

# HOW U.S. GUN LAWS FUEL THE BORDER CRISIS

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*Weak U.S. gun laws enable criminal groups in Mexico, Central America, and the Caribbean to obtain dangerous firearms, which they use to inflict violence against civilians. Evidence shows that people from these regions then flee to the United States to escape firearm-related violence. While firearms trafficking is not the sole reason for illegal immigration, it is a significant contributor to current migration patterns. One root cause of illegal immigration lies in firearms originating from the United States being bought by American citizens and sold illegally to foreign gangs. This Note argues that the current legal framework and enforcement mechanisms governing firearms trafficking are not sufficient to stop the southward flow of firearms. To address the border crisis caused by firearms trafficking, the United States must urgently strengthen domestic gun laws and improve both interagency coordination and diplomacy with foreign governments. Although substantial changes in the short-term are politically infeasible, future reforms are more likely if firearms trafficking is reframed as a national security issue fueling illegal immigration, rather than as a domestic gun control issue.*

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\* J.D., 2026, New York University School of Law. I am grateful to Professors David Golove, Rachel Goldbrenner, and Stephen Holmes for their guidance. I also want to thank Rachel Seplow, Morgan Munroe, and Shreyas Iyer for their assistance and feedback. Lastly, I want to thank Kadeem Cooper who had previously worked with me on this topic during my time at Representative Katie Porter’s office.

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#### INTRODUCTION

For years, firearms trafficked from the United States to Latin America and the Caribbean have empowered bad actors, fueled violence in those regions, and caused mass migration. Due to legal loopholes, federal enforcement challenges, and the gun lobby, among a variety of other factors, firearms transactions in the United States are highly susceptible to diversion into the illegal market. This means that many firearms end up in the hands of gangs and drug cartels in Mexico, Central America, and the Caribbean, who inflict violence using those firearms. Empirical data show that this then causes those people to flee to the United States. At its core, firearms trafficking is a national security issue. Not only do trafficked firearms threaten the immediate safety of the people outside of the United States, but they also undermine the current administration's goal of bolstering border security and thwarting illegal immigration.

The proliferation of firearms has been a longstanding issue in the United States. Today, the United States is the world's largest civilian firearms market. There are nearly 78,000 licensed gun dealers in the United States, which is "more than all McDonald's, Burger King, Subway, and Wendy's locations combined, and twice the number of U.S. post offices."<sup>1</sup> Annually, American gun manufacturers produce more

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1. *Inside the Gun Shop: Firearms Dealers and Their Impact*, EVERYTOWN FOR GUN SAFETY (July 6, 2023), <https://everytownresearch.org/report/firearms-dealers-and-their-impact/> [https://perma.cc/U73X-QKK9].

than 13 million firearms,<sup>2</sup> and there are more than 378 million firearms in circulation among the U.S. civilian population,<sup>3</sup> which is equivalent to roughly 114 guns per 100 people. Firearms are sold through various channels,<sup>4</sup> including federally licensed dealers (“FFLs”), gun shows, and private sales between unlicensed individuals.

The wide availability of firearms at home and abroad is a symptom of weak gun laws in the United States. While not all firearms transactions are illegal and not all firearms are used for illegitimate purposes, loopholes in gun laws have historically made it easy for traffickers to acquire firearms. For example, while federal law requires background checks when an individual purchases a gun from a licensed dealer, private sales by unlicensed sellers generally do not require background checks.<sup>5</sup> This enables individuals with criminal records, or those who cannot otherwise pass the background check, to readily acquire firearms at places like gun shows, where such sales are prevalent. Consequently, more than 40% of all gun trafficking cases involve guns obtained from unlicensed sellers.<sup>6</sup> Additionally, since countries in Latin American and the Caribbean have strict domestic gun control laws, overseas criminal groups rely on gaps in U.S. law to acquire firearms. Ultimately, U.S.-sourced firearms empower these groups to inflict violence against civilians, enabling them to retain their power. Over time, regional gun violence has forced many victims of gang violence to flee to the United States. Accordingly, weak gun control laws directly undermine the current administration’s efforts to secure the border. Any long-term solution to the migration crisis must therefore start at home by strengthening domestic gun laws.

This Note will proceed in five parts. Part I analyzes how access to U.S.-sourced firearms has empowered criminal groups in Mexico,

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2. *Number of Firearms Manufactured in the United States from 1986 to 2022*, STATISTA, <https://www.statista.com/statistics/215395/number-of-total-firearms-manufactured-in-the-us/> [<https://perma.cc/6463-EAYE>] (last updated Jan. 23, 2024).

3. Alexander Testa, Daniel C. Semenza & Michael Anestis, *Storage of Firearms in Vehicles: Findings from a Sample of Firearm Owners in Nine U.S. States*, *INJ. EPIDEMIOLOGY*, Sep. 10, 2024, at 1.

4. *See, e.g.*, Press Release, U.S. Dep’t of Just., U.S. Att’y’s Off., S. Dist. of Cal., Local Gun Dealer Convicted of Illegally Trafficking Firearms and Conducting Straw Purchases (Sep. 9, 2022), <https://www.atf.gov/news/press-releases/local-gun-dealer-convicted-illegally-trafficking-firearms-and-conducting-straw-purchases> [<https://perma.cc/K7XS-39W5>].

5. *Background Checks on All Gun Sales*, EVERYTOWN FOR GUN SAFETY, <https://www.everytown.org/solutions/background-checks/> [<https://perma.cc/3XSH-GD5F>].

6. U.S. DEP’T OF JUST., BUREAU OF ALCOHOL, TOBACCO, FIREARMS & EXPLOSIVES, NATIONAL FIREARMS COMMERCE AND TRAFFICKING ASSESSMENT: FIREARMS TRAFFICKING INVESTIGATIONS – VOLUME III – PART III: FIREARM TRAFFICKING CHANNELS AND METHODS USED 1–2 (2024) [hereinafter NFCTA - VOLUME III - PART III].

Central America, and the Caribbean to inflict violence against civilians, state authorities, and other criminal organizations. Empirical data indicate that the violence caused by these groups has directly caused people in those regions to flee to the United States. Part II provides an overview of how firearms are trafficked, including the various methods that traffickers employ to acquire firearms and the tactics they use to smuggle them out of the United States. Part III discusses the current framework governing firearms trafficking. It surveys the federal agencies that are primarily responsible for combatting firearms trafficking, analyzes current laws regulating firearms, and discusses ongoing efforts by the Trump Administration to dismantle existing gun control laws. Part IV presents challenges with the current enforcement mechanisms and issues with the existing framework. Finally, Part V provides recommendations to resolve these problems.

## I. HOW GUN TRAFFICKING FUELS THE MIGRATION CRISIS

### A. *Empowerment of Criminal Organizations*

The flow of U.S. firearms into Mexico, Central America, and the Caribbean has undermined regional security and destroyed many lives. Easy access to firearms has empowered criminal organizations, such as local gangs and drug cartels, to commit violent crimes against civilians, state authorities, and other criminal organizations. Accordingly, the proliferation of U.S.-sourced firearms in Mexico, Central America, and the Caribbean is a major driver of the migration crisis from these regions.

In Mexico, the impact of firearms trafficking on regional violence is well documented. According to the Bureau of Alcohol, Tobacco, Firearms and Explosives (“ATF”), 70% of the firearms recovered at crime scenes in Mexico between 2014 and 2018 were U.S.-sourced.<sup>7</sup> By comparison, the Mexican government estimates that as many as 90% of these firearms originated from the United States between 2016 and 2022.<sup>8</sup> Cumulatively, up to one million firearms, including military-grade weapons, flow across the border each year.<sup>9</sup> The wide availability

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7. U.S. GOV'T ACCOUNTABILITY OFF., GAO-21-322, FIREARMS TRAFFICKING: U.S. EFFORTS TO DISRUPT GUN SMUGGLING INTO MEXICO WOULD BENEFIT FROM ADDITIONAL DATA AND ANALYSIS 12 (2021) [hereinafter GAO-21-322].

8. Guillermo Lemus, *Infographics: Arms Trafficking Across the US-Mexico Border*, WILSON CTR. (Feb. 13, 2024), <https://www.wilsoncenter.org/article/infographics-arms-trafficking-across-us-mexico-border> [https://perma.cc/E55G-FT5X].

9. E.D. Cauchi, *Mexican Drug Cartels Pay Americans to Smuggle Weapons Across the Border; Intelligence Documents Show*, CBS NEWS (Sep. 18, 2023, at 17:31 ET), <https://www.cbsnews.com/news/mexican-drug-cartels-american-weapons-smuggled-across-border/> [https://perma.cc/8AS2-GXM7].

of American firearms has enabled criminal organizations in Mexico to wage violence against Mexican security forces.<sup>10</sup> For example, drug cartels in Mexico have been known to use U.S.-sourced 0.50-caliber rifles to attack police armored vehicles, outgunning Mexican police forces in many instances.<sup>11</sup> In 2019, cartel gunmen besieged the city of Culiacán and battled Mexican military units using U.S.-sourced firearms, including machine guns, which resulted in civilian casualties.<sup>12</sup> Because of their access to the U.S.-sourced firearms, cartels frequently overpower the state authorities in Mexico, inhibiting the local authorities from quelling cartel violence and preventing civilian casualties. Moreover, the dramatic rise in cartel firepower after the 2004 lapse of the United States' Federal Assault Weapons Ban demonstrates what happens when domestic gun regulation is weakened. After 2004, armed groups began exploiting legal gaps in U.S. law to amass weapons and entrench violence.<sup>13</sup> This example underscores why rigorous firearms regulation remains a continuing necessity to prevent similar proliferation in the future.

The situation in the Caribbean is not any better. In Caribbean countries, firearms are used in over half of all homicides, and 73% of the firearms recovered between 2018 and 2022 were traced back to the United States.<sup>14</sup> Additionally, Caribbean officials estimate that roughly 90% of the firearms used in homicides in their countries originate from the United States and are thus responsible for the rising murder rates in the region.<sup>15</sup> Even though countries like Jamaica, Haiti, and Trinidad & Tobago do not manufacture guns domestically and have strict gun

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10. GAO-21-322, *supra* note 7, at 3–4.

11. *Id.* at 4.

12. Joseph Trevithick, *Cartel “Narco Tanks,” Heavy Weapons on Full Display During Battle Over El Chapo’s Son*, WAR ZONE (Oct. 21, 2019, at 13:59 ET), <https://www.twz.com/30494/cartel-narco-tanks-heavy-weapons-on-full-display-during-battle-over-el-chapos-son> [<https://perma.cc/65ZT-KGNR>].

13. See Carlos A. Pérez Ricart, *A Porous Border and the River of Steel: Weapons Trafficked from US Bleed Mexico Dry*, EL PAÍS (May 29, 2024, at 18:21 CEST), <https://english.elpais.com/international/2024-05-29/a-porous-border-and-the-river-of-steel-weapons-trafficked-from-us-bleed-mexico-dry.html> [<https://perma.cc/KUX6-DMA9>].

14. U.S. GOV’T ACCOUNTABILITY OFF., GAO-25-107007, CARIBBEAN FIREARMS: AGENCIES HAVE ANTI-TRAFFICKING EFFORTS IN PLACE, BUT STATES COULD BETTER ASSESS ACTIVITIES 1, 9–10 (2024) [hereinafter GAO-25-107007].

15. David Kocieniewski & Monte Reel, *In ‘War on Guns,’ Caribbean Allies Ask Which Side the US Is On*, BLOOMBERG (Jan. 17, 2024), <https://www.bloomberg.com/graphics/2024-us-made-gun-exports-caribbean-violence/?embedded-checkout=true> [<https://perma.cc/U9GT-QWJL>]; see also *Holness Calls For Global War on Gangs and Guns*, ST. KITTS & NEVIS OBSERVER (Mar. 27, 2025), <https://www.thestkittsnevisobserver.com/holness-calls-for-global-war-on-gangs-and-guns/> [<https://perma.cc/5MVD-UA8L>].

regulations,<sup>16</sup> violent deaths in the Caribbean are roughly three times the global average.<sup>17</sup> In Haiti, U.S.-sourced firearms have allowed gangs to overpower local authorities, perpetrate sexual violence,<sup>18</sup> and commit other violent acts against civilians, such as kidnapping, human trafficking, and murder.<sup>19</sup>

In Central America, gangs like MS-13 and Barrio 18 have long benefitted from American firearms. Like in Mexico and in the Caribbean, armed gangs in Central America frequently overpower local authorities because of their access to U.S.-sourced firearms.<sup>20</sup> Owing in large part to these firearms, homicide rates in Central America are some of the highest in the world.<sup>21</sup> For example, Honduras has a homicide rate of 38 per 100,000 people.<sup>22</sup>

These datasets indicate that there is a strong correlation between the trafficking of U.S. firearms and violence in Latin America and the Caribbean. Additionally, the issues identified above are likely even worse than currently available data suggest due to the proliferation of untraceable guns, such as ghost guns. Currently available data do not include these untraceable weapons, and as a result, do not paint a complete picture as to the sheer magnitude of regional violence caused by firearms trafficking. If these untraceable weapons were to be included,

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16. See Sarah Metz & E.D. Cauchi, *Surge of Seizures of Guns and Ammunition Flowing from U.S. to Latin America and Caribbean, Fueling Conflict*, CBS NEWS (Nov. 25, 2024, at 9:13 ET), <https://www.cbsnews.com/news/guns-ammunition-seized-us-latin-america-caribbean/> [<https://perma.cc/3T3G-X856>]; see also *High Murder Rates in the Caribbean Linked to Guns Trafficked from the United States*, U.S. GOV'T ACCOUNTABILITY OFF. (Nov. 20, 2024), <https://www.gao.gov/blog/high-murder-rates-caribbean-linked-guns-trafficked-united-states> [<https://perma.cc/4BK3-D8C8>].

17. *High Murder Rates in the Caribbean Linked to Guns Trafficked from the United States*, *supra* note 16.

18. Jess DiPierro Obert, 'Women's Bodies Weaponized': Haiti Gangs Use Rape in Spiraling Violence, *GUARDIAN* (Nov. 14, 2022, at 6:00 ET), <https://www.theguardian.com/world/2022/nov/14/haiti-gangs-violence-women-rape>. [<https://perma.cc/8H4E-F2K3>].

19. Oliver Laughland, *Guns and Weapons Trafficked from US Fueling Haiti Gang Violence*, *GUARDIAN* (Mar. 14, 2024, at 6:30 ET), <https://www.theguardian.com/us-news/2024/mar/14/haiti-gang-violence-us-guns-smuggling> [<https://perma.cc/4VAF-W8KP>].

20. U.S. GOV'T ACCOUNTABILITY OFF., GAO-22-104680, FIREARMS TRAFFICKING: MORE INFORMATION IS NEEDED TO INFORM U.S. EFFORTS IN CENTRAL AMERICA 3–5 (2022) [hereinafter GAO-22-104680].

21. See generally *Homicides in Central America: Toward a Better Understanding of Territorial Trends, Causes, and Dynamics*, WILSON CTR. (June 24, 2019), <https://www.wilsoncenter.org/article/homicides-central-america-toward-better-understanding-territorial-trends-causes-and-dynamics> [<https://perma.cc/3U52-5H4B>] (providing regional homicide statistics and analyzing patterns of lethal violence across Central America).

22. *Honduras: Events of 2023*, HUM. RTS. WATCH (2023), <https://www.hrw.org/world-report/2024/country-chapters/honduras> [<https://perma.cc/482J-VTM4>].

it would likely reveal an even stronger link between the proliferation of firearms and the empowerment of criminal organizations.

*B. Displacement and Mass Migration*

As a result of weak U.S. gun laws empowering international criminal organizations, these organizations are able to terrorize civilians, often leading to mass migration from these unstable regions. As empirical evidence shows, many of these civilians flee to the United States, increasing the “crisis” at the southern border.<sup>23</sup> Thus, because firearms trafficking is a root cause of the border crisis, the United States has a strong national security interest in strengthening its gun regulations, especially considering that border security continues to be a top priority of the Trump Administration.<sup>24</sup> Additionally, despite the strong relationship between international gun violence and mass migration, the displacement of civilian populations is rarely discussed in public discourse on firearms trafficking. However, because the two issues are so irrevocably intertwined, any analysis that seeks to examine the border crisis is incomplete without considering the impacts of firearms trafficking.

Gangs and drug cartels in Latin America and the Caribbean regularly threaten the security of civilians with de facto impunity. The resulting violence in those regions has caused civilians to flee en masse. In recent years, cartel violence in parts of Mexico has driven a significant increase in cross-border displacement, with Mexican nationals becoming one of the largest groups seeking international protection in the United States, including more than 107,000 asylum claims filed in the first half of 2022 alone.<sup>25</sup> Data on Central America and the Caribbean are less clear, but as of 2022, more than one million people from Central America have been displaced from their homes, including 665,200 people who have left their countries.<sup>26</sup> In Haiti, more than one million people have been displaced from their homes as of 2024, though these figures only reflect

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23. See Proclamation No. 10886, 90 Fed. Reg. 8327 (Jan. 29, 2025) (declaring a national emergency at the southern border).

24. See *id.*

25. MELISSA JOHNS ET AL., UNITED NATIONS HIGH COMM’R FOR REFUGEES, MEXICO’S POLICY RESPONSE AS AN EMERGING DESTINATION FOR REFUGEES, ASYLUM-SEEKERS, AND PERSONS IN NEED OF INTERNATIONAL PROTECTION 2 (2023); see also Mayela Molina, *What Is Happening in Mexico? An Overview of the Situation for People on the Move*, NORWEGIAN REFUGEE COUNCIL (Dec. 20, 2024), <https://www.nrc.no/feature/2024/what-is-happening-in-mexico-an-overview-of-the-situation-for-people-on-the-move> [<https://perma.cc/2LBC-PEBH>].

26. *Central America Refugee Crisis*, USA FOR UNHCR, <https://www.unrefugees.org/emergencies/central-america/> [<https://perma.cc/Z7FJ-QNEW>].

internal displacement within the country.<sup>27</sup> These statistics represent the total scale of displacement caused by gang and cartel violence. Although not all displaced people attempt to migrate to the United States, many of them do. In fiscal year 2023, approximately 76,000 Haitian migrants were encountered at the U.S.-Mexico border.<sup>28</sup> Additionally, some 5,000 Haitian migrants were interdicted at sea by the U.S. Coast Guard during that period.<sup>29</sup> Also in fiscal year 2023, 180,000 Mexican migrants crossed the southern border, 88% of whom cited violence as their reason for leaving Mexico.<sup>30</sup> Lastly, the number of U.S. Border Patrol encounters in fiscal year 2024 with migrants from Guatemala, El Salvador, and Honduras was 352,000.<sup>31</sup> These disconcerting figures are reflective of the prevalence of violent crime in the region.

