



INVISIBLE WEAPONS, INDELIBLE PAIN:

The Urgent Necessity for Transparency in
the U.S. and Mexican Gun Trade



Contents

Page.

3. Introduction

3. Context

Mexico

United States

7. Impunity, weapons and transparency:

How transparency impacts gun violence and human rights in Mexico

Who bears responsibility for a death in Mexico or the United States by firearm produced in the U.S. or Europe?

11. Transparency: Toward a policy of accountability

What is the basis for government actions if their impacts, effectiveness, and performance are not measured?

Governments do not have all the responses, information and understanding that are needed

15. International Standards: The Arms Trade Treaty

16. Data Discrepancies: A Puzzle Without End

Discrepancies in Data on Firearm Acquisitions Reported by the Mexican Army (SEDENA)

Firearms Acquisitions for Distribution to State and Local Police

Firearms acquired for military use (Army and Navy)

Incomplete and contradictory statistics: the case of Colt

Recovered firearms

Firearms reported as stolen or lost

- 27.** U.S. Firearm Exports Data Discrepancies: *Case of ATF and International Trade Commission*
- 28.** Excessive Classification of Information by the United States
- 30.** The non-existence and classification of information in Mexico
- 33.** Impacts and risks from lack of transparency
 - The risks of weakening or eliminating Mexico's transparency agency
 - Relevant Rulings by National Institute of Access to Information
- 37.** Open Government Partnership
- 39.** Recommendations
 - For the United States
 - For Mexico

Introduction

This report seeks to show the difficulties of accessing information in Mexico and the United States on an issue that is of vital public importance: the gun trade. There is wide consensus that both countries face humanitarian crises, as a result of gun violence and the proliferation and lack of civilian controls on weapons.

We conducted research over several years, through hundreds of public records requests, reviewing thousands of pages of information related to firearms that we have obtained from military, police and other government agencies. In addition, we studied official firearms trade information published by both nations' governments, which we analyze here.

Based on this research, we have formulated a set of recommendations regarding the transparency that is needed to achieve public accountability in both countries for the movement and control of firearms, with the aim of making policy based on well-founded and accurate evidence.

This report seeks to show the difficulties of accessing information in Mexico and the United States on an issue that is of vital public importance: the gun trade

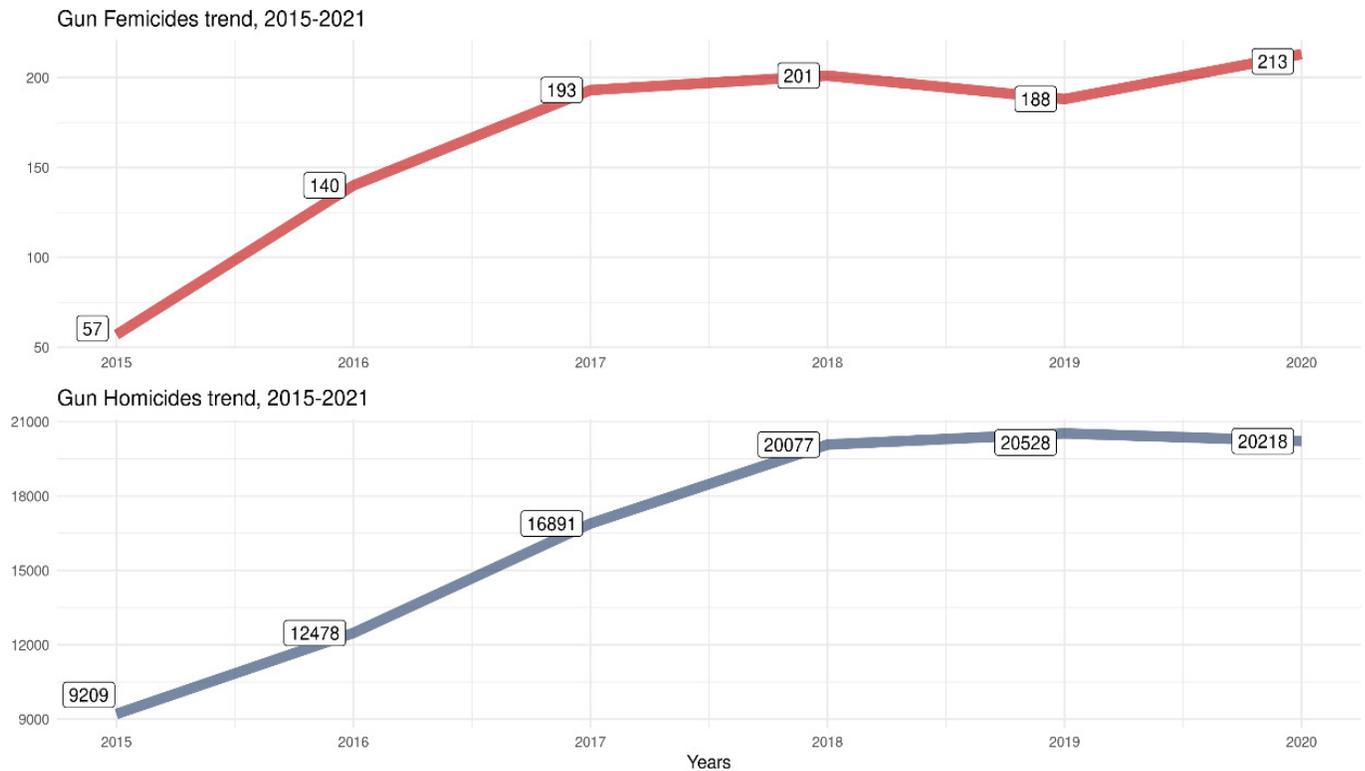
Context

México

Mexico never experienced such high levels of violence before the military was deployed for law enforcement efforts in December 2006. Since then, law enforcement has been plagued with serious human rights violations. From 2006 to May 2021, Mexico has experienced 309,793 homicides, of which at least 59.2% were committed with a firearm.¹ According to Mexico's Public Security Secretariat, 2019 was the most violent year, with 20,716 gun homicides during the year.²

¹ Executive Secretariat of the National System for Public Security (SESNSP). *Datos Abiertos de Incidencia delictiva. 1997 a mayo 2021.* (SESNSP. 20 de julio de 2021). Available at: <https://www.gob.mx/sesnsp/acciones-y-programas/datos-abiertos-de-incidencia-delictiva>.

² Executive Secretariat of the National System for Public Security (SESNSP). *Datos Abiertos de Incidencia delictiva. State Crime Incidence Data, 2015- May 2021.*(SESNSP. 20 de julio de 2021). Available at: <https://www.gob.mx/sesnsp/acciones-y-programas/datos-abiertos-de-incidencia-delictiva>.



Graph: By the authors based on SESNSP public statistics, data as of July 20, 2021. Data available at: <https://www.gob.mx/sesnsp/acciones-y-programas/datos-abiertos-de-incidencia-delictiva>

After the deployment of the armed forces, there was a series of allegedly armed confrontations that led to detentions, injuries and deaths among soldiers, presumed criminals, and uninvolved civilians. Information disclosed by the Army (SEDENA), the Navy (SEMAR) and the National Guard indicates that since 2006 the percentage of alleged criminals is much larger than that of soldiers killed during the confrontations.

From 2007 through 2020, official data report 4,995 confrontations between Army soldiers and people who allegedly belonged to organized crime - more than 350 armed confrontations annually. The Navy stated that from 2008 to 2020 it participated in 389 confrontations between Navy personnel and members of organized crime, an average of 29 per year.³ The National Guard, for its part, participated in at least 120 confrontations in 2019 and 2020.⁴

In all of these incidents, SEDENA had the highest “lethality index.” Out of 5,374 reported deaths from 2007 through 2020, 5,042 were civilians, alleged to be criminals, making up 94% of all those killed. SEMAR stated that out of 575 deaths in confrontations from 2008 to 2020, 510 were

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³ SEMAR, response to information request, Folio 0001300032021, February 17, 2021.

⁴ Guardia Nacional, response to information request, Folio 2800100021321, February 17, 2021.

civilians presumed to be criminals, making 89% of all those killed. The National Guard reported 44 people killed in confrontations, of whom 27 were civilians alleged to be criminals, one uninvolved civilian and 16 National Guard members.⁵

The evidence also indicates that the military strategy increased violence and the commission of serious human rights abuses, including extrajudicial executions committed by soldiers and armed organizations.⁶ The majority of the killings were carried out during confrontations initiated by the armed forces.⁷

Moreover, in many cases of military operations, investigations of abuses were opaque, crime scenes were tampered with, guilt was fabricated, and civilians who were extrajudicially killed were criminalized.

For example, on March 3, 2010, a married couple who drove their vehicle out of the business where they worked in Anáhuac, Nuevo León were trapped in crossfire between soldiers and armed individuals. The couple got out of the vehicle and ran. The husband was injured and his wife managed to hide. After the firefight she looked for help, but the soldiers fired at both of them, afterward approaching and killing them. The Army's official version, later discredited by the government's National Commission for Human Rights (CNDH), claimed that soldiers were patrolled when they were attacked with gunfire, which they repelled. When the gunfire was over, they said, they found four people dead, from whom they said they removed several firearms. The victims were presented in public statements as members of organized crime, even giving criminal nicknames or aliases. The CNDH found that soldiers changed the positions of the victims' bodies, planted weapons on them, and that soldiers neglected to give medical attention to injured persons.⁸

The Mexican Commission identified 89 more cases like this one in which they documented the execution of at least 365 people in CNDH reports issued between December 2006 and June 2019, in which officials gave different information from what actually occurred.⁹

In many cases of military operations, investigations of abuses were opaque, crime scenes were tampered with, guilt was fabricated, and civilians who were extrajudicially killed were criminalized

It is undeniable that the firearms acquired by Mexico and used by its security forces are taking innocent human lives

⁵ Guardia Nacional, response to information request, Folio 28000100021321, February 17, 2021.

⁶ Chávez Vargas, L. y Amaya Lule, J. (coords.). *Entre la brutalidad y la impunidad. Los crímenes atroces cometidos al amparo de la estrategia de seguridad militarizada (2006-2018)*. (Mexican Commission for the Defense and Promotion of Human Rights. CdMx. 2020). Available at: <http://cmdpdh.org/project/entre-la-brutalidad-y-la-impunidad-los-crimenes-atroces-cometidos-al-amparo-de-la-estrategia-de-seguridad-militarizada-2006-2018/>

⁷ Mexican Commission for the Defense and Promotion of Human Rights. *Intervención oral en el 47 período de sesiones del Consejo de Derechos Humanos de Naciones Unidas. Dirigida al Relator especial sobre Ejecuciones Extrajudiciales y Sumarias*. (June 30, 2021).

⁸Chávez Vargas, L. y Amaya Lule, J. (coords.). OP.CIT. Pag. 41.

⁹Chávez Vargas, L. y Amaya Lule, J. (coords.). OP.CIT. Pag. 46.

It is undeniable that the firearms acquired by Mexico and used by its security forces are taking innocent human lives in a context in which it appears that the only existing regulatory framework serves gun violence.



Photo: Tamaulipas Government. Special Forces Group (GOPES for its acronym in Spanish)

United States

The United States is the source of most firearms used in gun violence in Mexico. In 2020, the United States accounted for 80% of small arms legally exported to Mexico.¹⁰ U.S.-sourced firearms also consistently make up at least 70% of recovered illicit guns.¹¹

The United States is also experiencing a crisis of gun violence committed by both police and non-state actors. In 2020, with the onset of the COVID-19 pandemic, people in the United States bought an unprecedented 22 million firearms, an increase of 40% from 2019.¹² In the wake of this enormous growth of gun acquisition, which continues in 2021, the United States has seen an eruption of more gun violence, which already exceeded gun violence in Europe and other wealthy countries, by far. Many have responded to this violence with calls for more armed police in cities throughout the country, despite persistently large numbers of gun homicides by police.¹³

In 2020, people in the United States bought an unprecedented 22 million firearms, an increase of 40% from 2019

¹⁰ The United States exported 65,953 out of 82,515 small arms exported from all countries to Mexico, according to Mexico's declaration under the Arms Trade Treaty for 2020. Nearly 89% of Mexico's small arms imports in 2020 (96% of U.S. small arms imports) were for military or police use. See: Informe anual 2020 sobre las exportaciones y las importaciones de armas convencionales, según el artículo 13(3) del Tratado sobre el comercio de armas. (Arms Trade Treaty. May 19, 2021). Available at: <https://thearmstradetreaty.org/download/bbf4a47a-df68-3a6b-ac74-0677d711da34>.

¹¹ U.S. Department of Justice. Bureau of Alcohol, Tobacco, Firearms and Explosives. *Mexico: Data: Source: Firearms Tracing System January 1, 2014 – December 31, 2019*. (U.S. Department of Justice. As of March 10, 2020). Available at: <https://www.atf.gov/firearms/docs/undefined/tracedatamexicocy1419finalpdf/download>

¹² Nass, D. *How Many Guns Did Americans Buy Last Month? We're Tracking the Sales Boom*. (The Trace. August 3, 2020). Available at: <https://www.thetrace.org/2020/08/gun-sales-estimates/>.

