



June 2014

BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES

Enhancing Data Collection Could Improve Management of Investigations

GAO Highlights

Highlights of [GAO-14-553](#), a report to congressional requesters

Why GAO Did This Study

ATF, which was transferred from the Department of the Treasury to DOJ in 2003, is responsible for investigating federal laws related to firearms, explosives, arson, alcohol, and tobacco. In 2012, there were almost 9,000 reported murders involving firearms. ATF oversight was a DOJ's 2013 top management challenge for ensuring effective and efficient law enforcement. Congress continues to raise questions about ATF's criminal law enforcement activities and operations. GAO was asked to review ATF's activities.

This report addresses (1) how ATF's priorities for its criminal law enforcement investigations have changed since fiscal year 2003, (2) ATF's staffing challenges, and (3) the extent to which ATF has data to monitor the timeliness and outcomes of delayed denial investigations. GAO reviewed ATF policies, analyzed investigative data from fiscal years 2003 through 2013, and interviewed ATF officials.

What GAO Recommends

GAO recommends that ATF establish a mechanism to provide headquarters managers readily available data to better monitor the timeliness and outcomes of delayed denial investigations. ATF concurred with the recommendation and ATF officials outlined steps they plan to take to address it.

View [GAO-14-553](#). For more information, contact Eileen R. Larence at (202) 512-8777 or larencee@gao.gov.

June 2014

BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES

Enhancing Data Collection Could Improve Management of Investigations

What GAO Found

Since fiscal year 2003, the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), within the Department of Justice, has been focusing more on decreasing violent crime. Beginning in 2010, ATF made criminal organization investigations one of its highest priorities, similar to firearms investigations, and deemphasized alcohol and tobacco investigations that do not involve violent crime. ATF data show that alcohol and tobacco investigations decreased by 85 percent (from 168 to 25 investigations opened) from fiscal years 2003 through 2013. In 2012, to more effectively identify and address the most violent criminal threats, ATF established the Frontline initiative to, among other things, prioritize investigations and evaluate ATF's efforts in reducing violent crime. ATF began evaluating its efforts in March 2014, and does not yet have a time frame for completing the evaluations. As such, it is too early to tell how well Frontline helps ATF to assess how effective its investigations are in addressing violent crime.

ATF reported facing funding and hiring challenges. ATF's number of special agents generally increased from fiscal years 2004 through 2010, but decreased by about 6 percent (from 2,562 to 2,399) through fiscal year 2013, which represents the lowest number of special agents in 8 years. According to ATF management officials, ATF was unable to hire agents because its funding did not keep pace with the cost of employee salaries and benefits. According to ATF data, the average salary and benefits costs for ATF employees increased by 55 percent from \$100,000 in fiscal year 2003 to \$155,000 in fiscal year 2013. Further, about a quarter of ATF's on-board special agents were eligible to retire as of the end of fiscal year 2013, with an additional 20 percent becoming eligible to retire through fiscal year 2018. As of April 2014, ATF was hiring human resources personnel to assess how to better address staffing challenges, but it is too soon to tell the extent to which these efforts will address such challenges.

ATF does not have readily available data to track and monitor the timeliness and outcomes of delayed denial investigations. Delayed denial investigations are investigations of individuals who improperly purchased firearms when background checks did not initially determine that the individuals were ineligible to purchase a firearm. N-Force, ATF's investigations database, does not have information readily available to systematically track the timeliness and outcomes—such as if a firearm is retrieved—of delayed denial investigations. ATF considers these investigations a top priority and is committed to responding to them quickly to protect public safety and prevent violent crime. A mechanism to (1) readily obtain data on the timeliness of such investigations and (2) allow managers to easily query and analyze trends on the outcomes of such investigations could help ensure that ATF is retrieving firearms from prohibited persons to maximize public safety.

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Abbreviations

ATF	Bureau of Alcohol, Tobacco, Firearms and Explosives
DOJ	Department of Justice
DEA	Drug Enforcement Administration
FBI	Federal Bureau of Investigation
FFL	federal firearms licensee
Frontline	Frontline Business Model
OIG	Office of the Inspector General
OPM	Office of Personnel Management
SAC	special agent in charge

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June 30, 2014

The Honorable Charles E. Grassley
Ranking Member
Committee on the Judiciary
United States Senate

The Honorable F. James Sensenbrenner, Jr.
Chairman
Subcommittee on Crime, Terrorism, Homeland Security, and
Investigations
Committee on the Judiciary
House of Representatives

Ensuring effective and efficient law enforcement is one of the Department of Justice's (DOJ) six most pressing concerns, according to DOJ's 2013 report on top management and performance challenges.¹ DOJ reports that a fundamental and persistent challenge in this area is ensuring that the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF—also referred to as 'the bureau' in this report), among other DOJ components, conducts adequate oversight of its field offices. In 2010, for example, the oversight failures of ATF's Fast and Furious investigation—in which ATF knowingly allowed criminal suspects to purchase firearms²—resulted in DOJ's Office of the Inspector General (OIG) recommending that ATF take several corrective actions to improve agency oversight, and ATF is taking

¹DOJ, *Top Management and Performance Challenges Facing the Department of Justice*, 2013, Dec. 23, 2013. The remaining five most pressing concerns are: addressing the growing crisis in the federal prison system; safeguarding national security consistent with civil rights and liberties; protecting taxpayer funds from mismanagement and misuse; enhancing cybersecurity; and restoring confidence in the integrity, fairness, and accountability of the department.