Many migrants cite gang violence fueled by firearms as their central reason for leaving their countries.<sup>32</sup> Evidence shows that a primary driver of these migrations is to flee firearm-related violence,<sup>33</sup> even if it is not the sole reason. In a 2024 study, 48% of migrants from Latin America and the Caribbean reported experiencing gun-related violence in their home countries, and over half of those individuals identified forced displacement as their reason for leaving, compared with 39% among those who had not experienced such threats.<sup>34</sup> Additionally, 34% of those who had experienced gun-related violence had symptoms of

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27. *Haiti Displacement Triples Surpassing One Million as Humanitarian Crisis Worsens*, INT'L ORG. FOR MIGRATION (Jan. 14, 2025), <https://www.iom.int/news/haiti-displacement-triples-surpassing-one-million-humanitarian-crisis-worsens> [<https://perma.cc/5RQN-YB9U>].

28. Beatrice Dain & Jeanne Batalova, *Haitian Immigrants in the United States*, MIGRATION POL'Y INST. (Nov. 8, 2023), <https://www.migrationpolicy.org/article/haitian-immigrants-united-states-2022> [<https://perma.cc/EYD5-ML8Q>].

29. *Id.*

30. Daina Beth Solomon & Laura Gottesdiener, *Insight: Rise in Mexican Cartel Violence Drives Record Migration to the US*, REUTERS (Dec. 15, 2023), <https://www.reuters.com/world/americas/rise-mexican-cartel-violence-drives-record-migration-us-2023-12-15/> [<https://perma.cc/3LXB-AA2H>].

31. Peter J. Meyer, *Central American Migration: Root Causes and U.S. Policy*, CONG. RSCH. SERV., <https://sgp.fas.org/crs/row/IF11151.pdf> [<https://perma.cc/KNQ4-UT2P>] (last updated Oct. 30, 2024).

32. *See, e.g.*, DOCTORS WITHOUT BORDERS, FORCED TO FLEE CENTRAL AMERICA'S NORTHERN TRIANGLE: A NEGLECTED HUMANITARIAN CRISIS 5 (2017) [https://www.msf.org/sites/default/files/msf\\_forced-to-flee-central-americas-northern-triangle\\_e.pdf](https://www.msf.org/sites/default/files/msf_forced-to-flee-central-americas-northern-triangle_e.pdf) [<https://perma.cc/9LYN-LCUB>] (finding that 39.2% of migrants from the Northern Triangle fled primarily due to gang violence).

33. *See, e.g.*, Eugenio Weigend Vargas, Jason Goldstick & Laura Vargas, *Firearm-Related Threats Before Migrating to the USA from Latin America and the Caribbean*, INJ. PREVENTION, Oct. 23, 2024, at 1, <https://injuryprevention.bmj.com/content/injuryprev/early/2024/10/21/ip-2024-045369.full.pdf> [<https://doi.org/10.1136/ip-2024-045369>].

34. *Id.* at 3.

PTSD linked to their gun violence experiences.<sup>35</sup> By comparison, only 21% of people in the United States report ever experiencing gun-related violence.<sup>36</sup> Most of the firearms driving this gun violence originate from the United States. In Mexico, 70% of the guns recovered at crimes are traced back to the United States,<sup>37</sup> and the same is true of 50% of all crimes in Central America.<sup>38</sup> Thus, firearms trafficking fuels a vicious cycle of insecurity and migration. The southward flow of firearms originating from the United States contributes to instability and violence in Latin America and the Caribbean, which in turn causes a northward flow of migrants into the United States. While there are myriad reasons for illegal immigration, data indicate that firearms trafficking is, at a minimum, a significant contributor to these migration patterns. Copious empirical studies have shown “violence and insecurity in [these regions] have been identified as contributing factors in migration to the U.S.”<sup>39</sup> Moreover, the linkage between firearms trafficking and migration has long been internationally recognized. For example, Mexico has identified firearms trafficking as one of the “key drivers of migration” and has argued that, absent stronger gun regulation, Mexico would be less safe.<sup>40</sup> Various reports from the United Nations (“UN”) also echo this view. For example, a UN report on Haiti acknowledges that the inflow of high-caliber weapons from the United States has fueled political instability in Haiti, which has significantly contributed to a “major migration exodus” of Haitians seeking safety in the United States.<sup>41</sup>

To be clear, firearms trafficking is not the only cause of these migration patterns. Migrants seek to move to the United States for a whole variety of other reasons, including reunification with families

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35. *Id.* at 2.

36. *Id.* at 3.

37. GAO-21-322, *supra* note 7, at 12.

38. Nate Smith, *U.S. Guns Are Fueling Violence in Central America, Here's How to Help Stop the Arms Flow*, JUST SEC. (Feb. 1, 2023), <https://www.justsecurity.org/84954/u-s-guns-are-fueling-violence-in-central-america-heres-how-to-help-stop-the-arms-flow/> [<https://perma.cc/KDT9-W8F8>].

39. GAO-22-104680, *supra* note 20.

40. See Nick Wilson, *Mexico's Lawsuit to Hold U.S. Gun Manufacturers Accountable Will Affect Public Safety in Both Countries*, CTR. FOR AM. PROGRESS (Feb. 28, 2025), <https://www.americanprogress.org/article/mexicos-lawsuit-to-hold-u-s-gun-manufacturers-accountable-will-affect-public-safety-in-both-countries/> [<https://perma.cc/TBD3-BH42>].

41. See RSCH. & TREND ANALYSIS BRANCH, UNITED NATIONS OFF. ON DRUGS & CRIME, *HAITI'S CRIMINAL MARKETS: MAPPING TRENDS IN FIREARMS AND DRUG TRAFFICKING 3* (2023), [https://www.unodc.org/documents/data-and-analysis/toc/Haiti\\_assessment\\_UNODC.pdf](https://www.unodc.org/documents/data-and-analysis/toc/Haiti_assessment_UNODC.pdf) [<https://perma.cc/P4ZV-N3Z2>].

and economic insecurity unrelated to gang violence.<sup>42</sup> Nevertheless, there is sufficient empirical evidence to suggest that firearms trafficking meaningfully contributes to illegal immigration into the United States. If nearly half of all migrants from Latin America and the Caribbean countries are victims of gun violence in their home countries, and most of those guns originate from the United States, it stands to reason that reducing criminal gangs' access to these guns would reduce gun violence in these countries. Since many migrants cite fleeing gun violence as a central reason for their migration, it further tracks that reducing such gun violence would reduce their need to immigrate to the United States.

## II. HOW FIREARMS ARE TRAFFICKED

### A. Acquisition of Firearms

Traffickers employ a wide array of methods to acquire firearms in the United States. While the discussion that follows captures some of the most common diversion methods, the list is not exhaustive. These methods include private sales, straw purchasing, theft, and the production of ghost guns, including 3D-printed guns.

According to ATF, the most prevalent trafficking channel is private sales, which constitute 40.7% of all firearm trafficking cases.<sup>43</sup> Private sales include firearms bought and sold on online marketplaces,<sup>44</sup> such as chatrooms and social media sites, and at public venues, such as gun shows.<sup>45</sup> In many instances, private sellers do not conduct background checks on purchasers, nor do they maintain sales records, which means that many transactions never get logged in the federal database of gun purchases.<sup>46</sup> Consequently, traffickers—especially those with a criminal history—are able to purchase firearms and transport them across borders without being tracked by the authorities.

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42. Marty Schladen, *Study: U.S.-Made Weapons Might Be Driving Migrants to the Southern Border*, OHIO CAP. J. (Dec. 2, 2024, at 5:00 ET), <https://ohiocapitaljournal.com/2024/12/02/study-u-s-made-weapons-might-be-driving-migrants-to-the-southern-border/> [https://perma.cc/MMJ5-QXVV].

43. NFCTA - VOLUME III - PART III, *supra* note 6, at 1–2.

44. *Background Checks: Interstate & Online Gun Sales*, GIFFORDS L. CTR. TO PREVENT GUN VIOLENCE, <https://giffords.org/lawcenter/gun-laws/policy-areas/background-checks/interstate-online-gun-sales/> [https://perma.cc/2ZN8-92P4].

45. *Gun Sales: Gun Shows*, GIFFORDS L. CTR. TO PREVENT GUN VIOLENCE, <https://giffords.org/lawcenter/gun-laws/policy-areas/gun-sales/gun-shows/> [https://perma.cc/7MKV-C2VW].

46. *Id.*

Similarly, straw purchasing schemes constitute 39.5% of total firearm trafficking cases.<sup>47</sup> In these schemes, traffickers employ individuals with clean records, including American citizens,<sup>48</sup> who can pass a federal background check.<sup>49</sup> Once employed by the traffickers, these individuals purchase firearms on the traffickers' behalf. Straw purchasing is commonly used in "ant trafficking" schemes, which entail cross-border movements of small quantities of firearms.<sup>50</sup> Additionally, more than 25% of firearm trafficking cases involve theft.<sup>51</sup> Traffickers routinely steal from gun stores, common carriers, and private homes. In many instances, traffickers also acquire firearms from corrupt firearms dealers, or FFLs, who stand to profit from off-the-books transactions.<sup>52</sup>

In recent years, traffickers have also turned to ghost guns, including 3D-printed guns. Ghost guns are firearms that lack serial numbers and are often assembled from DIY kits or 3D-printed components.<sup>53</sup> Because these guns have no serial numbers, they are virtually untraceable. In 2021 alone, an estimated 20,000 ghost guns were reported to ATF.<sup>54</sup> In a typical trafficking scenario, a trafficker would acquire and smuggle a DIY gun kit to their target destination and assemble the parts themselves using basic tools.<sup>55</sup> Until a DOJ rule in 2022, there were no mandatory federal background checks for sales of key gun parts, such as frames and receivers.<sup>56</sup> Another area of concern is the emergence of guns manufactured with 3D printers. Like ghost

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47. NFCTA - VOLUME III - PART III, *supra* note 6, at 1–2. While comprehensive data is unavailable, estimates of firearm trafficking are calculated by, *inter alia*, gun trace data submitted by foreign governments to the ATF through eTrace. BUREAU OF ALCOHOL, TOBACCO, FIREARMS & EXPLOSIVES, U.S. DEP'T OF JUST., NATIONAL FIREARMS COMMERCE AND TRAFFICKING ASSESSMENT: FIREARMS TRAFFICKING INVESTIGATIONS – VOLUME II – PART IV: CRIME GUNS RECOVERED OUTSIDE THE UNITED STATES AND TRACED BY LAW ENFORCEMENT I (Jan. 11, 2023) [hereinafter NFCTA - VOLUME II - PART IV].

48. Cauchi, *supra* note 9.

49. Lemus, *supra* note 8.

50. *Id.* Ant trafficking refers to the practice of smuggling firearms in small batches across multiple trips, rather than in a single large shipment. UNITED NATIONS OFF. ON DRUGS & CRIME, GLOBAL STUDY ON FIREARMS TRAFFICKING 58 (2020).

51. NFCTA - VOLUME III - PART III, *supra* note 6, at 2.

52. *See, e.g.*, Press Release, U.S. Dep't of Just., *supra* note 4.

53. *Frequently Asked Questions: Ghost Guns*, GIFFORDS L. CTR. TO PREVENT GUN VIOLENCE, <https://giffords.org/frequently-asked-questions-ghost-guns/> [https://perma.cc/LEJ5-HR6Z].

54. *Id.*

55. *See* YULIA YARINA & NICOLAS FLORQUIN, SMALL ARMS SURVEY, DANGEROUS DEVICES: PRIVATELY MADE FIREARMS IN THE CARIBBEAN 2–4 (2024), <https://www.smallarmssurvey.org/sites/default/files/resources/SAS-Situation-Update-2024-Caribbean-PMFs-EN.pdf> [https://perma.cc/U2T2-VB4Y].

56. *See Fact Sheet: Privately Made Firearms (PMFs), aka "Ghost Guns," "Buy-Build-Shoot" Kits, and the "Frame or Receiver" Final Rule*, U.S. DEP'T OF JUST. OFF. OF PUB.

guns, 3D-printed guns have no serial numbers and are untraceable. Accordingly, many 3D-printed guns are ghost guns, but ghost guns additionally include kit-built firearms that are not 3D-printed. Unlike other ghost guns, 3D-printed guns enable traffickers to manufacture their own guns without ever needing to transact with third parties.<sup>57</sup> As long as traffickers have access to 3D printers and the schematics of a firearm, they can manufacture guns without needing to go through intermediaries, such as FFLs.

### B. *Trafficking of Firearms*

Once firearms are acquired, traffickers utilize a wide array of concealment methods and smuggling routes to evade detection by authorities. However, attempting to intercept all illicit southbound firearms is like “trying to plug a sift” due to the sheer trafficking volume, elusive concealment tactics employed by traffickers, and inadequate inspection efforts.<sup>58</sup> Ordinarily, traffickers are either small-time independent dealers or employees of large, criminalized networks overseen by drug cartels. Most traffickers smuggling firearms out of the United States are American citizens.<sup>59</sup> For example, in 2023, a Texas man was indicted for selling enough firearm parts to assemble nearly 5,000 semi-automatic rifles to his contacts in Mexico.<sup>60</sup> Cumulatively, these traffickers make up a vast gun procurement network spanning across the entire United States, especially in border states with looser gun laws, such as Arizona and Texas.<sup>61</sup>

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AFFS. (Apr. 11, 2022), <https://www.justice.gov/archives/opa/press-release/file/1493431/dl> [<https://perma.cc/YGP4-VH9Y>].

57. YARINA & FLORQUIN, *supra* note 55, at 4–5.

58. *See id.*; Dánica Coto, *Guns Smuggled from the US Are Blamed for a Surge in Killings on More Caribbean Islands*, ASSOCIATED PRESS (Nov. 13, 2024, at 5:51 PT), <https://apnews.com/article/caribbean-turks-caicos-gun-violence-4bc996c17d956b7c2f3809326b703f77> [<https://perma.cc/G6SN-FUWF>].

59. BUREAU OF ALCOHOL, TOBACCO, FIREARMS & EXPLOSIVES, U.S. DEP’T OF JUST., NATIONAL FIREARMS COMMERCE AND TRAFFICKING ASSESSMENT: FIREARMS TRAFFICKING INVESTIGATIONS – VOLUME III – PART VI: CHARACTERISTICS OF FIREARM TRAFFICKERS, END USERS, AND DEFENDANTS 7 (2024).

60. *See, e.g.*, Press Release, U.S. Att’y’s Off., W. Dist. of Tex., U.S. Dep’t of Just., New Braunfels Man Indicted for Alleged Role in Multimillion-Dollar Firearm Trafficking Scheme (Dec. 8, 2023), <https://www.justice.gov/usao-wdtx/pr/new-braunfels-man-indicted-alleged-role-multimillion-dollar-firearm-trafficking-scheme> [<https://perma.cc/8DRQ-XW3U>].

61. *See* BUREAU OF ALCOHOL, TOBACCO, FIREARMS & EXPLOSIVES, U.S. DEP’T OF JUST., NATIONAL FIREARMS COMMERCE AND TRAFFICKING ASSESSMENT: FIREARMS TRAFFICKING INVESTIGATIONS – VOLUME III – PART IV: SOURCE-TO-MARKET TYPE 15–21 (2024).

Just as straw purchasers buy small quantities of firearms at a time to avoid alerting the authorities, many traffickers smuggle firearms in small batches across multiple trips, rather than in a single large shipment.<sup>62</sup> This practice is commonly referred to as “ant trafficking.”<sup>63</sup> Due to the massive volume of cross-border traffic each day, including vehicles, cargo, and air shipments, border authorities are unable to intercept all ant-trafficked firearms.<sup>64</sup> Improving border enforcement resources would aid outbound seizures, but the structural reality of outbound traffic makes interception difficult. Another complication for the authorities is the elusive concealment methods deployed by traffickers. Typically, traffickers disassemble the firearms and disperse them among different shipments.<sup>65</sup> The disassembled parts are then concealed in shipments of ordinary goods, such as in containers and in household items.<sup>66</sup> For example, firearms shipped to the Caribbean countries have been found in televisions, bags of rice, and cereal boxes.<sup>67</sup> Additionally, vehicles crossing into Mexico from the United States have been found with hidden compartments and modified engine blocks concealing firearms.<sup>68</sup> These strategies have been successful because, unlike inbound customs checks for firearms, outbound checks are much less rigorously conducted by Customs and Border Protection (“CBP”) and Immigration and Customs Enforcement (“ICE”).<sup>69</sup>

The smuggling routes employed by traffickers are similarly diversified. That said, the U.S.-Mexico border is the primary gateway for firearms into Mexico and Central America. In particular, traffickers exploit the southwest land border, which includes states like Texas and Arizona, where gun laws are lax.<sup>70</sup> For example, ICE’s Homeland Security Investigations (“HSI”) recently exposed a drug-and-gun trafficking ring in California that was attempting to divert ghost guns

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62. Lemus, *supra* note 8.

63. UNITED NATIONS OFF. ON DRUGS & CRIME, GLOBAL STUDY ON FIREARMS TRAFFICKING 58 (2020).

64. *See id.*

65. SMALL ARMS SURV., ISSUE BRIEF NO. 17, DRIBS AND DRABS: THE MECHANICS OF SMALL ARMS TRAFFICKING FROM THE UNITED STATES 9 (2016).

66. *High Murder Rates in the Caribbean Linked to Guns Trafficked from the United States*, *supra* note 16.

67. *Id.*; *see also* *Hundreds of Firearms and 12.6 Tonnes of Drugs Seized in Caribbean Operation*, INT’L CRIM. POLICE ORG. (Oct. 13, 2022), <https://www.interpol.int/en/News-and-Events/News/2022/Hundreds-of-firearms-and-12.6-tonnes-of-drugs-seized-in-Caribbean-operation> [<https://perma.cc/A5Z2-E4R9>].