¹³ The Biden administration responded to the growth in gun violence with a package of measures in June 2021 that increase federal resources for police, facilitating the use of American Rescue Plan funds for more police. See: The White House. *Fact Sheet: Biden-Harris Administration Announces Comprehensive Strategy to Prevent*

In fact, if the same proportion of U.S.-sourced firearms are used in gun homicides in Mexico, then U.S. guns are used in more murders in Mexico than in all of the United States. For this reason alone, any accounting of the impact of the U.S. gun market and its lack of regulations and transparency must consider how these weapons are used in violence in Mexico, including homicides, firearm injuries, forced displacement and flight of refugees, rights violations by police and soldiers, forced disappearances, sexual violence, extortion, and human trafficking. This violence has produced a vast humanitarian crisis of enormous human suffering.

How can we mitigate the effects of violence in both countries if that violence is occurs with impunity, or if information and processes are opaque? And how can we attribute responsibility to repair the damage of violence? These are necessary questions.

Free access to information is a key component of accountability, and thus to combat and mitigate the history of endemic impunity in Mexico's criminal justice systems. It is a fundamental element in any effort to identify, charge, oversee, and sanction those most responsible for the multiple atrocities produced as a result of gun violence.

Impunity, weapons and transparency

What does transparency of firearms have to do with violence and human rights in Mexico? The case of U.S.-exported weapons delivered to Tamaulipas police offers some lessons

Cassandra Treviño was with her two-year-old daughter at her father's home in Nuevo Laredo, Tamaulipas, on September 5, 2019, when Tamaulipas state police agents burst in, dragging seven people with them. Shortly after the break-in, Treviño's father and the seven captives had been assassinated with gunshots to the head, according to a local human rights group. The crime was covered up with a claim that the victims had died in a battle against drug traffickers.¹⁴

A year before, in September 2018, we submitted a records request to the Mexican Army (SEDENA) through Mexico's transparency platform for receipts for sales of firearms to Mexican states that documented the

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and Respond to Gun Crime and Ensure Public Safety. (The White House. Briefing room. June 23, 2021). Available at:

<https://www.whitehouse.gov/briefing-room/statements-releases/2021/06/23/fact-sheet-biden-harris-administration-announces-comprehensive-strategy-to-prevent-and-respond-to-gun-crime-and-ensure-public-safety/>

¹⁴ Zerega, G. *Los falsos positivos de Tamaulipas*. (El País. September 24, 2019). Available at: https://elpais.com/internacional/2019/09/23/mexico/1569271112_031672.html.

makes, numbers and costs of these firearms. On October 6, SEDENA responded that it had 8,236 pages in paper form, and supplied a form for payment on November 1. After we paid 4,118 pesos for the paper copies, we received them on December 21. However, SEDENA had redacted out the number, cost, and other information about the firearms. In response to an appeal by the requester in January 2019, the Instituto Nacional de Acceso a la Información (INAI) ruled unanimously on February 20, 2019 in favor of releasing the unredacted documents. On March 25, 2019, SEDENA delivered paper copies of 8,236 pages of unredacted receipts for firearms transfers to state and municipal police, for Folio 0000700176018.

The documents included just 60 pages of receipts for firearms transfers to Tamaulipas state and local police between 2006 and 2018, totaling 4,722 firearms for the 13-year period. Yet, a 2017 response by SEDENA indicated it has transferred 508 of Sig Sauer firearms to Tamaulipas police in 2014 and 2016,¹⁵ but no Sig Sauer firearms appeared among the receipts, evidence of inconsistencies in the information.

In February 2020, we submitted an information request to SEDENA for receipts of the Sig Sauer firearms it sold to police in Tamaulipas, including those that SEDENA itself had stated it transferred to Tamaulipas in 2014 and 2016. The receipts released by SEDENA in March 2020 disclosed that nearly 2,000 Sig Sauer firearms had been sold to police in Tamaulipas between 2014 and the end of 2019.¹⁶ According to one receipt, SEDENA sold 500 Sig Sauer rifles to Tamaulipas state police on October 15, 2019, more than one month after the Valles de Anahuac massacre and several weeks after Treviño and other witnesses had denounced the massacre and state police involvement.¹⁷

One month later, in mid-November 2019, two Tamaulipas State Police agents were charged and arrested for the murders.¹⁸ Yet the following month, SEDENA again transferred Sig Sauer firearms - 100 rifles and 259 pistols - to Tamaulipas state police. Photographs of the Tamaulipas state police later in 2020 showed the Special Forces Group (GOPES) brandishing Sig Sauer rifles.¹⁹

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¹⁵ SEDENA response to information request, Folio 0000700016317, February 17, 2017.

¹⁶ SEDENA response to information request, Folio 0000700059120, March 11, 2020.

¹⁷Zerega, G. OP. CIT.

¹⁸Procuraduría General de Justicia del Estado de Tamaulipas. *Procuraduría General de Justicia. Comunicación social. PGJE-327-2019*. (Fiscalía General de Justicia. Prensa. November 15, 2019). Available at: <https://www.fgitam.gob.mx/2019/11/procuraduria-general-de-justicia-comunicacion-social-pgje-327-2019/>.

¹⁹ Hernandez , Antonio. *EU entrenó a nuevo equipo policial de operaciones especiales de Tamaulipas*. (Milenio, August 8, 2020). Available at: <https://www.milenio.com/policia/tamaulipas-grupo-operaciones-especiales-entrenado-eu>.

Meanwhile, Edgar López, who had lived and worked in Carthage, Mississippi for 22 years, was deported from the United States to Guatemala in July 2020, after enduring 11 months in U.S. migrant detention prisons. His wife and daughters were still in Mississippi, so in January 2021, he joined others from his highland indigenous village on a trek back to the United States, through Mexico - and Tamaulipas.²⁰ In Camargo, a few miles from the U.S. border, the group's vehicle encountered the Tamaulipas GOPES unit, who fired on them, killing 19 people, including Edgar.²¹

The disclosure by SEDENA of the firearms transfers to Tamaulipas state police should have led to the suspension of the Sig Sauer license by the U.S. government. But by that time, the Trump administration had loosened its export licensing rules. Eight U.S. senators are now questioning the license.²² It may be that SEDENA's disclosure of U.S. firearms sales to Tamaulipas state police and pressure from U.S. officials and civil society groups will contribute to accountability for the atrocities committed by those police.



Photo: Tamaulipas Government. Special Forces Group (GOPES)

²⁰ Mora, D. y Green, E. *Deported to Death*. (Vice. World News. February 23, 2021). Available at: <https://www.vice.com/en/article/epd9qk/edgar-lopez-murder-trump-zero-tolerance-immigration-policy>.

²¹ Manuel Juarez, Carlos. *Identifican a 3 guatemaltecos más entre los calcinados en Camargo, Tamaulipas*. (Aristegui Noticias. February 5, 2021). Available at: <https://aristeginoticias.com/0502/mexico/identifican-a-3-guatemaltecos-mas-entre-los-calcinados-en-camargo-tamaulipas/>.

²² Letter from Senators, March 12, 2021, <https://stopusarmstomexico.org/wp-content/uploads/2021/03/Letter-to-Sec-Blinken-on-Firearms-Exports-to-Mexico-2-18-001.pdf>.

Who is responsible for a firearm, produced in Europe or the United States, taking the life of an innocent person in Mexico or the United States?

There are many actors who play important roles and have high levels of responsibility in these homicides. Nevertheless, in order to prevent violence, if there is no reliable, accessible and timely information on the movement of firearms, both licit and illicit, then strategies to reduce violence produced with firearms will be ineffective and insufficient.

On April 26, 2010, a German Heckler & Koch G3 rifle in the hands of a Mexican soldier took the life of Jorge Parral,²³ who two days earlier had been kidnapped together with another federal official by a commando presumably of a criminal organization.²⁴ The events were related to an alleged confrontation between the Army and criminal group that occurred the same day, during which three people were killed who SEDENA described - without any evidence - as professional killers (*sicarios*), among whom was Jorge.²⁵ Eleven people were also detained, of whom seven were apparently released. Though those who carried out the killing and subsequent forced disappearance of Jorge were Mexican Army soldiers, only some of them were criminally charged, while many others participated in the crime.

The Nuevo León state prosecutor and SEDENA tried to hide Jorge's body - though he was fully identifiable - and thus his extrajudicial execution. He was found in a common grave with dozens of other persons who had not been identified. The official report changed his physical characteristics, making the search process begun by his family more difficult.²⁶

In this context of gun violence, police or military soldiers may take someone's life arbitrarily in different circumstances and locations. The use of firearms by security forces is a systematic and generalized part of the commission of serious human rights violations. In this sense, transparency of information and investigations is a very important tool for accountability, policies of prevention, the identification of intellectual authors of such serious human rights violations and other violence.

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²³Mónaco Felipe, P. y Rea Gómez, D. *Abriendo Grietas Contribuciones de sobrevivientes y familiares de víctimas de violaciones graves a derechos humanos al derecho a la verdad*. (Article 19. octubre de 2020). p. 105. Available at: https://articulo19.org/wp-content/uploads/2020/11/INTERIORES_abriendogrietas-FINnov2020_BAJA.pdf.

²⁴ Mexican Commission for the Defense and Promotion of Human Rights. *Caso Jorge Parral Rabadán*. CMDPDH. Campaña No Olvidamos). Available at: <http://cmdpdh.org/no-olvidamos/jorge-parral-rabadan/>.

²⁵IDEM.

²⁶IDEM.

Transparency: Toward a Policy of Accountability

Transparency and accountability go beyond the right to information and the state's obligation to guarantee this right. It also includes processes of institutionalization, such as evaluations of policy, budgets, and government programs. An organization would fall short if it made decisions without having data to justify its actions. This impacts not only the government agency, but is also necessarily of citizen interest, because it deals with the use of public resources and with critical issues such as outcomes in areas of security and justice.

Accountability, transparency and generally the state's responsibility to guarantee human rights should be measured and evaluated in public policy. We understand public policy as "structured and stable actions, systematic in their operation, that make up a pattern of behavior or the way in which the government approaches in an ongoing manner the implementation of public functions or attends to certain public problems."²⁷ The objectives, guidelines, process and resources for public policies are constantly and coherently reproduced to address public problems that require sustained action.

Attributes of public information in proactive transparency

- 1. Accessibility:** that it is shared in such a way that all persons can consult it
- 2. Reliability:** that it is credible and trustworthy, providing information and/or data that allow for the identification of its origin and time of creation
- 3. Understandability:** that it is simple, clear and understandable for any person
- 4. Timeliness:** that it is published in time to maintain its value and be of use for decision-making by users
- 5. Truthfulness:** that it is exact and always says, references or shows the truth regarding its subject
- 6. Congruence:** that it is related to and coherent with other information generated, used and/or published by the government agency
- 7. Holistic:** that it gives all of the data, dimensions, parts and references needed to be complete and encompassing regarding the actions of the government agency
- 8. Current:** that it is the most recent information and the result of adding, modifying or creating data based on the actions and activities of the government agency
- 9. Verifiability:** that it is possible to test the truthfulness of the information, as well as examine the method by which the government agency generated it

Source: INAI, SFP y Transparencia Proactiva²⁸

²⁷Aguiar, L. *Marco para el análisis de las políticas públicas*, en: Martínez, F. y Vidal, C. (Coord.) *Política pública y democracia en América Latina. Del análisis a la implementación*. (Miguel Ángel Porrúa. México.2009)

²⁸ Instituto Nacional de Transparencia, Acceso a la Información y Protección de Datos Personales. *Guía de Transparencia Proactiva: Construyendo conocimiento público útil en beneficio de la sociedad*. (Secretaría de la Función Pública. Documentos. 2019). p. 18. Available at:

What is the basis for government actions if their impacts, effectiveness, and performance are not measured?

Applying these criteria to the issue of the gun trade, while agencies may well propose reforms, new regulations or elimination of norms, they must first have input for developing assessments and evaluations. Otherwise, a step in any direction will be taken blindly, without key indicators to measure both the real conditions of the problem to solve as well as the impact or lack thereof of the actions that the government may carry out. The same principle holds for the international trade - in this case, of firearms - in which exporting and importing countries need reliable information about the weapons, uses and users before issuing licenses or to evaluate the impact of the transfer of firearms, parts and munitions.

Information that is inaccurate, incomplete or non-existent on issues of the gun trade also tend to make less visible socially disparate impacts, links to other crimes and/or human rights violations, and of course the larger impacts on society. It also distorts our understanding of connections at the international level, including those between gun violence, gun trafficking, drug trafficking and forced migration.

The first step in the cycle of policy development is formulation, which requires assessments. These assessments depend on existing organized information, and for the information to be reliable it needs as much disaggregation as possible, especially when it deals with measuring social phenomena such as crime. In addition, the indicators used to systematize information need to be sensitive to issues such as the intersectionality between social variables. Government decision-makers must recognize that erroneous assessments produce mistaken solutions, which not only will not address the problem adequately, but can create new negative effects that deepen the problem or some of its effects.

Governments do not have all the responses, information and understanding that are needed.