²Operation Fast and Furious was a criminal investigation that ATF conducted in the Phoenix Field Division from 2009 through 2010 designed to combat firearms trafficking on the southwest border. This operation resulted in numerous firearms being purchased by straw purchasers (individuals who purchase firearms on behalf of others, such as prohibited persons who are not allowed to buy or possess firearms themselves) involved in a large-scale gun-trafficking organization responsible for buying guns for transport to violent Mexican drug-trafficking organizations. Law enforcement officials later recovered these guns at crime scenes in Mexico and the United States, including one recovery in connection with the shooting death of a U.S. Customs and Border Protection agent.

action in response.³ However, with almost 9,000 reported murders involving firearms in 2012, according to the Federal Bureau of Investigation (FBI), Congress has raised questions about whether ATF management challenges related to firearms trafficking investigations and undercover operations, among other things, continue.⁴

In 2003, ATF was transferred from the Department of the Treasury to DOJ where ATF supports DOJ's strategic goals to prevent crime and enforce federal laws, among other things. According to ATF's strategic plan, its mission is to protect communities from violent criminals, criminal organizations, the illegal use and trafficking of firearms, the illegal use and storage of explosives, acts of arson and bombings, acts of terrorism, and the illegal diversion of alcohol and tobacco products. To fulfill its mission, ATF uses investigative techniques, which are investigative tools ATF agents use to assist in the investigation of criminal activity. These techniques can include such things as storefronts (for conducting undercover operations to attract potential criminals), or wiretaps (for monitoring and recording telephone communications). According to ATF's congressional budget submission for fiscal year 2015, illegal firearms are the "tools of the trade" used by drug traffickers, gang members, and other violent criminals against one another, law enforcement officials, and innocent civilians. An important part of ATF's efforts to address firearms trafficking is conducting delayed denial investigations—investigations to retrieve firearms from purchasers who are subsequently determined through background checks to be prohibited from possessing firearms. Congress has enacted about \$12 billion for ATF operations since 2003.

Given the importance of ATF's mission for ensuring public safety, the amount of federal resources being devoted to ATF, and the questions raised about the management of ATF's programs, you asked that we review the mission and activities of ATF. This report examines the following questions:

³U.S. Department of Justice, Office of the Inspector General, *A Review of Operation Fast and Furious and Related Matters* (Washington, D.C.: September 2012).

⁴The number of reported murders involving firearms is from the *FBI Uniform Crime Report, Crime in the United States 2012*, and represents the most recent *Uniform Crime Report* data available. U.S. Department of Justice, Federal Bureau of Investigation. (October 2013). *Crime in the United States, 2012. Retrieved (May 2014), from* (<http://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2012/crime-in-the-u.s.-2012>).

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1. How, if at all, have ATF's priorities for its criminal law enforcement investigations changed since fiscal year 2003?
 2. What, if any, staffing challenges has ATF faced since fiscal year 2003?
 3. To what extent does ATF have data to monitor the timeliness and outcomes of its delayed denial investigations?

To address the first question, we reviewed ATF's statutory authorities; mission, and priorities, as outlined in past and current ATF strategic plans covering fiscal years 2003 through 2013, and; ATF's Frontline Business Model, which outlines ATF's efforts intended to assess criminal threats, use criminal intelligence information, prioritize and conduct criminal law enforcement investigations (also referred to as 'criminal investigations' in this report), allocate and redirect resources, and measure ATF's efforts to ensure that it meets its goals and objectives. To examine any changes in ATF priorities for criminal investigations from fiscal years 2003 through 2013, we analyzed data from ATF's case management system—N-Force—for those years that provide details on ATF criminal investigations opened by mission activities such as firearms, arson and explosives, alcohol and tobacco, and criminal organizations. We assessed the reliability of these data by interviewing staff responsible for managing the data and reviewing relevant documentation, and concluded that these data were sufficiently reliable for the purposes of this report. We also interviewed ATF headquarters officials responsible for overseeing N-Force data and developing policies related to priorities for criminal investigations. We interviewed senior officials at 5 of ATF's 25 field divisions to obtain field perspectives and provide context on ATF's priorities for criminal investigations.⁵ We selected the 5 field divisions based on factors including geographic dispersion and to cover the range of ATF mission activities, such as firearms trafficking on the southwest border, firearms crimes by criminal organizations in urban areas, and the use of tobacco funds to conduct illegal activity. We also interviewed representatives from selected federal partners and state and local law enforcement agencies in proximity to these 5 ATF field division offices to obtain the representatives' perspectives on ATF's changing priorities for

⁵We interviewed senior officials at ATF field divisions in Dallas, Chicago, Seattle, San Francisco, and Los Angeles.

its criminal investigations.⁶ We selected these partners because they share jurisdiction or collaborate with ATF on criminal investigations. While the information obtained from the 5 divisions and the federal, state, and local partners cannot be generalized to all divisions and agencies, it provided us with insight and context on ATF's priorities related to criminal investigations.

To address the second question, we analyzed Office of Personnel Management (OPM) on-board data for ATF personnel, including special agents eligible to retire and the projected rate of retirement as compared to special agents government-wide from fiscal years 2013 through 2018.⁷ We assessed the reliability of OPM data through electronic testing and reviewing relevant documentation. We concluded that the OPM data were sufficiently reliable for the purposes of this report. To provide additional context on the OPM data, we examined ATF data on staff levels, attrition and hiring, the costs of salaries and benefits, ATF's resources available for obligation, and ATF requests for personnel as stated in ATF congressional budget justifications and appropriations. We assessed the reliability of ATF data by interviewing ATF human resources officials responsible for overseeing the data. We concluded that the ATF data were sufficiently reliable for the purposes of this report. We also interviewed ATF headquarters officials to get their perspectives on ATF's staffing challenges and the reasons for these challenges, and to evaluate how ATF allocated personnel to meet its priorities during fiscal years 2003 through 2014.

To address the third question, we reviewed ATF directives and memorandums governing ATF's use of its case management system, N-Force, as well as investigative policies and procedures, and ATF's

⁶Federal partners were the United States Attorneys' Offices, the FBI, and the Drug Enforcement Administration (DEA). State and local partners included state bureaus of investigation and city police departments. Specifically, we interviewed representatives from all three federal partners and two state and local partners associated with each of the 5 field divisions, with the exception of 1 field division where officials at one state partner were unavailable to be interviewed due to having to respond to a law enforcement incident, and for which we interviewed representatives from all three federal partners and one local partner.

⁷We calculated ATF personnel eligible for regular, voluntary retirement with an unreduced annuity (i.e., met retirement requirements for age and years of service). Projections are based on September 30, 2013, onboard staff, projecting forward from a constant population, not accounting for attrition or hires.

program on firearms enforcement. We also reviewed N-Force computer screenshots and user guides for completing data fields in N-Force, and we received a demonstration of the N-Force system's capabilities to collect information on criminal investigations. We also reviewed prior inspector general reports on delayed denial investigations and coordinated with DOJ's OIG on ATF's progress in implementing recommendations.⁸ We compared ATF's actions for collecting and using investigation information to monitor delayed denial investigations with ATF policy and criteria in *Standards for Internal Control in the Federal Government* related to control activities for implementing management directives.⁹ Finally, we interviewed ATF officials in headquarters, and in the 5 selected field divisions, responsible for overseeing data and developing policies related to criminal investigations to understand oversight of these investigations.

