



May 27, 2011

SUBMITTED VIA E-MAIL AND FAX

Office of Information and Regulatory Affairs
Office of Management and Budget
Attn: DOJ Desk Officer
Washington, DC 20503

Legal Community Against Violence Comments on “Agency Information Collection Activities; Proposed Collection Comments Requested: Report of Multiple Sale or Other Disposition of Certain Rifles” (OMB Number 1140-NEW; F.R. Doc. 2011-10355, published in Federal Register, Volume 76, Number 83, Page 24058)

To Whom It May Concern,

On behalf of Legal Community Against Violence, a national law center dedicated to preventing gun violence, I offer our strong support for the proposal to require the reporting of the sale of multiple rifles by licensed firearms dealers in certain states. These comments echo our previous comments, which we submitted on February 11, 2011 during the initial 60-day comment period.

Under the proposed rule change, Federal Firearms Licensees (FFLs) located in California, Arizona, Texas and New Mexico would be required to report to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) the transfer of two or more of certain rifles within any five consecutive business days to the same individual.¹ Although federal legislative action and additional enforcement efforts are desperately needed to combat illegal gun trafficking domestically and in Mexico, this rule would undoubtedly be of considerable assistance to ATF as it tackles this extremely pressing issue.

Drug-Related Violence in Mexico and U.S. Firearms Trafficking

According to the Mexican government, over the past four years, over 34,600 people in Mexico have been killed in an unprecedented wave of drug-related violence.² Despite U.S. and Mexican efforts, the violence shows no sign of abating; 2010 was the most violent year of the war to-date, with over 15,000 drug-related deaths.³

Since Mexico’s laws regarding the possession of guns by civilians are strict,⁴ the Mexican drug cartels obtain firearms legally – and easily – in the U.S. According to data from ATF,

¹ The rule would apply to rifles that are semiautomatic, a caliber greater than .22, and able to accept a detachable magazine.

² Julian Miglierini, *Crunching Numbers in Mexico’s Drug Conflict*, BBC News, Jan. 14, 2011, at <http://www.bbc.co.uk/news/world-latin-america-12194138>.

³ *Id.*

⁴ See Brady Center to Prevent Gun Violence, *Exporting Gun Violence: How Our Weak Gun Laws Arm Criminals in Mexico and America* 7 (Mar. 2009) at <http://www.bradycenter.org/xshare/pdf/reports/exporting-gun-violence.pdf>.

approximately 87% of the firearms seized by Mexican authorities and traced over Fiscal Years 2004-2008 originated in the U.S.⁵ According to other estimates, 90% to 95% of guns seized in drug crimes in Mexico originate in the U.S.⁶

Concurrent with the rise in gun violence in Mexico, cartels are also increasingly using long guns instead of handguns. According to a November 2010 report by the Office of the Inspector General (OIG) of the U.S. Department of Justice (the “OIG Report”), “long guns have become the Mexican cartels’ weapons of choice.”⁷ The OIG Report quoted an ATF statement to the U.S. Senate in 2009, in which Assistant Director for Field Operations William Hoover explained that drug traffickers have moved away from handguns because they “have developed a preference for higher quality, more powerful weapons.”⁸

A joint report by the Mexico Institute at the Woodrow Wilson International Center for Scholars and the Trans-Border Institute at the University of San Diego found that, “While there is a wide range of U.S.-origin firearms being seized in Mexico, from U.S.-made hand grenades to 12-gauge shotguns, semiautomatic assault rifles are the most sought after and widely used by Mexican DTOs [drug trafficking organizations].”⁹ The report continued:

These military-style firearms are far superior to the typical firearms used by local and municipal police in Mexico and make confrontations with DTO members a much more risky endeavor. According to analysis presented by an ATF Agent in August 2010, the top two firearms recovered in Mexico that had been purchased in the United States in the past three years were in order AK-47 type semi-automatic rifles (7.62x39mm caliber) and AR-15 semi-automatic rifle clones (.223 caliber)... While these firearms were likely purchased in the United States in a semiautomatic configuration before being seized in Mexico, many of them were converted to fire as select-fire machine guns.¹⁰

As a result of their increased popularity, long guns are increasingly recovered in crimes in Mexico. In Fiscal Year 2004, 20 percent of the recovered crime guns were long guns (compared to 79 percent handguns); by Fiscal Year 2009, that number had steadily increased to 48 percent (compared to an almost-even 50 percent for handguns).¹¹ The OIG Report also found that the

⁵ U.S. Gov’t Accountability Office, *Firearms Trafficking: U.S. Efforts to Combat Arms Trafficking to Mexico Face Planning and Coordination Challenges* 3, 15 (June 2009), at <http://www.gao.gov/products/GAO-09-709>.

⁶ Spencer S. Hsu, *U.S.-Mexico Task Force Seeks Renewed Ban on Assault Weapons*, Wash. Post, Nov. 13, 2009 at <http://www.washingtonpost.com/wp-dyn/content/article/2009/11/12/AR2009111211331.html> (reporting statements from Mexican officials finding that 90% of guns seized in drug crimes in Mexico and submitted for tracing to ATF originate in the U.S., including most assault rifles); Alicia A. Caldwell, *ATF: Most Illegal Guns in Mexico Come from U.S.*, Associated Press, Aug. 11, 2008 (ATF states that nearly all illegal guns seized in Mexico – 90 to 95 percent – originally come from the U.S.).

⁷ U.S. Dep’t of Justice, Office of the Inspector General, Evaluation and Inspections Div., *Review of ATF’s Project Gunrunner* 37 (Nov. 2010), at <http://www.justice.gov/oig/reports/ATF/e1101.pdf>.