Participatory assessments are a necessary tool to address these issues. These may be proposed based on citizen security, in which government agencies work together with civil society organizations, scholars and experts in the issue, as well as diverse sectors of society who understand the specific impacts based on their own experiences, including victims of human rights violations.

Information that is inaccurate, incomplete or non-existent on issues of the gun trade also tend to make less visible socially disparate impacts

Government decision-makers must recognize that erroneous assessments produce mistaken solutions

https://www.gob.mx/cms/uploads/attachment/file/522552/Guia_TransparenciaProactiva2019.pdf. La *Política de Transparencia, Gobierno Abierto y Datos Abiertos de la Administración Pública Federal 2021-2024*, adoptada por el gobierno en junio de 2021, plantea la transparencia proactiva entre sus primeras prioridades y hace referencia a esta guía. *Diario Oficial de la Federación*, 30 de junio de 2021.

Transparency can also be reflected in the indicators used to systematize information, in their design, and above all what is measured. The clarity of the information is part of citizens' right to it and of the imperative for accountability.

Responses of non-existence of information always undermine confidence in whether these agencies in fact possess the requested information but do not wish to share it and so argue it does not exist, or whether the lack of indicators signify a lack of commitment, interest or knowledge regarding the diverse experiences of violence, as well as a lack of will to measure and address such violence.”²⁹

Besides the processes of formulating and designing policy, another important aspect is the evaluation process, closely related to accountability. Evaluation facilitates measurement of success, failure, and areas of opportunity for a policy. On the issue of gun control, evaluation allows us to ask whether existing policies have fulfilled their objectives or not, whether reliable assessments have been considered or implemented, and whether there are coordinated policies to address the diversion of firearms. Evaluations should be transparent and have accountability mechanisms, since the objectivity of an evaluation depends on the evaluating entities as well as on the perception and the approval or disapproval of the public, which should be informed in order to itself evaluate government actions.

The processes of access to public information both in Mexico and the United States encounter multiple problems and obstacles that agencies put in place and make access difficult. One of the most common difficulties is delay or deny requests based on how requests are framed or phrased. Some agencies stick to very strict legal terms that for ordinary people may be complex or unknown, which indirectly reduces the public's possibility of using the right to information in the best way.³⁰

In the United States, the agency with primary responsibility for information on firearms is the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). According to an investigative report in 2021, although it is a police and regulatory agency, “the ATF frequently breaks or ignores public information law, making it harder for citizens, journalists, and researchers to monitor its effectiveness.”³¹ The average time that the ATF takes to respond to “complex” information requests is 16 months, making it among the agencies with the worst records regarding public information.³²

Both in Mexico and the United States encounter multiple problems and obstacles that agencies put in place and make access difficult. One of the most common difficulties is delay or deny requests based on how requests are framed or phrased

“The ATF frequently breaks or ignores public information law, making it harder for citizens, journalists, and researchers to monitor its effectiveness”

²⁹ García, R. y Yáñez, G. *La transparencia también cuenta para las mujeres*. (Animal Político. June 14, 2021).

Available at: <https://www.animalpolitico.com/verdad-justicia-y-reparacion/la-transparencia-tambien-cuenta-para-las-mujeres/>

³⁰IDEM.

³¹ Stephens, A. and Nass, D. *The ATF's Failure to Produce Public Records Keeps the Gun Industry in the Shadows* (The Trace. June 25, 2021). Available at: <https://www.thetrace.org/2021/06/atf-foia-request-firearm-industry-regulation-lawsuit/>.

³² IDEM.

Accountability and transparency require at their foundation accurate measurement but also political will. Despite the constitutional right to information in Mexico and the state's obligation to be accountable, political will continues to determine what will be measured, what will be recorded systematically, and what will be disclosed. Because "what is not spoken does not exist and what's uncomfortable is hidden," it is critical to insist on intersectional indicators that, at the least, account for gender, ethnic origin, migratory status, and age group, especially for those government actions that use public funds and are related to people's life, integrity, and security.

At the international level, state agencies' decisions not to produce or share critical information about arms transfers is an obstacle to both transparency and to preventing harmful and illegal uses of exported firearms. Until March 2020, all foreign importers of U.S. weapons had to provide an end user certificate to the exporting company, which would submit it to the U.S. State Department to determine whether the license was granted. Además, desde marzo de 2020, las exportaciones de armas desde los Estados Unidos, excluidas las armas de fuego totalmente automáticas, son supervisadas por el Departamento de Comercio, que tiene menos procedimientos de control de uso final que el Departamento de Estado.

The vast majority of U.S. firearms exported to Mexico - 96% in 2020 - were destined to military or police forces. Receipts obtained from the Mexican military for firearms sold by SEDENA to state and local police from 2006 through 2018, show that the Army sold U.S.-exported weapons to police, including state and local police in Tamaulipas, Guerrero, Chihuahua, and other states with extensive documented records of state violence and corruption.³³ Yet every single end user certificate for more than 147,000 firearms exported from the United States to Mexico for use by police from 2008 through 2019 declared the army as the end user.³⁴

In this case, the lack of transparency between two states regarding the destination of lethal firearms not only keeps the public in the dark, but hides information from trade partners that is critical to determining whether a weapons transfer will contribute to violence, be contrary to the weapons transfer's stated purposes, or, indeed, violate laws and policies of the exporting country.

³³ SEDENA, response to information request, Folio 0000700176018. Available at <https://stopusarmstomexico.org/police-firearms-database/>.

³⁴ SEDENA, responses to information requests, Folio 0000700337819, December 2, 2019 and Folio 0000700033920, March 11, 2020. Since March 2020, firearms exports from the United States excluding fully automatic firearms are overseen by the Commerce Department, which has fewer end use control procedures than the State Department.

From 2006 through 2018, the Mexican army sold U.S.-exported weapons to police, including state and local police in Tamaulipas, Guerrero, Chihuahua, and other states with extensive documented records of state violence and corruption

International Standards: The Arms Trade Treaty

The Arms Trade Treaty came into force in 2014 and has among its goals:

“Promoting cooperation, transparency and responsible action by States Parties in the international trade in conventional arms, thereby building confidence among States Parties.”³⁵

As a mechanism for transparency, it requires the State Parties to produce an initial report and an annual report on small arms imports and exports it carries out. In addition, it encourages the State Parties to include in those reports:

“the quantity, value, model/type, authorized international transfers of conventional arms covered under Article 2 (1), conventional arms actually transferred, details of exporting State(s), importing State(s), transit and trans-shipment State(s), and end users, as appropriate.”³⁶

Mexico was one of the countries that promoted the ATT negotiations and the treaty’s implementation and since its ratification, has published the initial report and six annual reports for the years 2015 through 2020. In its reports, Mexico has fulfilled most recommendations made by Control Arms in the *ATT Monitor*,³⁷ as follows:

- Reports have been published on time, have been public, and have not classified information.³⁸
- From the first report in 2015 to the most recent in 2020, Mexico has provided the required information, disaggregated by quantities, types, calibers, and models of imported firearms (though they have not included monetary value of these arms).³⁹



³⁵ Arms Trade Treaty, Art. 1, Object and Purpose, https://thearmstradetreaty.org/hyper-images/file/ATT_English/ATT_English.pdf?templateId=137253

³⁶ Ibid., Art.12, Paragraph 3

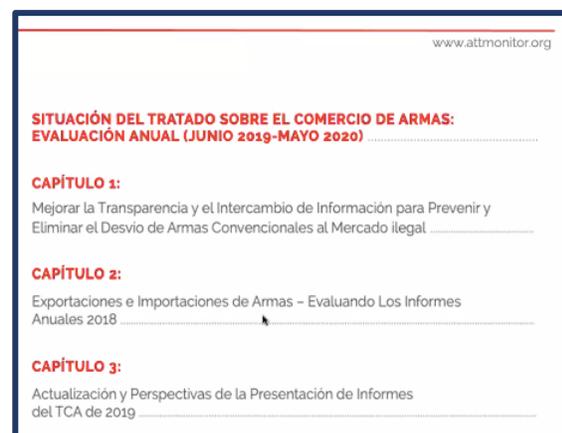
³⁷ *ATT Monitor* is an independent project of Control Arms begun in January 2015 that provides analysis and information on the implementation of the ATT and the initial and annual reports produced by State Parties. *ATT Monitor 2019* is available at: https://attmonitor.org/wp-content/uploads/2020/07/SP_ATT_Monitor-Report-2019_Online.pdf.

ATT Monitor 2020, Chapter 2: https://attmonitor.org/wp-content/uploads/2021/04/SP_ATT_2020_Chapter_2-1.pdf

³⁸ A concern of civil society groups involved in arms control that a growing number of States Parties are choosing in recent years to not publish their reports, a worrisome tendency since this reduces transparency. Moreover, the practice continues of keeping initial reports classified on the ATT Secretariat web site, preventing access to information about systems and procedures for controlling transfers, and an indicator of decreased transparency.

³⁹ The exclusion of this data could be because the ATT reporting format asks to show the number of firearms OR their monetary value, not both, complicating the ability to compare reports, such as between an importing country that reports number of firearms and an exporting country reporting the monetary value.

- The reports name the **exporting country** (the same in nearly all cases with the country of origin).
- Since 2016, the reports include the **firearms' use** (such as hunting, sport, law enforcement, military).
- The reports also include **other types of weapons**.
- It is not clear whether spaces left blank in the reports represent zero imports or something else.⁴⁰
- Not until 2019 did the reports include small arms exports, which went to Guatemala, El Salvador and Costa Rica.



Data Discrepancies: A Puzzle Without End

Information from official sources that we gathered for the production of this report show a series of significant discrepancies. In some cases, the discrepancies and the lack of confidence in information that results from these discrepancies is equivalent to not disclosing the information. For that reason, we believe it is important to explore further these discrepancies of data on firearms in Mexico and the United States.

Discrepancies in Data on Firearm Acquisitions Reported by the Mexican Army (SEDENA)

The aim of this section is to describe inconsistencies in information on the acquisition and distribution of firearms, released by SEDENA in response to public records requests. It is important to note that, unlike the federal Freedom of Information Act (FOIA) in the United States and many other public records laws, Mexico's Law for Transparency and Access to Public Information is designed for members of the public to request *information*, while FOIA and other laws are designed to request *documents*. As a result, Mexican agencies frequently respond with information from the records, effectively creating a new document. In the United States FOIA disclosures are of existing documents containing the information.

SEDENA is the only national agency in Mexico legally authorized to distribute firearms. The aim of this section is to describe inconsistencies in information on the acquisition and distribution of firearms, released by SEDENA in response to public records requests

⁴⁰ In other words, the box was left blank instead following the recommendation to put a zero or dash which indicates there were no imports.

SEDENA is the only national agency in Mexico legally authorized to distribute firearms.⁴¹ For this reason, we reviewed the consistency of information disclosed by SEDENA on firearms sold to police in Mexico's states, acquired for military use, stolen or gone missing from police, and recovered illicit firearms.

In the first request, sent in 2017, we sought from SEDENA the number of firearms acquired for their own use, for distribution to Mexican states, and to sell to individuals and private security companies, from 2010 to 2016, disaggregated by year, make of weapon and number of firearms. In response, SEDENA stated that it did not have the requested information since it is “not needed for the functions it carries out,” so that by INAI's rules it was not required to create a new document to respond to the request.⁴² However, it gave information it had available in four graphs in PDF format (which made data analysis more difficult), one of firearms for the Army's exclusive use, the rest showing firearms distributed to state governments, federal agencies, private companies, and counter sales to the general public.⁴³

Using some of the information in this disclosure, we published *Gross Human Rights Abuses: The Legal and Illegal Gun Trade to Mexico* in 2018. For this report, we put this acquisition data into a small database, which we will refer to that data set in this section as “**Charts.**”

As noted above, in 2018 we sent a second information request for receipts of “arms sold from 2006 to 2018, showing end users (names of states [in Mexico]) to which they were sold, number of items, costs, and makes.” SEDENA's response was that it could not allow direct access to the documents because of personal data, but offered to supply the receipts as photocopies that redacted confidential data, in 8,236 pages.⁴⁴



Tested receipt from Guerrero

⁴¹ SEDENA “functions as an intermediary between sellers and buyers; that is, it does not buy and sell weaponry as such, but is responsible for buying and distributing arms to local governments, companies, and individuals that seek to acquire them.” In: CMDPDH- Stop US Arms to Mexico. *Gross Human Rights Abuses: The Legal and Illegal Gun Trade to Mexico*. (CMDPDH. 2018). Available at: <http://www.cmdpdh.org/publicaciones-pdf/cmdpdh-the-legal-and-illegal-gun-trade-to-mexico.pdf>

⁴² This response is notable because, according to Article 19 of the General Law for Transparency and Access to Public Information, all information related to the responsibilities, competencies and functions of an agency is presumed to exist. Article 37 of the Federal Law on Firearms and Explosives identifies SEDENA as responsible for controlling and overseeing activities, industrial operations and commerce related to firearms, munitions and explosives, among other things. This seems to suggest that SEDENA does not consider having this type of detailed information as important for carrying out its arms control functions. Ley General de Transparencia y Acceso a la Información Pública. *Diario Oficial de la Federación* (May 4, 2015) http://www.diputados.gob.mx/LeyesBiblio/pdf/LGTAIP_200521.pdf. Ley Federal de Armas de Fuego y Explosivos. *Diario Oficial de la Federación* (February 11, 1972). http://www.diputados.gob.mx/LeyesBiblio/pdf/102_190221.pdf.