68. SMALL ARMS SURV., *supra* note 65, at 7.

69. *See* Coto, *supra* note 58.

70. *Damming the Iron River: Solutions to Stop the U.S. Gun Industry from Fueling Mexico’s Violence*, EVERYTOWN FOR GUN SAFETY (May 21, 2024), <https://everytownresearch.org/report/damming-the-iron-river/> [<https://perma.cc/SRL2-Z6HR>].

to the Sinaloa Cartel across the border.<sup>71</sup> By contrast, smuggling routes into the Caribbean primarily involve maritime and air travel.<sup>72</sup> In many instances, traffickers transport firearms in small boats directly from Gulf Coast ports to Caribbean countries or in commercial shipping containers.<sup>73</sup> They also smuggle guns through mail parcels, deliberately mislabeling them as innocuous articles, such as gifts or household items, on customs forms to evade detection by the authorities.<sup>74</sup> These tactics make it challenging for enforcement agencies to address firearms trafficking and ultimately the border crisis.

### III. CURRENT FRAMEWORK

#### A. Enforcement Agencies

The U.S. government has long recognized firearms trafficking as a serious issue. Accordingly, multiple federal agencies are tasked with combatting firearms trafficking. While many agencies, such as the U.S. Postal Inspection Service, play a minor role, this section focuses on the federal agencies that play a major role in this endeavor, including the Department of Justice (“DOJ”), the Department of Homeland Security (“DHS”), the Department of State (“State”), and the Department of Commerce (“Commerce”). These agencies are each tasked with important roles in enforcing federal gun control and anti-firearms trafficking laws.

The lead agency responsible for stopping firearms trafficking is ATF, which is an enforcement agency within the DOJ. While DOJ’s prosecutorial side brings criminal charges against traffickers, ATF regulates the firearms industry and conducts investigations of illegal gun sales and straw purchasing rings.<sup>75</sup> For example, ATF established Operation Southbound in 2020 to disrupt firearms trafficking to Mexico.<sup>76</sup> Additionally, ATF administers the National Tracing Center

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71. Press Release, U.S. Immigr. & Customs Enf’t, U.S. Dep’t of Homeland Sec., 47 Defendants Charged in HSI-Led Drug Trafficking Investigation Linked to Sinaloa Cartel (June 5, 2024), <https://www.ice.gov/news/releases/forty-seven-defendants-charged-hsi-led-drug-trafficking-investigation-linked> [<https://perma.cc/KZ3M-RARA>].

72. *High Murder Rates in the Caribbean Linked to Guns Trafficked from the United States*, *supra* note 16.

73. GAO-25-107007, *supra* note 14, at 18–19.

74. *Id.*

75. *Firearms*, BUREAU OF ALCOHOL, TOBACCO, FIREARMS & EXPLOSIVES, U.S. DEP’T OF JUST., <https://www.atf.gov/firearms> [<https://perma.cc/Z4QU-PFMU>].

76. GAO-21-322, *supra* note 7, at 24–25.

(“NTC”), which traces guns that are recovered at crime scenes.<sup>77</sup> Through its eTrace system within the NTC, ATF works with domestic and international law enforcement agencies to trace the origins of firearms.<sup>78</sup> This means that if police officers in Mexico recover a gun at a crime scene, they are able to submit a trace request directly to ATF through eTrace to determine the gun’s buyer and origin.

Another entity responsible for disrupting firearms trafficking is DHS. Within DHS, CBP enforces customs and trade laws. HSI, which is also an entity within DHS, is tasked with conducting longer-term investigations into trafficking networks and smuggling operations.<sup>79</sup> HSI oversees Operation Without a Trace, an initiative started in 2020 to investigate the financing, transportation, and communications methods deployed by firearms traffickers.<sup>80</sup> Through this operation, HSI—working in tandem with CBP and ATF—has seized more than 1,900 firearms and 850,000 rounds of ammunition.<sup>81</sup>

State and Commerce also play a pivotal role in curbing firearms trafficking. Prior to 2020, most firearms exports were licensed by State’s Directorate of Defense Trade Controls (“DDTC”) under the International Traffic in Arms Regulations (“ITAR”).<sup>82</sup> After 2020, export control responsibility for many non-military firearms exports shifted to Commerce’s Bureau of Industry and Security (“BIS”), which licenses commercial firearms exports.<sup>83</sup> However, export of military-grade weapons remains under State’s jurisdiction. While BIS’s primary

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77. *National Tracing Center*, BUREAU OF ALCOHOL, TOBACCO, FIREARMS & EXPLOSIVES, U.S. DEP’T OF JUST., <https://www.atf.gov/firearms/national-tracing-center> [https://perma.cc/D3LL-XPS7].

78. *Id.*

79. *Weapons Trafficking*, U.S. IMMIGR. & CUSTOMS ENF’T, U.S. DEP’T OF HOMELAND SEC., <https://www.ice.gov/about-ice/hsi/investigate/weapons-trafficking> [https://perma.cc/U2MZ-AZUK%5d] (last updated Aug. 20, 2025).

80. *Operation Without a Trace*, U.S. IMMIGR. & CUSTOMS ENF’T, U.S. DEP’T OF HOMELAND SEC., <https://www.ice.gov/features/without-a-trace> [https://perma.cc/VW2V-5GFF] (last updated Jan. 7, 2026).

81. Press Release, The White House, FACT SHEET: Biden-Harris Administration’s Ongoing Efforts to Stem Firearms Trafficking to Mexico (June 14, 2023), <https://bidenwhitehouse.archives.gov/briefing-room/statements-releases/2023/06/14/fact-sheet-biden-harris-administrations-ongoing-efforts-to-stem-firearms-trafficking-to-mexico/> [https://perma.cc/V6A8-J9LG]. While the cited figures represent just a fraction of firearms included in illicit arms trafficking, the seizures are operationally meaningful because Operation Without a Trace is a single joint operation.

82. International Traffic in Arms Regulations, 22 C.F.R. §§ 120–130 (2025).

83. See U.S. GOV’T ACCOUNTABILITY OFF., GAO-25-106849, EXPORT CONTROLS: IMPROVEMENTS NEEDED IN LICENSING AND MONITORING OF FIREARMS (2025) [hereinafter GAO-25-106849].

objective is to prevent the sale of firearms to bad actors located abroad,<sup>84</sup> State plays a more diplomatic role. Historically, State has provided funding and technical training to foreign governments to help them disrupt arms trafficking. For example, through Operation Hammerhead, the United States shares intelligence with Caribbean authorities and trains them on how to conduct firearms investigations.<sup>85</sup>

### *B. Current Laws and Biden Administration Interventions*

A myriad of domestic laws regulate firearms trafficking, thereby shaping the U.S. government's response to the migration crisis. Under the Biden Administration, numerous gun reforms, including the Bipartisan Safer Communities Act ("BSCA") were introduced to strengthen gun control and antitrafficking measures. Although more federal actions are needed, the various reforms made under the law, as well as other actions taken by the Biden Administration from 2021 to 2025, are manifest progress from the old gun control regime.

The export of firearms is governed by the Arms Export Control Act ("AECA"), which authorizes the President "to control the import and the export of defense articles and defense services."<sup>86</sup> Among numerous other provisions, the AECA prohibits the export of defense articles without a license.<sup>87</sup> The AECA is implemented through ITAR. As discussed above, traditionally most firearms sales were under State's jurisdiction and thus placed on the United States Munitions List ("USML"), which requires that many firearms obtain a license under ITAR to export. However, after 2020, many commercially available firearms, such as semi-automatic rifles and pistols, were transferred to BIS's Commerce Control List ("CCL").<sup>88</sup> Unlike State's DDTC, BIS relies on the Export Administration Regulations ("EAR") to license exports.<sup>89</sup> For purposes of export control, EAR is considered weaker than ITAR because, under EAR, many firearms can be exported without prior approval from BIS under various license exceptions.<sup>90</sup> In response

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84. See Press Release, U.S. Dep't of Com., Department of Commerce Restricts Export of All Firearms to Non-Government Entities in High-Risk Countries (Apr. 26, 2024), <https://www.commerce.gov/news/press-releases/2024/04/departement-commerce-restricts-export-all-firearms-non-government> [<https://perma.cc/3QW4-JLBZ>].

85. Press Release, U.S. Dep't of State, U.S.-Caribbean Engagement to Counter Firearms Trafficking (Mar. 1, 2024), <https://2021-2025.state.gov/u-s-caribbean-engagement-to-counter-firearms-trafficking/> [<https://perma.cc/HQ8H-PJNS>].

86. 22 U.S.C. § 2778(a)(1) (2023).

87. *Id.*

88. Commerce Control List, 15 C.F.R. § 774 (2025).

89. Export Administration Regulations, 15 C.F.R. §§ 730–774 (2025).

90. 15 C.F.R. § 740.1 (2025).

to concerns that this jurisdictional transfer would make it easier for firearms to reach bad actors,<sup>91</sup> Commerce issued a rule in 2024 imposing stricter export review standards and applying a “presumption of denial” for export licenses to “high-risk destinations.”<sup>92</sup> The 2024 rule also subjected exporters to more onerous documentation requirements, requiring them to submit purchase orders and import certifications for BIS review.<sup>93</sup> However, in 2025, the Trump Administration rescinded this rule, restoring the looser export regime from Trump’s first term.<sup>94</sup>

Today, firearms sales within the United States are primarily regulated by the Gun Control Act of 1968 (“GCA”) and the BSCA enacted in 2022. Additional laws, such as the Brady Handgun Violence Prevention Act of 1993 (“Brady Act”), which mandates federal background checks for all handgun purchases from FFLs,<sup>95</sup> are in effect today. The GCA regulates firearm sales and possession.<sup>96</sup> Among other provisions, the GCA categorically prohibits exports of firearms without a license and imposes penalties for the unlicensed dealing and possession of certain firearms.<sup>97</sup> The BSCA further tightened firearms regulations by creating new federal offenses for firearms trafficking and straw purchasing.<sup>98</sup> Prior to 2022, there was no federal law explicitly prohibiting such conduct. Instead, traffickers were prosecuted under a patchwork of adjacent statutes, such as 18 U.S.C. § 554, which prohibits the smuggling of goods from the United States.<sup>99</sup> These new offenses carry penalties of up to fifteen years in prison, or twenty-five years if performed alongside narco-trafficking or if the trafficked firearms are used for serious crimes.<sup>100</sup> Within the first year of its enactment, DOJ under the Biden Administration prosecuted more than 100 individuals

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91. GAO-25-106849, *supra* note 83, at 10–12.

92. Revision of Firearms License Requirements, 89 Fed. Reg. 34680 (Apr. 30, 2024) (to be codified at 15 C.F.R. pts. 732, 734, 738, 740, 742, 743, 748, 750, 758, 762, 772, and 774) [hereinafter Revision of Firearms License Requirements].

93. *Id.*

94. Press Release, U.S. Dep’t of Com., Department of Commerce Rescinds Biden-Era Firearms Rule, Restoring Common Sense to Export Controls on Civilian Firearms (Sep. 24, 2025) [hereinafter Commerce Rescinds Biden-Era Export Controls], <https://www.bis.gov/press-release/departement-commerce-rescinds-biden-era-firearms-rule-restoring-common-sense-export-controls-civilian> [<https://perma.cc/9C9Y-9BKN>]; *see infra* notes 135–38 for implications of the rule rescission.

95. Brady Handgun Violence Prevention Act, Pub. L. No. 103-159, § 101, 107 Stat. 1536, 1536 (1993).

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

97. *Id.* at 1213–14.

98. Bipartisan Safer Communities Act, Pub. L. No. 117-159, § 12004, 136 Stat. 1313, 1329–32 (2022).

99. 18 U.S.C. § 554 (2018).

100. Bipartisan Safer Communities Act, § 932, 136 Stat. at 1326–27.

under the new statutes created by the BSCA.<sup>101</sup> Additionally, various federal agencies responded to the BSCA by implementing new rules. For example, in 2024, ATF finalized a rule requiring more unlicensed gun sellers to register as licensed dealers to compel more background checks.<sup>102</sup> Under this rule, any individual selling firearms to “predominantly earn a profit” is required to register as a licensed dealer.<sup>103</sup>

### C. *Backsliding Under President Trump’s Second Term*

Currently, the Trump Administration is attempting to repeal or has already successfully repealed Biden-era gun regulations that were designed to curtail firearms trafficking. The Trump Administration already repealed ATF’s Enhanced Regulatory Enforcement (“Zero Tolerance”) policy and may also gut rules regulating ghost guns, licensure requirements for unlicensed firearms sellers, and recordkeeping of firearms transactions. These actions, in furtherance of President Trump’s goal of advancing Second Amendment rights, are in direct conflict with the Administration’s goal of addressing the migration crisis, which stems, in large part, from insufficient responses to firearms trafficking. Despite this conflict, at the present time, further progress on addressing firearms trafficking appears unlikely.

Less than a month into his second term, in February 2025, President Trump issued an executive order directing DOJ to review all gun-related actions by the Biden Administration and undo any policies deemed as “ongoing infringements of . . . Second Amendment rights.”<sup>104</sup> The executive order also directs DOJ to review all ongoing gun-related litigation and consider whether to drop support for Biden-era regulations in court.<sup>105</sup> Subsequently, the Trump Administration shut down the White House Office of Gun Violence Prevention, which oversaw the implementation of the BSCA.<sup>106</sup> In its place, DOJ created

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101. Press Release, The White House, *supra* note 81. While the total number of prosecutions is small relative to the scale of illegal gun flows, this indicates that these new offenses were used as additional avenues for prosecution.

102. Definition of “Engaged in the Business” as a Dealer in Firearms, 89 Fed. Reg. 28968 (Apr. 19, 2024) (to be codified at 27 C.F.R. pt. 478) [hereinafter Definition of “Engaged in the Business”].

103. *Id.* But see Texas v. Bureau of Alcohol, Tobacco, Firearms & Explosives, 737 F. Supp. 3d 426, 444 (N.D. Tex. 2024) (issuing an injunction restraining enforcement of the rule only as to plaintiff states, organizations, and individuals).

104. Exec. Order No. 14,206, 90 Fed. Reg. 9503 (Feb. 7, 2025).

105. *Id.*

106. Chip Brownlee, *Trump Moves to Undo Biden’s Gun Policies*, TRACE (Feb. 7, 2025), <https://www.thetrace.org/2025/02/trump-gun-policy-executive-order-biden/> [<https://perma.cc/KK6D-GRGM>]; *What the White House Office of Gun Violence Prevention*

a 2nd Amendment Taskforce, whose mission is to “advance President Trump’s pro-gun agenda and protect gun owners from overreach.”<sup>107</sup> This expansive gun rights framework will have significant implications for the U.S. government’s ongoing efforts to tackle firearms trafficking and its ability to effectively address the migration crisis.

One regulation that may face the chopping block is a 2022 ATF rule requiring ghost gun kits to be serialized and buyers of those kits to undergo background checks.<sup>108</sup> In *Bondi v. VanDerStok*, plaintiffs challenged this rule,<sup>109</sup> arguing that ATF exceeded its authority under the GCA,<sup>110</sup> which defines “firearms” regulable by ATF as any weapon “which will or is designed to or may readily be converted to expel a projectile by the action of an explosive,” as well as “the frame or receiver of any such weapon.” Ghost guns, they argued, do not meet the statutory definition of firearms, and as such, ATF did not have the requisite authority under the GCA to issue the rule.<sup>111</sup> However, the Supreme Court upheld the rule in a 7–2 decision, holding that ATF can regulate “some weapon parts kits and unfinished frames or receivers,” including ghost gun kits.<sup>112</sup> The Court reasoned that the ATF’s rule is not facially inconsistent with the GCA because the statutory term “firearm” includes some weapon parts kits that contain all the necessary components to construct a semiautomatic pistol, which can be readily assembled using common tools.<sup>113</sup> In light of this ruling removing the litigation pathway that the Trump Administration had hoped to use to

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*Has Accomplished in Its First Year*, EVERYTOWN FOR GUN SAFETY (Sep. 20, 2024), <https://www.everytown.org/white-house-office-of-gun-violence-prevention-accomplished-first-year/> [<https://perma.cc/6JAJ-8DE3>].

107. Press Release, Dep’t of Just. Off. of Pub. Affs., Attorney General Pamela Bondi Statement Regarding Creation of a 2nd Amendment Task Force (Apr. 9, 2025), <https://www.justice.gov/opa/pr/attorney-general-pamela-bondi-statement-regarding-creation-2nd-amendment-task-force> [<https://perma.cc/TD7L-LZYV>].

108. Definition of “Frame or Receiver” and Identification of Firearms, 87 Fed. Reg. 24652 (Apr. 26, 2022) (to be codified at 27 C.F.R. pts. 447, 478, and 479); *see* Brownlee, *supra* note 106 (discussing that the Trump Administration initiated a review of all Biden-era gun regulations, including the crackdown on ghost guns, which indicates that the rule could be rescinded and its enforcement scaled back in the foreseeable future).

109. *Bondi v. VanDerStok*, 604 U.S. 458 (2025). The litigation originally commenced during the Biden Administration and continued into the Trump Administration.

110. 18 U.S.C. § 921(a)(3) (2022).

111. *VanDerStok*, 604 U.S. at 458–59.

112. *Id.* at 484; *see* Brief for Global Action on Gun Violence as Amicus Curiae Supporting Petitioners, *Bondi v. VanDerStok*, 604 U.S. 458 (2025) (No. 23–852) (arguing that the trafficking of U.S.-sourced firearms has contributed to the “unprecedented migration [of people from Mexico, Central America, and the Caribbean] to the United States”).

113. *VanDerStok*, 604 U.S. at 471–72.

invalidate the rule, the Trump Administration may persist in its efforts to roll back the rule through agency action.

Another regulation under threat of being repealed is the previously discussed 2024 ATF rule expanding the licensure requirement for unlicensed firearms sellers.<sup>114</sup> This, too, is under administrative review and its continuity is currently pending.<sup>115</sup> Moreover, the Trump Administration may reform how ATF currently handles the recordkeeping of firearms transactions. Under the Biden Administration, ATF stepped up the digitization and retention of firearms transaction records,<sup>116</sup> accumulating more than 920 million sales records, according to one estimate.<sup>117</sup> These records contain sensitive information, including the serial number of firearms and who bought them<sup>118</sup> and have aided ATF in tracing guns that are used in crimes domestically and abroad. As such, repealing this policy would hinder future gun tracing efforts.

