

April 2011

LAW ENFORCEMENT COORDINATION

DOJ Could Improve Its Process for Identifying Disagreements among Agents



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Why GAO Did This Study

According to the Federal Bureau of Investigation (FBI), an estimated 1.3 million violent crimes occurred nationwide in 2009. The Department of Justice (DOJ) law enforcement components—the Bureau of Alcohol, Tobacco, Firearms and Explosives; Drug Enforcement Administration; FBI, and U.S. Marshals Service—have overlapping jurisdiction over violent crime investigations, specifically when they involve illegal drugs, gang violence, firearms, explosives, arson, and fugitive apprehension. As requested, GAO assessed the extent to which selected agents are clear on their agencies’ roles and responsibilities, and how components determine and coordinate roles and responsibilities to avoid unnecessary use of resources. GAO reviewed documents such as department directives and interviewed DOJ component officials in headquarters and nine cities, which were selected based on population and the presence of all DOJ components. GAO also surveyed a randomly selected, nongeneralizable sample of 315 field agents. The results provide valuable information about the range of perspectives of surveyed agents.

What GAO Recommends

GAO recommends that DOJ assess options to better identify and diagnose disagreements in the field and take action to limit the negative impacts from disagreements over jurisdictional overlap for some criminal investigations. DOJ agreed with GAO’s recommendation.

View [GAO-11-314](#) or key components. For more information, contact Eileen Larence at (202) 512-6510 or larencee@gao.gov.

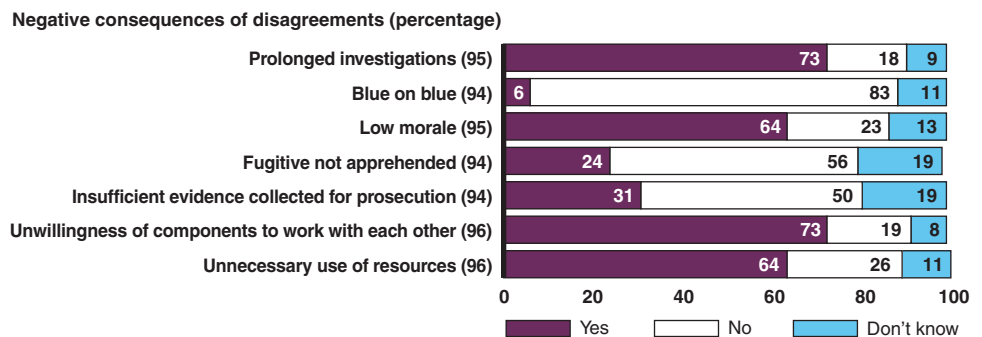
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What GAO Found

The majority of agents who responded to GAO’s survey reported that they are very clear about their components’ roles and responsibilities in the six investigative areas where they share jurisdiction—drugs, firearms, fugitives, gangs, arson, and explosives—and that mechanisms DOJ has in place to coordinate and clarify roles and responsibilities, such as memorandums of understanding, are somewhat effective. Agents who responded to GAO’s survey most frequently reported using interpersonal outreach and communication to clarify roles and responsibilities, such as relying on task force experience and conferring with agents with other components when jurisdictions overlapped on particular investigations. Though the majority of agents reported being clear on their agency’s roles and responsibilities, over one-third of survey respondents reported experiencing disagreements over the past 5 years with another DOJ component when determining roles and responsibilities during an investigation. Of the agents who reported disagreements, 78 percent reported that these disagreements negatively affected the investigation to some degree, for example, by prolonging investigations, calling for unnecessary use of resources, and causing low morale. Although the DOJ components have mechanisms in place to monitor how well components are coordinating, the scope of these mechanisms limits DOJ’s ability to identify some problems. DOJ components conduct inspections of field offices every 3 to 6 years, which cover areas such as working relationships, operational programs, leadership, and management. However, officials from three of four component inspection divisions GAO interviewed said that they rely on interviews with senior management, such as the highest official in the field office, to gauge coordination and the working relationships among the DOJ law enforcement components, and do not solicit input from agents. Though, considering that field office managers are not likely aware of all disagreements that occur among agents and survey respondents reported that disagreements and poor working relationships negatively affected investigations and morale, soliciting input from field agents may put DOJ in a better position to determine why disagreements are occurring and how to address them so as to limit their impact on agents and investigations.

Percentages of Agents Who Reported on Negative Consequences of Disagreements



Source: GAO analysis of survey responses.

Notes: The numbers in parentheses are the numbers of agents who answered about each negative consequence. Percentages may not sum to 100 because of rounding. Blue on blue incidents are those in which the failure to deconflict events resulted in agents being misidentified as criminals.

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Abbreviations

AGCC	Anti-Gang Coordination Committee
ASAC	assistant special agent-in-charge
ATF	Bureau of Alcohol, Tobacco, Firearms and Explosives
DEA	Drug Enforcement Administration
DHS	Department of Homeland Security
DOJ	Department of Justice
FBI	Federal Bureau of Investigation
IG	Office of the Inspector General
JTTF	Joint Terrorism Task Force
MOU	memorandum of understanding
USAO	United States Attorney’s Office
USMS	U.S. Marshals Service

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United States Government Accountability Office
Washington, DC 20548

April 7, 2011

The Honorable Lamar Smith
Chairman
Committee on the Judiciary
House of Representatives

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

An estimated 1.3 million violent crimes occurred nationwide in 2009.¹ These crimes inflict a heavy toll on communities across the United States and have dramatic effects on the welfare of citizens and the economy. The responsibility for combating violent crimes rests with both state and local law enforcement but the federal government also has important responsibilities. Fighting violent crime is a key objective of the Department of Justice (DOJ), whose role includes combating gang and gun violence as well as halting the distribution of illegal drugs. DOJ's primary investigative agencies for violent crimes are the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF); the Drug Enforcement Administration (DEA); the Federal Bureau of Investigation (FBI); and the U.S. Marshals Service (USMS). Because of overlapping investigative jurisdiction, multiple agencies may be involved in an investigation, specifically when it involves illegal drugs, gang violence, illegal use of firearms and explosives, arson, and fugitive apprehension. For example, in a drug investigation involving a suspect who may be illegally procuring a large cache of firearms to protect the drugs, the FBI and DEA, which both have jurisdiction over illegal drugs, as well as ATF, which is responsible for regulating firearms, may be involved. Similarly, the FBI has responsibilities for combating violent crime and investigating all crimes involving terrorist activities or acts in preparation of terrorist activities occurring within the United States. Thus, if an investigation involves the illegal use of explosives or arson, either ATF or the FBI could be involved, depending on the link to terrorism or other circumstances.

¹ Department of Justice, Federal Bureau of Investigation, *Crime in the United States 2009 (September 2010)*, http://www2.fbi.gov/ucr/cius2009/data/table_01.html (accessed Feb. 18, 2011). The Federal Bureau of Investigation's Uniform Crime Reporting program defines violent crime as those offenses that involve force or threat of force.

In cases such as these, effective coordination with regard to investigations, seizures of illegal drugs and fugitive and criminal apprehensions is paramount. A lack of coordination can lead to confusion, frustration, and a waste of law enforcement resources; pose a risk to law enforcement personnel; and limit the overall effectiveness of the federal effort.

Given the importance of coordination in areas of overlapping jurisdiction, you asked us to review DOJ's efforts to determine roles and responsibilities when more than one DOJ component is involved. As agreed with your office, we analyzed the extent to which roles and responsibilities are clearly delineated and coordinated among ATF, DEA, the FBI, and USMS (hereafter referred to as DOJ law enforcement components). Specifically, this report addresses the following question: In areas of overlapping investigative jurisdiction, to what extent are DOJ law enforcement agents responsible for investigations clear on their component's roles and responsibilities, and to what extent do they reach agreement on roles and responsibilities with other components?