We conducted this performance audit from January 2013 to June 2014 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

⁸U.S. Department of Justice, *Review of the Bureau of Alcohol, Tobacco, Firearms and Explosives' Enforcement of Brady Act Violations Identified Through the National Instant Criminal Background Check System*, I-2004-006 (Washington, D.C.: July 2004). U.S. Department of the Treasury, *Protecting the Public: Bureau of Alcohol, Tobacco and Firearms Could Improve Its National Instant Criminal Background Check System Program*, OIG-02-004 (Washington, D.C.: Nov. 1, 2001).

⁹GAO, *Standards for Internal Control in the Federal Government*, [GAO/AIMD-00-21.3.1](#) (Washington, D.C.: Nov. 1, 1999).

Background

ATF is one of several DOJ law enforcement components, such as the FBI and the DEA, responsible for fighting violent crime.¹⁰ As such, ATF is responsible for investigating criminals and criminal organizations that use firearms, arson, or explosives in violent criminal activity, among other things.¹¹ ATF is also responsible for investigating criminal and regulatory violations of the federal firearms, explosives, arson, and alcohol and tobacco-smuggling laws subject to the direction of the Attorney General, as well as any other function related to the investigation of violent crime or domestic terrorism that is delegated to ATF by the Attorney General.¹² To do this, ATF operates several programs and initiatives to fulfill its mission at its headquarters office and 25 field divisions throughout the country. At headquarters, ATF has eight directorates responsible for, among other things, developing staffing plans, succession plans, and training and recruitment. ATF's largest directorate, the Office of Field Operations, is to provide strategic direction to ATF's field divisions, as well as oversight of all field divisions' criminal investigative activities. Field divisions make up about 70 percent (3,287) of ATF's total on-board workforce (4,728) as of September 2013.¹³ See figure 1 for ATF field division locations.

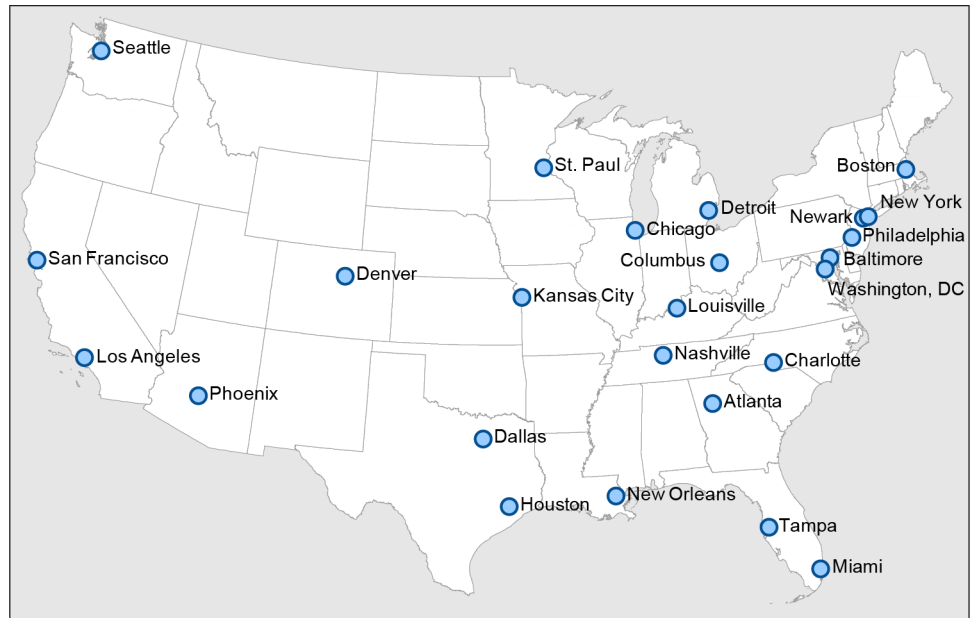
¹⁰We reported in April 2011 that DOJ law enforcement components—ATF, DEA, FBI, and the U.S. Marshals Service—have overlapping jurisdiction over violent crime investigations, specifically when the investigations involve illegal drugs, gang violence, firearms, explosives, arson and fugitive apprehension. We recommended that DOJ assess options to better identify and diagnose disagreements in the field and take action to limit the negative impacts from disagreements over jurisdictional overlap for some criminal investigations. In July 2011, DOJ identified steps to address our recommendation, but has not fully addressed it. See GAO, *Law Enforcement Coordination: DOJ Could Improve Its Process for Identifying Disagreements Among Agents*, [GAO-11-314](#) (Washington, D.C.: Apr. 7, 2011).

¹¹For the purpose of this report, criminal organizations refer to criminal groups and gangs such as white supremacists, MS-13, and 18th Street.

¹²28 U.S.C. § 599A. See also 28 C.F.R. § 0.130.

¹³We used OPM data to identify ATF's total onboard workforce, which includes permanent and temporary employees.

Figure 1: The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) Field Divisions



Source: ATF. | GAO-14-553

In order to track and monitor ATF’s criminal investigations throughout the country, ATF uses its N-Force case management system, which was developed in fiscal year 1999. According to ATF’s policy on N-Force, the system is to enable (1) agents in the field to store and query investigative information; (2) managers in the field divisions to oversee investigative activities and documents; and (3) senior managers in headquarters to more efficiently oversee programs and projects, monitor significant investigations and activities, collect and analyze statistical information, and support ATF’s financial statements. In general, field agents are to enter case information into N-Force, such as the agent and field office in charge of a particular investigation, the type of investigation being conducted, key dates, information on the suspect or defendant, interview records, whether certain property—such as vehicles or firearms—is in ATF custody, and information about investigative techniques, among other things. In response to oversight shortcomings related to ATF’s Fast and Furious investigation in July 2011, which included some of these investigative techniques, ATF developed the Monitored Case Program to provide greater headquarters oversight of sensitive investigations and to enhance communication between the field and ATF headquarters, which

is accomplished through a review of high-risk investigations and regular communication, such as monthly briefings, between field division managers and senior managers in headquarters.¹⁴