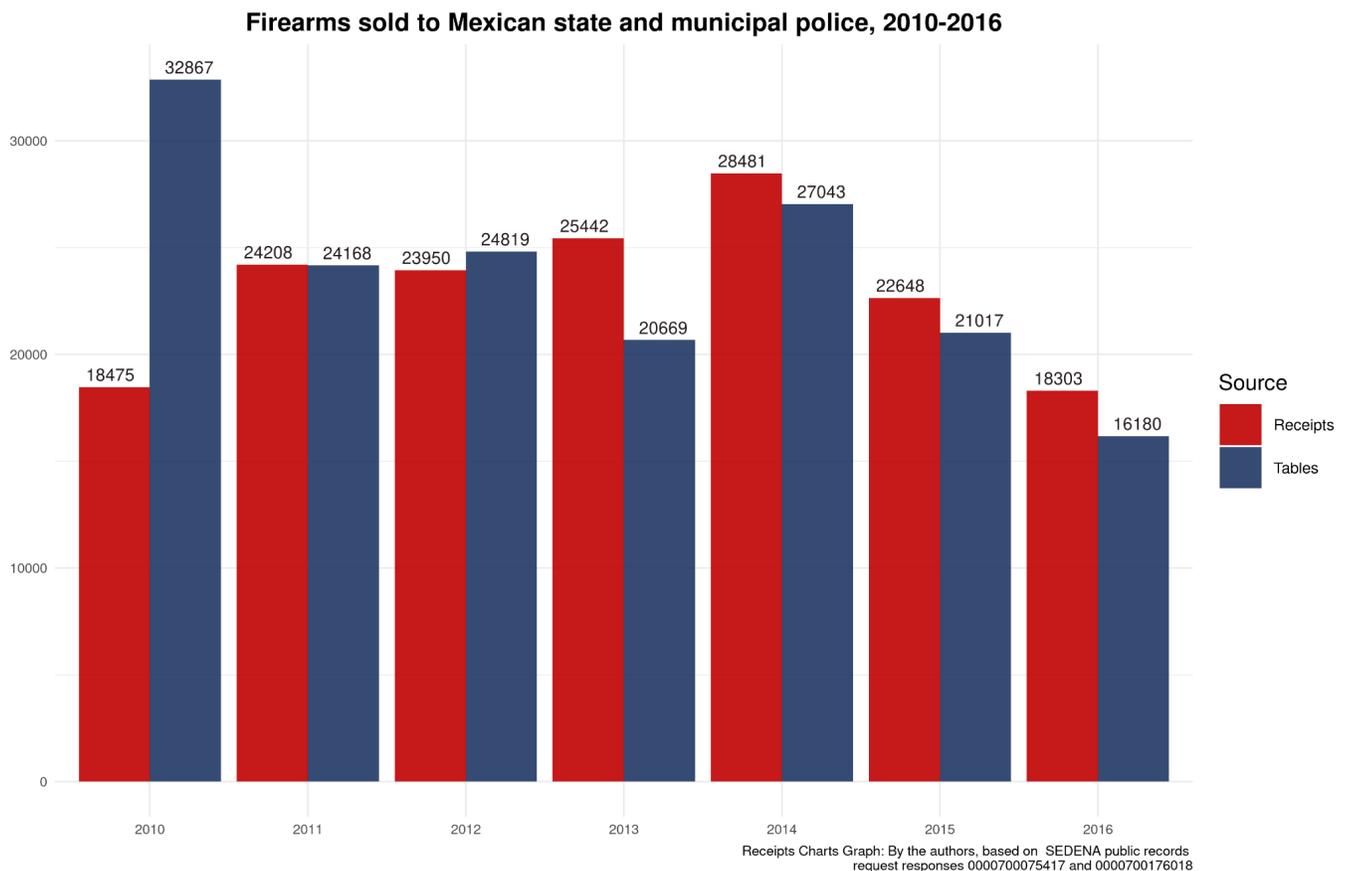
⁴³ SEDENA, response to information request, Folio 0000700075417, May 23, 2017.

⁴⁴ SEDENA, response to information request, Folio 0000700176018, October 6, 2018.

The documents delivered by SEDENA consisted of a large box of receipts that redacted most of the information on firearms, including the number of firearms, going well beyond the redaction of personal data. This led us to appeal the decision, and INAI issued a decision on the appeal that allowed us to finally access the requested information.⁴⁵ Based on this response, we systematized the data to generate a detailed database, with a strict revision to detect errors, with 5,666 entries of firearms transactions, which allows us to see in detail the firearms acquired for transfer to state and local police in Mexico. Here we refer to this data set as **“Receipts.”**

Firearms Acquisitions for Distribution to State and Local Police

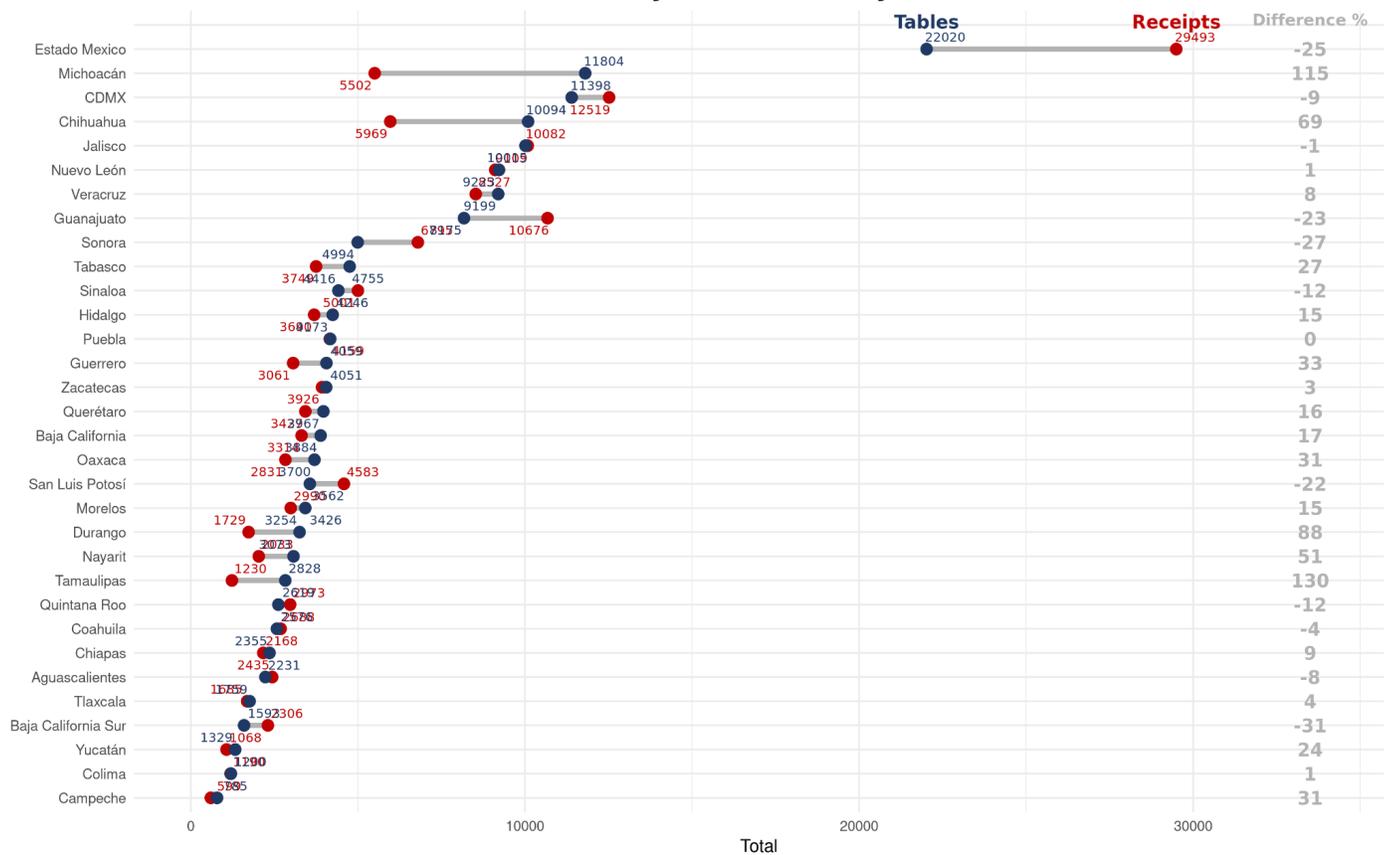
The data we gathered in *Receipts* is from 2006 until 2019, while the *Charts* data is from 2010 to 2016, so we use this six-year period to compare the two. The two sources show similarities for some years, mostly in 2011 and 2012. After 2014 the number of firearms in both sources declines, but there is a gap between the two.



⁴⁵ INAI. Resolution RRA 0569-19 (February 20, 2019).

Expressed as a percentage, *Receipts* showed 43% fewer firearms in 2010 than what SEDENA reported in *Charts*, and 3.6% fewer in 2012. While we can see clearly the differences as a whole by year, these discrepancies do not show up the same way when we analyze them using other variables in the information. When the information is broken down by Mexican state that received the firearms, the data in *Receipts* nearly matches the *Charts* data in some cases: for the states of Puebla, Colima, Tlaxcala, Coahuila, Zacatecas, Nuevo León and Jalisco, the difference between what SEDENA reported in the two sources ranges between 0% and 4%. The major differences appear for Tamaulipas, with 130% more firearms reported in *Charts* than in *Receipts*, Michoacán (15% more), and Chihuahua (69% more). On the other hand, for Mexico State 7,400 more firearms were reported in *Receipts* than in *Charts*. On average, 16% fewer firearms were reported per state in *Receipts* than what SEDENA reported earlier.

Firearms transferred by Mexican Army to States, 2006-2016



Receipts Charts Graph: By the authors, based on SEDENA public records request responses 0000700075417 and 0000700176018

A plausible explanation for the differences between the number of firearms reported in the two sources could be that the complete documentation that was requested was not given, that is, that SEDENA delivered copies of only a portion of the receipts for firearms it distributed during this period. There may be several reasons, such as the destruction or loss of part of the documentation, the disclosure of only those documents that were available at the time, or a deliberate decision not to disclose the entirety of documentation.

On the other hand, little is known about how SEDENA assembled the statistics on firearms sold to states that it disclosed in the first request and put into four charts. The question remains whether it has a registry of this information, and whether it has a database of all the transactions or only a physical archive of receipts. In any case, we believe that these discrepancies have serious implications for transparency and the right to access reliable information. As we noted earlier, that SEDENA says that this type of information is “not needed for the functions it carries out” puts in doubt its effective capacity to produce information on the distribution of firearms.

We believe that these discrepancies have serious implications for transparency and the right to access reliable information

Firearms Acquired for Military Use (Army and Navy)

The Navy (SEMAR) responded to an information request on the number of firearms it acquired, broken down by year, type, make, cost and country of origin, from 2007 to 2017.⁴⁶ The information states that in 2016 it acquired 85 firearms; nevertheless, Mexico’s report for the Arms Trade Treaty (ATT) for 2016 showed 241 firearms acquired for SEMAR, including 116 machine guns and 25 submachine guns. These firearms were invisible in the response by SEMAR to a request for information.⁴⁷

For its part, SEDENA publishes an updated report on its web site of arms acquisitions for its own use from 2006 to the present, which details makes, unit costs and years they were acquired, though the total number of arms acquired, which we will call the **SEDENA use report**.⁴⁸ We compared this report to the reports to ATT, which specify firearms acquisitions for military use. In the ATT reports, some firearms are

⁴⁶ SEMAR, response to information request, Folio 0001300009518, February 28, 2018.

⁴⁷ Arms Trade Treaty. Mexico Report for 2016 at: <https://www.thearmstradetreaty.org/download/173746f9-c7a1-34a5-a597-a6e1c3838b7b>

All annual reports for México and other State Parties to the ATT for 2015 through 2019 are at: <https://www.thearmstradetreaty.org/annual-reports.html?templateId=209826>. The ATT States Parties also must present an initial report, which may be viewed at: <https://www.thearmstradetreaty.org/initial-reports.html?templateId=209839>

⁴⁸ Secretaría de la Defensa Nacional. *Armamento Adquirido por la Secretaría de la Defensa Nacional, en el periodo del año 2006 al 2021*. (SEDENA. Acciones y Programas. May 01, 2019). Available at: <https://www.gob.mx/sedena/acciones-y-programas/adquisicion-de-aeronaves-armamento-y-vehiculos-17870>.

indicated for military use, others for military or police use.⁴⁹ Neither the *Charts* data nor the *Receipts* include firearms acquired for military uses.