In April 2025, the Trump Administration repealed<sup>119</sup> ATF's Zero Tolerance Policy,<sup>120</sup> which addressed willful violations by rogue FFLs. Under this internal enforcement policy, ATF field agents were instructed to recommend revoking the licenses of FFLs if the agents detected a single willful violation of zero tolerance offenses, such as failing to conduct background checks or knowingly selling firearms to traffickers.<sup>121</sup> As a result of the repeal, inspections and enforcement actions against corrupt FFLs have been relaxed for the foreseeable

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114. Definition of "Engaged in the Business", *supra* note 102.

115. Press Release, U.S. Dep't of Just., Bureau of Alcohol, Tobacco, Firearms & Explosives, DOJ, ATF Repeal FFL Inspection Policy and Begin Review of Two Final Rules (Apr. 7, 2025), <https://www.atf.gov/news/press-releases/doj-atf-repeal-ffl-inspection-policy-and-begin-review-two-final-rules> [<https://perma.cc/QL3H-JNZP>].

116. See Letter from Steven M. Dettelbach, Dir., Bureau of Alcohol, Tobacco, Firearms & Explosives, ATF Rul. 2201-01 (Aug. 17, 2022), <https://www.atf.gov/firearms/docs/ruling/2022-01-electronic-storage-forms-4473pdf/download> [<https://perma.cc/JUU5-5D3U>].

117. Nikolaus Schuster, *Primer: Dismantle the ATF's Illegal Gun Registry*, CTR. FOR RENEWING AM. (Feb. 24, 2025), <https://americarenewing.com/issues/primer-dismantle-the-atfs-illegal-gun-registry/> [<https://perma.cc/VM4J-YHJV>].

118. *Id.*

119. Sarah N. Lynch, *US Justice Department Repeals Biden-Era 'Zero Tolerance' Policy for Gun Dealers*, REUTERS (Apr. 7, 2025, at 3:09 PT), <https://www.reuters.com/world/us/us-justice-department-repeals-biden-era-zero-tolerance-policy-gun-dealers-2025-04-07/> [<https://perma.cc/NMB9-8VQU>].

120. Letter from George Lauder, Assistant Dir., Off. of Field Operations, U.S. Dep't of Just., to Bureau of Alcohol, Tobacco, Firearms & Explosives Industry Operations Offs. (Jan. 28, 2022), [https://foundation.gunowners.org/files/foia/2022\\_ATF\\_O53701E\\_Federal\\_Firearms\\_Administrative\\_Action\\_Policy\\_Procedures\\_1.pdf](https://foundation.gunowners.org/files/foia/2022_ATF_O53701E_Federal_Firearms_Administrative_Action_Policy_Procedures_1.pdf) [<https://perma.cc/4BRE-NJM7>].

121. *Id.*

future, even though traffickers continue to rely on off-the-books transactions to acquire firearms.

As previously discussed, ghost gun kits and corrupt FFLs are some of the primary avenues through which traffickers acquire firearms in the United States.<sup>122</sup> As such, attenuating the rules governing ghost guns and FFLs would enable easier and more frequent trafficking of firearms. In other words, weak gun laws at home effectuate the proliferation of international gun trafficking, which in turn fuels the migration crisis. Instead of recognizing domestic laws as the source of this problem, the Trump Administration has repeatedly flouted responsibility, blaming other countries and threatening them with tariffs and military actions.<sup>123</sup> For example, the Trump Administration has suggested it could launch land strikes against drug cartels in Mexico.<sup>124</sup> Such actions are detrimental to the ongoing efforts to disrupt firearms trafficking and antithetical to the administration's ongoing efforts to address the migration crisis.

#### IV. ISSUES WITH THE CURRENT FRAMEWORK

##### A. *Legal Gaps*

Even before Trump's ascension to the presidency in 2016, the United States lacked robust federal gun control laws. The Second Amendment has been interpreted to create a strong presumption against gun restrictions absent historical justification.<sup>125</sup> In addition, there were no federal statutes prohibiting gun trafficking until the enactment of the BSCA in 2022. While the new restrictions created under the BSCA prohibiting straw purchasing and firearms trafficking are a step in the right direction, they are inadequate. Various loopholes, weak arms export control laws, and immunity for gunmakers make enforcement

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122. See *supra* notes 54–57.

123. See, e.g., David G. Savage, *Mexico Tells Supreme Court that U.S. Gun Makers Are to Blame for Heavily Armed Cartels*, L.A. TIMES (Mar. 4, 2025, at 10:50 PT), <https://www.latimes.com/politics/story/2025-03-04/supreme-court-mexico-us-gunmakers> [https://perma.cc/3DX4-457E]; Dan De Luce et al., *Trump Administration Weighs Drone Strikes on Mexican Cartels*, NBC NEWS (Apr. 8, 2025, at 10:59 PT), <https://www.nbcnews.com/politics/national-security/trump-administration-weighs-drone-strikes-mexican-cartels-rcna198930> [https://perma.cc/D66U-GT6N].

124. Justin Papp, *Trump Suggests U.S. Military Will Hit Cartels on 'Land' in Mexico*, CNBC (Jan. 9, 2026, at 18:38 ET), <https://www.cnbc.com/2026/01/09/trump-us-military-cartels-mexico-land.html> [https://perma.cc/BJ5V-QZC7].

125. *N.Y. State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1, 24 (2022) (holding that “[w]hen the Second Amendment’s plain text covers an individual’s conduct, the Constitution presumptively protects that conduct,” and that the government bears the burden of justifying firearm regulations by “demonstrating consistency with the Nation’s historical tradition”).

of firearms trafficking challenging. These legal gaps are contributing to the migration crisis fueled by firearms trafficking.

One current gap in the law is that the BSCA and the previously discussed 2024 ATF rule expanding background checks failed to eliminate the “private sale loophole.”<sup>126</sup> This loophole is a byproduct of the Brady Act, which mandates FFLs conduct background checks on gun sales.<sup>127</sup> However, this requirement does not extend to private sellers who are not licensed.<sup>128</sup> This is problematic because unlicensed sellers are the single largest source of trafficked firearms, supplying more than 40% of all illegally trafficked guns in the United States.<sup>129</sup> Recognizing this issue at the federal level, twenty states have passed their own universal background check laws, requiring checks on either all or most private gun sales.<sup>130</sup> Without a federal framework, however, traffickers will continue to take advantage of the private sale loophole and readily acquire firearms in states that do not mandate private sale background checks. Another gap under the current laws is the “Charleston Loophole.” Currently, if a background check through the FBI’s National Instant Criminal Background Check System (“NICS”) is not cleared within three business days, FFLs are permitted to proceed with the firearms transaction.<sup>131</sup> These loopholes are ripe for exploitation.

Current firearms export control laws also have major legal gaps. Since the jurisdictional transfer of common firearms exports from State to Commerce in 2020, the aggregate value of approved firearm export licenses has increased relative to previous years.<sup>132</sup> After 2020,

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126. *Background Checks on All Gun Sales*, *supra* note 5. Although the BSCA narrowed this loophole by broadening the definition of who is “engaged in the business” of selling firearms, federal law continues to permit private, unlicensed firearm sales without background checks. Nick Wilson et al., *The Bipartisan Safer Communities Act, 1 Year Later*, CTR. FOR AM. PROGRESS (Aug. 10, 2023), <https://www.americanprogress.org/article/the-bipartisan-safer-communities-act-1-year-later/> [<https://perma.cc/3LLY-F3WP>].

127. Brady Handgun Violence Prevention Act, Pub. L. No. 103-159, § 101, 107 Stat. 1536, 1536 (1993).

128. *Id.* § 103, 107 Stat. at 1543.

129. NFCTA - VOLUME III - PART III, *supra* note 6, at 1–2.

130. Chip Brownlee, *Which States Have Universal Gun Background Checks?*, TRACE (June 15, 2023), <https://www.thetrace.org/2023/06/background-check-buy-a-gun-america-map/> [<https://perma.cc/FK2R-P7MQ>].

131. *Closing the “Gun Show Loophole”: A Step in the Right Direction with More Work to Be Done*, JOHNS HOPKINS CTR. FOR GUN VIOLENCE SOLUTIONS (May 28, 2024), <https://publichealth.jhu.edu/center-for-gun-violence-solutions/2024/what-does-closing-the-gun-show-loophole-do> [<https://perma.cc/8FV3-AD82>].

132. *Cf. Transfer of Arms and Ammunition (USML Cat I-III) to Commerce*, F. ON THE ARMS TRADE, <https://www.forumarmstrade.org/catitooiii.html> [<https://perma.cc/9VXW-JJDE>] (indicating that although fewer firearm export licenses were approved after the 2020 transfer, the total approved dollar value rose from approximately \$7.2 billion to \$12.2 billion).

the total dollar value of firearm export license approvals increased by 30%.<sup>133</sup> U.S.-exported weapons have become more susceptible to diversion because more firearms are available for purchase.<sup>134</sup> Although Commerce tightened its export review standards in 2024,<sup>135</sup> traffickers have employed various methods to bypass export regulations. For example, because shipments valued under \$2,500 do not require filing in the U.S. export database, traffickers have concealed firearms in a legal export shipment and misrepresented the shipment's value.<sup>136</sup> Although the initial jurisdictional transfer originated under the first Trump Administration, President Biden failed to address issues pertaining to export control. As a candidate in 2020, President Biden pledged to revert export licensing to State, but this never materialized.<sup>137</sup> Today, issues around export control are increasingly worrisome because the Trump Administration has since rescinded the Biden-era review standards for firearms export.<sup>138</sup> While the now-rescinded rule was not perfect, it sought to systematically prevent the diversion of firearms to bad actors abroad. In the absence of these review standards, bad actors are more likely to acquire U.S.-sourced firearms, thus continuing to exasperate the migration crisis.

Another legal hurdle is the broad immunity that gun makers receive at both the federal and state level. In federal law, this is encoded in the Protection of Lawful Commerce in Arms Act ("PLCAA"), which was enacted in 2005. The PLCAA grants firearms manufacturers, dealers, importers, and distributors broad immunity from civil liability in federal and state courts.<sup>139</sup> Plaintiffs are barred from bringing "qualified civil

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133. Monte Reel, *The US is Pushing Guns on a Country It Labels Violent and Corrupt*, BLOOMBERG (Aug. 10, 2023), <https://www.bloomberg.com/graphics/2023-us-gun-violence-border-crisis-guatemala/> [<https://perma.cc/5VJ3-S4HT>].

134. See Press Release, Rep. Joaquin Castro, Castro, Warren Urge Commerce to Strengthen New Rule on Assault Weapons Exports (July 18, 2024), <https://castro.house.gov/media-center/press-releases/castro-warren-urge-commerce-to-strengthen-new-rule-on-assault-weapons-exports> [<https://perma.cc/UB7F-YVA3>].

135. Revision of Firearms License Requirements, *supra* note 92.

136. GAO-25-107007, *supra* note 14, at 20.

137. Smith, *supra* note 38.

138. Press Release, U.S. Dep't of Com., *supra* note 94; see also Press Release, Everytown for Gun Safety, Trump Administration Rescinds Department of Commerce Rule that Tightened Restrictions on U.S. Gun Exports Abroad, Delivering Gift to Gun Industry and Increasing Likelihood of Guns Being Diverted to International Cartels (Sep. 29, 2025), <https://www.everytown.org/press/trump-administration-rescinds-department-of-commerce-rule-that-tightened-restrictions-on-u-s-gun-exports-abroad-delivering-gift-to-gun-industry-and-increasing-likelihood-of-guns-being-diverted-to-in/> [<https://perma.cc/92FL-395R>].

139. Protection of Lawful Commerce in Arms Act, Pub. L. No. 109-92, 119 Stat. 2095 (2005) (codified as amended at 15 U.S.C. §§ 7901–7903 (2018)).

liability actions” against the aforementioned entities even if the guns are used in crimes—though, there are some narrow exceptions.<sup>140</sup> For example, plaintiffs are not barred from bringing actions against entities that “knowingly transfer a firearm, knowing that such firearm will be used to commit a crime of violence.”<sup>141</sup> Nevertheless, the PLCAA has adverse impacts on the federal government’s anti-trafficking efforts. Because gunmakers and dealers are shielded from civil liability, they are less incentivized to be careful about who they sell to.<sup>142</sup> Moreover, thirty-two states have enacted similar immunity laws protecting the gun industry.<sup>143</sup> Under the PLCAA, if a dealer sells firearms to a straw purchaser, which are then funneled to gangs, the dealer generally will not be held civilly liable to the victims of those firearms. Thus, the PLCAA removes a potentially instrumental avenue for better industry practices by shielding bad actors from liability for their actions that contribute to firearms trafficking.<sup>144</sup>

### B. Enforcement Challenges

Even if these legal gaps were fully addressed, federal agencies tasked with enforcing gun trafficking laws are too underfunded and under-resourced to effectively carry out their duties.<sup>145</sup> These constraints are detrimental to the ongoing efforts by the U.S. government to address the migration crisis. In the 2024 fiscal year appropriations bill, Congress cut nearly \$50 million from ATF’s annual budget, damaging the agency’s capacity to carry out investigations and enforce firearms

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140. 15 U.S.C. §§ 7902(a), 7903(5)(A) (2022).

141. 18 U.S.C. § 924(h) (2022).

142. *Immunizing the Gun Industry: The Harmful Effect of the Protection of Lawful Commerce in Arms Act*, CTR. FOR AM. PROGRESS (Jan. 15, 2016), <https://www.americanprogress.org/article/immunizing-the-gun-industry-the-harmful-effect-of-the-protection-of-lawful-commerce-in-arms-act/> [<https://perma.cc/YY5S-XAV7>].

143. *Gun Industry Accountability*, GIFFORDS L. CTR. TO PREVENT GUN VIOLENCE, <https://giffords.org/lawcenter/gun-laws/policy-areas/other-laws-policies/gun-industry-accountability/> [<https://perma.cc/F5N3-7QWM>].

144. *See, e.g., Smith & Wesson Brands, Inc. v. Estados Unidos Mexicanos*, 605 U.S. 280 (2025) (holding that the PLCAA barred Mexico’s suit against U.S. firearms manufacturers alleging that their distribution, marketing, and oversight practices facilitated gun trafficking to Mexican cartels).

145. Press Release, Brady Campaign to Prevent Gun Violence, Gun Safety Organizations Call on Senate Committee on Appropriations to Provide Full Funding to ATF, (July 22, 2024), <https://www.bradyunited.org/press/atf-funding-guns> [<https://perma.cc/2S29-FW4G>]; *see also* CHELSEA PARSONS ET AL., CTR. FOR AM. PROGRESS, THE BUREAU AND THE BUREAU: A REVIEW OF THE BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES AND A PROPOSAL TO MERGE IT WITH THE FEDERAL BUREAU OF INVESTIGATION 8 (2015), <https://www.americanprogress.org/article/the-bureau-and-the-bureau/> [<https://perma.cc/N6GK-GZDR>].

trafficking laws.<sup>146</sup> Historically, ATF has also been constrained by appropriations riders, such as restrictions on how ATF can conduct inspections or use trace data.<sup>147</sup> Despite these challenges, Republican lawmakers are proposing further cuts to ATF's budget by as much as \$200 million,<sup>148</sup> and some are proposing to abolish ATF altogether.<sup>149</sup>

Resource constraints aside, border enforcement of firearms trafficking is inherently challenging. As previously discussed, the sheer volume of goods exiting the U.S. border each day is immense.<sup>150</sup> Accordingly, border authorities like CBP cannot inspect every outbound vehicle, ship, and air freight for drugs and firearms.<sup>151</sup> Instead, CBP selectively chooses which vehicles or shipments to examine, using various methods like the Automated Targeting System ("ATS")<sup>152</sup> to prioritize high risk targets. ATF has also implemented technologies like automated license-plate readers<sup>153</sup> to flag vehicles that are linked to past smuggling, but traffickers can evade inspection by employing individuals with clean records to cross the border. Finally, the proliferation of ant trafficking and various concealment tactics make detection of firearms even more challenging.<sup>154</sup> In sum, the structural reality of outbound

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146. Letter from Monisha Henley, Senior Vice President for Gov't Affs., Everytown for Gun Safety, et al., to Patty Murray, Chair, U.S. Senate Comm. on Appropriations, et al. (July 18, 2024), [https://www.everytown.org/wp-content/uploads/2024/07/Letter-to-Senate-Approps-Leadership-re\\_-FY25-ATF-Cuts-24.07.18.pdf](https://www.everytown.org/wp-content/uploads/2024/07/Letter-to-Senate-Approps-Leadership-re_-FY25-ATF-Cuts-24.07.18.pdf) [<https://perma.cc/8XCG-5CXM>].

147. PARSONS ET AL., *supra* note 145, at 9.

148. Press Release, Everytown for Gun Safety, Everytown Responds to Republican Attempts to Defund Law Enforcement in Fiscal Year 2025 Appropriations Legislation (July 9, 2024), <https://www.everytown.org/press/everytown-responds-to-republican-attempts-to-defund-law-enforcement-in-fiscal-year-2025-appropriations-legislation/> [<https://perma.cc/UD4P-A2XP>].

149. *See, e.g.*, Abolish the ATF Act, H.R. 129, 119th Cong. (2025).

150. *See* Todd Rosenblum, *Border Regulation Begins with Stronger Capacity at Official Points of Entry*, THIRD WAY (May 12, 2021), <https://www.thirdway.org/memo/border-regulation-begins-with-stronger-capacity-at-official-points-of-entry> [<https://perma.cc/YN29-QVSE>] (indicating that, owing in part to the volume of crossings, the CBP only inspects "two percent of all private passenger vehicles and only 16 percent of commercial vehicles at land borders").

151. *See* Coto, *supra* note 58.

152. *See* U.S. DEP'T OF HOMELAND SEC., PRIVACY IMPACT ASSESSMENT FOR THE AUTOMATED TARGETING SYSTEM 2, 4 (2012), [https://www.dhs.gov/xlibrary/assets/privacy/privacy\\_pia\\_cbp\\_ats006b.pdf](https://www.dhs.gov/xlibrary/assets/privacy/privacy_pia_cbp_ats006b.pdf) [<https://perma.cc/9XXM-E2E5>].