To answer this question, we analyzed statutory provisions as well as DOJ and component law enforcement strategic plans to determine the extent to which jurisdiction to investigate crimes is shared among the components. Our analysis focused on six crime areas—firearms, illegal drugs, gangs, explosives, arson, and fugitives—that may involve ATF, DEA, the FBI, and USMS because multiple components share jurisdiction in these areas. To understand how the department's law enforcement components coordinate investigations among themselves, we analyzed department directives, component interagency agreements, and deconfliction databases. We also reviewed the reports from two studies conducted by the DOJ Office of the Inspector General about federal law enforcement coordination. We found the conclusions and recommendations drawn in each report to be appropriate based on the methodologies used. In addition, we also examined data from the Executive Office for United States Attorneys, FBI, and USMS. To assess the reliability of the data we obtained, we discussed the sources of the data with agency officials and determined that the data were sufficiently reliable for the purposes of this report. We interviewed officials from each component's headquarters located in Washington, D.C., and managers such as special agents-in-charge or assistant special agents-in-charge from nine field office locations: (1) Houston, Texas; (2) Los Angeles, California; (3) Minneapolis, Minnesota; (4) New York, New York; (5) Orlando, Florida; (6) Philadelphia, Pennsylvania; (7) Seattle, Washington; (8) Tulsa, Oklahoma.; and (9) Washington, D.C. In each of these nine locations, we also interviewed officials from local law enforcement agencies and U.S. Attorney Offices to

obtain an outside perspective on the working relationships among the DOJ law enforcement components because they work with the components on a daily basis. We selected these locations (1) to include cities of varying size, (2) because all four DOJ components were present, and (3) to obtain geographic dispersion.

In addition to obtaining the perspectives of field office managers, we also solicited input from agents in the field through a survey. We planned to conduct a survey that would allow us to generalize responses across the 36 field offices—the offices for each of the four components in each of the nine cities. However, because of DOJ’s concerns about providing us access to contact information for such a large number of agents, we instead were limited to selecting a nongeneralizable sample of agents across the cities. Nevertheless, the results provide us with an indication of the range of views held by field agents and deputy marshals who responded. To conduct the survey, we selected nonsupervisory field agents and deputy marshals in each DOJ component in the nine cities to obtain additional perspectives on law enforcement roles and responsibilities in areas of shared jurisdiction. Each component compiled a list of its agents in each of the nine offices. We requested that each list contain all agents in the field office classified as non-supervisory 1811 investigators and who had investigated crimes in at least one of the six jurisdictional areas covered in our review.² Once the lists were compiled, our survey population contained 1,563 special agents and deputy marshals. To limit disruptions to field office operations, we restricted the size of our sample and randomly selected 10 agents from each office. If an office had 10 or fewer eligible agents, we selected all of them. In total, we selected and surveyed 315 field agents and deputy marshals (hereafter referred to as agents) from June 17, 2010 through August 25, 2010. We obtained responses from 260 agents (an overall response rate of 83 percent) on questions related to issues such as clarity of roles and responsibilities, disagreements over roles and responsibilities, and working relationships with other DOJ components. The response rates for individual components were 77 percent (65 of 84) for ATF, 83 percent (70 of 84) for DEA, 86 percent (69 of 80) for the FBI, and 84 percent (56 of 67) for USMS. The survey results presented in this report are only attributable to the agents who responded to our survey and cannot be projected to all DOJ agents. The numbers of agents who responded to survey questions varied depending on skip instructions contained in the survey questionnaire. Also, agents may have

² The 1811 investigators are criminal investigators.

chosen not to answer certain questions. The survey results we provide in our report depend on these factors. Percentages are based on the number of agents who responded to specific survey questions. More detailed information on our scope and methodology is provided in appendix I, and the frequency of responses for each survey question can be found in appendix II.

We conducted this performance audit from March 2009 through February 2011 in accordance with generally accepted government auditing standards.³ Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

DOJ plays a key role in federal efforts to investigate and prosecute violent crime through its four law enforcement components: ATF, DEA, the FBI, and USMS. The FBI serves as a federal investigative body with jurisdiction over violations of numerous categories of federal criminal law, among other things. The FBI's mandate is established in 28 U.S.C. § 533, which authorizes the Attorney General to "appoint officials to detect and prosecute crimes against the United States." The Attorney General delegated broad investigative authority to the FBI.⁴ As a result, the Director of the FBI is responsible for investigating violations of laws—including criminal drug laws—of the United States and collecting evidence in cases in which the United States is or may be a party in interest, except in cases in which such responsibility is by statute or otherwise exclusively assigned to another investigative authority. Because of the FBI's broad responsibilities for investigating many of the violations of the laws of the United States, in a number of instances, the FBI's investigative jurisdiction overlaps with that of the other DOJ law enforcement components. Figure 1 illustrates the shared jurisdiction for illegal drugs, gangs, firearms, explosives, arson, and fugitives.

³ The length of this review reflects extensive outreach with DOJ on the process by which we would select agents to participate in the survey and how we would pretest and administer the survey, and significant delays in administering the survey due to the time needed to address DOJ's concerns.

⁴ 28 C.F.R. § 0.85.

Figure 1: Jurisdictions Shared by DOJ Agencies

Gangs			
DEA	ATF	USMS	FBI

Fugitives	
USMS	FBI

Drugs	
DEA	FBI

Firearms	
Arson and explosives	
ATF	FBI

Source: GAO analysis of DOJ information.

Gangs. All four DOJ components focus on different aspects of gang enforcement as part of their broader missions. Within DOJ, the FBI focuses primarily on investigating violent, multijurisdictional gangs whose activities constitute criminal enterprises by identifying, investigating, and prosecuting the leadership and key members of violent gangs; disrupting or dismantling gangs' criminal enterprise; and recovering illegal assets through seizures and forfeitures. ATF primarily focuses on efforts to reduce the occurrence of firearms, arson, and explosives-related crime, including such crimes committed by gang members. The primary focus of DEA's enforcement efforts is on the links between gangs and drug trafficking. USMS's role is to apprehend gang members who have been criminally charged but not arrested.

Fugitives. USMS is the lead federal law enforcement agency responsible for the apprehension of federal fugitives. USMS executes federal arrests,

parole violator warrants, and other warrants as directed.⁵ USMS's investigative mission focuses primarily on the location and arrest of violent fugitive felons, and provides assistance to state and local law enforcement agencies in the apprehension of their violent fugitives. The FBI is the lead agency for any federal fugitive arising from an FBI investigation and any warrants obtained by the FBI. The FBI and USMS also have authority to pursue and arrest both federal and state fugitives who have violated 18 U.S.C. § 1073, which prohibits persons from moving or traveling in interstate commerce in order to avoid prosecution, confinement, or service of process. In addition, all DOJ law enforcement components have the authority to investigate and, in some cases, arrest fugitive felons when there is a reasonable basis to believe that doing so will detect or prevent the commission of any federal crime.

Drugs. DEA is the nation's lead federal agency dedicated to drug law enforcement and works to disrupt and dismantle the leadership, command, control, and financial infrastructure of major drug-trafficking organizations. DEA uses a multifaceted approach that includes investigating narcotics cases and preparing them for prosecution; managing a national drug intelligence program to collect, analyze, and disseminate drug intelligence; enforcing counternarcotics laws involving the diversion of legally produced substances for illegal purposes; and coordinating with and leveraging the resources of international, federal, state, and local partners. The FBI investigates violations of the laws, including criminal drug laws, of the United States. The FBI Director's authority to investigate violations of and collect evidence in cases involving the criminal drug laws of the United States is concurrent with the authority of the Administrator of the DEA. ATF also has a defined role focusing on the firearms aspect of counternarcotics investigations, which facilitates collaboration with DEA. ATF's mission includes, among other things, enforcing U.S. laws regulating firearms and explosives, and suspects involved in firearms-trafficking cases often are involved in or have links to drug-trafficking organizations. As such, firearms investigations often evolve to incorporate a narcotics component.

Firearms. ATF is responsible for the regulation of the firearms industry, including efforts to combat arms trafficking within and from the United

⁵ 28 C.F. R. § 0.111(a).

States.⁶ ATF seeks to enforce firearms laws to remove violent offenders from communities, stop illegal firearms trafficking, and prevent prohibited persons from possessing firearms. ATF also regulates and partners with the firearms industry to promote compliance, to prevent diversion, and to detect those criminals who bring violence to communities. The FBI has been delegated broad authority to investigate violations of the laws of the United States, including in the areas of organized crime, violent crime and major thefts, and firearms offenses. The FBI has underlying authority to participate in investigations of weapons, explosives, and firearms as a result of the FBI being the lead agency for the investigation of terrorism as well.

Explosives and arson. The ATF and the FBI share jurisdiction for investigating the criminal use of explosives. The FBI investigates several federal crimes that may be committed with explosives and through arson, such as bank robberies, hate crimes (i.e., church fires and bombings), and organized crime. In 1990, the Attorney General assigned the FBI lead responsibility for investigating all crimes for which it has primary or concurrent jurisdiction and which involve domestic terrorist activities, such as crimes committed by environmental or revolutionary groups. ATF is the chief enforcer of explosives laws and regulations in the United States and is responsible for licensing and regulating explosives manufacturers, importers, dealers, and users.