However, the *SEDENA use report* does not report some firearms that do appear in reports to ATT as acquired for military use. For example, the ATT report for 2019 shows the acquisition of 199 .50-caliber machine guns for military use, produced by the Belgian company FN Herstal; but these firearms do not appear in the *SEDENA use report* for that year. The ATT report for 2017 shows 1,982 pistols acquired from Sig Sauer for military use (not by SEMAR), yet the *SEDENA use report* includes not a single pistol acquired from Sig Sauer in 2017.⁵⁰

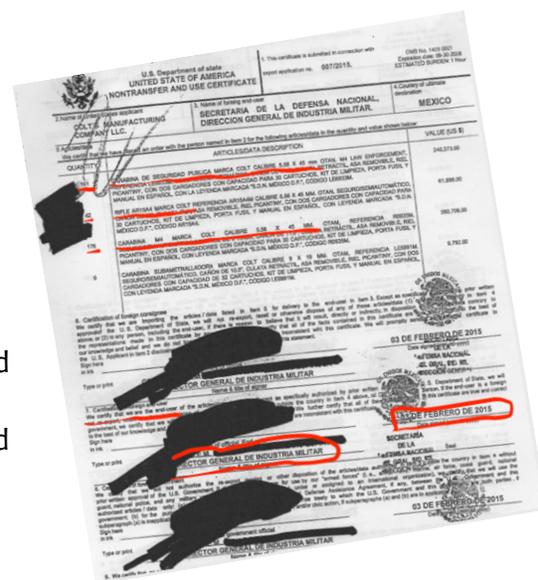
Incomplete and contradictory statistics: the case of Colt

We can see more closely the puzzle of data on imported firearms by examining one make of firearms: Colt Manufacturing, based on Hartford, Connecticut. Mexico has imported more than 20,000 Colt carbines for use by police since 2006, according to Receipts data.⁵¹ Mexico has reported to ATT that Colt exported 10,855 firearms to Mexico from 2015 through 2020.⁵²

However, in 2017, the Receipts showed 46% more Colt firearms transferred to Mexican police (1,457) than Mexico reported importing for any use that year. On the other hand, even though private and military purchases account for very few Colt imports to Mexico, Receipts for Colt weapons going to police make up only about half (52%) of all imported Colt firearms that Mexico reported to ATT for the six years of 2015 through 2020.⁵³

The picture gets even more confusing. According to U.S. law until March 2020, for all imported firearms the end user must sign an end use certificate which describes the weapons and their quantity, which was submitted to the U.S. State Department.⁵⁴ We requested from SEDENA and received copies of all these end use certificates, known as DSP-83 forms, from 2008 through 2019.⁵⁵

Mexico has imported more than 20,000 Colt carbines for use by police since 2006, according to Receipts data. Mexico has reported to ATT that Colt exported 10,855 firearms to Mexico from 2015 through 2020



In all nontransfer and use certificates SEDENA appears as end user

⁴⁹ Arms Trade Treaty. Mexico Reports for years 2015-2020.

⁵⁰ Secretaría de la Defensa Nacional. *Armamento Adquirido por la Secretaría de la Defensa Nacional, en el periodo del año 2006 al 2021*. (SEDENA. Acciones y Programas. May 01, 2019). Available at: <https://www.gob.mx/sedena/acciones-y-programas/adquisicion-de-aeronaves-armamento-y-vehiculos-17870>.

⁵¹ The Army does not report any Colt firearm acquisitions for its own use since 2006, while the Navy did not report any after 2013. In reports to ATT, only 329 Colt firearms were imported for private personal use from 2015 through 2020.

⁵² Arms Trade Treaty. Mexico Reports, for years 2015-2020. OP. CIT.

⁵³ Ibid.

⁵⁴ Legal Information Institute. 22 CFR § 123.10 - Non-transfer and use assurances. (Legal Information Institute. 71 FR 20541, Apr. 21, 2006) At: <https://www.law.cornell.edu/cfr/text/22/123.10>

⁵⁵ SEDENA, responses to information requests, Folios 0000700337819, December 2, 2019, and 0000700033920, February 7, 2020.

For 2017, 2018, and 2019, there were 393 more Colt weapons recorded as imported on the DSP-83 forms than Mexico reported to ATT.⁵⁶ However, the DSP-83 forms did not even capture all of the Colt imports. SEDENA blacked out some information on many certificates, including the number of Colt firearms that had a total value of more than US\$420,000 in 2017-2019, which probably represents 200 more firearms. In addition, SEDENA submitted other end use certificates to the exporting company itself, apparently for different firearms than those documented on the DSP-83 certificates. In 2017-2019, another 203 Colt firearms were reported as imported for police use, further widening the discrepancy between what Mexico reported to ATT and what end use certificates document.

On the other hand, other years show different discrepancies. In 2016, the Receipts documents show only about half the number of firearms transferred to police (1,226) as were reported to ATT for use by police forces in that year (2,368). Similarly, end use certificates submitted by SEDENA for Colt imports for all police use show 1,393 Colt weapons. Even accounting for blacked out data on certificates, the number of Colt imports certified in the documents is likely no more than 1,850 - still considerably less than what Mexico reported to ATT.⁵⁷

U.S. official data does not help clarify how many firearms Colt exported to Mexico. For example, ATF reports indicate that Colt exported 461 rifles and 414 “miscellaneous firearms” globally in 2018 - less than the number of Colt carbines that Mexico alone reported to ATT as importing from the United States that year.⁵⁸

Recovered Firearms

Several federal and state agencies recover illicit firearms in Mexico, including the Army Navy, National Guard (previously Federal Police), Customs Agency, Prosecutor’s Office, and state police. These agencies must by law turn these firearms over to federal or state prosecutors as evidence. The federal prosecutors’ office, (Fiscalía General de la República, or FGR), has primary responsibility for entering firearms information into a database called E-trace to trace the origin and purchase of the firearm. The FGR consolidates information on firearms recovered by other agencies, and is thus centrally responsible for transparency and information on illicit firearms in Mexico.⁵⁹

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⁵⁶ Arms Trade Treaty. Mexico Reports for years 2015-2020. OP. CIT.

⁵⁷ Ibid.

⁵⁸ Ibid.

⁵⁹ Informal interviews with several officials, Fiscalía General de la República.

In response to information requests, SEDENA has released detailed data on firearms that it recovers during the course of its operations, including the date, municipality, make, caliber and serial number of recovered guns. Through such requests, we have compiled a database of 129,384 firearms recovered by SEDENA from 2010 to 2021.⁶⁰

In contrast, the FGR has responded only partially to information requests for detailed data on firearms recovered by its own agents or other federal agencies and turned over to the FGR. In 2019, we submitted a request to the FGR for a list of arms and magazines recovered since 2010 by the FGR's personnel, with information on each firearm and its recovery: date, municipality, type, caliber, make, and serial number.⁶¹ However, the information disclosed by FGR did not include the municipality where the arms were recovered. In a second request that also asked for data on the agency that recovered the firearm, the FGR disclosed neither which agency had recovered the firearm nor the municipality where it was recovered.⁶²

In the United States, the ATF traced 269,250 illicit firearms in 2019, a number that has grown steadily from 170,344 in 2014.⁶³ However, the Tiahrt Amendment prohibits ATF - at least in the way ATF interprets it - from disclosing detailed trace data on illicit firearms, such as details on individual guns traced, except to law enforcement agencies of the jurisdiction where the guns were recovered. Some local governments, such as Chicago's, have used this exception to publish detailed information and analysis of the illegal arms traffic that is impacting violence in their jurisdictions.⁶⁴ The State of California, for its part, maintains a registry of all legal firearm purchases, but it is the only state that does so.

The United Nations Office on Drugs and Crime (UNODC) states that national legislation on firearms registries should contain requirements of several parties: producers, distributors, sellers, gun clubs, private security companies, state agencies (military, police, penal institutions), agencies that authorize civilians to own firearms, and those that keep a complete and detailed registry of firearms, munitions, and parts.⁶⁵ The

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⁶⁰ SEDENA responses to record requests, Folios 0000700079717 (June 6, 2017), 0000700001619 (January 29, 2019), 0000700057819 (March 25, 2019), 0000700283519 (RRA 14274/19), 0000700154320 (June 19, 2020), 0000700106521 (May 3, 2021).

⁶¹ FGR response to records request, Folio 0001700205819, June 26, 2019.

⁶² FGR response to records request, Folio 0001700752320, March 26, 2020.

⁶³ ATF. *Data & Statistics*. (ATF. July 21, 2021). <https://www.atf.gov/resource-center/data-statistics>.

⁶⁴ City of Chicago, *Gun Trace Report 2017*, <https://www.chicago.gov/content/dam/city/depts/mayor/Press%20Room/Press%20Releases/2017/October/GTR2017.pdf>.

⁶⁵ United Nations Office on Drugs and Crime, 2020. Education for Justice. Series of University Modules. Firearms, Module 6. National norms on firearms, (ONUDC. Viena. 2020) Available at:

registries should be maintained on paper or electronically and be periodically updated, and kept for a period of time long enough to allow the recovery and tracing of older firearms. Although there is no single regulation on the subject, the ATT and Arms Protocol urge that this information be kept for ten years,⁶⁶ while the non-binding International Registry Instrument recommends that data in firearms manufacture registries be kept for at least 30 years and all other registries of importation and exportation for at least 20 years.⁶⁷

In the case of firearms recovered in Mexico, data about traces of the firearms to U.S. purchases is carried out together with ATF, through a system known as E-trace. The disclosure of tracing data is subject to a 2010 Memorandum of Understanding between ATF and FGR's predecessor agency, which restricts the disclosure of "sensitive" tracing data, defined as: the location of a crime; the identify of dealers or purchasers of trafficked firearms; and patterns of firearms trafficking.⁶⁸ FGR may share this information with Mexican justice agencies without ATF's consent, but both ATF and FGR have interpreted the agreement narrowly. This has been an obstacle to analysis, advocacy, and the development of more effective strategies against illicit gun trafficking.

Firearms reported as stolen or missing

Finally, we reviewed responses to requests sent to SEDENA in 2019 and 2020 regarding firearms lost and stolen since 2006 by police and military agencies by year and types of weapon, first through 2018 and in the second request, update through 2019.⁶⁹ The numbers of lost or stolen firearms reported by SEDENA are nearly identical in the 2019 and 2020 responses. Only for 2018 is there a difference of 57 firearms lost or stolen.

In the case of firearms recovered in Mexico, data about traces of the firearms to U.S. purchases is carried out together with ATF, through a system known as E-trace

https://www.unodc.org/documents/e4j/Firearms/E4J_Firearms_Module_06_-_National_Regulations_on_Firearms_ES_final.pdf

⁶⁶ United Nations. *Arms Trade Treaty. Article 12. Paragraph 4.* (UN. Arms Trade Treatys. December 24, 2014). At: <https://unoda-web.s3-accelerate.amazonaws.com/wp-content/uploads/2013/06/Espa%C3%B1ol1.pdf>

⁶⁷ United Nations. International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons. Apartado IV, 12 a) y b) <https://www.unodc.org/documents/organized-crime/Firearms/ITI.pdf>. This instrument was created within the framework of the UNPoA (Program of Action to Prevent, Combat and Eradicate the Illicit Traffic of Small and Light Arms in all their aspects)

⁶⁸ "Memorandum de entendimiento entre la Procuraduría General de la República de los Estados Unidos Mexicanos y la Oficina de Alcohol, Tabaco, Armas de Fuego y Explosivos de los Estados Unidos de América para el acceso al sistema de rastreo de armas fuego ETrace", October 5, 2010, in possession of the authors.

⁶⁹ The request stated: "I request to be informed of the number of firearms assigned to public security agencies, including inspector general, prosecutor general and penal systems at the [federal, state and municipal] levels of government, from January 1, 2006 to December 31, 2018, how many of these have been lost or stolen or gone missing. Disaggregated by year, the federal, state or municipal agency from which firearm was stolen or went missing, and type and make of firearm." SEDENA, responses to information requests, Folios 0000700109419, April 16, 2019 and 0000700030020, February 11, 2020.