153. *See* U.S. DEP'T OF HOMELAND SEC., PRIVACY IMPACT ASSESSMENT FOR CBP LICENSE PLATE READER TECHNOLOGY 1 (2017), <https://www.dhs.gov/sites/default/files/publications/privacy-pia-cbp049-cbplprtechnology-december2017.pdf> [<https://perma.cc/85WA-J8PA>].

154. *See generally* GAO-25-107007, *supra* note 14 (describing the methods by which firearms are illicitly trafficked by air and sea, including concealment in commercial cargo and small, dispersed shipments that complicate inspection and interdiction efforts).

traffic means that at least some traffickers will always elude detection no matter how well-equipped the border authorities are. Consider this illustrative example: In fiscal years 2014–19, CBP was only able to seize 115 firearms per year at the border,<sup>155</sup> which is a very small number compared to the total number of firearms smuggled from the United States to Mexico annually.<sup>156</sup> Because border enforcement of firearms trafficking is inherently challenging, it is all the more necessary to strengthen the legal framework around firearms to minimize the diversion of firearms as much as possible.

### C. *Challenges with Interagency and International Coordination*

Another challenge with enforcing firearms trafficking is the lack of interagency and international coordination on collecting and sharing firearms trace data. Without an accurate accounting of where firearms end up, it is difficult for the U.S. government to effectively identify and dismantle firearms trafficking operations.

In the United States, the fight against gun trafficking is a multi-agency endeavor. Agencies like ATF, HSI, CBP, State, and Commerce work together to disrupt the flow of firearms. In theory, this collaborative framework should yield optimal results due to their combined manpower and investigative capacities. However, in reality, coordination across different agencies has been fraught with challenges. One issue is that agencies are not fully sharing data and aligning strategies with one another.<sup>157</sup> For example, HSI has not always conferred with ATF's database to identify smuggling trends. Due to HSI's failure, HSI had not analyzed ATF data related to 56,000 U.S.-sourced firearms recovered in Mexico.<sup>158</sup> Without a comprehensive data sharing mechanism, interagency efforts to trace guns and identify trafficking routes will continue to yield suboptimal results.<sup>159</sup>

Interagency task forces have also suffered from similar coordination issues. For example, Operation Southbound, which was created to disrupt firearms trafficking to Mexico,<sup>160</sup> yielded mixed results because agencies lacked unified performance measures and metrics for success. In these operations, agencies also tended to analyze only the firearms that their own agents seized, rather than measuring the overall reduction

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155. GAO-21-322, *supra* note 7, at 27.

156. *See id.* at 1.

157. *Id.* at 17, 21–24.

158. *Id.* at 22.

159. *Id.* at 23–24.

160. *Id.* at 24.

in trafficking resulting from joint operations.<sup>161</sup> Moreover, agencies operated without a unified strategy, which led to duplicative investigative efforts and enforcement gaps.<sup>162</sup> For instance, because ATF and DHS were not seamlessly and proactively sharing intelligence with one another, this could have meant that they were investigating the same investigative trails.

Another problem with the current framework lies in issues with centralizing data collection. ATF's eTrace system is the central tool for tracing firearms.<sup>163</sup> Local, state, federal, and international law enforcement agencies are to enter all firearms recovered from crime scenes into the system. This aggregated database helps ATF better identify gun traffickers and aids other enforcement agencies in their endeavors to hamper trafficking operations. However, not all recovered guns are submitted for tracing. In Mexico, only the federal attorney general's office ("FGR") is authorized to submit trace requests to ATF, which means that firearms seized by local and state police are generally not captured by eTrace.<sup>164</sup> Because only the FGR is authorized to submit trace requests, local and state police in Mexico must transfer the seized guns to the FGR before any tracing can be initiated.<sup>165</sup> The reason for this centralized structure in Mexico is to ensure that tracing efforts are administered uniformly and to prevent inconsistent data entry across different local police departments.<sup>166</sup> However, this structure has deterred local and state police in Mexico from submitting trace data to the FGR due to the many administrative hurdles they face, including the completion of various paperwork.<sup>167</sup> Even if the trace data reach the FGR, federal agents in Mexico are not adequately trained to use eTrace due to resource constraints.<sup>168</sup> Diplomatic frictions can also deter foreign governments from sharing intelligence with ATF. Additionally, not all data gathered by U.S. agencies—such as, outbound seizure data from CBP—are uploaded to eTrace.<sup>169</sup> Without a complete

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161. *Id.* at 23.

162. *Id.* at 23–24.

163. *Fact Sheet - eTrace: Internet-Based Firearms Tracing and Analysis*, BUREAU OF ALCOHOL, TOBACCO, FIREARMS & EXPLOSIVES, U.S. DEP'T OF JUST., <https://www.atf.gov/resource-center/fact-sheet/fact-sheet-ettrace-internet-based-firearms-tracing-and-analysis> [<https://perma.cc/ENV8-7EFZ>] (last updated Dec. 2025).

164. GAO-21-322, *supra* note 7, at 15.

165. *Id.*

166. *Id.*

167. *See id.*

168. *See id.* at 17; *see also* U.S. GOV'T ACCOUNTABILITY OFF., GAO-09-709, FIREARMS TRAFFICKING: U.S. EFFORTS TO COMBAT ARMS TRAFFICKING TO MEXICO FACE PLANNING AND COORDINATION CHALLENGES 16 (2009) [hereinafter GAO-09-709].

169. *Id.* at 17, 20.

dataset, ATF cannot accurately assess trafficking trends, preventing the U.S. government from proactively identifying and intercepting firearms trafficking operations, which is crucial to addressing the migration crisis long term.

In addition to bureaucratic issues with uploading data, in many instances, it is impossible to record the serial number of recovered firearms. In an ideal scenario, firearms recovered from a crime scene would have original serial numbers that are intact. The serial numbers would then be uploaded to eTrace for tracing. But in many instances, traffickers file off the serial numbers to prevent tracing.<sup>170</sup> For example, many guns recovered in the Caribbean do not have serial numbers.<sup>171</sup> Although ATF's National Tracing Center ("NTC") can sometimes restore serialization through forensics<sup>172</sup> and use ballistic information to support law enforcement in matching ballistic evidence with other cases across jurisdictions,<sup>173</sup> these efforts are not always successful. In addition, tracing ghost guns is virtually impossible because they are homemade firearms lacking in serialization or any other distinguishing identifiers.<sup>174</sup> The proliferation of these untraceable firearms poses significant challenges to anti-trafficking efforts. This issue compounds with the aforementioned bureaucratic challenges faced in utilizing eTrace. As a result of these issues, collection of firearms trace data, seizures, and other critical datapoints is suboptimal.<sup>175</sup> This hampers anti-trafficking endeavors because enforcement agencies cannot proactively disrupt trafficking networks without being able to identify trends from a complete dataset. Improvements to interagency and

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170. See, e.g., *HSI Dismantles International Gun Trafficking Ring*, U.S. IMMIGR. & CUSTOMS ENF'T, U.S. DEP'T OF HOMELAND SEC. (May 24, 2012), <https://www.ice.gov/news/releases/hsi-dismantles-international-gun-trafficking-ring> [<https://perma.cc/S2KY-G45S>].

171. See *Police Officers of Bahamas, Barbados and Grenada Trained to Restore Serial Numbers on Firearms*, UNITED NATIONS OFF. FOR DISARMAMENT AFFS. (Aug. 29, 2022), <https://www.unlirec.org/en/police-officers-of-bahamas-barbados-and-grenada-trained-to-restore-serial-numbers-on-firearms/> [<https://perma.cc/KB9H-VDVY>].

172. *National Tracing Center*, BUREAU OF ALCOHOL, TOBACCO, FIREARMS & EXPLOSIVES, U.S. DEP'T OF JUST., <https://www.atf.gov/firearms/national-tracing-center> [<https://perma.cc/D3LL-XPS7>] (last reviewed Sep. 19, 2024).

173. *National Integrated Ballistic Information Network (NIBIN): Fact Sheet*, BUREAU OF ALCOHOL, TOBACCO, FIREARMS & EXPLOSIVES, U.S. DEP'T OF JUST., <https://www.atf.gov/sites/default/files2/nibin-fact-sheet-fy24-508c.pdf> [<https://perma.cc/57TE-BC54>].

174. *Ghost Guns*, EVERYTOWN FOR GUN SAFETY, <https://www.everytown.org/issues/ghost-guns/> [<https://perma.cc/PQ74-PFS3>].

175. See generally GAO-21-322, *supra* note 7 (identifying gaps in both the completeness and integration of firearms tracing and seizure data, which constrains the agencies' ability to assess trafficking trends).

international coordination for better data collection are critical to addressing the migration crisis.

#### D. Technological Challenges

As discussed earlier, privately made firearms (“PMFs”) like ghost guns pose significant challenges to detection and tracing efforts by enforcement agencies.<sup>176</sup> Between 2017 and 2021, PMFs submitted for tracing increased from 1,629 to 19,273, an increase of more than 1,000%.<sup>177</sup> An emerging contributor to the rise of PMFs is 3D-printing technology.<sup>178</sup> Because 3D-printed firearms are primarily made of polymer materials,<sup>179</sup> they can be manufactured to avoid detection by metal detectors and x-ray machines at the border. Traffickers can also take advantage of 3D gun repositories, such as DEFCAD,<sup>180</sup> to download digital blueprints of firearms and print them out from any location. Although customs agencies can theoretically examine digital files containing blueprints of firearms at the border by seizing suspected electronic devices,<sup>181</sup> such inspections are impractical, especially when the detection of physical firearms is already so challenging.

In addition to PMFs, traffickers utilize the dark web and online marketplaces to acquire gun parts and fully assembled guns through cryptocurrency transactions.<sup>182</sup> Regulating these transactions is challenging because the identities of purchasers and their IP addresses are

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176. *Untraceable: The Rising Specter of Ghost Guns*, EVERYTOWN FOR GUN SAFETY (May 14, 2020), <https://everytownresearch.org/report/the-rising-specter-of-ghost-guns/> [<https://perma.cc/ZL69-MJUD>].

177. BUREAU OF ALCOHOL, TOBACCO, FIREARMS & EXPLOSIVES, U.S. DEP’T OF JUST., NATIONAL FIREARMS COMMERCE AND TRAFFICKING ASSESSMENT: FIREARMS TRAFFICKING INVESTIGATIONS – VOLUME II – PART III: CRIME GUNS RECOVERED AND TRACED WITHIN THE UNITED STATES AND ITS TERRITORIES (2024).

178. See generally Stefan Schaufelbühl et al., *The Emergence of 3D-Printed Firearms: An Analysis of Media and Law Enforcement Reports*, 8 FORENSIC SCI. INT’L 1 (2024) (surveying the increasing prevalence of privately made firearms produced using additive manufacturing, the accessibility of 3D-printing equipment and materials, and the growing number of law-enforcement encounters involving such weapons).

179. *Ghost Guns: Undetectable Firearms Explained*, NAT’L SHOOTING SPORTS FOUND., <https://www.nssf.org/government-relations/factsheets/ghost-guns-undetectable-firearms-explained-2/> [<https://perma.cc/QQ8E-WHEK>].

180. See *About*, DEFCAD, <https://defcad.com/about/> [<https://perma.cc/G5W7-7ED7>].

181. See generally Laura K. Donohue, *Customs, Immigration, and Rights: Constitutional Limits on Electronic Border Searches*, 128 YALE L.J. 961 (2019) (discussing the scope of CBP and ICE authority to seize and search electronic devices at the border and the legal and practical limits on those searches).

182. GIACOMO PERSI PAOLI ET AL., RAND CORP., BEHIND THE CURTAIN: THE ILLICIT TRADE OF FIREARMS, EXPLOSIVES AND AMMUNITION ON THE DARK WEB 42–46 (2017), [https://www.rand.org/content/dam/rand/pubs/research\\_reports/RR2000/RR2091/RAND\\_RR2091.pdf](https://www.rand.org/content/dam/rand/pubs/research_reports/RR2000/RR2091/RAND_RR2091.pdf) [<https://perma.cc/95UK-CR4T>].

shielded by the darknet's anonymizing software.<sup>183</sup> Moreover, the utilization of encrypted messaging apps<sup>184</sup> by trafficking networks also makes it challenging for law enforcement agencies to track the sourcing of illicitly-acquired firearms.

These technological innovations pose ongoing challenges for the federal government's anti-trafficking operations. Despite the 2022 ATF rule requiring ghost gun kits to be serialized and the Undetectable Firearms Act of 1988, which makes it illegal to "manufacture, import, sell, ship, deliver, possess, transfer, or receive" firearms not detectable by metal detectors,<sup>185</sup> there is no federal law explicitly prohibiting 3D-printed guns.

#### *E. Coordination with Foreign Governments*

Disrupting trafficking operations requires coordination with foreign governments. Absent an agreement, U.S. agencies cannot unilaterally operate in foreign countries. As such, U.S. and foreign law enforcement authorities must work together to investigate trafficking operations, collect and share firearms trace data, intercept firearms, and arrest traffickers and end-users of illicit firearms. These joint efforts should be bolstered by regional initiatives, foreign aid, and international treaties. However, there are ongoing challenges to international coordination, including resource constraints and corruption within foreign countries, as well as diplomatic tensions between the United States and those countries. Improvements in these areas are desperately needed to address the outflow of U.S. firearms and the corresponding migration crisis.

Countries in Latin America and the Caribbean have limited law enforcement resources, training, and expertise to combat trafficking.<sup>186</sup> Even though they are politically willing to address firearms trafficking, the practical realities of enforcement make it difficult for them to meet current challenges. With respect to Mexico, the United States has consistently supplied forensics training, advanced inspection technologies, canine units, and other tools to improve Mexico's firearms interdiction

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183. *Id.* at 9–10.

184. See Pantelitsa Leonidou et al., *A Qualitative Analysis of Illicit Arms Trafficking on Darknet Marketplaces*, THE 18TH INTERNATIONAL CONFERENCE ON AVAILABILITY, RELIABILITY AND SECURITY (ARES 2023) (Aug. 29, 2023), <https://dl.acm.org/doi/pdf/10.1145/3600160.3605087> [<https://perma.cc/HHQ5-NUBC>].

185. Undetectable Firearms Act of 1988, Pub. L. No. 100-649, § 2(a), 102 Stat. 3816, 3816–17 (codified at 18 U.S.C. § 922(p)).

186. GAO-09-709, *supra* note 168, at 37, 44–49.

efforts.<sup>187</sup> While significant, this capacity building assistance has not been sufficient.<sup>188</sup> In Jamaica, the government has invested in various detection technologies, such as coastal radars and scanners.<sup>189</sup> However, Jamaica, along with other Caribbean countries, lack the advanced detection technology that is required to more effectively detect firearms that are hidden in shipping containers and other mailed packages.<sup>190</sup>

These countries also struggle with high levels of corruption, which hampers current anti-trafficking operations.<sup>191</sup> For instance, firearms traffickers regularly bribe customs officers in the Caribbean to ensure that their illicit shipments containing firearms are waved through.<sup>192</sup> In these regions, it is also not uncommon for military personnel and local police officers to be complicit in trafficking operations. In Mexico, traffickers have been known to purchase firearms directly from corrupt officers.<sup>193</sup> Consequently, the Mexican military has routinely seized all firearms from local police forces to combat firearm diversions to criminal organizations.<sup>194</sup> However, it is unclear how effective these internal disarmament efforts have been in addressing firearms trafficking due to the lack of available data.

When local institutions are so fraught with internal challenges, external assistance can only go so far. To combat this risk of corruption, however, the United States has established partnerships with foreign governments over the years. Under the Obama Administration,

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187. GAO-21-322, *supra* note 7, at 29–30 (noting how between 2015 and 2019 the U.S. provided \$54 million in security assistance to Mexico to address firearms trafficking).

188. *Cf.* U.S. GOV'T ACCOUNTABILITY OFF., GAO-23-103795, U.S. ASSISTANCE TO MEXICO: STATE DEPARTMENT SHOULD TAKE STEPS TO ASSESS OVERALL PROGRESS 2, 33 (2023) (finding that despite more than \$3 billion in U.S. assistance since 2008, the security situation in Mexico has worsened significantly and continues to be a serious problem; as U.S. agencies have yet to establish performance measures to demonstrate effectiveness, it is impossible to show that the U.S.'s capacity-building efforts and investments have been effective at addressing the scale of cross-border security challenges).

189. Chris Patterson, *Administration Continues to Lobby US to Stem Inflow of Illegal Guns – PM*, JAM. INFO. SERV. (Feb. 8, 2024), <https://jis.gov.jm/administration-continues-to-lobby-us-to-stem-inflow-of-illegal-guns-pm/> [<https://perma.cc/9J4T-KNAY>].

190. *See id.*

191. GAO-09-709, *supra* note 168, at 50–51.

192. GAO-25-107007, *supra* note 14, at 23.

193. Steven Dudley, *How Guns Are Trafficked Below the Border*, INSIGHT CRIME (Feb. 1, 2011), <https://insightcrime.org/investigations/how-guns-are-trafficked-below-the-border/> [<https://perma.cc/4MSX-Y3SB>].

194. *See, e.g.,* Michelly Teixeira, *Police Pulled from Streets in Cartel-Dominated Culiacan After Army Confiscates Weapons*, LATIN TIMES (Oct. 2, 2024, at 9:52 ET), <https://www.latintimes.com/police-pulled-streets-cartel-dominated-culiacan-after-army-confiscates-weapons-560996> [<https://perma.cc/6TTM-E9TA>].

the United States developed the Caribbean Basin Security Initiative (“CBSI”) to provide security assistance to Caribbean nations.<sup>195</sup> Additionally, although now replaced by the Bicentennial Framework,<sup>196</sup> the Mérida Initiative provided technical assistance and advanced equipment to Mexico and countries in Central America.<sup>197</sup> Such partnerships are helpful for the purposes of addressing firearms trafficking, but building up local law enforcement capacity will take time. For example, despite the implementation of the CBSI, firearms continue to flood through the 151 uncontrolled ports in Jamaica.<sup>198</sup> In Haiti, systematic inspections of inbound shipments containing illicit firearms are difficult due to internal turmoil.<sup>199</sup>

Diplomatic tensions between the United States and other countries have also constrained joint efforts to combat firearms trafficking. For example, the Mexican government recently sued U.S. firearms manufacturers, alleging that U.S.-produced firearms are the proximate cause of cartel violence in Mexico.<sup>200</sup> Mexico argued that the United States is not doing enough to stop the southward flow of firearms.<sup>201</sup> By contrast, President Trump has attributed cartel violence to Mexico, accusing the Mexican government of forming an “intolerable alliance” with drug cartels to perpetuate trafficking acts.<sup>202</sup> Nevertheless, diplomatic agreements currently exist. For example, the Bicentennial Framework between the United States and Mexico includes cooperation against firearms trafficking.<sup>203</sup> Under this framework, both countries have

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195. Karla I. Rios, *Caribbean Basin Security Initiative*, CONG. RSCH. SERV., <https://sgp.fas.org/crs/row/IF10789.pdf> [<https://perma.cc/DA7C-9MYF>] (last updated Nov. 27, 2024).