In addition to sharing investigative jurisdiction among themselves, DOJ law enforcement components also partner with, and provide resources to, local law enforcement agencies to combat violent crime. DOJ provides resources to local agencies primarily through task forces and training. Task forces target a particular criminal activity and include federal, state, and local law enforcement. These task forces provide local law enforcement agencies with overtime pay, conduct wiretaps, and purchase vehicles for surveillance and undercover operations, among other things. For example, DEA partners with state and local law enforcement agencies to leverage the manpower and intelligence that they provide, while supplying them with counternarcotics training and other support, such as intelligence about drug-trafficking organizations that operate across jurisdictional boundaries. In regard to explosives, local law enforcement

⁶ ATF authority to combat firearms trafficking stems from the Gun Control Act of 1968, Pub. L. No. 90-618, 82 Stat. 1213.

bomb squad units are the first responders to explosive incidents and work with federal law enforcement to secure scenes and collect evidence.

Most Agents Reported Being Very Clear about Their Component's Roles and Responsibilities, but Over One-Third Reported Disagreements, Which DOJ Components Could Better Address

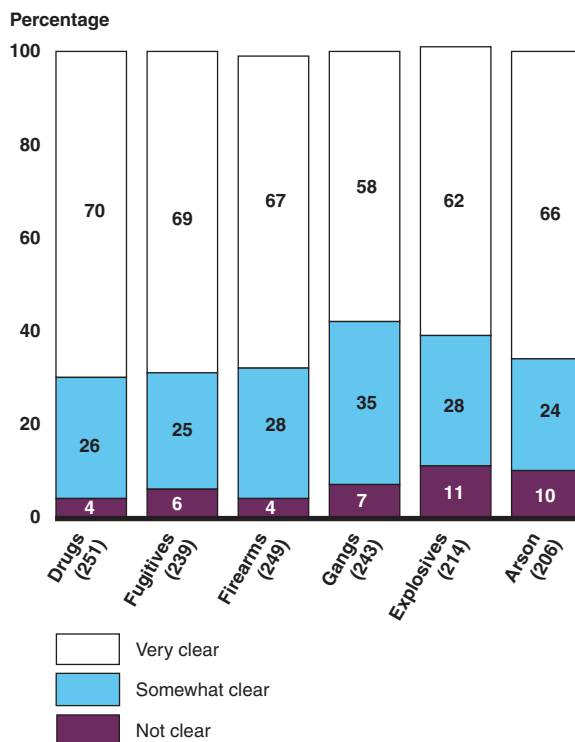
Fifty-eight to 70 percent of DOJ agents who responded to our survey reported being very clear about their component's roles and responsibilities in a particular area of shared jurisdiction—drugs, firearms, fugitives, gangs, arson, and explosives. The level of agents' clarity varied based on the extent of their components' involvement in a particular investigative area and geographic location. For example, agents generally reported being very clear about their component's roles and responsibilities in the investigative area that is specifically related to their component's mission, and least often reported being very clear in the area for which there is the most jurisdictional overlap—gangs. DOJ has several mechanisms in place to enhance clarity about roles and responsibilities, and agents who reported using these mechanisms primarily characterized them as somewhat effective. More than one-third (37 percent or 97 of 259) of survey respondents reported experiencing disagreements over the past 5 years with another DOJ component when determining roles and responsibilities during an investigation.⁷ Seventy-eight percent (76 of 97) of the agents who reported having these disagreements indicated that they had negative impacts on the investigations sometimes, often or always. These negative impacts included prolonged investigations and unnecessary use of resources. In addition, the majority of agents (53 of 96) who reported experiencing disagreements also reported that they did not always or often reach consensus following disagreements. DOJ components have taken action to address some of these disagreements and monitor how well components are coordinating, but these actions do not ensure that the types of disagreements agents reported are identified consistently and resolved.

⁷ The numbers of agents who responded to survey questions varied depending on skip instructions contained in the survey questionnaire. Also, agents may have chosen not to answer certain questions. The survey results we provide in our report depend on these factors. Percentages are based on the number of agents who responded to specific survey questions.

Most Survey Respondents Reported Being Very Clear on Their Component's Roles and Responsibilities, but the Level of Clarity Varied by Components' Level of Involvement in Each Investigative Area and Location

As shown in figure 2, the percentage of agents responding to our survey who reported being very clear on their own component's roles and responsibilities in a particular investigative area ranged from 58 percent (142 of 243) for gangs to 70 percent (176 of 251) for drugs. The percentage of agents who reported that they are not clear on their own component's roles and responsibilities ranged from 4 percent for drugs and firearms to 11 percent for explosives.⁸

Figure 2: Percentages of Agents Who Responded to the Survey Who Reported Being Very Clear, Somewhat Clear, and Not Clear about Their Component's Roles and Responsibilities



Source: GAO analysis of survey responses.

Notes: The numbers in parentheses are the numbers of agents who answered about that particular investigative area. Percentages do not include agents who indicated “no basis to judge.” See responses to question 10 in app. II for the number of agents who indicated “no basis to judge” or did not answer the question. Percentages may not sum to 100 because of rounding.

⁸ We report separately the percentage of agents who report being “very clear” versus “somewhat clear” because we consider “very clear” to be a positive response, whereas “somewhat clear” is neither positive nor negative.

Generally, agents reported being very clear about their component's roles and responsibilities in investigative areas specifically related to their component's mission. For example, ATF agents reported the greatest level of clarity for firearms and arson investigations, DEA agents reported the greatest level of clarity for drug investigations, and USMS agents reported the greatest level of clarity for fugitive investigations.⁹ In contrast, in each investigative area, with the exception of gangs, FBI agents were least likely to report being very clear about their component's roles and responsibilities. Although explosives investigations are directly related to ATF's mission, the percentage of ATF agents who reported being very clear in this area was lower than all other components except the FBI.

Based on our analysis of our survey results and investigation data, when multiple components are increasingly involved in a particular investigative area, agents who work in those areas may be less clear about their components' roles and responsibilities. For example, 10 of the 36 managers we interviewed¹⁰ said that roles and responsibilities with regard to drug and fugitive investigations have become clearer in recent years because following the September 11, 2001, terrorist attacks, FBI has focused less on these areas and more on terrorism-related cases. Specifically, FBI referred 30 percent fewer drug cases for prosecution in fiscal year 2009 than it did in fiscal year 2001 (from 2,994 to 2,103), compared to DEA, which referred 13 percent fewer drug cases (from 9,907 to 8,578). Similarly, FBI opened 85 percent fewer fugitive investigations in fiscal year 2009 than it did in fiscal year 2001 (from 9,256 to 1,421). According to USMS, from fiscal year 2001 through fiscal year 2009, the number of state and local fugitive investigations conducted by USMS increased by 361 percent (27,256 to 125,751). In addition, of all the investigative areas we included in our review, gangs is the only one for which all four components share jurisdiction, and the percentage of agents who reported being very clear on their roles and responsibilities was

⁹ See app. III for additional analysis of survey results regarding agent clarity.

¹⁰ We visited each component in nine field locations.

lowest in this area.¹¹ Thus, when there is overlap, clarification of roles and responsibilities is important.

In addition to variation based on the extent of components' involvement in a certain investigative area, the survey results also show variation based on agents' geographic location. For example, as shown in appendix III, 96 percent of agents in Orlando (27 of 28) who responded to our survey reported being very clear on their component's roles and responsibilities related to drugs, but 50 percent of agents in Tulsa (8 of 16) who responded to our survey reported being very clear in this area. In general, Orlando and Philadelphia had the highest percentages of respondents to report being very clear on roles and responsibilities across the six investigative areas, and the cities that had the lowest percentage of respondents to report being very clear varied among Washington, D.C., Tulsa, Seattle, and Los Angeles—these areas included arson, explosives and gangs. DOJ components did not offer perspectives on possible reasons for these patterns.