Firearms reported by Mexican Army as lost or stolen from police, 2006-2018

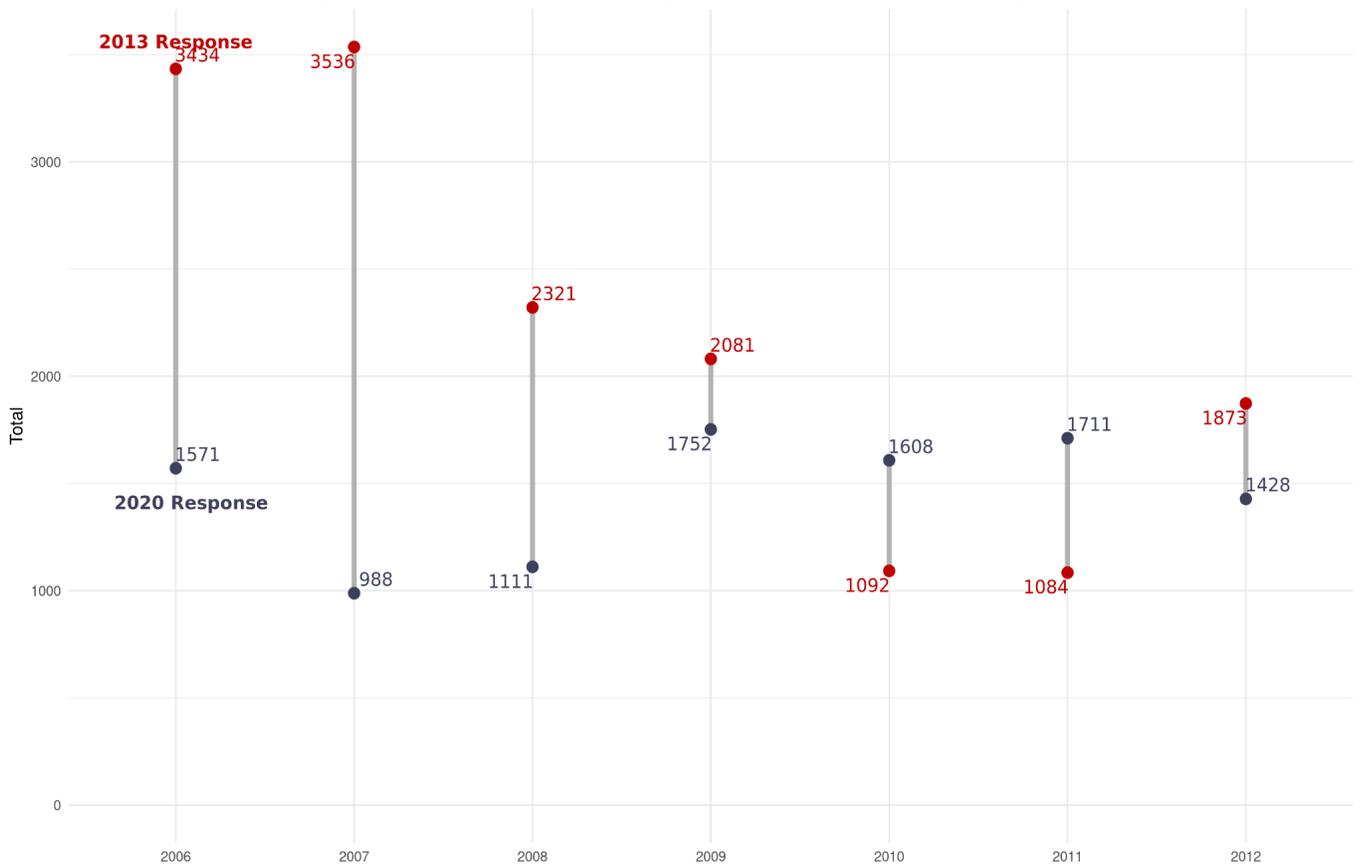


However, compared to responses to requests from previous years, there are changes in the numbers of firearms registered as lost or stolen. The 2020 response revealed discrepancies with the numbers reported in a 2013 information request. While in 2013, the response said that 3,434 firearms were lost or stolen in 2006, in 2020 only 1,571 firearms were counted as lost or stolen in 2006 - 54% fewer guns lost or stolen, as shown in the following graph.⁷⁰

In 2013
3,434 firearms
 were lost or stolen
 in 2006, in 2020
 only **1,571** firearms
 were counted as
 lost or stolen in
 2006 - **54%** fewer

⁷⁰ SEDENA. Responses to information requests, Folios 0000700119913, September 10, 2013 and 0000700030020, February 11, 2020.

Firearms reported by Mexican Army as lost or stolen from police, 2006-2012



Graph: By the authors based on SEDENA public requests responses 0000700119913 and 0000700030020

The reason for this adjustment is unclear. One might think that as information is updated, more reports of lost firearms are added over the years, but the tendency appears to be the opposite. What is the mechanism for these adjustments? Are these lost or stolen firearms that were recovered? Under what conditions? The responses by SEDENA do not clarify this.



Photo: Tamaulipas Government. Special Forces Group (GOPES)

U.S. Firearm Exports Data Discrepancies: Case of ATF and International Trade Commission

The ATF publishes an annual report, the Annual Firearms Manufacturing and Export Report (AFMER), of the number of complete firearms exported to other nations, disaggregated by company and type of firearm (rifle, shotgun, pistol, revolver, miscellaneous).⁷¹ The U.S. International Trade Commission (USITC) also publishes monthly data on U.S. firearms exports based on customs documents, which show the country of destination, as well as types of firearms.⁷²

In 2019, according to the most recent AFMER, U.S. companies exported 315,482 firearms, primarily rifles and pistols.⁷³ Yet the USITC reported 570,849 firearms exported by the United States in that year, excluding military arms, nearly twice the number registered by ATF.⁷⁴

These discrepancies between what ATF reports and customs data registered by USITC are consistent over nearly two decades. From 2002 through 2019, ATF reported a total of 4.3 million firearm exports, while USITC records show more than 8.3 million firearms exported.⁷⁵ Twenty-two states were registered as the origin for U.S.-exported handguns in USITC records for 2019, amounting to more than \$13 million. In the same 22 states, no handguns were reported as exported in 2019 by the AFMER. Four of these states - Washington, Pennsylvania, Michigan and Missouri, - registered more than \$1 million each in handgun exports in USITC records.

Discrepancies between what ATF reports and customs data registered by USITC are consistent over nearly two decades

⁷¹ Bureau of Alcohol, Tobacco and Firearms, Firearms Commerce Report in the United States, Annual Firearms Manufacturing and Export Report. Available at: <https://www.atf.gov/resource-center/data-statistics>. Hereafter cited as AFMER.

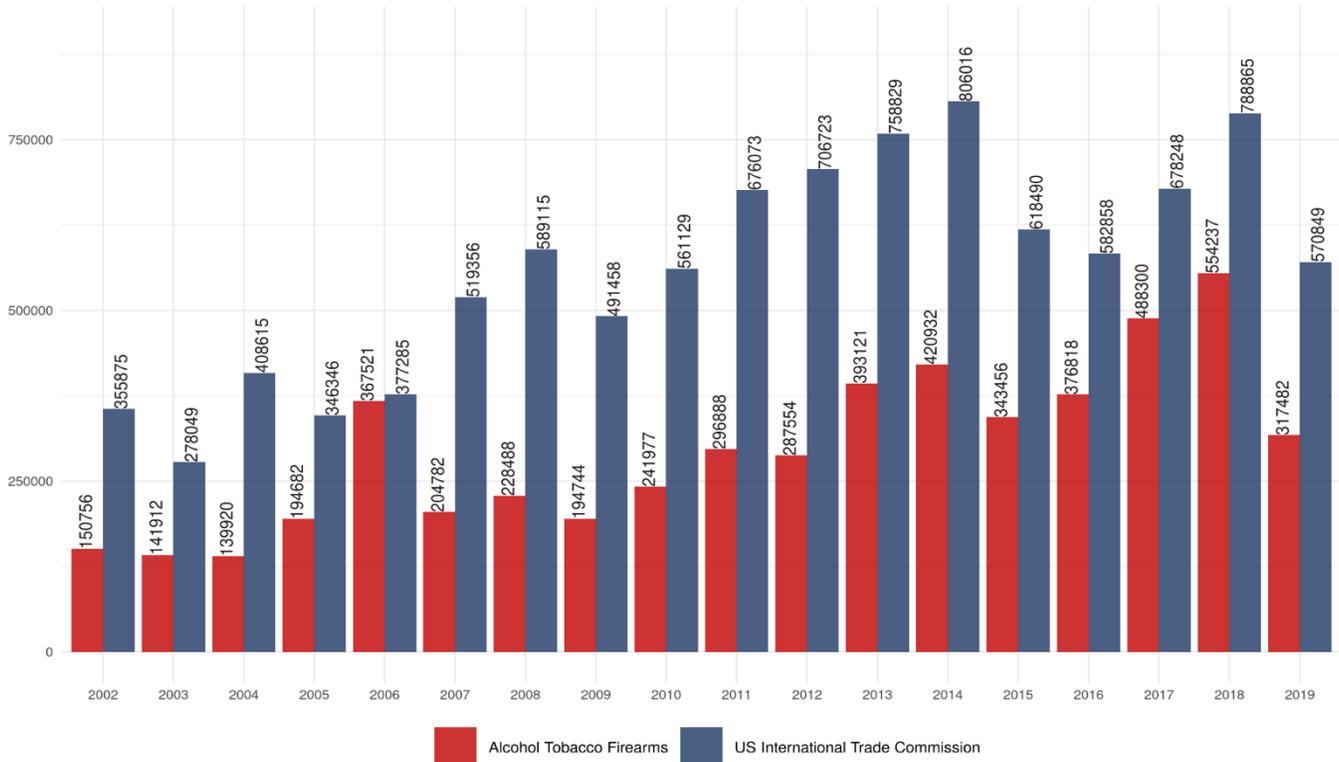
⁷² USITC, <https://dataweb.usitc.gov/>. Hereafter cited as USITC.

⁷³ AFMER. Bureau of Alcohol, Tobacco and Firearms, Firearms Commerce Report in the United States, Data & Statistics.

⁷⁴ USITC.

⁷⁵ USITC. and AFMER. Bureau of Alcohol, Tobacco and Firearms, Firearms Commerce Report in the United States, Data & Statistics.

US Firearm Exports Reported by ATF and US ITC



Sources: ATF Arms Manufacturing Exports Report; U.S. International Trade Commission

Conclusions on Data Discrepancies

All of the responses received and official reports show inconsistencies to a lesser or greater extent. In the end, the only thing that is clear is that the information disclosed does not inspire sufficient confidence about the destination of exported and purchased firearms, about recovered crime guns, or weapons reported as lost or stolen. This suggests that, though government agencies may respond to information requests, sometimes after appeals are filed, what is happening with firearms in Mexico and the United States is a dark box.

Excessive Classification of Information by the United States

The power of the gun industry and its political lobby is reflected in U.S. federal legislation that casts a veil of secrecy, even over firearms that have been illegally purchased, trafficked, or used in crimes. The Tiahrt Amendment, beginning in 2004, prohibited the federal government from maintaining information on gun purchases and purchasers for more than 24 hours after a background check is conducted. “The destruction of these records,” according to the Center for American Progress, “means that federal law enforcement is deprived of the opportunity to recognize patterns in apparently legal gun sales that

suggest straw purchasing and gun trafficking.” The federal government is also prohibited by law from creating a registry of civilian-owned firearms.⁷⁶

In addition, the Tiahrt Amendment prohibits the U.S. government from releasing information on crime guns traced to a legal purchase, with the exception of disclosures to law enforcement agencies, severely hampering research, policy design, and enforcement of gun laws.

One of the central international instruments for transparency in the firearms trade is the Arms Trade Treaty, which the United States - unlike Mexico - has not signed or ratified. Article 5.5 of the ATT requires nations that have ratified the Treaty - States Parties - to “designate competent national authorities in order to have an **effective and transparent** national control system regulating the transfer of conventional arms covered” by the Treaty.⁷⁷ The ATT’s Article 15.4 encourages all States Parties to cooperate with each other, including in response to requests for information “in order to prevent and eradicate diversion” of firearms.⁷⁸

The United States publishes some of the information required in annual ATT reports, including the number, type and commercial value of firearms exported to each country, in data published monthly by the U.S. Census Bureau and U.S. International Trade Commission.⁷⁹ These reports identify the U.S. state from which exports were shipped, but not the exporting companies.

However, the U.S. Government has refused to release copies of firearms export licenses, including in response to requests via the Freedom of Information Act (FOIA). Federal regulations require the Secretary of State to determine that release of license applications is “in the national interest,” something the State Department, as far we know, has never done.⁸⁰ As a result, the details of end user controls placed by the U.S. government on firearms exports - to Mexico and every other nation - are completely unknown.

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Information Act
(FOIA)**



Taken from: <https://es.dreamstime.com/photos-images/enmienda.html>

⁷⁶ Stachelberg, W. Gerney, A y Parsons, C. *Blindfolded, and with One Hand Tied Behind the Back*. (Center for American Progress. 2013). p. 4. Available at: <https://www.americanprogress.org/wp-content/uploads/2013/03/GunRidersBrief-7.pdf>

⁷⁷ See ATT. Articles 2, 3, 4 y 5. <https://thearmstradetreaty.org/hyper-images/file/TratadosobreelComerciodeArmas/TratadosobreelComerciodeArmas.pdf?templateld=137280>.

⁷⁸ ATT. Article 15.4.

⁷⁹ See US Trade Online. <https://usatrade.census.gov/index.php?do=login> and USITC DataWeb. <https://dataweb.usitc.gov/>.

⁸⁰ *Code of Federal Regulations* §126.10 (b). <https://www.law.cornell.edu/cfr/text/22/126.10>.

The non-existence and classification of information in Mexico

Mexico's federal Law for Transparency and Access to Public Information establishes criteria for what information may be withheld as classified. The transparency law's basis for classification are founded and motivated by the documentation of evidence of damage, which is analyzed case by case. In addition, Article 112 of the law prohibits classification of information when it

“concerns gross violations of human rights or crimes against humanity, or concerns information related to acts of corruption as defined by applicable law.”⁸¹

Using this legal framework, the classification of some information is justified; however, there is no valid objection for denying the bulk of information about the use, importation and exportation of firearms and explosives, since armed violence results in serious violations of human rights and has a direct relationship to acts of corruption.