ATF is Focusing More on the Most Violent Criminal Threats and on Using Criminal Intelligence Data to Better Target Violent Crime Than it Did in Fiscal Year 2003

Since fiscal year 2003, ATF has been focusing more on decreasing violent crime by addressing its original mission activities of illegal firearms trafficking, explosives, and arson; however, the bureau's strategic approach has evolved, and in 2010, ATF made criminal organization investigations one of its highest priorities to address the most violent criminal threats, while deemphasizing alcohol and tobacco investigations. According to senior ATF officials, the bureau is doing this so as to conduct a more focused and effective fight against violent crime. According to senior ATF officials, ATF has sharpened its focus in order to more effectively address violent crime by giving priority to investigations of those subjects that pose the most violent criminal threat. While ATF continues to prioritize three of its original mission activities—illegal firearms trafficking, explosives, and arson—in its 2010 strategic plan, which is ATF's most recent strategic plan, ATF added criminal organizations to its list of mission activity priorities. That same year, ATF officials stated that they modified N-Force to separately track investigations of criminal organizations.¹⁵ ATF officials responsible for field operations reported that ATF expanded its efforts to identify, target, and dismantle those criminal organizations that use firearms, arson, and explosives in violent criminal activity so as to further reduce the risk to public safety.

¹⁴In September 2012, the DOJ OIG issued a report on the Fast and Furious investigation, per the request of the Attorney General. See U.S. Department of Justice, Office of the Inspector General, *A Review of Operation Fast and Furious and Related Matters* (Washington, D.C.: September 2012). The DOJ OIG initiated a follow-up review to evaluate the progress and effectiveness of measures DOJ and ATF took to implement recommendations related to the Fast and Furious investigation. Additionally, in February 2014, the DOJ OIG initiated a review of ATF's use of its storefront operations to evaluate, among other things, the effectiveness of the Monitored Case Program.

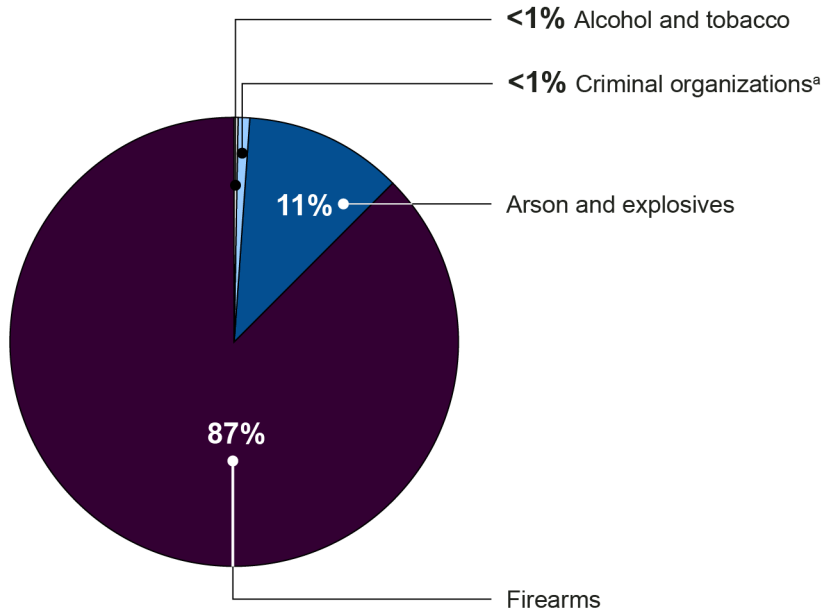
¹⁵According to ATF officials, the bureau conducted investigations of criminal organizations prior to 2010, but did not identify these investigations as a mission priority to be tracked separately in N-Force before that year.

ATF continues to prioritize firearms investigations over all other types of investigations.¹⁶ As illustrated in figure 2, out of approximately 302,859 total investigations opened in fiscal years 2003 to 2013 related to ATF's four mission activities, ATF data show the following breakdown of investigations: firearms (264,528, or 87 percent), arson and explosives (34,549, or 11 percent), criminal organizations—which ATF began tracking only in 2010—(2,414, or almost 1 percent), and alcohol and tobacco (1,368, or less than half of 1 percent).¹⁷

¹⁶Firearms investigations involve criminal possession and use of firearms or firearms trafficking, among others things.

¹⁷For the purposes of demonstrating trends in these mission activities, we categorized investigation descriptions into ATF's mission activities as follows: (1) firearms investigations include, criminal possession and use of firearms, firearms trafficking, firearms enforcement activity, deny criminals access to firearms, shooting incidents, and firearms referrals investigations; (2) arson and explosives investigations include arson and explosives enforcement activities, church fires, significant explosives investigation, safeguard the public from arson and explosives incidents; (3) criminal organizations investigations include investigations of criminal groups and gangs; and (4) alcohol and tobacco investigations include alcohol and tobacco diversion enforcement activities, alcohol and tobacco diversion investigations, and gray market tobacco investigations (investigations of tobacco that the U.S. trademark owner has not authorized for sale or import). We did not include certain investigations opened by ATF from fiscal years 2003 through 2013—such as special events, partnerships, inspections, and firearms tracing—because they did not relate to the four mission activities.

Figure 2: Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) Criminal Investigations Opened in Fiscal Years 2003 through 2013, by Mission Activity



Source: GAO analysis of ATF N-Force data. | GAO-14-553

Notes: Percentages do not add to 100 because of rounding.

^aATF modified its coding system in N-Force—ATF’s case management system which it uses to manage its criminal investigations—to enhance its ability to track investigations involving criminal organizations in 2010. Therefore, the “<1% criminal organizations” refers to investigations opened from fiscal years 2010 through 2013.

Furthermore, according to ATF, from fiscal years 2009 through 2013, ATF reprogrammed funds to the firearms mission from other mission activities. Specifically, according to ATF, since fiscal year 2009, ATF has reprogrammed a total of at least \$140.6 million¹⁸ to the firearms mission activity—that is, \$13.9 million of \$103 million¹⁹ from the alcohol and tobacco mission activity and \$126.7 million of \$1.269 billion from the

¹⁸According to ATF’s congressional budget submissions, ATF reported reprogramming these funds to the firearms mission from the alcohol and tobacco mission activity in fiscal years 2009-2010 and 2012-2013. Additionally, ATF reported reprogramming funds from the arson and explosives mission activity in fiscal years 2009-2013.