196. *Summary of the Action Plan for U.S.-Mexico Bicentennial Framework for Security, Public Health, and Safe Communities*, U.S. DEP’T OF STATE (Jan. 31, 2022) [hereinafter *U.S.-Mexico Action Plan*], <https://www.state.gov/summary-of-the-action-plan-for-u-s-mexico-bicentennial-framework-for-security-public-health-and-safe-communities/> [<https://perma.cc/28F8-92BW>].

197. See CLARE R. SEELKE, CONG. RSCH. SERV., R41035, *MÉRIDA INITIATIVE FOR MEXICO AND CENTRAL AMERICA: FUNDING AND POLICY ISSUES* 8 (2010).

198. GAO-25-107007, *supra* note 14, at 20.

199. *Id.* at 18, 26, 30.

200. *Smith & Wesson Brands, Inc. v. Estados Unidos Mexicanos*, 605 U.S. 280 (2025).

201. Marcia Coyle, *Why Mexico Is Asking the Supreme Court to Weigh in on Gun Trafficking*, PBS NEWS (Mar. 3, 2025, at 4:34 ET), <https://www.pbs.org/newshour/politics/why-mexico-is-asking-the-supreme-court-to-weigh-in-on-gun-trafficking> [<https://perma.cc/3UEN-K5JS>].

202. *Fact Sheet: President Donald J. Trump Imposes Tariffs on Imports from Canada, Mexico and China*, THE WHITE HOUSE (Feb. 1, 2025), <https://www.whitehouse.gov/fact-sheets/2025/02/fact-sheet-president-donald-j-trump-imposes-tariffs-on-imports-from-canada-mexico-and-china/> [<https://perma.cc/R9MF-FB4X>].

203. *U.S.-Mexico Action Plan*, *supra* note 196.

committed to “securing modes of travel and commerce [and] reducing arms trafficking,” and they have pledged “the utmost respect for human rights and an intolerance for corruption.”<sup>204</sup> The two countries have also set up a working group to share intelligence and coordinate actions on firearms trafficking.<sup>205</sup> In 2025, the Trump Administration launched Mission Firewall, which aims to “disrupt illicit weapons trafficking across the U.S.-Mexico border” by, *inter alia*, facilitating Mexico’s expansion of the use of eTrace and strengthening information sharing between the two countries.<sup>206</sup> Despite the Trump Administration’s incendiary rhetoric, which has damaged trust between the United States and Mexico, initiatives like Mission Firewall are encouraging signs for diplomacy. It is too early to assess how anti-trafficking coordination between the United States and foreign countries will evolve under the Trump Administration, but other regional initiatives like Mission Firewall are needed to address the migration crisis in the long term.

Finally, the United States is not a party to key international treaties governing arms control. For instance, the United States has not ratified the UN Firearms Protocol, which obliges its signatories to criminalize illicit manufacturing and trafficking of firearms.<sup>207</sup> Likewise, the United States has not ratified the Arms Trade Treaty (“ATT”), which regulates illicit arms trades and diversions.<sup>208</sup> As such, the United States has to rely on bilateral agreements and a patchwork of domestic laws to regulate firearms trafficking. Not ratifying such treaties can undercut U.S. efforts to curb firearms trafficking because it is not maximizing all available avenues for international cooperation.

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204. *Joint Statement: U.S.-Mexico High-Level Security Dialogue*, U.S. EMBASSY & CONSULATES IN MEX. (Oct. 8, 2021), <https://mx.usembassy.gov/joint-statement-u-s-mexico-high-level-security-dialogue/> [<https://perma.cc/5K54-KMKQ>] (recognizing that the U.S. and Mexico must jointly address the underlying systemic issues with anti-trafficking operations, including corruption).

205. *Id.*

206. Press Release, U.S. Dep’t of State, First Meeting of the U.S.-Mexico Security Implementation Group Launches Mission Firewall: United Against Arms Trafficking Initiative (Sep. 27, 2025), <https://www.state.gov/releases/office-of-the-spokesperson/2025/09/first-meeting-of-the-u-s-mexico-security-implementation-group-launches-mission-firewall-united-against-arms-trafficking-initiative> [<https://perma.cc/7TUV-4JGJ>].

207. Protocol Against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, July 11, 2001, 2326 U.N.T.S. 208.

208. The Arms Trade Treaty, Dec. 24, 2014, 3013 U.N.T.S. 52373.

### F. Gun Lobby

The challenges discussed thus far are exacerbated by the gun lobby. In the United States, any efforts to strengthen gun laws have faced stiff political resistance. Historically, conservative organizations like the National Rifle Association (“NRA”) have strongly opposed any laws that they perceive as infringing on Second Amendment rights, including legislation targeting firearms trafficking.<sup>209</sup> These organizations have rejected universal background checks as a remedy for straw purchasing,<sup>210</sup> equating them to “backdoor” gun-control laws,<sup>211</sup> and opposed the 2022 ATF rule reclassifying ghost gun kits as firearms.<sup>212</sup> For example, the NRA has equated the U.S. government’s efforts to regulate firearms trafficking to using “Mexico as an excuse to sacrifice Second Amendment Rights.”<sup>213</sup> However, framing the firearms trafficking issue as such is problematic for conservatives, who have also been advocating for strong border security. If one root cause of undocumented immigration is firearms trafficking, it is logically incoherent to rally against anti-trafficking gun control measures while calling for stronger border security at the same time. Nevertheless, the gun industry stands to profit significantly from propounding these views. Between 2010 and 2012, more than 200,000 firearms were trafficked to Mexico, which resulted in nearly \$130 million in profit for American gun dealers.<sup>214</sup> These profit margins give the gun industry strong incentives to oppose federal laws regulating firearms trafficking.

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209. See, e.g., *New Jersey: Firearm “Trafficking” Legislation Has Hidden Dangers for Honest Brokers*, NRA INST. FOR LEGIS. ACTION (Feb. 7, 2024), <https://www.nraila.org/articles/20240207/new-jersey-firearm-trafficking-legislation-has-hidden-dangers-for-honest-brokers> [<https://perma.cc/RQ2L-83FQ>].

210. *ATF Trafficking Report Reiterates Futility of “Universal” Background Checks*, NRA INST. FOR LEGIS. ACTION (Apr. 15, 2024), <https://www.nraila.org/articles/20240415/atf-trafficking-report-reiterates-futility-of-universal-background-checks> [<https://perma.cc/9C4F-D2SD>].

211. Brian McCombie, *The Increasing Burden of Backdoor Gun Control*, NAT’L RIFLE ASSOC.: AMERICA’S 1ST FREEDOM (Sep. 22, 2023), <https://www.americas1stfreedom.org/content/the-increasing-burden-of-backdoor-gun-control/> [<https://perma.cc/75ED-ZAYT>].

212. Emma Colton, *NRA Slams Biden’s ‘Hollow’ Ghost Gun Rule, Not ‘Sincere’ Until Criminals Are Put Behind Bars*, FOX NEWS (Apr. 11, 2022, at 13:54 ET), <https://www.foxnews.com/politics/nra-slams-bidens-hollow-ghost-gun-rule-not-sincere-until-criminals-put-behind-bars> [<https://perma.cc/7L44-V538>].

213. Wendy Cukier, *The NRA’s Hemispheric Reach*, AMS. Q. (Apr. 22, 2013), <https://www.americasquarterly.org/fulltextarticle/the-nras-hemispheric-reach/> [<https://perma.cc/M8JP-HM8L>].

214. Robert Muggah & Topher McDougal, *Why a ‘Great Wall’ Won’t Stop the Cross-Border Gun Trade*, IGARAPÉ INST. (Nov. 9, 2018), <https://igarape.org.br/en/why-a-great-wall-wont-stop-the-cross-border-gun-trade/> [<https://perma.cc/V35V-YZNS>].

Because of its enormous influence in U.S. politics, the gun lobby has stalled many proposals related to firearms trafficking.<sup>215</sup> Its influence is not surprising given that the NRA alone has contributed more than \$140 million to pro-gun political candidates since 2010,<sup>216</sup> far outweighing gun reform groups in spending.<sup>217</sup> Consequently, Congress did not reauthorize the federal assault weapons ban in 2004<sup>218</sup> and has consistently opposed creating a federal gun registry,<sup>219</sup> among innumerable other proposals that would bolster the federal government's anti-trafficking efforts. As such, problems like the private sale loophole remain.<sup>220</sup> Additionally, some NRA-backed members of Congress have proposed significant cuts to ATF's budget,<sup>221</sup> and security assistance aimed at addressing firearms trafficking may also face cuts in upcoming fiscal years. As summarily stated by U.S. Senator Dick Durbin, the NRA enables "a vicious cycle of firearms trafficking to international drug cartels and criminal organizations" through its efforts to weaken domestic gun laws.<sup>222</sup>

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215. Press Release, U.S. Senate Comm. on the Judiciary, Durbin Introduces Bill to Curb Firearms Trafficking from the United States to Mexican Drug Cartels, (Sep. 26, 2023), <https://www.judiciary.senate.gov/press/releases/durbin-introduces-bill-to-curb-firearms-trafficking-from-the-united-states-to-mexican-drug-cartels> [<https://perma.cc/8NN7-5KQQ>].

216. *US Gun Control: What Is the NRA and Why Is It So Powerful?*, BBC NEWS (Apr. 13, 2023), <https://www.bbc.com/news/world-us-canada-35261394> [<https://perma.cc/5TLM-94T7>].

217. Daniel Nass, *How Much Did the NRA Spend to Support Republicans in 2020?*, TRACE (Feb. 1, 2021), <https://www.thetrace.org/2020/08/nra-2020-election-spending-trump/> [<https://perma.cc/S28M-7LV8>].

218. Glenn Thrush, *Democrats Failed to Extend Assault Weapons Ban in 2004. They Regret It.*, N. Y. TIMES (June 10, 2022), <https://www.nytimes.com/2022/06/09/us/politics/democrats-assault-weapons-ban.html> [<https://perma.cc/L9UA-WPBT>].

219. See, e.g., No Retaining Every Gun In a System that Restricts Your Rights Act, H.R. 563, 119th Cong. (2025).

220. *The Gun Lobby*, GIFFORDS L. CTR. TO PREVENT GUN VIOLENCE, <https://giffords.org/issues/the-gun-lobby/> [<https://giffords.org/issues/the-gun-lobby/>].

221. Steve Benen, *Group of House Republicans Unveil the 'Abolish the ATF Act'*, MSNBC: MADDOWBLOG (Jan. 9, 2025, at 12:51 ET), <https://www.msnbc.com/rachel-maddow-show/maddowblog/group-house-republicans-unveil-abolish-atf-act-rca187004> [<https://perma.cc/PLU7-HBY2>]; see *National Rifle Assn.*, OPENSECRETS, <https://www.opensecrets.org/orgs/national-rifle-assn/recipients?candcycle=2024&id=d000000082&toprecipcycle=2024&candcycle=2024> [<https://perma.cc/9W7R-U4DY>]. During the 2024 election cycle, the NRA made significant contributions to many such members of Congress. For example, the NRA contributed \$2,000 to Rep. Lauren Boebert, who has led efforts to cut ATF's budget. *Id.*

222. Press Release, Rep. Joaquin Castro, New GAO Report on Gun Trafficking: 73% of Guns Recovered in Caribbean Can Be Traced Back to United States (Nov. 14, 2024), <https://castro.house.gov/media-center/press-releases/new-gao-report-on-gun-trafficking-73-of-guns-recovered-in-caribbean-can-be-traced-back-to-united-states> [<https://perma.cc/34WL-6EZ5>].

## V. RECOMMENDATIONS

### A. *Strengthen Domestic Gun Control Laws*

There is no one-size-fits-all solution to firearms trafficking. However, domestic gun control mechanisms are some of the most effective tools in curbing gun trafficking. These include universal background checks, banning the sale of high-risk firearms and DIY gun kits, repealing or amending the PLCAA, subjecting the DOJ to greater congressional oversight, and returning jurisdiction over small firearms exports to State. Moreover, improvements need to be made to interagency incoordination and data collection, and the United States must improve relations with foreign governments to more collaboratively combat gun trafficking and address the migration crisis. While not all reforms are politically feasible in the near-term, reframing firearms trafficking as a matter of national security exacerbating undocumented immigration would make reforms more likely.

With regard to domestic reforms, Congress should pass legislation requiring universal background checks on all gun sales. This would close the private sale loophole and prevent illicit transactions at places like gun shows. If every prospective buyer is required to undergo the rigorous NICS check, traffickers will be deterred from acquiring firearms through private sales. While Congress has previously introduced universal background checks legislation, it has never passed both chambers.<sup>223</sup> Nevertheless, there is ample evidence that universal background checks work. States that already require universal background checks have a lower firearm homicide rate<sup>224</sup> and less intrastate firearm trafficking<sup>225</sup> compared to states with lax gun control laws. Additionally, universal background checks would assist law enforcement with data collection. Generally, it is difficult for ATF to trace firearms beyond the first retail purchaser.<sup>226</sup> If background checks are required for every firearm

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223. *See, e.g.*, Bipartisan Background Checks Act of 2021, H.R. 8, 117th Cong. (2021).

224. MICHAEL SIEGEL & CLAIRE BOINE, ROCKEFELLER INST. OF GOV'T, WHAT ARE THE MOST EFFECTIVE POLICIES IN REDUCING GUN HOMICIDES? 9–23 (2019).

225. Daniel W. Webster, Jon S. Vernick & Maria T. Bulzacchelli, *Effects of State-Level Firearm Seller Accountability Policies on Firearm Trafficking*, 86 J. URB. HEALTH 525, 526–27 (2009).

226. *See Maintaining Records of Gun Sales*, GIFFORDS L. CTR. TO PREVENT GUN VIOLENCE, <https://giffords.org/lawcenter/gun-laws/policy-areas/gun-sales/maintaining-records/> [<https://perma.cc/B2PC-LWFZ>] (explaining that ATF tracing identifies the first retail purchaser but that the absence of centralized sales records and recordkeeping requirements for private sales makes firearms increasingly difficult to trace after the initial sale).

transaction, each transfer would leave a paper trail, enabling ATF to better identify bad actors and analyze trafficking patterns.

Additionally, Congress should categorically ban the sale of certain high-risk firearms, which are especially sought after by gangs and drug cartels in Latin America and the Caribbean. For instance, the ban should extend to 0.50-caliber sniper rifles, which are frequently used against law enforcement authorities in those countries.<sup>227</sup> 0.50-caliber rifles are specifically designed to destroy aircrafts and helicopters,<sup>228</sup> enabling criminal organizations to overpower government forces. The Stop Arming Cartels Act,<sup>229</sup> which was introduced in the 119th Congress, seeks to prohibit future sales of 0.50-caliber rifles to civilians and regulate existing 0.50-caliber rifles under the National Firearms Act, which requires background checks and registration prior to the transfer of covered firearms.<sup>230</sup> Additionally, this bill would require FFLs to report multiple sales of rifles.<sup>231</sup> Under the current law, FFLs are required to report to law enforcement when an individual purchases two or more handguns within a five day window.<sup>232</sup> The same requirement does not currently extend to semiautomatic rifles. Congress should pass the Stop Arming Cartels Act and other similar legislation in the future because criminal organizations' access to military-grade firearms like 0.50-caliber rifles, glock switches,<sup>233</sup> and armor-piercing ammo<sup>234</sup> has been increasing. For instance, between 2016 and 2022, there was a 105% increase in rifles recovered at crime scenes in Mexico, which indicates the increasing use of these advanced firearms to inflict regional violence.<sup>235</sup>

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227. See KRISTEN RAND, VIOLENCE POL'Y CTR., LONG RANGE TERROR: HOW U.S. 50 CALIBER SNIPER RIFLES WREAK HAVOC IN MEXICO 2–3 (2025).

228. *Id.* at 13–15.

229. Stop Arming Cartels Act of 2025, S. 367, 119th Cong. (2025).

230. Jordan B. Cohen & Dave S. Sidhu, *The National Firearms Act and P.L. 119-21: Issues for Congress*, CONG. RSCH. SERV. (Sep. 24, 2025), <https://www.congress.gov/crs-product/IF13111> [<https://perma.cc/DC52-NJWR>].

231. Stop Arming Cartels Act § 5.

232. *Reporting Multiple Firearms Sales or Other*, BUREAU OF ALCOHOL, TOBACCO, FIREARMS & EXPLOSIVES, U.S. DEP'T OF JUST., <https://www.atf.gov/firearms/reporting-multiple-firearms-sales-or-other-dispositions> [<https://perma.cc/6PHK-SAQL>] (last reviewed Sep. 3, 2024).

233. *Over 1,500 Glock Switches Seized by Chicago CBP in 2024*, U.S. IMMIGR. & CUSTOMS ENF'T, U.S. DEP'T OF HOMELAND SEC. (Jan. 14, 2025), <https://www.cbp.gov/newsroom/local-media-release/over-1500-glock-switches-seized-chicago-cbp-2024> [<https://perma.cc/XH5V-JXRL>].

234. Julian Resendiz, *Seizure of Armor-Piercing Ammo Leads to Arrest of Alleged Trafficker*, BORDER REP. (May 14, 2024, at 5:31 CT), <https://www.borderreport.com/immigration/border-crime/seizure-of-armor-piercing-ammo-leads-to-arrest-of-alleged-trafficker/> [<https://perma.cc/HT96-P2D3>].

