. Department of Justice, Justice Management Division, *FY2010 Budget and Performance Summary*, (May 2009), Exhibit I—Detail of Permanent Positions by Category.

<sup>22</sup> Ibid., Exhibit H—Summary of Reimbursable Resources.

focus on armed violent and career criminals. ATF also leads the Attorney General's Violent Crime Impact Teams (VCITs) in 29 cities<sup>23</sup> in an effort to reduce the number of homicides and other violent crimes committed with firearms.<sup>24</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;
- 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>25</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>26</sup>

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

ATF inspects federal firearms licensees (FFLs) to monitor their compliance with the Gun Control Act (GCA)<sup>27</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>28</sup> Nevertheless, under current law,

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<sup>23</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>24</sup> U.S. Department of Justice, Bureau of Alcohol, Tobacco, and Firearms, "ATF Fact Sheet: ATF-Led Violent Crime Impact Teams Initiative," May 2007.

<sup>25</sup> U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives, *Congressional Budget Submission, Fiscal Year 2007* (February 2006), p. 47.

<sup>26</sup> U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives, *Congressional Budget Submission, Fiscal Year 2009* (February 2008), p. 22.

<sup>27</sup> 18 U.S.C. Chapter 44, §921 et seq.

<sup>28</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 (continued...)

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>29</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—not 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 investigators are often able to uncover evidence of corrupt FFLs transferring firearms “off the books,” straw purchases,<sup>30</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>31</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>32</sup> and 11,169 firearms compliance inspections were conducted in FY2008, covering nearly 10% of the 111,600 FFLs in that fiscal year.<sup>33</sup>

## Project Gunrunner

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

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(...continued)

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>29</sup> 18 U.S.C. § 923(g)(1)(B).

<sup>30</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>31</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>32</sup> U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives, *Congressional Budget Submission, Fiscal Year 2008*, (February 2007), p. 29.

<sup>33</sup> U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives, *Congressional Budget Submission, Fiscal Year 2010*, May 2009, p. 5.

corridors into the United States.<sup>34</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>35</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>36</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>37</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>38</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>39</sup> Moreover, ATF reports that DTOs are increasingly using surrogates (straw purchasers) in the United States to buy 10 to 20 military-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>40</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>41</sup> By the end of FY2008, ATF had deployed 146 SAs and 68 IOIs to the Southwest border to bolster that initiative at a conservatively estimated cost of \$32.2 million.<sup>42</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>43</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

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<sup>34</sup> Anna Gilmour, “Gulf War—Pressure Mounts on Mexico’s Gulf Cartel,” *Jane’s Intelligence Review*, December 3, 2007.

<sup>35</sup> *Ibid.*

<sup>36</sup> Sara Miller Llana, “US Guns Arm Mexico’s Drug Wars,” *Christian Science Monitor*, July 19, 2007, p. 1.

<sup>37</sup> Oscar Becera, “Firing Line—Tracking Mexico’s Illegal Weapons,” *Jane’s Intelligence Review*, April 28, 2008.

<sup>38</sup> *Ibid.*

<sup>39</sup> ATF briefing provided to CRS on May 5, 2008.

<sup>40</sup> Oscar Becera, “Firing Line—Tracking Mexico’s Illegal Weapons,” *Jane’s Intelligence Review*, April 28, 2008.

<sup>41</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>42</sup> CRS conversations with Bureau of Alcohol, Tobacco, Firearms and Explosives, Office of Legislative Affairs, May 14, 2008.

<sup>43</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.

up Gunrunner, the American Recovery and Reinvestment Act (ARRA; P.L. 111-5) included \$10 million 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, or a proposed 6.4% increase compared to the FY2008 enacted appropriation. This proposed amount includes \$17.9 million and 92 permanent positions (including 34 SAs) to support Project Gunrunner.<sup>44</sup> The House-reported FY2010 Commerce, Justice, Science, and Related Agencies appropriations bill (H.R. 2847; H.Rept. 111-149) would provide ATF with the requested \$17.9 million. According to the House Committee, such an increase would bring total funding for Southwest border firearms trafficking efforts to \$59.9 million, but this amount includes one-time, stimulus funding of \$10 million provided in the American Recovery and Reinvestment Act (ARRA; P.L. 111-5) for FY2008.<sup>45</sup>

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>46</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>47</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>48</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>49</sup> Of those firearms, 63.5% were determined to have been manufactured

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<sup>44</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>45</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.

<sup>46</sup> ATF briefing provided to CRS on May 5, 2008.

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

<sup>48</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>49</sup> ATF briefing provided to CRS on April 16, 2009.

in the United States and 29.5% were determined to have been manufactured abroad, but imported into the United States.<sup>50</sup> Consequently, 93% of firearms traced by ATF during FY2008 for Mexican authorities were either made in, or imported to, the United States.<sup>51</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. 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 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>52</sup>

Congress made ATF responsible for more closely regulating the explosives industry in the United States under the Safe Explosives Act.<sup>53</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>54</sup> According to ATF, 3,291 explosives compliance inspections were conducted in FY2007, or about 28% of licensees/permittees.<sup>55</sup> The FY2009 budget requests included no new resources for this program, as compared with FY2008.

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<sup>50</sup> Ibid.

<sup>51</sup> Ibid.

<sup>52</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>53</sup> P.L. 107-296, 116 Stat. 2280.

<sup>54</sup> U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives, *Congressional Budget Submission, Fiscal Year 2007* (February 2006), p. 53.

<sup>55</sup> U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives, *Congressional Budget Submission, Fiscal Year 2009* (February 2008), p. 48.



In March 2005, the DOJ OIG reported that ATF could improve its implementation of the Safe Explosives Act. The OIG also found “critical deficiencies” in the background check and clearance process designed to prevent prohibited persons from gaining access to explosives.<sup>56</sup>

## **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>57</sup> In addition, ATF criminal intelligence 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>58</sup> The FY2009 budget request includes no new resources for this program, as compared with FY2008.

## **Author Contact Information**

William J. Krouse  
Specialist in Domestic Security and Crime Policy  
wkrouse@crs.loc.gov, 7-2225

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<sup>56</sup> U.S. Department of Justice, Office of the Inspector General, *Review of the Bureau of Alcohol, Tobacco, Firearms and Explosives’ Implementation of the Safe Explosives Act*, Report Number I-2005-005, (March 2005), p. 37.

<sup>57</sup> U.S. General Accounting Office, *Cigarette Smuggling: Federal Law Enforcement Efforts and Seizures Increasing*, GAO-04-641 (May 2004), p. 7.

<sup>58</sup> *Ibid.*, p. 7.