¹⁹The totals are actual amounts that include enacted appropriations and any changes in funding.

arson and explosives mission activity. According to ATF, funds were reprogrammed because of ATF's increasing illegal firearms-trafficking enforcement efforts along the southwest border, as well as an overall increased focus on firearms enforcement activities and reducing gun violence across the country.²⁰

ATF officials responsible for field operations in headquarters and in the field reported, and ATF data show, that the number of alcohol and tobacco investigations opened decreased by 85 percent, from 168 to 25 from fiscal years 2003 through 2013. These investigations are opened only when there is a nexus to violent crime or when such investigations may result in addressing substantial fraud or state tax revenue losses. For instance, according to ATF headquarters officials who are responsible for field operations and officials we interviewed at all five field divisions, ATF's alcohol and tobacco investigations are increasingly likely to involve organized criminal groups that use illicit proceeds to fund criminal or terrorist activities. In its 2010 strategic plan, ATF continued to identify alcohol and tobacco as one of its mission activities, but the bureau did not identify this mission activity as one of its strategic goals. Further, ATF officials stated that they are no longer giving a high priority to alcohol and tobacco investigations because of limited resources and an aim to maximize ATF's impact on the most violent criminal threats. According to ATF, this approach allows the bureau to be more strategically focused and proactive when it comes to preventing and addressing violent crimes, rather than being opportunity driven and simply reacting to nonviolent crimes that have already occurred.

In 2012, ATF created the Frontline Business Model (Frontline), which, according to ATF, is intended to establish ATF's approach for using criminal intelligence information to assess criminal threats, prioritize and conduct investigations, and evaluate the extent to which its efforts have reduced violent crime.²¹ According to ATF, Frontline formalizes ATF's approach for using criminal intelligence information to more effectively

²⁰According to ATF, the bureau reprogrammed these funds in accordance with section 505 of the General Provisions of each year's Department of Justice appropriation acts from fiscal years 2009 through 2013.

²¹In addition, Frontline is intended to allocate and redirect resources, as needed, to align ATF's efforts with its priorities in order to maximize ATF's impact on reducing violent crime.

identify and address the most violent criminal threats.²² Under Frontline, ATF is using a model of law enforcement known as intelligence-led policing to leverage (1) criminal intelligence information, such as crime statistics and trends, and (2) criminal intelligence–related investigative techniques—such as electronic surveillance, undercover operations, and liaisons with other agencies—to better target investigations on violent crime areas, individuals, and organizations.²³ For example, according to Frontline guidance, ATF analyzes firearms trace data and multiple firearms sales data to develop investigative leads on the sources of firearms used in crimes and the persons who have possessed firearms used in crimes, such as firearms traffickers and potential straw purchasers (individuals who purchase firearms on behalf of other individuals, such as prohibited persons who are not allowed to buy or possess firearms themselves).²⁴

Under Frontline, each field division is to establish priorities on an annual basis for having the greatest impact on violent crime in the division’s particular area of jurisdiction. As part of this process, Frontline lays out an evaluation mechanism for headquarters managers to assess how well each division is meeting these priorities. Specifically, field division managers are required to conduct semiannual Frontline Performance Reviews by comparing field division investigation activities against each field division’s assessments of violent crime to ensure that specific violent crime threats in their areas are addressed. This information is to be used to inform discussions between headquarters and field division managers to help determine whether each field division is aligning investigations with ATF’s priorities. ATF officials responsible for field operations explained that Frontline is in the implementation phase and began its first

²²According to ATF documentation describing Frontline, “criminal intelligence” means information from a variety of sources, such as firearms tracing, confidential informants, and state and local agencies, which the bureau uses to investigate persons suspected of being involved in criminal activity.

²³According to DOJ, intelligence-led policing is a collaborative law enforcement approach combining problem-solving policing, information sharing, and police accountability with enhanced intelligence operations.

²⁴ATF, Order ATF O 3310.4C, Firearms Enforcement Program, March 19, 2013. According to ATF’s order governing its firearms enforcement program, a firearm trace systematically tracks a firearm through the chain of distribution to identify an unlicensed purchaser. According to the order, ATF is authorized to trace only firearms that are illegally possessed, involved in a crime, or suspected to have been involved in a crime, or for law enforcement purposes or national security interests.

round of evaluations in March 2014. As of that date, they did not have results, nor did they have time frames for completing the evaluations. Accordingly, it is too early to tell the extent to which this evaluation is going to adequately assess efforts under Frontline.

ATF Faces Projected Reductions in Staff and Reports Funding and Hiring Challenges

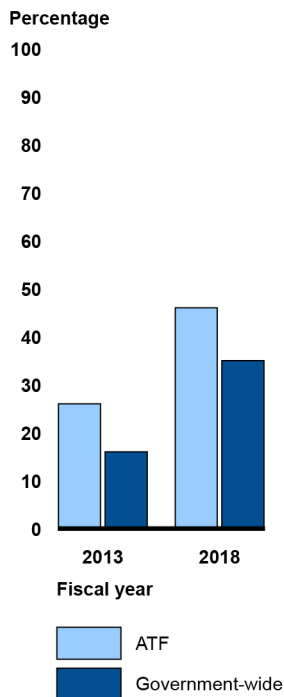
ATF is facing a reduction in its number of special agents, who, according to management officials, are critical to carrying out its mission of reducing violent crime. While ATF's onboard full-time staff remained relatively stable over time, with a slight—about 4 percent—increase from fiscal years 2008 through 2010, ATF's staff decreased by about 8 percent from fiscal years 2010 through 2013. This represents the lowest number of onboard staff since fiscal year 2004. According to ATF management officials, ATF was unable to hire agents because the bureau's funding did not keep pace with the cost of employee salaries and benefits. Similarly, while ATF's number of special agents generally increased from fiscal years 2004 through 2010, the number of special agents decreased by about 6 percent from fiscal year 2010 (2,562) to fiscal year 2013 (2,399). This represents the lowest number of special agents since 2005. Furthermore, ATF data show that ATF's hiring of special agents has not kept pace with its attrition since fiscal year 2011. For instance, ATF lost 78 special agents in fiscal year 2011, but hired 23 special agents. Similarly, in fiscal year 2012, ATF lost 61 special agents, but hired 14 special agents.