Organizations such as Global Exchange and the Mexican Commission for the Defense and Promotion of Human Rights have experienced the omissions and resistance to disclosing information about the end users of firearms that enter Mexico. One problem is the firearms that go missing from security forces, which frequently mean more weapons for criminal organizations, individuals and private companies that commit crimes against community members. Because of the possible connection with corrupt activities related to serious crimes, committed by public officials, disclosure of information about this alarming phenomenon is especially important.

For example, out of 4,178 information requests related to firearms to SEDENA, SEMAR, the Federal Police and the predecessor to the Prosecutor General's Office between 2007 and 2020, the responses in 182 argued that the information could not be shared because it was classified in whole or in part, while 72 argued that the information was non-existent.⁸²

In 2021, classification of information on firearms continues to be practiced both at the federal and state levels. The Mexican Commission for the Defense and Promotion of Human Rights (CMDPDH) submitted requests to SEDENA and all 32 states for information on “how many

We have experienced the omissions and resistance to disclosing information about the end users of firearms that enter Mexico

⁸¹ Ley General de Transparencia y Acceso a la Información Pública. Artículo 110 and 112. (*Diario Oficial de la Federación*. May 20, 2021). At: http://www.diputados.gob.mx/LeyesBiblio/pdf/LGTAIP_200521.pdf.

⁸² “30.11.20 Solicitudes de información armas,” file compiling requests on Mexico's National Information Platform, produced in the context of Mexico's Open Government Partnership, 2020, at: <https://stopusarmstomexico.org/wp-content/uploads/2021/07/30.11.20-Solicitudes-de-información-armas.xlsx>.

firearms have been reported as stolen or missing” by federal, state and local security force agencies in Mexico, “including SEDENA and SEMAR, from January 1, 2006 to December 31, 2020. In which states have such reports been made, specifying how many such firearms have been found. Disaggregated by year, the federal, state or municipal agency from which firearm was stolen or went missing, and type and make of firearm.”⁸³

As of June 2021, several states had not responded. Some of those that did respond, such as Durango and Campeche, argued that they were not the competent agency for responding and that the Prosecutor General’s Office or Army were the appropriate agencies.⁸⁴ Other states, such as Aguascalientes, Guanajuato, Mexico State and Zacateca did disclose the information.⁸⁵

The response by Tamaulipas exemplifies the ambiguity of some responses. In this case, the Tamaulipas Public Security Secretariat (state police) incorrectly argued evidence of damage, in a way that was inconsistent with what information was requested, and classified the information as secret (“reserved”).⁸⁶ Moreover, in SEDENA’s partial response in May 2021 to our request for information on lost and stolen weapons, it indicated that since 2018 Tamaulipas has not reported the loss of firearms assigned to its police agencies.⁸⁷ We do not know whether this is because no firearms went missing, or because there is no record of that information, or simply because Tamaulipas did not report the information to SEDENA.

Now that we have examined a case of information classified as secret, it is useful to link this with arguments that agencies use regarding the “non-existence” of information, such as SEDENA’s response, cited above, to a request for information on lost and stolen firearms.⁸⁸ In this response, SEDENA issued information only about states and other federal agencies, such as the National Guard, Prosecutor General’s Office, the National Intelligence Center and federal protection services agency. But it did not give information from its own records or those of

In 2021, classification of information on firearms continues to be practiced both at the federal and state levels

In the last three years the number of responses that information is “non-existent” has grown,¹ which undermines confidence in whether these agencies in fact possess the requested information, or rather have it but don’t wish to disclose and so argue that it does not exist

⁸³ SEDENA. Response to information request, Folio 00000700158521, April 24, 2021.

⁸⁴ Public Security Secretariat of Durango. Response to information request, Folio 00246621, May 26, 2021; Public Security Secretariat of Campeche. Response to information request, Folio 0101111521, May 4, 2021

⁸⁵ Public Security Secretariat of Aguascalientes. Response to information request, Folio 00338821, May 3, 2021; Public Security Secretariat of Estado de México. Response to information request, Folio 0000377435, May 4, 2021; Public Security Secretariat of Guanajuato. Response to information request, Folio 01056821, May 3, 2021; Public Security Secretariat of Zacatecas. Response to information request, Folio 00297321, May 13, 2021.

⁸⁶ Public Security Secretariat of Tamaulipas. Response to information request, Folio 00308321, May 19, 2021.

⁸⁷ SEDENA. Response to information request, Folio 00000700158521, May 27, 2021.

⁸⁸ Ibid.

the Navy (SEMAR). The response was that this information is non-existent, that the agency was not required to have the information, and that the Transparency Committee did not need to certify the non-existence of the information.⁸⁹

In the last three years the number of responses that information is “non-existent” has grown,⁹⁰ which undermines confidence in whether these agencies in fact possess the requested information, or rather have it but don’t wish to disclose and so argue that it does not exist.

Another case of classification of information related to firearms is the refusal of the Tax Administration Service (SAT) to share in digital format information on bills of lading. In May 2021, we were informed that to access this information we would need to make a payment, then go to the SAT office in order to obtain photocopies. This is not an action of proactive transparency, as it thwarts information of public interest being within reach of everyone, and not only of those who request it.

Excessive classification of information is not limited to public information requests. We also encounter it in advocacy for the development of legislation and policies, including for the development of a new Firearms Law for Mexico, which is much needed after nearly 50 years with the existing firearms law. For civil society organizations, it has been increasingly difficult to have input into meetings and final drafts of legislation that relate to public security and justice. In spite of the Open Government initiative, and although we were informed that there is a draft proposal ready to forward to the Mexican Congress, the agencies that have developed the legislation declined to share the draft proposal before it is presented to Congress with civil society organizations that have expertise on the issue and have dedicated several years to evaluating and making recommendations regarding firearms that enter Mexico.

Excessive classification of information is not limited to public information requests. We also encounter it in advocacy for the development of legislation and policies

⁸⁹The Transparency Committee is an inter-agency body that oversees and coordinates procedures to implement provisions of Mexico’s transparency laws. (*Diario Oficial de la Federación*. May 20, 2021). At: http://www.diputados.gob.mx/LeyesBiblio/pdf/LGTAIP_200521.pdf In some cases, the Transparency Committee does not need to formally confirm the non-existence of information. The General Law for Transparency and Public Information as well as the federal transparency and information law establish procedures for government agencies when requested information is not in their records. It requires, among other things, that the Transparency Committee confirm the non-existence claimed by the agency units that conducted the search for the information. Notwithstanding that, in cases where the agency does not have any obligation to have the information, based on an analysis of rules that apply to the request; and when there is no evidence supporting a belief that the information should exist in the agency’s records, it is not required for the Transparency Committee to issue a resolution confirming the information’s existence. Response to information request, Folio 00000700158521, May 27, 2021.

⁹⁰Oropeza, J. *18 años de acceso a la información en México*. (Animal Político. Plumaje. June 25, 2020). At: <https://www.animalpolitico.com/res-publica/18-anos-de-acceso-a-la-informacion-en-mexico/#:~:text=El%2011%20de%20junio%20de,ejercicio%20de%20los%20recursos%20p%C3%BABlicos.>

Impacts and risks from lack of transparency

Transparency is one way to promote citizen participation and accountability. For this reason, information disclosed by government agencies should be: timely, accessible, verifiable, understandable, up to date, and complete.⁹¹ Transparency should also be transversal: this is absolutely essential for diagnosing and evaluating the implementation of government obligations regarding human rights, so that access to information should be guaranteed without bias, including gender bias.

On several occasions requests to SEDENA and SEMAR have sought data disaggregated by gender on issues such as use of firearms or civilians killed in military operations. The official responses have stated that the agencies do not have this data, as we see in the following response from SEDENA:

*“Regarding your questions... you are informed that in this Secretariat’s database of attacks on military personnel, there is no information in the registry of persons deceased, injured and detained, on sex, gender, if they indigenous, indigenous language or languages spoken, disability, nationality or migratory status; for that reason, directive 07/17 issued by the National Institute of Transparency, Access to Information and Protection of Personal Data is applicable [as it] establishes that it is not necessary for the Transparency Committee to issue a resolution of non-existence of information **in those cases in which an analysis of rules that apply to the request suggests no obligation by the agency to have the information; and when there is no evidence supporting a belief that the information should exist in the agency’s records.**”⁹² (highlighting is ours)*

What we can see in this response is that SEDENA does not consider this type of disaggregation of information to be a requirement for its records. Risks to access to information can also be reflected in the indicators - or the lack of indicators - that agencies use when they systematize information, and above all what is measured. When there is an absence of indicators, such as measuring impacts by gender, ethnicity or age, it appears that there is disinterest in this information, such as by not institutionalizing transversal or intersectional perspectives that allow us to understand the impacts of these events on the population. Such non-existence of information is a symptom of how government agencies are making operational decisions.

Accountability is a government responsibility. In the absence of government assessments that include disaggregated official

What we can see in this response is that SEDENA does not consider this type of disaggregation of information to be a requirement for its records

⁹¹ Ley General de Transparencia y Acceso a la Información Pública. Article 2.

⁹² SEDENA, response to information request, Folio 0000700078821, March 27, 2021.

information, human rights activists and feminist and intersectional researchers have offered proposals to provide evidence of the impact of firearms violence on women. One research project was *Gender Violence with Firearms in Mexico*, carried out for IM Swedish Development Partner by Intersecta, Data Cívica, Equis Justicia para las Mujeres, 24-0 Horas Sin Violencia, and the Center for Ecumenical Studies.⁹³ This report analyzes ways that at multiple times government agencies have information on the impacts of gun violence, but there are important gaps in internal coordination within the agencies, so that this information is not always integrated into high-level decisions.

Such is the case of the links between firearms use and homicides of women, 73% of which occur with firearms, according to National Public Security System data cited by UN Women in their report *Femicide Violence in Mexico*.⁹⁴ Despite this fact, this information is not an integral part of national security policies, demonstrating the disconnect with human rights impacts as well as governments' disinterest in the intersectional aspects of gender violence or situations impacting ethnic minorities when they regulate gun traffic, public security or the mitigation of gun violence.

Mexico's civilian population has suffered from the absence of policy regarding gun trafficking, including both the absence and infringement of regulations by gun exporting countries. As previously noted, assessments are part of accountability and should serve to support the design, implementation and evaluation of policies on firearms, violence prevention, and citizen security.

Gun violence and the need for transparency for the work of structured government actions have an impact in both Mexico and the United States, whose communities suffer from disparate impacts as a result of the intersectionality of discrimination and inequality. President Joseph Biden affirmed this in April 2021, when he noted that in the United States 106 people die every day from gunshots, that there are 53 femicides every month, in addition to disproportionate impacts of gun violence on African-American and Latino communities.⁹⁵ Gun violence in the United States is not new, and data offer us important insight into the links between firearms use and gender violence. According to reporting by

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⁹³ Intersecta, Data Cívica, Equis Justicia para las Mujeres, 24-0 Horas Sin Violencia, and Center for Ecumenical Studies, *Violencia de género con armas de fuego en México*. IM Swedish Development Partner, (November 2020).

⁹⁴ Onu Mujeres. *La violencia feminicidio en México, aproximaciones y tendencias*. (ONU Mujeres. Diciembre de 2020). p. 36. Available at: <https://www2.unwomen.org/-/media/field%20office%20mexico/documentos/publicaciones/2020/diciembre%202020/violenciafeminicidamx.pdf?la=es&vs=4649>.

⁹⁵ The White House. Remarks by President Biden on Gun Violence Prevention. (The White House. April 8, 2021) Available at: <https://www.whitehouse.gov/briefing-room/speeches-remarks/2021/04/08/remarks-by-president-biden-on-gun-violence-prevention/>

the Centers for Disease Control and Prevention, from 2015 to 2019, 19,288 women were killed, and in 11,078 of those cases - 57% - a firearm was used.⁹⁶

A vision for citizen security should be based on participatory assessments that facilitate explanations and solutions to gun violence, taking into account that no armed process is identical from one community to another. The impact of gun violence is not the same in a northern Mexico town such as Parral as it is in Ecatepec, Mexico State or in Tapachula, Chiapas. Each region is a melting pot of factors affecting vulnerability and violence. Similarly, we also don't see uniform situations if we compare these communities with high-income sectors or even with the most marginalized communities in the United States.

Transparency allows for a close approximation to the actual state of phenomena such as gun violence, as well as to its impacts on other types of violence, especially on the lives of people and their social or psychological environment. Accountability and transparency are thus part of solutions to gun violence and its impacts, because revealing the true conditions and facts of the problem sheds light on the factors that cause it and on where government action should turn its attention.

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The risks of weakening or eliminating Mexico's transparency agency

The constitutional reform that established the National Institute for Access to Information (INAI) in 2014 made Mexico one of the best countries in the world (after Afghanistan) for legislation on the right to information, according to the global ratings of Access Info Europe and the Center for Law and Democracy.⁹⁷ The INAI serves as an arbiter of the right to information.