¹¹ In 2009, we reported on coordination efforts between DOJ and the Department of Homeland Security (DHS) when investigating and taking enforcement action on gang violence. DOJ and DHS have key roles in federal law enforcement efforts to investigate and prosecute gang-related crimes. We reported a lack of differentiated roles and responsibilities among DOJ components in the department's efforts to combat gangs, which resulted in a lack of coordination among all federal partners during gang investigations. We recommended that DOJ, in consultation with DHS, direct its law enforcement agencies that have headquarters-based anti-gang initiatives to reexamine and reach consensus on their roles and responsibilities, including identifying and addressing gaps and unnecessary overlap. DOJ agreed and stated that the Attorney General's Anti-Gang Coordination Committee (AGCC) continues to meet at least quarterly to identify and address gaps and unnecessary overlaps. In recognition of DHS' important role and to ensure coordination across departments, DHS's U.S. Immigration and Customs Enforcement regularly participates in these meetings and has formally been a member of the AGCC since July 17, 2009. See GAO, *Combating Gangs: Better Coordination and Performance Measurement Would Help Clarify Roles of Federal Agencies and Strengthen Assessment of Efforts*, GAO-09-708 (Washington, D.C.: July 24, 2009).

DOJ Has Various Mechanisms in Place to Clarify Components' Roles and Responsibilities, and Agents Surveyed Primarily Reported That These Mechanisms Were Somewhat Effective

DOJ and its components have several mechanisms in place to help agents clarify their roles and responsibilities during investigations. These mechanisms include policy directives, task forces, deconfliction databases, and interpersonal communication, which agents who responded to our survey reported using to varying extents.

Policy directives. Policy directives such as agent manuals provide guidance and instruction on DOJ's and components' policies and procedures. For example, the ATF agent manual outlines ATF firearms, explosives, and arson enforcement authority. In addition, it outlines ATF's cooperation policy, which discusses how ATF should coordinate its investigations with federal, state, and local law enforcement. DOJ components also use memorandums of understanding (MOU) among themselves to outline roles and responsibilities in areas of shared jurisdiction. These MOUs cover a wide variety of areas, including fugitive apprehensions and explosives and drug investigations. For example, since 1973 the FBI has established 12 MOUs with ATF, 10 with DEA, and 6 with USMS with regard to coordinating investigations in the areas of fugitive apprehension, drug investigations and canine programs, among other things. In addition, USMS has MOUs with ATF and DEA that outline how ATF and DEA can delegate fugitive apprehension responsibility for the subject of any of their criminal investigations. In addition, USMS and the FBI both have fugitive apprehension authority to include state and local fugitives. The MOU between FBI and USMS states that FBI will notify USMS when it plans to pursue state and local fugitives.

Task forces. DOJ components have also established task forces to target a particular criminal activity in geographical locations. They combine resources, intelligence, and the manpower of multiple law enforcement agencies to focus on a particular problem. These task forces include DOJ law enforcement components, other federal law enforcement agencies, and state and local police departments. For example, the FBI's Violent Gang Safe Streets Task Force includes members from other DOJ components and local law enforcement. The mission is to pursue violent gangs through sustained, proactive, coordinated investigations to obtain prosecutions under Titles 18 and 21 of the U.S. Code, including prosecutions for violations such as racketeering, drug conspiracy, and firearms violations.

Deconfliction databases. DOJ law enforcement components also have deconfliction databases that are to be used to determine roles and responsibilities and to coordinate investigations to ensure that agents are not pursuing the same targets. Deconfliction databases contain

information on cases that involve multi-jurisdictional investigations and are available for information sharing among law enforcement agencies. If an agent discovers that another component is investigating the same target, the database is to provide the agent with the information needed to make a contact with the other component to discuss the case. For example, 28 regions across the United States have been designated as High Intensity Drug Trafficking Areas. Each area provides one-stop access to numerous federal, state, and local law enforcement databases, and also provides an event deconfliction service.¹² In addition, the National Crime Information Center, maintained by the FBI, is a database that allows federal, state, and local law enforcement agencies access to make inquiries and is to be used for prompt disclosure of information from other law enforcement agencies about crimes and criminals. This information is to assist in apprehending fugitives, locating missing persons, and locating and returning stolen property, as well as in protecting the law enforcement officers encountering the individuals described in the system. In addition, DOJ components use local deconfliction databases. For example, in Tulsa, Oklahoma, DOJ components use Oklahoma's Bureau of Narcotics deconfliction system.

Interpersonal communication. Agents can contact agents from other components, or their supervisors, such as group supervisors or the assistant special agent-in-charge (ASAC), to resolve questions about roles and responsibilities during specific investigations.

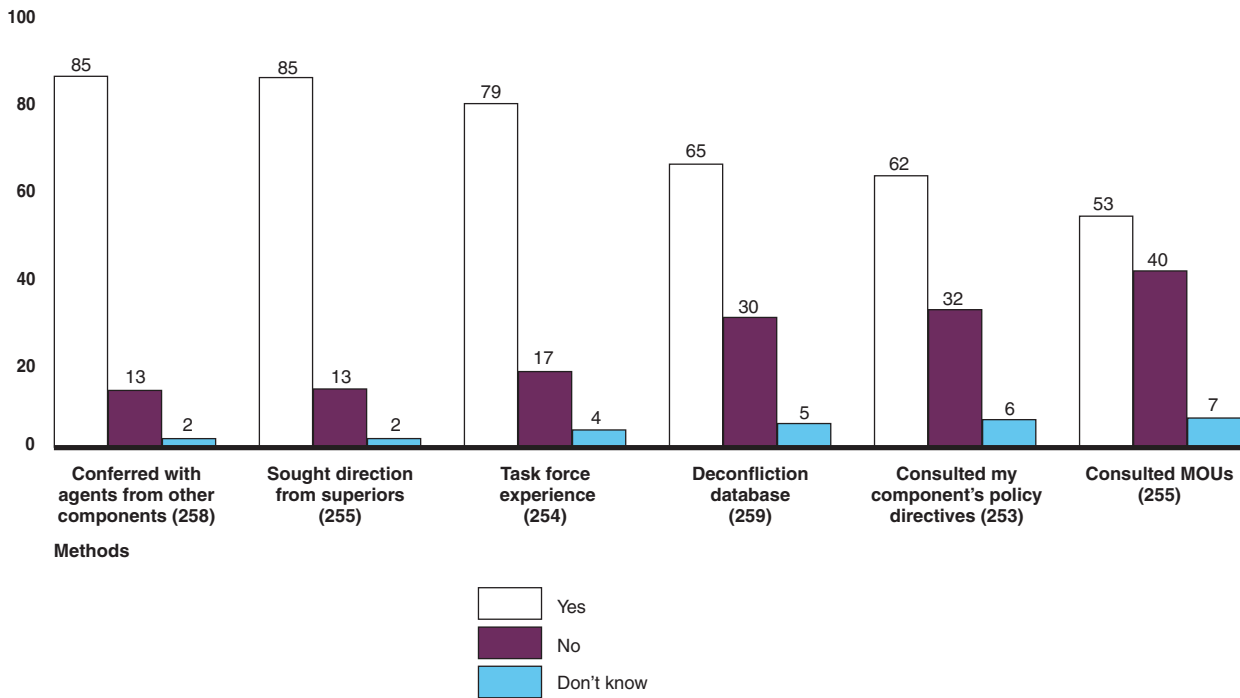
Agents who responded to our survey most frequently reported using interpersonal outreach and communication to determine roles and responsibilities when jurisdictions overlapped on particular investigations over the past 5 years, as shown in figure 3. Survey respondents most frequently reported that they conferred with agents from other components (85 percent or 220 of 258), sought direction from superiors (85 percent or 216 of 255), or relied on their task force experience (79 percent or 200 of 254) to help determine roles and responsibilities. In response to an open-ended question, one DEA agent stated that at the investigation level, friendships and good working relationships are formed that help agents delineate clear roles and responsibilities when they share jurisdiction for an investigation. The agent also said that it is by working together that levels of trust are formed and information is shared among

¹² Event deconfliction services maintain data on planned law enforcement events and alert affected agencies and officers of potential events occurring in the same area.

the components that can help to resolve overlapping jurisdiction. A USMS agent wrote that task forces allow all resources of DOJ to be combined with those of state and local authorities and that this creates a very streamlined and effective atmosphere for investigations.

Figure 3: Percentages of Agents Who Responded to the Survey Who Reported Using Certain Methods to Determine Roles and Responsibilities

Methods used to determine roles and responsibilities (percentage)



Source: GAO analysis of survey responses.

Notes: The numbers in parentheses are the numbers of agents who answered about each method. Percentages may not sum to 100 because of rounding.