In addition to citing these reductions of special agents, ATF is expecting a potential attrition of special agents because of projected retirements over the next 4 years. According to ATF's Fiscal Year 2014 Congressional Budget Submission, all of ATF's special agents in charge (SAC) will be eligible to retire by November 2017.²⁵ Moreover, according to our analysis of OPM data, about 26 percent of ATF's onboard special agents, who work for SACs, were already eligible to retire as of the end of fiscal year 2013, with an additional 20 percent becoming eligible for retirement through fiscal year 2018. As shown in figure 3, ATF's projected retirement eligibility of special agents through fiscal year 2018 is higher than the

²⁵According to ATF, as of April 2014, 23 of 25 SACs are eligible to retire by the end of fiscal year 2017. Two SAC positions (Baltimore and Los Angeles) are vacant. ATF special agents under the Civil Service Retirement System may retire at age 50 with 20 years of service. Special agents under the Federal Employees Retirement System may retire at any age with 25 years of service.

government-wide projected eligibility of special agents. Government-wide, 16 percent of special agents onboard as of September 2013 were eligible to retire with an additional 19 percent becoming eligible for retirement through fiscal year 2018.

Figure 3: Percentage of the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) Special Agents Eligible to Retire as Compared with the Percentage of Special Agents Government-wide Eligible to Retire



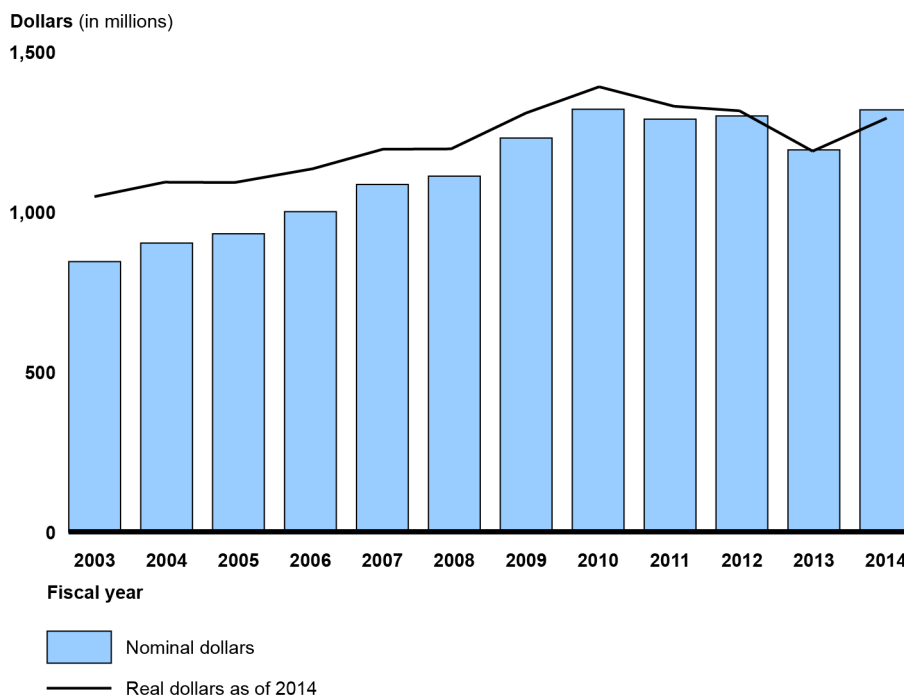
Source: GAO analysis of the Office of Personnel Management data. | GAO-14-553

Note: Figures are based on ATF agents onboard as of September 2013.

ATF officials attributed this current and impending reduction of personnel to funding and hiring challenges. According to ATF management officials, the bureau received marginal or non-existent funding increases over time, while the cost of full-time employees has increased, similar to other federal agencies, because of government-wide pay raises, annual step

increases, promotions, and health insurance costs.²⁶ Specifically, according to ATF data, the average salary and benefits costs for ATF employees increased by 55 percent, from \$100,000 in fiscal year 2003 to \$155,000 in fiscal year 2013. In terms of its funding, as shown in figure 4, both nominal data (actual funding) and real dollars as of 2013 (data adjusted for inflation) show that ATF’s funding has fluctuated throughout the years. For example, real dollars decreased by about 10 percent (from fiscal years 2012 to 2013) and increased by about 9 percent (from fiscal years 2008 to 2009). ATF’s total overall real dollars funding increased by 23 percent from fiscal years 2003 through 2014, based on estimated budget resources available for 2014.

Figure 4: The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) Resources Available for Obligation, Fiscal Years 2003-2014



Source: GAO analysis of President's Budget Appendixes, Program and Financing Schedules. | GAO-14-553

²⁶According to OPM guidance, most federal civilian employees in executive branch agencies were covered by pay freezes on across-the-board pay adjustments from the beginning of 2011 through the end of 2013, but pay adjustments not covered by the freeze include periodic within-grade step increases and promotion increases, among other things.

Note: Fiscal year 2014 value is estimated budget resources available for obligation.

ATF strategic management officials cited additional hiring challenges. They stated that the bureau was under a hiring freeze from approximately January 2011 to February 2014. Additionally, ATF lost schedule B hiring authority after it became a part of DOJ.²⁷ This is an OPM hiring authority that allows agencies to hire directly without rating applicants using a competitive hiring process to fill special jobs or jobs with unusual circumstances.²⁸ According to ATF human resources officials, not having schedule B hiring authority complicated hiring for the bureau since it could no longer target applicants based on certain qualifications, such as individuals with prior law enforcement experience or specific language skills, and had to review a high volume of applications that were time-consuming to process. For instance, an ATF human resources official reported that the bureau received approximately 17,000 applications in 1 day for one special agent job announcement. ATF human resource officials stated that to better target applicants, they requested schedule B hiring authority from OPM in 2012, and regained it in April 2013. According to ATF officials, regaining this authority has allowed the bureau to streamline its hiring process by focusing on candidates with the most relevant experience, such as those with law enforcement experience.