From the beginning of his administration, President Andrés Manuel López Obrador has had INAI in his sights. In December 2018, he called on the agency to enact austerity measures, accusing it of acting to “keep issues secret” in favor of minorities.⁹⁸ He said there would be an effort to “integrate, bring together all government information policy.” In 2020, the INAI received a 23% reduction in its budget.⁹⁹

⁹⁶ Centers for Disease Control and Prevention. *Injury Prevention & Control: Data & Statistics (WISQARS): Fatal Injury Data*
<https://search.cdc.gov/search/index.html?query=Injury+Prevention+%26+Control%3A&sitelimit=&utf8=%E2%9C%93&affiliate=cdc-main>

⁹⁷ Global Right to Information. *Rating Map*. <https://www.rti-rating.org/>

⁹⁸ Animal Político. *AMLO vs órganos autónomos*. (*Animal Político*. December 5, 2019). at: <https://www.animalpolitico.com/2019/12/amlo-autonomos-acusaciones-recortes-reacomodos/>.

⁹⁹ Press conference of Mexican President Andrés Manuel López Obrador. (December 4, 2018) <https://lopezobrador.org.mx/transcripciones>.

The weakening of INAI would represent a setback to guarantees of access to public information and to accountability. The veiled threat to the agency also places in doubt respect for other rights related to the timely disclosure of government affairs. For example, although INAI does not carry out enforcement for violations of law, it has exposed cases of corruption such as the Odebrecht scandal, the Cuernavaca “Paso Express” (a segment of federal highway that collapsed and killed two motorists), and the misuse of public funds related to the 2017 earthquake.¹⁰⁰

Relevant Rulings by National Institute of Access to Information

The issue of gun trafficking has become one of wide public interest as a result of the alarming growth of violence in Mexico since 2007. That year, there were 137 information requests to federal agencies for information on firearms, yielding 101 disclosures of information via digital media. By 2019, there were 542 requests for information on firearms, resulting in 457 disclosures of information on digital media. Between 2007 and 2019, there were 223 appeals related to information requests on firearms: appeals by requesters who were not satisfied with the agency’s response.¹⁰¹

Just a few years ago, there was little publicly available information about imported firearms sold to Mexican police through the Army, despite the many cases of serious human rights violations, as described above, committed by police.

The investigation in 2014 by journalists and human rights defenders of the forced disappearance of 43 Ayotzinapa student teachers, helped to make visible the weapons used by police to commit serious human rights violations. The judicial record in the case demonstrated that municipal police in Iguala, Guerrero that participated in the attack on the students were armed with assault rifles from Heckler & Koch, Beretta and Colt imported from Germany, Italy and the United States, respectively.

Government officials have expressed fear about information on weapons owned by police and military forces being publicly available, especially regarding risks that this information could be utilized by criminal organizations to carry out attacks. For example, in 2018, we submitted a request for the number of firearms, by make and year, sold

The weakening of INAI would represent a setback to guarantees of access to public information and to accountability. The veiled threat to the agency also places in doubt respect for other rights related to the timely disclosure of government affairs

Government officials have expressed fear about information on weapons owned by police and military forces being publicly available

¹⁰⁰ Aguirre, S. *El Sabueso: CNDH e INAI, ¿han sido siempre omisos, antes violaciones de derechos y corrupción, como dijo AMLO?*. (Animal Político. November 8, 2019). at: <https://www.animalpolitico.com/elsabueso/amlo-cndh-inai-omisos-sabueso/>.

¹⁰¹ “30.11.20 Solicitudes de información armas,” file compiling requests on Mexico’s National Information Platform, produced in the context of Mexico’s Open Government Partnership, 2020, at: <https://stopusarmstomexico.org/wp-content/uploads/2021/07/30.11.20-Solicitudes-de-información-armas.xlsx>.

to governments of each state in Mexico since 2006.¹⁰² SEDENA responded that the information was classified, and we appealed the denial. INAI overturned SEDENA’s denial and determined that

“to disclose the number and characteristics of firearms sold to states from 2006 to 2018 does not reveal police departments’ capacity of reaction, since the total number of firearms acquired by the agency is not being disclosed,”

since

“among the firearms acquired there may be weapons that were already retired” or distributed to other police agencies in the same state. “Such information lends no certainty to the total number of firearms that [the police agencies] have today.”¹⁰³

It is clear that firearms acquired by Mexico, and specifically by the armed forces and police, are taking human lives. They have been used at times to incriminate and criminalize people, and they are a systematic and generalized presence in the commission of serious human rights violations. For these reasons, there should be greater visibility of the paths these weapons take from their purchase to their end user and the eventual uses these firearms may have.

Open Government Partnership

The Open Government Partnership (OGP) is an international initiative begun in 2011 composed of people from government, civil society, private businesses, non-profit organizations, and others.¹⁰⁴ Mexico and the United States were among the founding countries. The OGP is based on the idea that an open government “is more accessible, more responsive, and more accountable to citizens, and that improving the relationship between people and their government has long-term, exponential benefits for everyone.”¹⁰⁵

The OGP’s goal is to “promote a more open and horizontal model of governance that implies a new logic of collaboration between citizens and government authorities based on four principles: transparency,

¹⁰² SEDENA, response to information request, Folio 0000700176018, October 6, 2018.

¹⁰³ INAI. Resolution RRA 0569-19 (February 20, 2019) pp. 29-30, regarding SEDENA, response to information request, Folio 0000700176018.

¹⁰⁴ Open Government Partnership. About. (Open Government Partnership. 2021). At: <https://www.opengovpartnership.org>

¹⁰⁵ Open Government Partnership. About. (Open Government Partnership. 2021). At: <https://www.opengovpartnership.org/about/approach/>

accountability, citizen participation, and innovation.”¹⁰⁶ This is achieved through joint collaboration of participants on National Plans of Action focused on advancing the idea of proactive transparency and fulfilling concrete commitments in various issues.

In 2019, one of the OGP commitments that Mexico adopted in its fourth National Plan of Action was for transparency in the movement and control of firearms. The OGP initiative is an excellent opportunity for Mexico to bring transparency to the legal and illegal flows of firearms into and within Mexico.

There are three types of transparency in theory:

- **Reactive transparency:** Government agencies create sufficient infrastructure that allows the public to request information.
- **Active transparency:** Government agencies encourage all public entities to make transparent the information related to their activities and budget.
- **Proactive transparency:** Government agencies promote the distribution of information that has social utility, that is, that it effectively reaches society with the potential to be used for those things that communities consider relevant.

In proactive transparency, Government agencies promote the distribution of information that has social utility, that is, that it effectively reaches society with the potential to be used for those things that communities consider relevant

Open Government Partnership

The OGP seeks to encourage government agencies to promote proactive transparency together with civil society organizations and other members of the public.

The organizations writing this report have participated actively in the OGP working group on transparency in the movement and control of firearms. Participants included representatives of civil society organizations, National Institute of Access to Information, Public Function Secretariat (comptroller), Tax Administration Service (which includes customs), National Defense Secretariat (Army), Navy, National Public Security System, and Foreign Relations Ministry.

Our participation in the OGP work groups has taught us a great deal about each federal agency’s authority regarding firearms of - that is, who does what. As an exercise in reactive transparency, it has been

¹⁰⁶ Secretaría de Función Pública. *Alianza para Gobierno Abierto*. (Alianza por el Gobierno Abierto). At: <http://aga-gobierno-abierto.k8s.funcionpublica.gob.mx/quienes-somos/>.

fundamental for the development of this report. Nevertheless, we must recognize that the agencies still do not share the same concept of proactive transparency in which there is ongoing disclosure of information of interest to the public. We still believe in the prospect of progress for such transparency.

The United States' participation in the Open Government Partnership (OGP) has not addressed the trade or control of firearms directly in any way. The most recent action plan includes commitments to improve transparency in the intelligence community and access to federally funded research. But the OGP Action Plan released in 2019 was “comprised primarily of commitments with limited potential impact—many of which derive directly from open government initiatives that were already underway,” leading civil society groups to withdraw from the Partnership or express serious concerns about it, according to the Independent Reporting Mechanism about the plan.¹⁰⁷

The United States' participation in the Open Government Partnership (OGP) has not addressed the trade or control of firearms directly in any way

Recommendations

For the United States:

- The U.S. Senate should ratify the Arms Trade Treaty, as a minimal commitment to U.S. transparency for firearms exports and imports.
- The U.S. Congress should repeal the Tiahrt Amendment from future spending bills in order to permit the ATF and other U.S. federal agencies to compile, keep and disclose electronic records of gun production, distribution, purchases, trafficking, and theft of firearms.
- The ATF should review its data-gathering methods for the AFMER report to ensure it fully captures the number and type of firearms that U.S. companies are manufacturing and exporting.
- The U.S. Department of Justice should increase access to and sharing of international gun trafficking data. Specifically, DOJ should revise the Memorandum of Understanding with Mexico's

The U.S. Senate should ratify the Arms Trade Treaty, as a minimal commitment to U.S. transparency for firearms exports and imports

¹⁰⁷Open Government Partnership. Independent Reporting Mechanism (IRM). *United States Design Report 2019–2021*. (Open Government Partnership. Documents. May 17, 2021). Available at: <https://www.opengovpartnership.org/documents/united-states-design-report-2019-2021/>.

Prosecutor General's Office (Fiscalía General de la República) for using eTrace data on firearms recovered in Mexico and traced to the United States to exclude unnecessary restrictions on use of trace data.

- Establish a proper tracking system for legal firearms exports to Mexico which includes vital information that transparently registers, controls, and tracks the end uses of exported guns, including all prospective end user units, not only central distribution units.
- Establish a policy to consult the U.S. Department of States' existing INVEST database of alleged human rights violations by foreign security units, designed for use in implementing the Leahy Law, for license applications to export arms to foreign police and military units that may be implicated in serious human rights violations.

For Mexico:

- The Public Function Secretariat (Comptroller) and National Transparency Institute, in addition to implementing the fourth Plan of Action of the Open Government Partnership, should make the dialogues about firearms between representatives of civil society, the Army, Navy and other federal agencies long-term and ongoing.
- Policies and regulatory frameworks for gun control should be designed, implemented and evaluated based on evidence and with civil society participation.
- The current Federal Firearms and Explosives Law is nearly 50 years old (1972) and it is urgent to revise it into a new law that, among other things, creates transparency for information on firearms. The government should publicly share the new draft Firearms and Munitions Law, to permit civil society to advocate fully in the formulation of the legislation.
- Federal, state and municipal agencies should, according to their mandates, gather and proactively distribute data on the impacts of firearms, disaggregated by sex, age, ethnicity, sexual orientation, migratory status, and physical and mental disability.

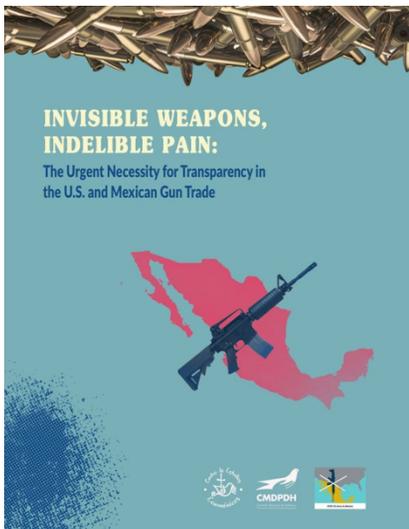
The U.S. Department of Justice should increase access to and sharing of international gun trafficking data

Policies and regulatory frameworks for gun control should be designed, implemented and evaluated based on evidence and with civil society participation

- Federal, state and municipal agencies should, according to their mandates, gather and proactively distribute data on the firearms and ballistic footprints used in violence, disaggregated by caliber, type of firearm, type of crime, and municipality, in addition to characteristics of the victim.
- The Army should identify and declare the true end users of firearms to exporting companies and to governments of exporting countries in certificates issued before licenses are issued and weapons are shipped.
- Guarantee that no details in data about recovered, decommissioned or exchanged firearms are lost or diluted in registries of the agencies involved in these processes (including SEDENA, FGR and local governments, according to their mandates), from the initial point of manual or electronic entry to their concentration at the national level.
- Registries of the importation, manufacture within Mexico and distribution up to end users of firearms, their components, and munitions should be complete, detailed and transparent.
- An integrated registry overseen by civilian agencies is necessary, one that gathers together as much information as possible about firearms in Mexico. Congress should establish a National Unified Firearms Registry under civilian authority with oversight by Congress and the public.
- Government agencies that receive records requests should ensure that the information is available to all persons.
- Government agencies that receive records requests should coordinate efforts with other agencies to guarantee the accuracy and completeness of information provided.
- Government agencies, especially justice and security agencies, should use intersectional indicators for gathering and systematizing information to create institutional assessments of a wide array of elements of gun violence, especially disparate impacts according to: gender, age, ethnic and national origin, migratory status and disability.

The Army should identify and declare the true end users of firearms to exporting companies and to governments of exporting countries in certificates issued before licenses are issued and weapons are shipped

Government agencies, especially justice and security agencies, should use intersectional indicators for gathering and systematizing information to create institutional assessments of a wide array of elements of gun violence



Invisible Weapons, Indelible Pain: ***The Urgent Need for Transparency in the U.S. and Mexican Gun Trade***

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