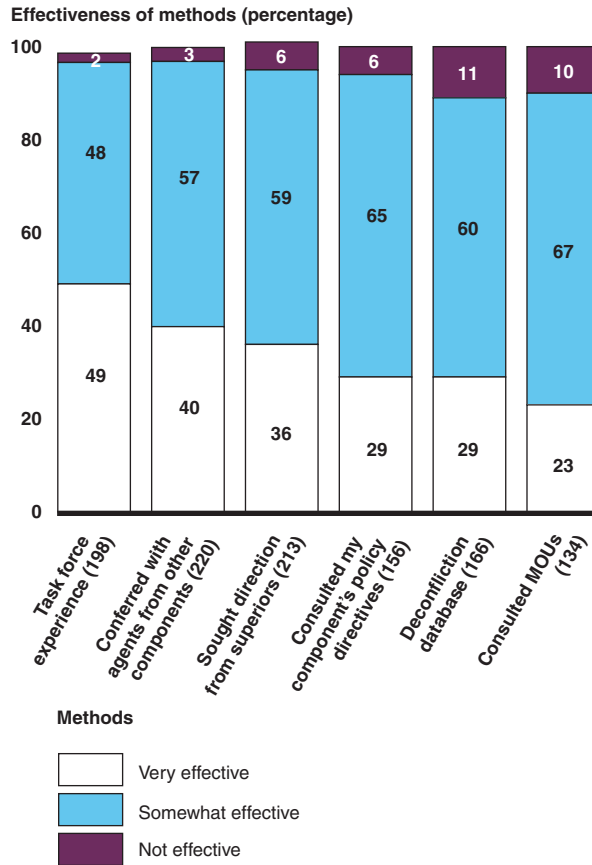
In addition to our survey responses, managers from the 36 component field offices we interviewed also reported that they rely on outreach with managers in other components and with agents, among other mechanisms, to determine roles and responsibilities. For example, managers from 22 of these 36 field offices stated that they conduct meetings with other component managers to determine what roles each component will play in addressing particular types of crime. In addition to interpersonal outreach,

65 percent (168 of 259) of agents who responded to our survey reported using deconfliction databases to determine roles and responsibilities.¹³ Agents also reported using, but less frequently, components' policy directives and MOUs, 62 percent and 53 percent, respectively.

For each method, agents who reported using the method generally characterized it as somewhat effective. The methods agents most frequently reported as being very effective were also the same three methods agents reported most frequently using to help determine roles and responsibilities—conferring with agents from other components, seeking direction from supervisors, and relying on their experience from working with task forces, as shown in figure 4. Task force experience was most frequently reported as being very effective (49 percent or 98 of 198).

¹³ Of the 30 percent (77 of 259) of agents who reported not using deconfliction databases, some said they preferred interpersonal communication, they did not have deconfliction databases in their region, or that they are not needed when clear on roles and responsibilities. Five percent of the agents who responded did not know if they had accessed a deconfliction database over the past 5 years.

Figure 4: Percentages of Selected Agents Who Responded That Various Clarification Methods Were Very Effective, Somewhat Effective, or Not Effective



Source: GAO analysis of survey responses.

Notes: A particular method was not applicable to all respondents. The numbers in parentheses are the numbers of agents who answered about the effectiveness of each method. Percentages may not sum to 100 because of rounding.

Agents' responses to open-ended questions on effectiveness identified both the benefits and limitations of the clarification mechanisms. Some of the reported benefits of these mechanisms were that task forces result in the development of good contacts and partnerships at other agencies that help to determine roles and responsibilities, conferring with agents from other components results in new leads that assist in locating and apprehending fugitives, and consulting with superiors allows agents to utilize their supervisor's experience and training to gain access to new resources. Some of the reasons why agents reported certain methods as not effective in determining roles and responsibilities included that not all

DOJ components use deconfliction databases, not all agencies follow MOUs, and policy directives are difficult to navigate through and they tend to be vague and subject to interpretation. FBI officials stated that the existence of policy directives, MOUs, joint task forces and deconfliction databases is a more reliable indicator of how well the four components are cooperating than the agents' perspectives about these mechanisms. However, it is our view that the existence of these mechanisms, alone, does not show how well the components are cooperating; rather, it is the effectiveness of these mechanisms and how frequently they are used and referred to that affect cooperation. We chose to rely on testimonial data—that is, the perspectives of selected agents for whom these mechanisms were developed. We recognize that these perspectives are not generalizable, but at a minimum they provide indications of how useful the agents who responded to our survey found the clarification mechanisms.

Over One-Third of Agents Who Responded to the Survey Reported Disagreements with Other Components, Which Negatively Affected Investigations

Sixty-three percent of agents (162 of 259) who responded to our survey reported that they did not experience disagreements with another DOJ component when determining roles and responsibilities during particular investigations over the past 5 years. On the other hand, 37 percent of selected agents (97 of 259) who responded to our survey reported that they had experienced such disagreements. In response to an open-ended survey question on why disagreements occurred, 92 of the 97 agents provided reasons for disagreements, and they most frequently reported unclear roles and responsibilities and the lack of information sharing related to their investigations as the cause. Specifically, 58 percent (53 of 92) cited unclear roles and responsibilities with other components as the cause. For example, in response to an open-ended question, a FBI agent stated that disagreements usually occur between the FBI and DEA when they are both targeting the same subject. The agent further wrote that the disagreements are related to how the case should progress and who should take the lead. Similarly, our analysis of the survey results shows that selected agents who reported having disagreements also more frequently reported lack of clarity regarding roles and responsibilities than did agents who reported not having had a disagreement. Specifically, 29 percent (28 of 96) of agents who reported having disagreements also said that they sometimes or rarely understand their roles and responsibilities in investigations with shared jurisdiction, compared to 12 percent (19 of 162) of agents who reported not having disagreements.

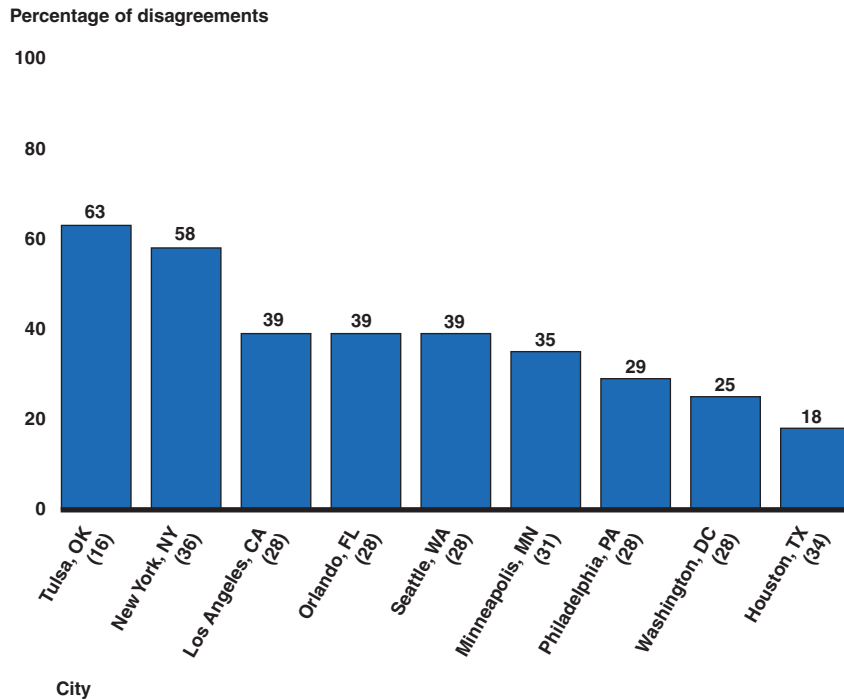
In addition to unclear roles and responsibilities, 28 percent (26 of 92) of the surveyed agents who reported having had a disagreement wrote in narrative responses to an open-ended question that not receiving relevant

information from other components that were conducting similar investigations was the cause for disagreements. For example, a DEA agent cited concerns that information sharing was not always reciprocated with the other DOJ components. Relatedly, in response to a question we asked all agents, 27 percent (68 of 254) reported that within the past 5 years they had become aware of instances, either during or after an investigation, where they did not receive relevant information from another DOJ law enforcement component related to the investigation.

Component Involvement in Disagreements

Similar to the level of agents' clarity, the extent to which surveyed agents reported disagreements varied by component and location. Specifically, 46 percent of ATF agents (30 of 65), 45 percent of DEA agents (31 of 69) agents, 32 percent of USMS agents (18 of 56), and 26 percent of FBI agents (18 of 69) reported having a disagreement with another component within the past 5 years regarding roles and responsibilities. Also, as shown in figure 5, the percentage of these surveyed agents in each city who reported having disagreements ranged from 18 percent (6 of 34) in Houston to 63 percent (10 of 16) in Tulsa.