235. Lemus, *supra* note 8.

Congress should also move to repeal or amend the PLCAA.<sup>236</sup> The Stop Arming Cartels Act adopts the latter approach by allowing victims of gun violence to sue manufacturers and dealers who knowingly or recklessly facilitate trafficking, such as by selling firearms to designated cartel figures under the Foreign Narcotics Kingpin Sanctions Act.<sup>237</sup> Other pieces of legislation have also been introduced calling for an outright repeal of the PLCAA.<sup>238</sup> In either case, deimmunizing manufacturers and dealers from civil liability would incentivize them to better monitor their distribution chains and more thoroughly screen potential buyers to avoid facing economic consequences.<sup>239</sup>

Congress should also address the proliferation of ghost guns by codifying the 2022 ATF rule into statute. This would shield the current rule from being rolled back by future presidential administrations. However, defining ghost gun kits as “firearms” under the GCA will not sufficiently address the circulation of these guns. Therefore, Congress should also include a ban on the sale of all DIY gun kits that lack serialization. Regulating 3D-printed guns is inherently more challenging because it potentially implicates First Amendment issues around the sharing of design files.<sup>240</sup> Still, Congress previously introduced legislation to ban the distribution of blueprints for 3D-printed firearms.<sup>241</sup> Congress should reintroduce and pass these bills and increase penalties for anyone who uses 3D-printed guns in crimes. Moreover, Congress should incentivize 3D printer manufacturers to develop technologies that would enable micro-tracing on printed items. If additives like chemical taggants<sup>242</sup> can be surreptitiously added to 3D-printed gun parts, law enforcement agencies will be better able to trace 3D-printed guns even though they lack serial numbers.

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236. See *supra* section IV.B. (describing ATF’s enforcement constraints and explaining that, because the PLCAA precludes civil liability for manufacturers and dealers, federal enforcement alone is insufficient to ensure accountability).

237. Foreign Narcotics Kingpin Sanctions Regulations, 31 C.F.R. § 598 (2024).

238. See Equal Access to Justice for Victims of Gun Violence Act of 2023, H.R. 4184, 118th Cong. (2023).

239. See Chelsea Parsons, Eugenio W. Vargas & Rukmani Bhatia, *The Gun Industry in America: The Overlooked Player in a National Crisis*, CTR. FOR AM. PROGRESS (Aug. 6, 2020), <https://www.americanprogress.org/article/gun-industry-america/> [<https://perma.cc/CVL6-ER9E>].

240. Jessica Berkowitz, Note, *Computer-Aided Destruction: Regulating 3D-Printed Firearms Without Infringing on Individual Liberties*, 33 BERKELEY TECH. L.J. 51, 72–75 (2019).

241. See, e.g., 3D Printed Gun Safety Act of 2023, S. 1819, 118th Cong. (2023).

242. Beau Jackson, *Chemical Ghost Signatures Protect DED 3D Printed Parts from Counterfeiting*, 3D PRINTING INDUS. (Oct. 27, 2017), <https://3dprintingindustry.com/news/chemical-ghost-signatures-protect-ded-3d-printed-parts-counterfeiting-123404/> [<https://perma.cc/M8P6-TDQY>].

While statutes created under the BSCA for straw purchasing and trafficking<sup>243</sup> have successfully led to the prosecution of many straw buyers,<sup>244</sup> there is room for improvement. To ensure that these statutes are being implemented optimally, DOJ should be subjected to greater congressional oversight. While it has yet to be passed by Congress, the Caribbean Arms Trafficking Causing Harms (“CATCH”) Act would require the DOJ’s Coordinator for Caribbean Firearms Prosecutions to provide an annual report to Congress documenting the agency’s performance across various metrics, such as the number of trafficking prosecutions made.<sup>245</sup> Congress should pass similar legislation in the future to ensure that straw purchasing is being properly prosecuted. To amplify the statutes’ deterrence effect, Congress should also consider criminalizing bulk straw purchasing as an aggravating factor.

Lastly, to minimize the risk of diversion, Congress should pass legislation to return jurisdiction over small firearms exports to State. To that end, Congress should reintroduce the Americas Regional Monitoring of Arms Sales (“ARMAS”) Act,<sup>246</sup> which would codify this re-transfer. As analyzed previously, State’s USML imposes stricter export controls than Commerce’s CCL because the former is regulated under ITAR, a much more stringent regulatory regime than EAR.<sup>247</sup> Returning jurisdictional control of small firearms to State would reduce firearm export license approvals that have surged under Commerce<sup>248</sup> and curtail opportunities for traffickers to acquire firearms. The ARMAS Act would also mandate that Commerce report annually to Congress on illegal exports and trafficking of firearms to Mexico, Central America, South America, and the Caribbean.<sup>249</sup>

While these acts of Congress are necessary, they are not practically attainable in the near-term. At least through 2026, both chambers of Congress are under Republican control. In Congress, the Republican

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243. 18 U.S.C. §§ 932, 933.

244. Press Release, U.S. Dep’t of Just., Justice Department Secures More Than 500 Prosecutions Under New Firearms Statutes Enacted by Bipartisan Safer Communities Act (June 11, 2024), <https://www.justice.gov/archives/opa/pr/justice-department-secures-more-500-prosecutions-under-new-firearms-statutes-enacted> [<https://perma.cc/J5ZV-KGKL>].

245. Caribbean Arms Trafficking Causing Harms Act, S. 4067, 118th Cong. (2024).

246. Americas Regional Monitoring of Arms Sales Act of 2024, S. 4647, 118th Cong. (2024).

247. *See supra* notes 87–94.

248. JORDAN COHEN & A. TREVOR THRALL, CATO INST., 2022 ARMS SALES RISK INDEX 15, 26 (2023), [https://www.cato.org/sites/cato.org/files/2023-09/PA%20953\\_update.pdf](https://www.cato.org/sites/cato.org/files/2023-09/PA%20953_update.pdf) [<https://perma.cc/6Q32-WK5S>].

249. Americas Regional Monitoring of Arms Sales Act of 2024 § 5.

party continues to pursue policies that bolster the Second Amendment and rights to gun ownership.<sup>250</sup> For the reasons previously discussed, the continuing influence of the gun lobby will forestall any efforts to pass measures that would impose firearms regulations.<sup>251</sup> Moreover, when the BSCA was signed into law in 2022, the political atmosphere of Washington was more amenable to passing gun control reform as both chambers of Congress and the presidency were under Democratic control. While not all the foregoing legislation is guaranteed, or even likely, to pass under a Democratic Congress,<sup>252</sup> future reforms on firearms trafficking will be more feasible if the Republican party does not have unified control of Congress.

*B. Improve Interagency Coordination and Fix Bureaucratic Oversight*

A significant hindrance to anti-trafficking operations is the suboptimal coordination between agencies. To more effectively address the migration crisis, federal agencies must establish permanent interagency teams and improve data collection practices. Congress should also appropriate more funds to facilitate these improvements, thus enabling enforcement agencies to amplify their anti-trafficking operations, invest in better technologies, and administer community outreach programs. While meaningful reforms in the immediate term are unlikely, reframing firearms trafficking as a national security issue that spurs illegal immigration and the illegal drug trade will make reforms more attainable in the long run.

First, agencies like ATF, HSI/ICE, CBP, and State should establish a permanent firearms trafficking center analogous to the Organized Crime Drug Enforcement Task Force, which brings together agents from multiple agencies to combat narco-trafficking.<sup>253</sup> Creating a permanent interagency team would enable agencies to more seamlessly share intelligence and coordinate on anti-trafficking operations because they would be working under the same roof. In the past, operations like Operation Southbound and a 2020 ICE-CBP joint operation have produced uneven results, in part because participating agencies lacked

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250. Matt Manda, *House Republicans Honor Second Amendment Promises, Advance Key Legislation*, NAT'L SHOOTING SPORTS FOUND. (Mar. 26, 2025), <https://www.nssf.org/articles/house-republicans-honor-second-amendment-promises-advance-key-legislation/> [<https://perma.cc/QZ2A-XSUP>].

251. *See supra* section IV.F.

252. After all, the ARMAS Act, which was first introduced in 2021, never passed even though the Democrats controlled both chambers of Congress.

253. *Organized Crime Drug Enforcement Task Forces*, U.S. DEP'T OF JUST., <https://www.justice.gov/ocdef> [<https://perma.cc/N3W9-9V4F>].

fully developed coordination mechanisms and performance measures to assess and optimize joint enforcement activities.<sup>254</sup> Nevertheless, there are successful case studies. For example, the Border Enforcement Security Taskforces led by HSI seized more than 1,100 firearms along the southwestern border in just two years,<sup>255</sup> which suggests that instating a permanent interagency team of the kind described above would yield even better results. Moreover, this team should prioritize improved data integration. For instance, if NICS, eTrace, and DHS's seizure data could be seamlessly linked under a universal database, the interagency team would be better able to identify trafficking patterns and disrupt illicit operations.

In addition to data integration, current data collection practices need to be improved. Currently, 73% of firearms recovered in the Caribbean<sup>256</sup> and 70% of firearms recovered in Mexico<sup>257</sup> are U.S.-sourced. However, many firearms are never submitted to ATF for tracing by foreign law enforcement authorities, in part because they are not adequately trained to use eTrace.<sup>258</sup> Therefore, it stands to reason that expanding eTrace training would produce more trace submissions, which would lead to more investigative leads. Currently, ATF has eTrace memoranda of understanding with law enforcement agencies in forty-seven countries and provides them training through locally embedded ATF staff.<sup>259</sup> eTrace training includes best practices on firearms identification and instructions on how to submit trace data.<sup>260</sup> ATF should expand these programs to ensure that foreign law enforcement officials are not deterred from submitting trace data. In addition to formal training mechanisms, establishing or expanding crime gun intelligence centers (“CGICs”)—or something similar—in Mexico, Central America, and the Caribbean would amplify joint tracing and investigative efforts. CGICs are local, state, and federal partnerships led by ATF to combat firearms trafficking by collecting and sharing real-time ballistic intelligence.<sup>261</sup> In the Caribbean, State funds a similar program called the Crime Gun Intelligence Unit (“CGIU”), which

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254. GAO-21-322, *supra* note 7.

255. *Id.* at 27.

256. GAO-25-107007, *supra* note 14, at 10.

257. GAO-21-322, *supra* note 7, at 12.

258. *See* GAO-09-709, *supra* note 168, at 16, 45.

259. NFCTA - VOLUME II - PART IV, *supra* note 47, at 1.

260. *Id.*

261. *Crime Gun Intelligence Centers (CGICs): Fact Sheet*, BUREAU OF ALCOHOL, TOBACCO, FIREARMS & EXPLOSIVES, U.S. DEP'T OF JUST., <https://www.atf.gov/resource-center/docs/undefined/cgicfactsheetfy24508cpdf/download> [<https://perma.cc/VA5W-MQXD>].

collects firearms data and shares their findings with law enforcement officials in the region.<sup>262</sup> CGICs and other similar units are instrumental to joint law enforcement endeavors and should be expanded to Mexico and Central America.

In addition, Congress should appropriate more funds for anti-trafficking enforcement. As noted previously, ATF is currently underfunded.<sup>263</sup> Despite this, many members of Congress have proposed budgetary cuts to ATF,<sup>264</sup> and some have even proposed abolishing the agency entirely.<sup>265</sup> These proposals are detrimental to the federal government's anti-tracking efforts because many of the current enforcement gaps can be attributed to resource constraints. In recent years, ATF has faced staffing shortages due to budgetary constraints.<sup>266</sup> This is a significant obstacle to anti-trafficking operations, which would benefit from more—not fewer—ATF agents working on investigations. Therefore, fully funding ATF<sup>267</sup> and other agencies involved with combatting firearms trafficking would help ensure that their operations are not disrupted. With more federal funding, ATF's International Affairs Division ("IAD") can open more offices in Latin America and the Caribbean and recruit more field agents in these offices to facilitate investigations and train local law enforcement officials. Currently, there are thirteen IAD offices across eight countries, but only one office is in Central America.<sup>268</sup> By comparison, there are five offices in Mexico and three offices in the Caribbean.<sup>269</sup> Expanding the bandwidth of IAD field offices

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262. GAO-25-107007, *supra* note 14, at 23, 34.

263. *See supra* notes 145–49.

264. Press Release, Everytown for Gun Safety, *supra* note 148.

265. *See, e.g.*, Abolish the ATF Act, H.R. 129, 119th Cong. (2025); National Rifle Association (@NRA), X (Feb. 20, 2025, at 14:14 ET), <https://x.com/NRA/status/1892653950647861398> [<https://perma.cc/7283-GA3T>].

266. U.S. GOV'T ACCOUNTABILITY OFF., GAO-14-553, BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES: ENHANCING DATA COLLECTION COULD IMPROVE MANAGEMENT OF INVESTIGATIONS 13–17 (2014).

267. Letter from Sean Casten, U.S. Rep., et al., to Patty Murray, Chair, U.S. Senate Comm. on Appropriations, et al. (Dec. 6, 2024), [https://casten.house.gov/imo/media/doc/full\\_funding\\_for\\_atf.pdf](https://casten.house.gov/imo/media/doc/full_funding_for_atf.pdf) [<https://perma.cc/5GET-DFDE>] (urging full funding for the ATF and cosigned by fifty-seven members of Congress).

268. Video posted by Bureau of Alcohol, Tobacco, Firearms & Explosives, FACEBOOK, *The ATF's International Affairs Division Is at the Forefront of Combating Transnational Criminal Organizations to Protect the Public from Firearm Violence*, (July 5, 2024), <https://www.facebook.com/HQATF/videos/the-atfs-international-affairs-division-is-at-the-forefront-of-combating-transna/1174337637241934/> (on file with the New York University Journal of Legislation and Public Policy).

269. *International Affairs Division*, BUREAU OF ALCOHOL, TOBACCO, FIREARMS & EXPLOSIVES, U.S. DEP'T OF JUST., <https://www.atf.gov/about/organization-structure/international-affairs-division> [<https://perma.cc/YV3M-SS3R>] (last updated Nov. 29, 2024).

would ease their case workload, which would lead to better enforcement. IAD's wider presence would enable better collaboration with local law enforcement, which would help throttle the criminal gangs' access to U.S.-sourced firearms. Ultimately, this would help reduce migrations into the United States in the long-term because firearm-related gang violence would dwindle.

Along with operational improvements, budgetary increases would enable law enforcement agencies to invest more in enhanced gun traceability technologies. For instance, agencies can work to improve and expand the use of microstamping technology. Microstamping involves engraving a gun's firing pin with a unique identifier; each time a gun is fired, the firing pin imprints this unique identifier onto the cartridge case.<sup>270</sup> In the context of gun trafficking, microstamped casings recovered in Mexico, Central America, and the Caribbean would become significantly easier to trace, enabling better data collection and more effective investigations. Similarly, an increased budget would allow ATF to expand the use of the National Integrated Ballistic Information Network ("NIBIN") to these countries. The NIBIN uses automated ballistic imaging technology to match images of ballistic evidence, such as bullets and casings, to firearms and individuals in the ATF database.<sup>271</sup> Primarily used in connection to domestic gun crimes, the NIBIN has been highly successful: In fiscal year 2023 alone, the NIBIN helped generate more than 221,000 leads.<sup>272</sup> Similar to microstamping, expanding the use of the NIBIN internationally would improve trafficking investigations.

Lastly, federal agencies' community outreach would improve with an expanded budget. Through the Anti-Firearms Trafficking Campaign, ATF is currently partnered with ICE, HSI, and CBP to conduct education campaigns in cities most affected by gun trafficking.<sup>273</sup> There are also

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270. *What Is Microstamping, and How Does It Work?*, EVERYTOWN FOR GUN SAFETY (May 15, 2024), <https://www.everytown.org/what-is-microstamping-and-how-does-it-work/> [<https://perma.cc/HD7A-U68L>].

271. *Fact Sheet: National Integrated Ballistic Information Network*, BUREAU OF ALCOHOL, TOBACCO, FIREARMS & EXPLOSIVES, U.S. DEP'T OF JUST., <https://www.atf.gov/resource-center/fact-sheet/fact-sheet-national-integrated-ballistic-information-network> [<https://perma.cc/V739-QRQK>] (last updated June 2025). As of June 2025, NIBIN contains 7 million pieces of ballistic evidence and has generated 1.15 million investigative leads nationwide. *Id.*

272. *Id.*

273. *Anti-Firearms Trafficking Campaign*, BUREAU OF ALCOHOL, TOBACCO, FIREARMS & EXPLOSIVES, U.S. DEP'T OF JUST., <https://www.atf.gov/firearms/anti-firearms-trafficking-campaign> [<https://perma.cc/8Q6M-UHWX>] (last reviewed Dec. 21, 2023).

anonymous tip lines to solicit information about trafficking schemes.<sup>274</sup> Campaigns like these are important because they can dissuade individuals from participating in firearms trafficking as a straw purchaser or through other means. However, administering these programs is costly because it involves developing promotional materials,<sup>275</sup> as well as hiring and training personnel to conduct community outreach activities. An adequate budget would mitigate these concerns.

As previously discussed, the Trump Administration has taken various actions that are contrary to curbing firearms trafficking. But unlike the gridlock in Congress, which will stymie any further reforms on gun control for the foreseeable future, prospects of operational reforms under the Trump Administration are not zero. Despite documented coordination problems, initiatives like Operation Southbound<sup>276</sup> started under the first Trump Administration. With border security being one of the top priorities for the Trump Administration, it should make improvements to interagency coordination for better enforcement and data integration. While gun control measures will never be perfect, operational improvements like these are essential to reducing firearms trafficking and consequently migration to the United States. Of course, large-scale federal reform may have to wait until a new President occupies the Oval Office. Spurred by the BSCA and other reforms that followed since its passage, a future administration may be more conducive to implementing more aggressive reforms to anti-trafficking laws. That said, even under President Biden, needed reforms like reverting the jurisdiction over firearms exports to State never transpired. Instead, his administration opted for a more moderate approach to appease members of both parties.<sup>277</sup> A myriad of other factors like the make-up of Congress may also pose challenges to meaningful reforms at the federal level. Thus, the issue is not entirely an ideological one.

Ultimately, if firearms trafficking is framed as being a border security issue, it will garner more traction for reform notwithstanding which party controls the White House. For instance, if firearms trafficking is more widely recognized within American political discourse as facilitating illegal immigration and the illegal drug trade, thus undermining U.S. national security and the safety of American

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274. *Submit a Tip*, BUREAU OF ALCOHOL, TOBACCO, FIREARMS & EXPLOSIVES, U.S. DEP'T OF JUST., <https://www.atf.gov/contact/submit-a-tip> [<https://perma.cc/HTT8-EFD6>] (last updated May 9, 2025).