⁸ *Id.* at 37-38.

⁹ Colby Goodman & Michel Marizco, *U.S. Firearms Trafficking to Mexico: New Data and Insights Illuminate Key Trends and Challenges*, in *SHARED RESPONSIBILITY: U.S.-MEXICO POLICY OPTIONS FOR CONFRONTING ORGANIZED CRIME* 185 (Eric L. Olson, David A. Shirk & Andrew Selee eds., 2010).

¹⁰ *Id.* at 186.

¹¹ U.S. Dep’t of Justice, *supra* note 7, at 38.

time between the purchase of a long gun and its recovery at a crime scene in Mexico (commonly called the “time-to-crime” interval) is shorter than it is for handguns recovered in that country.¹²

The Proposed Rule Change Would Significantly Assist ATF in Anti-Trafficking Efforts

Under federal law, FFLs are required to submit “multiple handgun sale reports” to ATF when an individual buys more than one handgun within five business days.¹³ Multiple sales information about handgun purchasers helps ATF identify individuals who may be involved in firearms trafficking. According to the OIG Report, because information about handguns in multiple sales is entered into ATF’s tracing database, traces on firearms from multiple sales can be completed in a matter of minutes, as opposed to the 7 to 10 days a trace normally takes.¹⁴ In sum, the report found, ATF uses reports of multiple handgun sales “to verify gun dealers’ records, to detect suspicious activity, and to generate investigative leads.”¹⁵

As Mexican cartels move increasingly away from handguns and toward long guns, ATF urgently needs a multiple long gun sales reporting requirement to combat international gun trafficking. A June 2009 U.S. Government Accountability Office (GAO) report detailing U.S. efforts to fight firearms trafficking into Mexico (the “GAO Report”) found that the absence of a reporting requirement for multiple long gun sales presented a significant challenge to anti-trafficking efforts.¹⁶ The OIG Report reached a similar conclusion, finding that “mandatory reporting of long gun multiple sales could help ATF identify, investigate, and refer for prosecution individuals who illegally traffic long guns into Mexico,”¹⁷ as did the Wilson Center’s analysis, which called multiple sales information “key to helping stop firearms trafficking to Mexico.”¹⁸

The Proposed Rule Change Would Impose Only a Minimal Burden on Licensed Dealers

While the proposed rule change would provide important benefits to ATF, the existing multiple handgun reporting requirement demonstrates that multiple long gun reporting will impose only a minimal burden on FFLs. Indeed, ATF estimates that it will only take about twelve minutes for an FFL to complete the required form following a multiple long gun transaction.

Much More is Desperately Needed to Stop Illegal Gun Trafficking

For several years now, it has been common knowledge that our nation’s lax oversight of gun dealers, as well as the absence of federal and state laws that would help curb gun trafficking, are directly fueling drug-related violence in Mexico. While multiple long gun sales reporting is urgently needed, so are new federal laws and increased enforcement vigilance. As the GAO Report noted, anti-trafficking efforts are significantly hampered by federal restrictions on collecting and reporting information on gun purchases and the lack of a background check

¹² *Id.*

¹³ 18 U.S.C. § 923(g)(3)(A); 27 C.F.R. 478.126a.

¹⁴ U.S. Dep’t of Justice, *supra* note 7, at 36-37.

¹⁵ *Id.* at 37.

¹⁶ U.S. Gov’t Accountability Office, *supra* note 5, at 28.

¹⁷ U.S. Dep’t of Justice, *supra* note 7, at 39-40.

¹⁸ Goodman & Marizco, *supra* note 9, at 202.

requirement for private gun transfers.¹⁹ Additionally, there is simply no justification for the continued sale of assault weapons, large capacity ammunition magazines, and .50-caliber rifles on the consumer market. Without these and other reforms, America will continue to supply the weaponry used in Mexican bloodshed.²⁰

New laws would be best paired with increased enforcement efforts by ATF. At a minimum, the Bureau must be provided sufficient personnel and resources to thoroughly investigate dishonest gun dealers and suspected traffickers. In addition to much-needed resources, ATF ought to be required to investigate all reports of multiple firearm sales in border states for suspected trafficking; the proposed rule change would only make this trace data available to ATF without requiring that it be used.

In large numbers, Americans support a wide variety of common sense firearms laws which would have a significant impact on international firearms trafficking. As it stands, the proposed rule change is an important step in the right direction, but it cannot be considered the only action urgently needed at this time.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Juliet A. Leftwich". The signature is fluid and cursive, with the first name "Juliet" being the most prominent.

Juliet A. Leftwich
Legal Director
Legal Community Against Violence

¹⁹ U.S. Gov't Accountability Office, *supra* note 5, at 24–27.

²⁰ The need for greater federal action is underscored by the fact that three of the four states that share a border with Mexico also have weak gun laws. An issue brief produced by Mayors Against Illegal Guns (MAIG) used ATF crime gun trace data to analyze the numbers of crime guns exported into Mexico by U.S. states. Not surprisingly, the four border states were the states with the highest number of exports— Arizona, California, New Mexico and Texas. After controlling for population, MAIG found that three of these states – Arizona, New Mexico and Texas – each exported firearms to Mexico at a rate that is 169% higher than any other state and more than three times as high as California. MAIG noted that California has enacted several laws identified as critical to combatting gun trafficking, while Arizona, New Mexico, and Texas have not enacted these laws. *See* Mayors Against Illegal Guns, *Issue Brief: The Movement of Illegal Guns Across the U.S.-Mexico Border* 3 (Sept. 2010), at http://www.mayorsagainstillegalguns.org/downloads/pdf/issue_brief_mexico_2010.pdf.