To address the reductions in its staff, ATF senior officials explained that in fiscal year 2014, the bureau had thus far hired 96 agents, which is the first year since 2010 in which ATF has been able to hire more agents than the number of agents who left the agency. ATF also noted that in 2013, it reorganized its human resources office to create a unit tasked with improving the bureau's capability to conduct data-driven workforce analysis, or assessments of workforce data to improve ATF's understanding of trends and dynamics within the workforce. According to ATF, such assessments will help improve the bureau's understanding of

²⁷Prior to being transferred from the Department of the Treasury to the DOJ, the Office of Personnel Management (OPM) had granted the ATF schedule B excepted hiring authority in certain circumstances.

²⁸5 C.F.R. § 213.3201. "Upon specific authorization by OPM, agencies may make appointments . . . to positions which are not of a confidential or policy-determining character, and which are not in the Senior Executive Service, for which it is impracticable to hold open competition or to apply usual competitive procedures. Appointments under this authority are subject to the basic qualification standards established by the Office of Personnel Management for the occupation and grade level. Positions filled under this authority are excepted from the competitive service and constitute Schedule B."

attrition challenges and hiring needs. As of April 2014, ATF was finalizing the hiring of personnel to conduct these efforts. Accordingly, it is too soon to tell the extent to which ATF's workforce efforts will address staffing challenges.

ATF Does Not Have Readily Available Data to Monitor the Timeliness and Outcomes of Delayed Denial Investigations

ATF does not have readily available data to track and monitor how well field divisions initiate and resolve delayed denial investigations. These are investigations of persons who were able to improperly purchase firearms from federal firearms licensees because the firearm criminal background checks for the persons did not determine that the persons were ineligible to purchase a firearm within the particular timeframe for the firearms transaction to be completed.²⁹ These persons that are prohibited from purchasing firearms include, but are not limited to, convicted felons, fugitives from justice, drug addicts, and persons with a history of domestic violence.³⁰ Under federal law, a federal firearms licensee may transfer a firearm to a person if, after contacting the National Instant Criminal Background Check System,³¹ 3 business days have elapsed and the system has not notified the licensee that the recipient of a firearm by such person is unlawful.³² Any subsequent investigation that eventually determines the person to be ineligible to purchase or possess a firearm results in a delayed denial. The risk of firearms-related violent crime by these individuals increases if ATF does not investigate them in a timely manner and resolve unlawful possession of the firearm.

²⁹These investigations relate to the required background check for firearms purchases. Delayed denial investigations are investigations of individuals prohibited from purchasing a firearm, but who were able to purchase a firearm from a federal firearms licensee (FFL). FFLs are persons or companies licensed by ATF, pursuant to federal firearms laws and regulations, to engage in a firearms business. According to senior ATF officials, standard denial investigations are investigations of persons who were properly denied a firearms purchase by a FFL, but who may have made false statements in responding to the background check questions.

³⁰18 U.S.C. § 922(g).

³¹The FBI and designated state and local criminal justice agencies use the National Instant Criminal Background Check System to conduct background checks on individuals seeking to purchase firearms from federal firearms licensees or obtain permits to possess, acquire, or carry firearms.

³²18 U.S.C. § 922(t). A business day means "a day on which State offices are open."

ATF has the primary federal responsibility for investigating these persons and retrieving or disposing of any firearms as appropriate.³³ Bureau policy states that ATF is committed to act quickly in the interest of ensuring public safety and preventing violent crime. Bureau policy also states that these cases are a top priority. According to ATF data, delayed denial investigations opened for fiscal years 2003 through 2013 make up about 10 percent of investigations opened in all four mission activities and about 12 percent of investigations opened in the firearms mission activity. For this mission activity, delayed denial investigations make up about 16 percent of investigations opened in fiscal year 2013. In addition, according to ATF data, from fiscal years 2003 through 2013, the number of delayed denial investigations opened went from 32 percent of all ATF investigations opened in response to firearms-related background checks in fiscal year 2003 to 53 percent in fiscal year 2013, a 21 percent increase.

Timeliness Compliance

Senior ATF officials stated that resolving delayed denials in a timely way is important to protect the public, but ATF headquarters managers do not have information readily available to systematically monitor the timeliness of delayed denial investigations. In 2005, to address a recommendation by DOJ's OIG, the bureau developed a timeliness standard by which field agents are to initiate delayed denial investigations.³⁴ The standard stipulates that field agents are to initiate delayed denial investigations within 7 days of receiving the delayed denial information in the respective field offices.³⁵ However, ATF's N-Force database does not have the capacity to track whether ATF field agents initiate delayed denial investigations in accordance with this standard. For example, N-Force does not have the capability to track when an investigation is initiated because N-Force queries only yield the date an agent documented an

³³Gun Control Act of 1968, Pub. L. No. 90-618, 82 Stat. 1213.

³⁴In its 2004 report, the OIG recommended that ATF establish a timeliness standard for firearm retrievals and develop a system for ATF field office management to monitor and report on compliance with these standards. ATF reported that the system developed was one in which field managers rely on immediate supervisors to monitor and report compliance with the timeliness standard on a case-by-case basis. U.S. Department of Justice, *Review of the Bureau of Alcohol, Tobacco, Firearms and Explosives' Enforcement of Brady Act Violations Identified Through the National Instant Criminal Background Check System*, I-2004-006, Washington, D.C.: July 2004.

³⁵According to senior ATF officials, the FBI forwards delayed denials to ATF headquarters, which in turn refers them to ATF field offices.

action, and not the date the action was actually taken. As a result, ATF managers do not readily have the information to systematically monitor the timeliness of delayed denial investigations because they would need to manually query each investigation to obtain the date.