Figure 5: Percentages of Agents Who Reported Having Disagreements with Another Component over Roles and Responsibilities over the Past 5 Years, by City

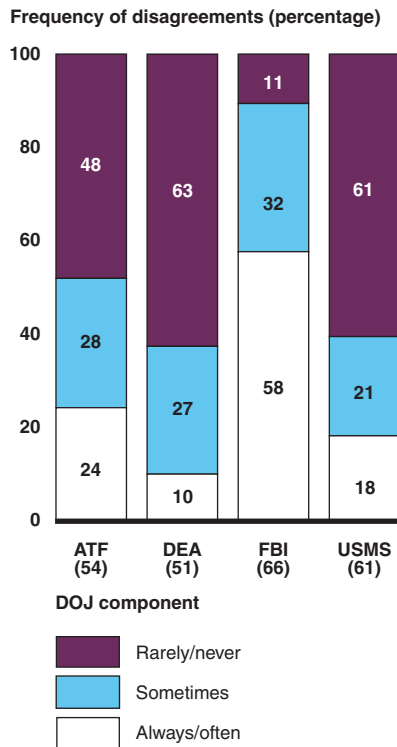


Source: GAO analysis of survey responses.

Notes: The numbers in parentheses are the numbers of agents who answered the question. Percentages may not sum to 100 because of rounding.

Additionally, the extent to which survey respondents indicated experiencing disagreements with agents in specific components varied. Agents who indicated having had a disagreement over the past 5 years most frequently reported rarely or never having had one with ATF, DEA, and USMS; however, they most frequently reported always or often having disagreements with the FBI, as shown in figure 6. The FBI has more jurisdictional overlap than any of the other DOJ components, which allows for more opportunities for disagreements. Nevertheless, FBI agents were the least likely to report having a disagreement with other components, and when FBI agents reported disagreements, the agents most frequently indicated the disagreements were always or often with ATF and USMS.

Figure 6: Percentages of Agents Who Responded to the Survey Who Reported Disagreements with Certain Components



Source: GAO analysis of survey responses.

Notes: The responses to the question about each component exclude agents who worked in the component. The numbers in parentheses are the numbers of survey respondents upon which the percentages are based. Percentages do not include agents who indicated “not applicable” choices. See app. II for the number of agents who indicated “not applicable” or did not answer the question. Percentages may not sum to 100 because of rounding.

Extent to Which Components Reach Consensus on Roles and Responsibilities Following Disagreements

Surveyed agents who had indicated having had a disagreement with another component over the past 5 years differed on how often consensus was reached following a disagreement. Specifically, 39 percent of agents (37 of 96) who reported having disagreements said that they were always or often able to reach consensus, 32 percent (31 of 96) reported that they sometimes reached consensus, and 23 percent (22 of 96) reported that they rarely or never reached consensus.¹⁴ In addition, 89 percent (71 of 80) of agents reported that they most commonly resolved disagreements at the

¹⁴ Six percent (6 of 96) of agents who responded to the question answered “don’t know.”

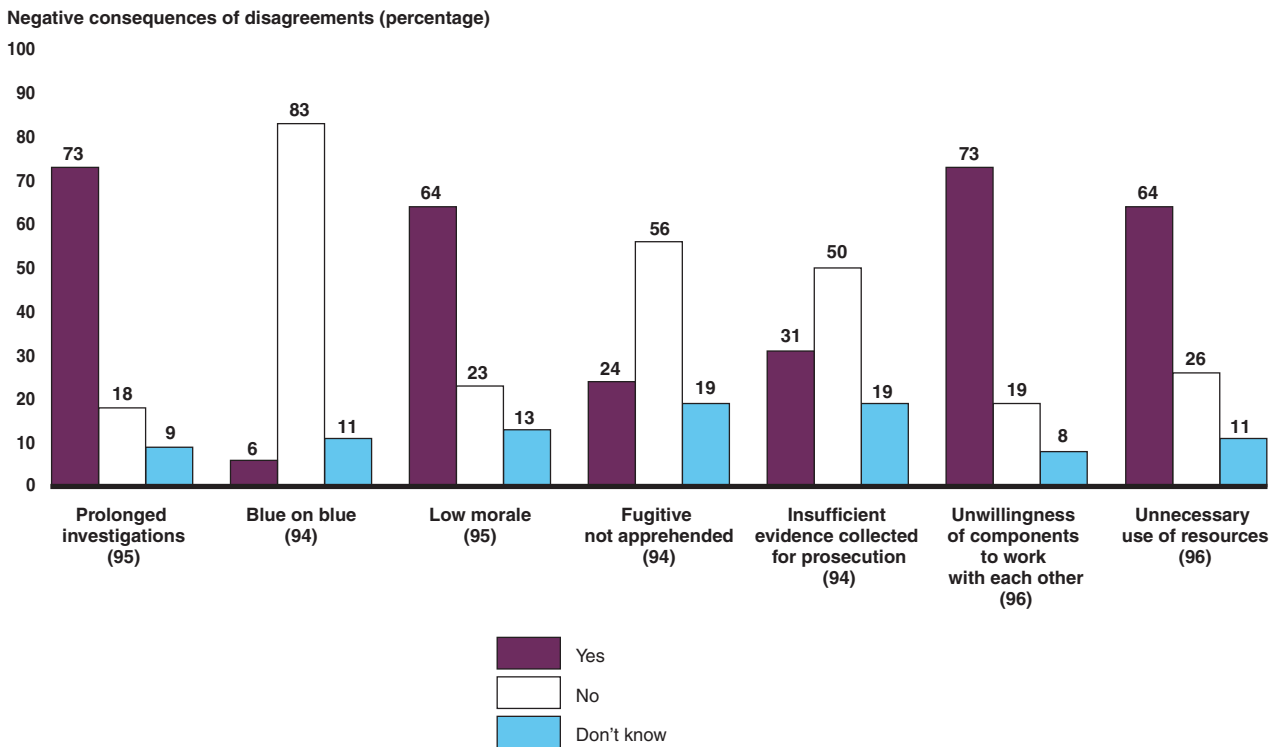
agent level. In response to an open-ended question, one agent stated that going to management to help resolve an issue between components only slows down the investigation. The agent further added that ultimately, all agents are working towards a common mission and service to the public, and that disagreements are a waste of time and should be resolved expeditiously.

Impact of Disagreements on Investigations

Seventy-eight percent (76 of 97) of the agents who reported having disagreements with another component, reported that these disagreements sometimes, often, or always negatively impacted the investigations. While only 6 percent of agents (6 of 94) reporting disagreements indicated that they had resulted in “blue on blue” incidents,¹⁵ 73 percent (69 of 95) reported that the disagreements had resulted in prolonged investigations, 73 percent (70 of 96) reported that they had resulted in an unwillingness of components wanting to work with each other, 64 percent (61 of 95) said they had resulted in low morale, and 64 percent (60 of 94) said they resulted in unnecessary use of resources, as shown in figure 7.

¹⁵ “Blue on Blue” are incidents in which the failure to deconflict events resulted in agents being misidentified as criminals.

Figure 7: Percentages of Agents Who Reported on Negative Consequences of Disagreements



Source: GAO analysis of survey responses.

Notes: The numbers in parentheses are the numbers of agents who answered about each negative consequence. Percentages may not sum to 100 because of rounding.

In elaborating on an open-ended question on the negative consequences of disagreements, one agent said that they delay prosecution, cause contentious relationships, and disrupt clear communication, which result in both a reduction in the quality of the evidence gathered and a delay of arrest. Another agent said that if agencies do not share information or work together, fugitives can sometimes escape. The agent further stated that if an agent has a disagreement with another component, it is less likely that the agent will want to work with that component.