275. *See, e.g., Traveling with Firearms Posters*, BUREAU OF ALCOHOL, TOBACCO, FIREARMS & EXPLOSIVES, U.S. DEP'T OF JUST., <https://www.atf.gov/firearms/traveling-firearms-posters> [<https://perma.cc/6VTN-7YJK>] (last reviewed Feb. 13, 2024).

276. GAO-21-322, *supra* note 7, at 24–25.

277. Smith, *supra* note 38.

citizens, extensive reforms like the ones proposed in this Note would be more likely.<sup>278</sup> Today, policies related to firearms trafficking are seen by some as a vehicle to impose gun control. But as argued extensively in this Note, firearms trafficking directly impacts U.S. national security by spurring migration, which leads to undocumented immigration. Accordingly, greater understanding within public discourse regarding the impacts of weak gun control laws on immigration will help the United States reach a consensus and pursue meaningful reforms in this area.

### C. *Strengthen Relations with Foreign Governments*

Anti-trafficking operations will not work without strong international cooperation. Because firearms trafficking is a transnational crime,<sup>279</sup> it cannot be addressed solely domestically. Harmful rhetoric, such as threatening military actions<sup>280</sup> and imposing retaliatory measures against partnering countries,<sup>281</sup> damages international relations and discourages productive partnerships. To be clear, if a foreign government is materially contributing to firearms trafficking, economic sanctions may be in order and are indeed justified.<sup>282</sup> By and large, however, the United States stands to benefit more from fostering healthy working relationships with Latin American and Caribbean countries. The closer the United States is to its partners, the more cohesive their joint anti-trafficking endeavors can be. Accordingly, the United States must work closely with its allies by ratifying international treaties on firearms trafficking, establishing strategic regional partnerships, and prioritizing capacity-building, all of which will also help address the migration crisis. While these improvements are difficult due to corruption within the ranks of foreign governments, international dialogues to establish

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278. See *Why Can't the US and Mexico Halt the Drugs-to-Guns Pipeline?*, A-MARK FOUND., <https://amarkfoundation.org/reports/why-cant-the-u-s-and-mexico-halt-the-drugs-to-guns-pipeline/> [<https://perma.cc/Z3TZ-YHSQ>] (last updated Jan. 25, 2023).

279. See generally UNITED NATIONS OFF. ON DRUGS & CRIME – FLEMISH PEACE INST., *FIREARMS AND DRUGS: PARTNERS IN TRANSNATIONAL CRIME* (2024) (describing firearms trafficking as involving cross-border routes, actors, and networks associated with organized crime).

280. See, e.g., Savage, *supra* note 123.

281. See, e.g., Lesley Wroughton & Patricia Zengerle, *As Promised, Trump Slashes Aid to Central America over Migrants*, REUTERS (June 17, 2019, at 5:04 ET), <https://www.reuters.com/article/world/as-promised-trump-slashes-aid-to-central-america-over-migrants-idUSKCN1T12DS/> [<https://perma.cc/L2XD-2LSD>].

282. See, e.g., Press Release, U.S. Dep't of the Treasury, *Treasury Targets Venezuelan Government Officials Supporting the FARC* (Sep. 12, 2008), <https://home.treasury.gov/news/press-releases/hp1132> [<https://perma.cc/S6AH-KWYE>].

multilateral endeavors will improve the likelihood that meaningful long-term improvements will come to fruition.

In accomplishing these objectives, the United States must first ratify treaties like the ATT<sup>283</sup> and the Inter-American Convention (“CIFTA”).<sup>284</sup> Under CIFTA, signatories are required to criminalize illicit manufacturing and trafficking of firearms, strengthen export control laws, and prioritize cooperation and exchange of information with other states.<sup>285</sup> Specifically, CIFTA stipulates that states “shall adopt the necessary legislative or other measures to establish as criminal offenses under their domestic law the illicit manufacturing of and trafficking in firearms, ammunition, explosives, and other related materials.”<sup>286</sup> Because these treaties impose binding international law obligations on their signatories, they compel uniform firearm laws. While these treaties do not have a centralized, supranational enforcement body, U.S. ratification would signal to its regional partners that it is fully committed to addressing firearms trafficking. Countries like Jamaica—who are not already party to CIFTA even though they are overrun by illicit firearms<sup>287</sup>—may therefore feel encouraged to sign on.

Crucially, the United States must work to maintain and bolster its existing partnerships with foreign countries. As discussed previously, the Bicentennial Security Framework between the United States and Mexico already encompasses joint investigations and intelligence exchanges related to firearms trafficking.<sup>288</sup> Through this agreement, the United States has also provided ballistics analysis equipment and other investigative technologies to Mexico.<sup>289</sup> In the year following the adoption of the framework, the U.S.-Mexico taskforce was able to trace

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283. Arms Trade Treaty art. 3, 3013 U.N.T.S. 52373; see Zeynep Kloglu, *The Arms Trade Treaty*, in *ARMS TRAFFICKING* 115, 118 (Gian Ege et al. eds., 2022) (noting that the U.S. signed but has not ratified the ATT and analyzing how the absence of major exporting states undermines the treaty’s effectiveness in regulating international arms transfers).

284. Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials, Nov. 14, 1997, O.A.S.T.S. No. A-63.

285. *Id.* at 1–4.

286. *Id.* at 3.

287. *High Murder Rates in the Caribbean Linked to Guns Trafficked from the United States*, *supra* note 16.

288. *U.S.-Mexico Action Plan*, *supra* note 196.

289. Press Release, The White House, FACT SHEET: Biden-Harris Administration’s Ongoing Efforts to Stem Firearms Trafficking to Mexico (June 14, 2023), <https://bidenwhitehouse.archives.gov/briefing-room/statements-releases/2023/06/14/fact-sheet-biden-harris-administrations-ongoing-efforts-to-stem-firearms-trafficking-to-mexico/> [<https://perma.cc/V6A8-J9LG>].

40% more firearms and make 300% more criminal referrals.<sup>290</sup> The United States should build on this success by improving its data sharing practices with the Mexican government and, with Mexico's consent, embed more ATF agents in the country to strengthen operational coordination. Similar frameworks have been adopted in Central America through the Central America Regional Security Initiative ("CARSI")<sup>291</sup> and in the Caribbean through the Caribbean Basin Security Initiative ("CBSI").<sup>292</sup> Because the United States is not a party to multilateral treaties like CIFTA, it is doubly important that the United States bolster its existing agreements and maintain its commitment to joint anti-trafficking operations. Leveraging mutual legal assistance treaties ("MLATs")<sup>293</sup> is another way in which joint operations could be improved. MLATs enable countries to work together to prosecute crimes by facilitating the exchange of evidence, information, and testimony.<sup>294</sup> If a straw purchaser is arrested in the United States, MLATs enable the U.S. government to supply the names and details of that individual to foreign governments so that they can arrest the accomplices under their jurisdiction. Accordingly, expanding MLATs would enable more seamless prosecutions for firearms trafficking. Because countries like Guatemala, Honduras, and Haiti are not currently parties to MLATs, the United States should consider expanding these agreements to those countries.

Moreover, the United States should prioritize capacity-building in Latin America and the Caribbean through foreign aid and technical assistance. Aid should be administered strategically and must be made to fill specific enforcement gaps. For instance, to address concerns over firearms diversion, the United States has invested more than \$333 million in Latin America and the Caribbean since 1993 to fund the conventional weapons destruction program.<sup>295</sup> Funds can also be

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290. *Joint Statement: 2022 U.S.-Mexico High-Level Security Dialogue*, THE WHITE HOUSE (Oct. 14, 2022), <https://bidenwhitehouse.archives.gov/briefing-room/statements-releases/2022/10/14/joint-statement-2022-u-s-mexico-high-level-security-dialogue> [<https://perma.cc/4SBR-HLUD>].

291. *The Central America Regional Security Initiative: A Shared Partnership*, U.S. DEP'T OF STATE: BUREAU OF W. HEMISPHERE AFFS. (Mar. 5, 2014), <https://2009-2017.state.gov/documents/organization/224013.pdf> [<https://perma.cc/K6WZ-MSKL>].

292. *Caribbean Basin Security Initiative*, U.S. DEP'T OF STATE: BUREAU OF W. HEMISPHERE AFFS. (Mar. 1, 2024), <https://2017-2021.state.gov/caribbean-basin-security-initiative/> [<https://perma.cc/UP9L-GYTD>].

293. See OFF. OF INT'L AFFS., CRIM. DIV., U.S. DEP'T OF JUST., *MUTUAL LEGAL ASSISTANCE TREATIES OF THE UNITED STATES* (2022) (providing a list of MLATs the United States is a party to).

294. *Id.*

295. *U.S. Conventional Weapons Destruction in Latin America: Securing Weapons and Ammunition, Releasing Land, Promoting Environmental Resilience*, BUREAU

earmarked for importing and manufacturing container scanners at ports of entry in the Caribbean, ballistic imaging tools, and other capacity-building tools. In the past, these types of assistance have yielded success. For example, through the Caribbean Firearms Initiative, U.S. agencies have supported outreach, training, and capacity-building efforts that improved coordination with Caribbean law enforcement and customs officials and, in 2023, contributed to the seizure of 344 firearms, 224,438 rounds of ammunition, and approximately \$391,000 in U.S. currency.<sup>296</sup> Despite these successes, the Trump Administration has repeatedly called for cuts to foreign aid.<sup>297</sup> Whether it is the dissolution of USAID or the cancellation of foreign assistance awards,<sup>298</sup> the Trump Administration's attitude towards foreign aid will harm progress on capacity-building in Latin America and the Caribbean. If anti-trafficking operations are to succeed, cooperative assistance to these regions must continue.

Ultimately, meaningful progress on international coordination to address firearms trafficking will depend on a multitude of factors. For one, corruption inside the Latin American and Caribbean governments must be addressed. From the U.S. side, fortifying foreign relations through partnership agreements and other diplomatic arrangements would help these countries build up their capacity to root out corruption and effectively perform anti-trafficking operations. However, corruption within foreign governments makes progress more difficult. Nevertheless, the prospects for improved international coordination are cautiously improving. Countries in Latin America and the Caribbean have shown strong willingness to address the root issues of existing anti-trafficking operations through multilateral dialogues and regional initiatives. For instance, the United States and Mexico have held extensive discussions to address firearms trafficking, including the southbound firearms trafficking coordination meetings in 2023.<sup>299</sup> As discussed previously, Mission Firewall aims to disrupt illicit firearms trafficking by expanding Mexico's use of eTrace and ballistic-imaging technology, improving

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OF POL.-MIL. AFFS., U.S. DEP'T OF STATE (Jan. 20, 2025), <https://www.state.gov/bureau-of-political-military-affairs/releases/2024/04/u-s-conventional-weapons-destruction-in-latin-america-securing-weapons-and-ammunition-releasing-land-promoting-environmental-resilience> [<https://perma.cc/HFK3-NFQL>].

296. See GAO-25-107007, *supra* note 14, at 37.

297. See, e.g., Exec. Order No. 14,169, 90 Fed. Reg. 1234 (Jan. 30, 2025).

298. *The Trump Administration's Foreign Aid Review: Status of PEPFAR*, KAISER FAM. FOUND. (Oct. 16, 2025), <https://www.kff.org/global-health-policy/fact-sheet/the-trump-administrations-foreign-aid-review-status-of-pepfar/> [<https://perma.cc/YVJ3-TJVQ>].

299. See, e.g., U.S. DEP'T OF JUST., *Southbound Firearms Trafficking Coordination Meeting* (YouTube, July 15, 2023), <https://www.youtube.com/watch?v=ATKZXQeoVIA> (on file with New York University Journal of Legislation and Public Policy).

bilateral information sharing, and increasing joint inspections, investigations, and prosecutions targeting southbound gun flows.<sup>300</sup> While rooting out international corruption is a time-consuming endeavor, the recognition that the United States and other countries in the region have a shared responsibility to stop firearms trafficking, and consequently the migration crisis along the southern border, is promising. However, it is too early to prognosticate on how future bilateral meetings between the United States and Mexico will unfold, especially in light of other harmful actions by the Trump Administration.

Additionally, while U.S. Supreme Court cases like *Smith & Wesson Brands, Inc. v. Estados Unidos Mexicanos* indicate tense diplomatic relations between the United States and countries impacted by firearms trafficking, they also demonstrate strong willingness by these countries to attack the issue through all avenues. In *Estados Unidos Mexicanos*, Mexico sued U.S. gun manufacturers under the PLCAA, alleging that they aided and abetted illegal firearm trafficking into Mexico, proximately causing injury in Mexico.<sup>301</sup> Mexico alleged that the manufacturers: (1) knowingly supplied firearms to known rogue dealers; (2) failed to impose reasonable controls on their distribution chains to prevent illegal diversion; and (3) engaged in marketing and design choices intended to appeal to Mexican cartels.<sup>302</sup> The Court unanimously held that Mexico's claims are barred by the PLCAA because Mexico failed to plausibly allege aiding and abetting within the statutory exception to immunity.<sup>303</sup> The Court reasoned that "passive nonfeasance [that gun companies did not supervise or cut off rogue dealers is] . . . rarely the stuff of aiding-and-abetting liability."<sup>304</sup> Additionally, the Court noted that Mexico did not identify any particular dealer, transaction, or intentional conduct by the manufacturers to assist specific unlawful sales.<sup>305</sup> Thus, the Court's ruling protects U.S. gun manufacturers and distributors from having to change their practices as a result of foreign harm. Notwithstanding the outcome of *Estados Unidos Mexicanos*, Mexico has successfully pressured the U.S. government to engage in diplomatic discussions, such as through Mission Firewall. More importantly, these lawsuits make clear the Mexican government's position that "those who contribute to

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300. Press Release, U.S. Dep't of State, *supra* note 206.

301. *Smith & Wesson Brands, Inc. v. Estados Unidos Mexicanos*, 605 U.S. 280 (2025).

302. *Id.* at 281.

303. *Id.* at 284.

304. *Id.* at 282.

305. *Id.* at 282–83.

gun violence must face legal consequences, regardless of borders.”<sup>306</sup> Mexico’s litigation strategy may also incentivize countries in Central America and the Caribbean to pursue similar avenues in the future.

Cumulatively, international dialogues and ongoing lawsuits demonstrate strong commitment by these countries to address firearms trafficking and root out corruption within their borders. As previously discussed, reforms will be incremental. Nevertheless, these commitments and the United States’ own interest in promoting national and regional security to protect its borders can lead to a near-term outcome of improved, albeit not perfect, coordination, as long as mechanisms like tracing programs, joint interdiction operations, and technological transfer continue to improve. Over time, overhaul of these mechanisms will hopefully help quell the migration crisis as fewer U.S.-sourced firearms will end up in the hands of foreign gangs.

#### CONCLUSION

Although challenges to reducing firearms trafficking and its effects on immigration are multi-faceted, they are not unconquerable. In recent years, legislation like the BSCA have equipped law enforcement agencies with better tools to go after straw purchasers and firearms traffickers. The recent ATF rule targeting ghost guns is also encouraging. These reforms, along with other regulatory changes, are critical steps toward combatting firearms trafficking.

However, as discussed in this Note, many challenges remain. Existing gun and export control laws have exploitable loopholes, enabling bad actors to illicitly acquire firearms through multiple avenues. Laws like the PLCAA shield gun manufacturers and dealers from civil liability, incentivizing them to take actions that are contrary to the federal government’s anti-trafficking efforts. Enforcement agencies are hamstrung by budgetary constraints, suboptimal interagency coordination, problematic gun trace data collection practices, technological challenges, diplomatic tensions, and the gun lobby. Despite all these challenges, the Trump Administration has threatened to roll back progress made under the Biden Administration to strengthen gun control laws. For instance, the Trump Administration ordered the repeal of all policies by the Biden Administration considered to be in contravention of the Second Amendment. Consequently, regulations borne out

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306. *US Appeals Court Revives \$10bn Lawsuit by Mexico Against American Gunmakers*, GUARDIAN (Jan. 22, 2024), <https://www.theguardian.com/us-news/2024/jan/22/mexican-government-lawsuit-against-american-gun-manufacturers> [https://perma.cc/9BQA-97FG] (statement by Steve Shadowen, who represents the Mexican government in its lawsuits against the U.S. gun manufacturers and dealers).

of legislation like BSCA are facing existential challenges. The Trump Administration has already revoked an ATF internal enforcement policy, thereby shielding badly motivated FFLs from prosecution, and rescinded the Biden-era export control rule. Moreover, threats to retaliate against foreign countries through economic sanctions and military actions strain U.S. relations with these countries, which damages collaborative efforts to combat firearms trafficking. Because challenges with existing anti-trafficking efforts are already significant and fraught with various hurdles, these actions by the Trump Administration are significantly detrimental.

To mitigate current challenges, Congress should implement universal background checks, ban certain high-risk firearms, repeal or amend the PLCAA, and pass legislation to address the proliferation of ghost guns and 3D-printed guns, strengthen export control laws, and increase DOJ oversight. However, the current political make-up of Congress means that these congressional reforms are not currently feasible. Moreover, law enforcement agencies must improve their interagency coordination, collective data collection practices, and technological capacities. Increased appropriations from Congress would enable federal agencies to implement these enhancements and more. Finally, the U.S. government should prioritize improving collaboration with foreign law enforcement agencies through multilateral arms treaties and joint anti-trafficking operations. The United States should also continue to provide foreign aid and technical assistance to foreign governments that currently lack the capacity to adequately address firearms trafficking.

The fight against firearms trafficking is not easy, but it must begin at home. Weak gun laws cause firearms to flow to gangs and drugs cartels abroad. These entities use these U.S.-sourced firearms to inflict violence against civilians in Mexico, Central America, and the Caribbean. The resulting violence then causes those people to migrate to the United States, contributing to the crisis at the border. In the short-term, expansive reforms are unlikely, especially under a Republican-controlled Congress and the Trump Administration. Nevertheless, incremental reforms like the bolstering of existing multilateral frameworks and joint anti-trafficking operations are feasible today and must continue. In the longer term, framing anti-trafficking as a broader national security issue spurring undocumented immigration, narco-trafficking, and other harms to U.S. citizens would incentivize greater reform no matter which party oversees the federal government.