According to senior ATF officials, they do not track when the field started a delayed denial investigation because the timeliness standard is a guideline, not a required deadline. Additionally, the officials stated that the field has competing investigative priorities, which could take precedence over a delayed denial investigation and which may take a long time to investigate, affecting the field division's ability to pursue the delayed denial investigation. For example, if a violent crime incident were to occur at a major sporting event, ATF would deploy field agents to investigate that incident as its top priority versus sending a field agent to investigate a delayed denial. Although ATF does not systematically track timeliness, according to senior ATF officials, field managers are responsible for ensuring the timeliness of investigations and field supervisors are responsible for reviewing field agents' responses to delayed denials. ATF officials stated that headquarters managers do not monitor delayed denial investigations nor is there any other mechanism outside of N-Force to monitor delayed denials as they consider this to be a field function, and, therefore, they rely on field managers and supervisors for this oversight. Nevertheless, given that ATF policy states that the bureau is committed to act quickly in the interest of protecting public safety and preventing violent crime, having data on the timeliness of delayed denial investigations would allow field and headquarters managers to determine how quickly the field is initiating these investigations and addressing any delays or barriers to timely resolution. ATF officials explained that they are aware of the limitation in N-Force to produce timeliness data, and noted that the system is no longer adequate for ATF's needs and explained that ATF plans to replace the system. They also noted that N-Force was not designed to generate tracking information related to delayed denials. As a result, ATF officials solicited a request for information in April 2014, to develop a new case management system to replace N-Force, but they do not have a completion date yet. ATF provided us information outlining its efforts to develop the new system. However, the information ATF provided us did not demonstrate how, or if at all, the system would produce timeliness data. Establishing a mechanism to readily obtain data on the timeliness of initiating delayed denial investigations could help ATF ensure delayed denial investigations are being conducted in a timely manner in order to maximize public safety. To do this, the bureau could (1) ensure that the technical requirements outlined in the request for proposal for its new case management system will allow the new system

to provide managers with such data and (2) use a short term mechanism by, for example, revising the current case management system or using an interim tool—outside the current system—to easily query data, analyze trends, and monitor investigations—while the new system is under development.

Investigation Outcomes

Likewise, because of limitations with N-Force data, ATF headquarters managers do not have information readily available to systematically monitor the outcomes of delayed denial investigations. Outcomes can include retrieval of the firearm from a prohibited person or the transfer of the firearm to a nonprohibited person or to a federal firearms licensee.³⁶ In other instances, ATF may determine that the person is not prohibited or ATF may be unable to locate the prohibited person. ATF field agents are required to record firearm retrievals in N-Force, but not any of the other outcomes. According to ATF officials responsible for firearms enforcement operations, if field agents record the outcomes of any of its delayed denial investigations—other than firearms retrievals—they do so in N-Force in a narrative format, and the information cannot be easily searched using an electronic query.

According to senior ATF officials, field managers and supervisors are responsible for monitoring the outcomes of all investigations to ensure field agents are responding to delayed denials in compliance with ATF policy and priorities. However, by not having the necessary data readily available to monitor these outcomes, it is difficult for ATF headquarters and field managers to ensure that agents are responding to delayed denials in compliance with ATF policy and priorities. *Standards for Internal Control in the Federal Government* state that control activities should be designed to ensure management's directives are carried out.³⁷ An example of such a control activity would be a mechanism to monitor the outcomes of delayed denial investigations. Such mechanisms would help ATF provide the necessary oversight of delayed denial investigations, particularly given that ATF has identified these investigations as one of its top priorities and that these investigations help promote public safety.

³⁶Prohibited persons include those who are convicted felons, fugitives from justice, drug addicts, and persons with a history of domestic violence.

³⁷ [GAO/AIMD-00-21.3.1](#).

Conclusions

As an agency that has assigned a high priority to protecting communities from violent crime, ATF's ability to adequately oversee investigations and monitor field operations is critical to public safety. ATF is beginning to evaluate whether field division investigations align with ATF's priorities and assess how to better address staffing challenges. However, it is too early to assess these efforts. Additionally, ATF does not have complete information to track and monitor the timeliness and outcomes of delayed denial investigations. Given that there are potential safety issues regarding delayed denials, establishing a mechanism—by, for example, revising N-Force and building capabilities into ATF's new case management system—to monitor the timeliness and outcomes of delayed denials could help provide data to better inform managers. Specifically, these adjustments could help ATF ensure the timely completion and monitoring of the status of delayed denial investigations so as to help maximize public safety.

Recommendation for Executive Action

In order for ATF to achieve its priority of having the greatest impact on the most violent criminal threats, we recommend that the Director of ATF take the following action:

- establish short-term mechanisms—by, for example, making revisions to the current case management system—and long-term mechanisms, such as by incorporating technical requirements into its requests for proposal on ATF's new case management system, to allow headquarters managers to have readily available data to systematically monitor
 - time frames for initiating delayed denial investigations in the field in order to have the information to better monitor the timeliness of these investigations and
 - outcomes of all delayed denial investigations in order to better monitor how effectively ATF is responding to these investigations.

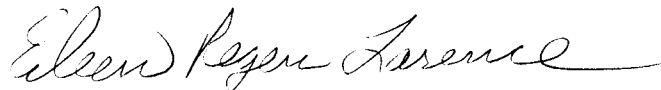
Agency Comments and Our Evaluation

We provided a draft of this report to ATF and DOJ for review and comment. ATF did not provide written comments to include in our report. However, during a meeting held on June 23, 2014 with DOJ and ATF senior officials, the legal counsel to ATF's director stated that the bureau appreciated the opportunity to review the draft report and that ATF concurred with our recommendation. On June 25, 2014, DOJ also explained by email that the agency and ATF concurred with the recommendation. During our meeting, ATF senior officials noted specific

short-term and long-term actions the bureau plans to take in order to address the recommendation. These actions include, among other things, potential revisions to the current case management system and incorporating technical requirements into requests for proposal on the bureau's new case management system. ATF senior officials explained that they plan to complete the short-term actions within 9 months and the long-term actions within 1 year. If implemented effectively, we believe that ATF's actions would address the intent of our recommendation. Thus, we revised our recommendation to include ATF's planned actions as examples of the types of actions the agency could take to satisfy the recommendation. ATF also provided us written technical comments that included technical comments from DOJ, which we incorporated as appropriate.

As agreed with your offices, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the report date. At that time, we will send copies to the Director of ATF, and the Attorney General of the United States and appropriate congressional committees. In addition, the report will be available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-8777 or larencee@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix I.



Eileen R. Larence
Director, Homeland Security and Justice

Appendix I: GAO Contact and Staff Acknowledgments

GAO Contact

Eileen R. Larence, (202) 512-8777 or larencee@gao.gov

Staff Acknowledgments

In addition to the contact named above, Dawn Locke (Assistant Director); Joel Aldape; David Alexander; Nanette J. Barton; Billy Commons, III; Eric Hauswirth; Susan Hsu; Mary Catherine Hult; Linda Miller; Robin Nye; Luis E. Rodriguez; and Su Jin Yon made key contributions to this report.

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