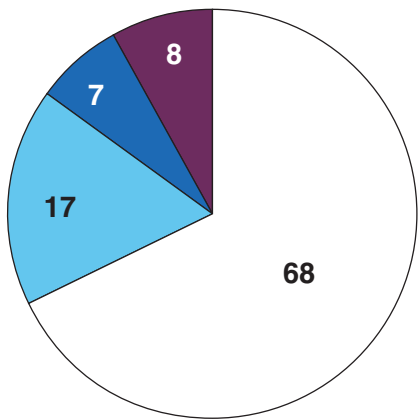
Working Relationships among Components

We also asked all agents we surveyed to characterize their component's overall working relationships with other components over the past 5 years. Agents who responded reported most frequently that their component had good or very good working relationships with ATF, DEA, and USMS, as shown in figure 8; however, 29 percent of non-FBI agents (52 of 182) characterized their component's working relationship with the FBI as

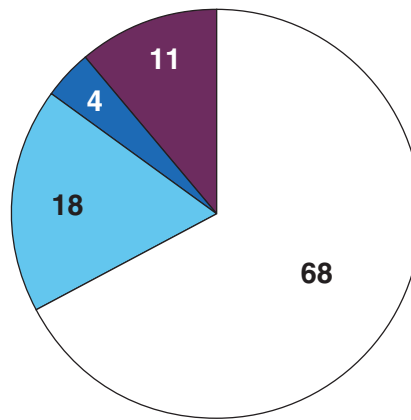
good or very good, and 28 percent (51 of 182) characterized the relationship as poor or very poor.

Figure 8: Percentages of Agents Who Reported on the Nature of Their Component’s Working Relationship with ATF, DEA, the FBI, and USMS

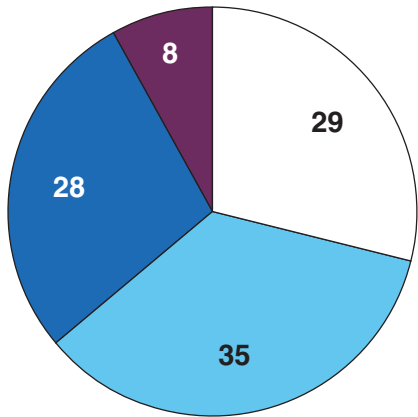
DEA, FBI, and USMS working relationship with ATF (190)



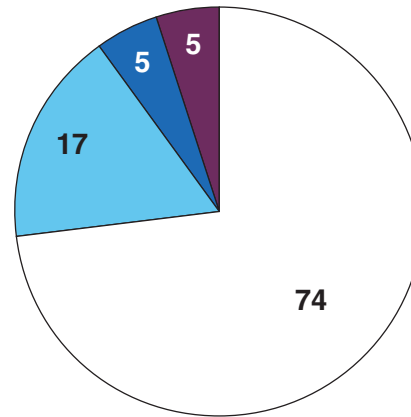
ATF, FBI, and USMS working relationship with DEA (187)



ATF, DEA, and USMS working relationship with FBI (182)



ATF, DEA, and FBI working relationship with USMS (200)



Source: GAO analysis of survey responses.

Notes: The responses to the question about each component exclude agents who worked in the component. The numbers in parentheses are the numbers of agents who answered about each component. Percentages may not sum to 100 due to rounding.

The extent to which agents reported their components having positive working relationships with other components varied by geographic location. However, for each city, with the exception of Philadelphia, agents reported their component to have the least favorable working relationship with the FBI compared to other components.¹⁶ The FBI offered possible explanations for the agents' responses regarding disagreements over roles and responsibilities and working relationships among the components. First, the FBI stated that the survey results could be measuring agents' dissatisfaction with overlapping jurisdiction and the way in which responsibilities are assigned, such that agents may have a negative perspective if they feel they were ruled "against" or were on the "losing" end when roles and responsibilities were determined. Second, the FBI stated that because it has the greatest opportunity for jurisdictional overlap among the four components, the results regarding "poor" working relationships may have been confounded—that is, because the FBI has more overlap than any other component, and there may be inherent frustration with jurisdictional overlap, there is a greater chance that more agents would report "poor" working relationships with the FBI than with other components. Third, the FBI pointed out that the cases for which it has overlapping jurisdiction account for a small percentage of all of the work conducted by the FBI. We agree that there could be several explanations for why agents responded as they did, but considering that respondents reported that disagreements and poor working relationships negatively affect investigations and morale, determining how agents, beyond those in our nongeneralizable sample, view their roles and responsibilities and cooperation with other components is important and could help component managers improve policy and operational effectiveness.

The perspectives of senior officials, such as police chiefs and their deputies, in the local law enforcement agencies in the cities included in our study were generally positive with regard to relationships among the DOJ components, but some of these officials had observed conflicts. Specifically, senior officials in five of the nine cities stated that they had not observed or were not aware of any conflicts among the DOJ components and that the components seemed to work well with one another. On the other hand, senior officials in three cities stated that the working relationships among DOJ components have improved, but

¹⁶ See app. IV for further details on working relationships among components across the nine cities.

acknowledged that some problems remain.¹⁷ For example, one police chief stated that the FBI and ATF do not get along well in that particular city, but that the relationships between the FBI and DEA have improved. Another chief stated that there continue to be some turf battles and tension among the DOJ components, but the attitude towards coordination has improved since the September 11th attacks. A third chief stated that the DOJ components work well together, but there is some competition among them because of overlapping task forces.

One official stated that if there are any issues related to shared jurisdiction, they are mostly resolved at the operational level, and if not, the issues would go to the U.S. Attorney's Office (USAO).¹⁸ Overall, the USAO officials we interviewed stated that there were rarely any conflicts among the DOJ components and that they observed good working relationships among them. For example, one USAO official stated that he could think of no examples of jurisdictional dispute in his 10 years of experience. He further stated that he thought that the lack of conflict may be due to the fact that there is a heavy workload for all components in terms of the amount of crime in his city. Another USAO official stated that there had been disputes between two components regarding roles and responsibilities related to gang investigations. However, the components, along with the USAO, worked together to determine which gangs each component would be responsible for investigating.

DOJ Has Opportunities to Better Monitor Component Coordination and Collaboration

In addition to the mechanisms that are in place to clarify roles and responsibilities, DOJ has also taken action to address issues that have arisen regarding roles and responsibilities in specific crime areas and to assess component coordination and collaboration, in general. However, these efforts do not ensure that the types of disagreements agents reported are identified consistently and resolved. As previously discussed, ATF and the FBI share jurisdiction for explosives investigations. Since 2004, DOJ has taken actions intended to address confusion over roles and responsibilities during explosives investigations. DOJ issued two MOUs, in 2004 and 2008, to clarify which component should have lead jurisdiction, as well as other issues related to explosives investigations, such as training and information sharing. In 2009, the DOJ Office of the Inspector General

¹⁷ The police chief in the ninth city did not comment on the relationship among the DOJ components.

¹⁸ DOJ law enforcement components refer cases to the USAO for prosecution of cases.

(IG) reported that ATF and the FBI were not adequately coordinating their explosives-related operations, allocation of investigative authority between the two agencies was unclear, and jurisdictional disputes occurred between ATF and the FBI, delaying explosives investigations and resulting in a disjointed federal response to explosives incidents, some of which involved terrorist incidents.¹⁹ During our review, we also found that the FBI and ATF continue to experience disagreements over explosives investigations. For example, ATF and FBI field agents we interviewed in one city said that the local police department called ATF and the FBI to a scene where pipe bombs had detonated on a college campus. Both agents stated that the two agencies disagreed about which agency was to take the lead in the investigation, primarily because it was not yet clear whether the pipe bomb was intended for use in a terrorist act. As a result of incidents such as these, the IG made 15 recommendations to improve explosives-related coordination, including implementing a new department directive that clearly defined jurisdiction between the agencies. In response to the IG findings, in August 2010, the Acting Deputy Attorney General issued a protocol to resolve the dispute by outlining factors that are indicative of a connection to terrorism to clarify roles and responsibilities. Also, according to DOJ officials in November 2010, ATF and the FBI submitted plans to DOJ that address the IG's recommendation that included joint training and new information-sharing policies, among other things. In our March 2011 report regarding overlap, duplication, and fragmentation, we reported that while these proposed actions should address most of these issues, given that the components did not follow through on past efforts to achieve these same objectives, it will be important for the Congress and DOJ to continually monitor and evaluate the components' actions to ensure that the plans have their intended effect and are enforced.²⁰

In addition to disputes over explosives investigations, a 2007 DOJ IG report on coordination by DOJ violent crime task forces found that agents in some cities failed to use information-sharing systems such as

¹⁹ See Department of Justice, Office of the Inspector General, Evaluation and Inspections Division, *Explosives Investigation Coordination Between the Federal Bureau of Investigation and the Bureau of Alcohol, Tobacco, Firearms, and Explosives*, Audit Report 10-01 (Washington, D.C., October 2009), and Memorandum for the Attorney General and Deputy Attorney General: Top Management and Performance Challenges in the Department of Justice—2009 (Washington, D.C., November 2009).

²⁰ GAO, *Opportunities to Reduce Potential Duplication in Government Programs, Save Tax Dollars, and Enhance Revenue*, [GAO-11-318SP](#) (Washington, D.C.: Mar. 1, 2011).

deconfliction databases, which resulted in duplicative investigations. The report recommended that DOJ require each component to use national and local information-sharing and deconfliction systems to coordinate investigations and protect officer safety. As a result of this recommendation, the Deputy Attorney General issued a memorandum requiring areas where there are multiple DOJ violent crime task forces to coordinate and deconflict. Further, the memorandum required each component to issue requirements for information sharing and coordination, which each component complied with in 2007. While the components issued these requirements, agents who responded to our survey less frequently reported using deconfliction databases than using some other methods, and this method was one of the three methods least likely to have been indicated as very effective by reported users. In addition, agents reported a lack of information sharing as a reason for disagreements over roles and responsibilities, and also reported that it resulted in negative consequences. Therefore, our survey results indicate that additional actions by DOJ could help address these issues.

In addition to actions taken in response to conflicts that have arisen regarding explosives and violent crime task forces, DOJ also has a mechanism in place—periodic field office inspections—to ensure better collaboration and coordination among components. However, the scope of the inspections may limit DOJ’s ability to identify some problems. Each DOJ law enforcement component conducts inspections of its field offices every 3 to 6 years. These inspections cover areas such as working relationships, operational programs, leadership, management, and administrative programs. The inspection teams—which consist of members of the components’ inspection teams, as well as supervisory agents from the field—interview managers from other DOJ components in the region as well as USAO, local police departments, and other federal partners. However, three of the four components do not solicit input from line agents—who are the ones collaborating with agents from other components on a daily basis. For example, we reviewed portions of the inspection reports related to working relationships and found that ATF inspection teams only solicited input from ATF field managers and field managers from other components, but did not include agents. DEA solicited input from its own agents, but did not solicit input from agents in the other components. Although we did not interview and survey a generalizable sample of DOJ component managers and agents, we found that the managers and agents we did contact had varying perspectives on clarity of roles and responsibilities, disagreements, and working relationships. For example, an ASAC we interviewed in one field office said that he was not aware of any disagreements among DOJ components

in that particular city; however, most of the agents (10 of 16) from the same field office who responded to our survey reported having had disagreements with another DOJ component in the past 5 years. Our survey results also suggest that managers may not be aware of agent disagreements because 89 percent of agents (71 of 80) who reported having experienced disagreements also reported that when disagreements are resolved, it is typically done so at the agent level. However, not all disagreements are resolved, and according to 45 percent of the agents who reported having had a disagreement (43 of 95), there are some disagreements that because of their severity or frequency, need to be addressed. For example one FBI agent said in response to an open-ended question that DEA, ATF, FBI, USMS, and Immigration and Customs Enforcement within the Department of Homeland Security all work drug, gang, and firearms violations. The agent further stated that the roles are not clear, which has led to duplication of efforts. One USMS agent said that fugitive apprehension issues with the FBI need to be addressed.

In addition to the inspection process, FBI officials stated that they conduct an annual climate survey of all FBI employees, including field agents, which solicits employees' input on collaboration with other DOJ components as well as other federal agencies. While the FBI's efforts to solicit employee feedback are to be commended, most of the coordination-related questions on the survey are specific to information sharing within the intelligence community, and the questions that relate specifically to law enforcement coordination do not explicitly address clarity of roles and responsibilities, disagreements with other components, or the quality of working relationships. Officials from the other three components could not think of any mechanisms in place, beyond the inspection process, to obtain feedback from agents on working relationships and coordination.

Our work on effective interagency collaboration has shown that federal agencies engaged in collaborative efforts need to create the means to monitor and evaluate their efforts to enable them to identify areas for improvement. Reporting on these activities can help key decision makers within the agencies, as well as clients and stakeholders, to obtain feedback for improving both policy and operational effectiveness. Moreover, according to DOJ's strategic plan, the internal inspection and review process is designed to foster improved operations, among other things. However, as currently designed, the components' inspection processes are limited in the extent to which they can help DOJ achieve these goals. Assessing options such as changing the inspections process or developing some other mechanism, such as an agent survey, to help identify and

resolve jurisdictional disputes could help components limit the negative impacts from jurisdictional disputes over investigations in the field.

Conclusions

The majority of agents who responded to our survey indicated they were clear about their component's roles and responsibilities when there is jurisdictional overlap, and the mechanisms in place to provide clarity and share information are somewhat effective. However, over one-third of the agents who responded to our survey reported that over the past 5 years they have experienced disagreements with other components over roles and responsibilities during an investigation, primarily because of lack of clarity and lack of information sharing. Such disagreements were reported to have negatively affected investigations and working relationships among components, yet DOJ's efforts to identify and address these issues can be strengthened. It is important that DOJ better identify when disagreements occur and diagnose why they are occurring so it can improve both policy and operational effectiveness. This information could be used to decide if and how to make improvements in the mechanisms available to agents to clarify roles and responsibilities. For example, additional data could help DOJ identify issues with the use of deconfliction mechanisms that are intended to resolve problems with information sharing among agents and determine roles and responsibilities. By considering options for better gauging, diagnosing, and addressing the reasons for disagreements in the field—such as effectively soliciting agents' perspectives during the inspection process or periodically surveying agents and managers—DOJ could be better positioned to limit the potential for negative impact on its investigations and resources.

Recommendations for Executive Action

We recommend that the Attorney General, the ATF Director, the DEA Administrator, the FBI Director, and the Director of USMS assess the feasibility of options they could take to better determine the extent to which agents are clear on their roles and responsibilities and have experienced disagreements with other components in areas of shared jurisdiction. Actions taken from such an assessment could provide the data necessary to determine why disagreements are occurring and whether and how they could improve clarity, avoid negative impacts on investigations, and enhance the working relationships among components.

Agency Comments and Our Evaluation

On March 28, 2011, DOJ provided written comments on a draft of this report, which are reprinted in appendix V.

DOJ agreed with our recommendation that the Attorney General and the directors and administrators of the four DOJ law enforcement components should assess the feasibility of options they could take to better determine the extent to which agents are clear on their roles and responsibilities and experience disagreements. In addition, DOJ recognized that it must continue its efforts to work on conflicts as they arise. DOJ also offered two other perspectives about our report. First, DOJ stated that it believes our report should have included more information highlighting the department's on-going efforts to enhance working relationships and collaboration among the law enforcement components. Second, DOJ stated that it believes we should have relied less on our survey results in part because they are nongeneralizable.

In its letter, DOJ stated that it provided us access to documentation of mechanisms—specifically, policy directives, MOUs, task forces, and deconfliction databases—used by DOJ law enforcement components to collaborate and resolve jurisdictional misunderstandings, but suggested that we could have discussed these mechanisms in greater detail in the report. DOJ asserted in its letter that MOUs and deconfliction databases are proven mechanisms of collaboration. We appreciate the documentation that DOJ provided to us and found it very useful in identifying the various mechanisms DOJ has in place to clarify components' roles and responsibilities. We carefully reviewed and assessed the information DOJ provided to gain an understanding of these mechanisms and summarized each of them in our report. We acknowledge that these mechanisms may help to improve coordination among the DOJ components. However, we also think that it is important to go beyond describing the mechanisms to determining to what extent agents themselves think the mechanisms are effective at clarifying roles and responsibilities and use them to coordinate investigations. We discuss these perspectives in our report to help provide DOJ with information it can consider as it assesses the effectiveness of these mechanisms.

With regard to coordination between ATF and the FBI on explosives investigations, DOJ commented that the survey results cited in the report were obtained prior to when the Deputy Attorney General issued Explosives Protocols on August 3, 2010. DOJ suggested that if survey responses were solicited now, the results regarding explosives investigations would be more positive. While the new protocols are a positive step that if implemented effectively should lead to more efficient approaches to explosives investigations, as we reported in March 2011, the

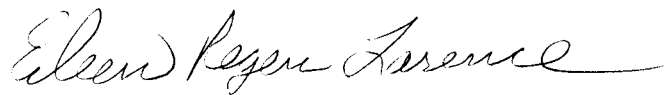
components have not fully followed through on past efforts to achieve these same objectives.²¹ Therefore, we will continue to monitor the components' actions to ensure that the plans have their intended effect and are enforced.

Finally, DOJ also stated that it believes the report could have relied less on the opinions of agents, since the survey's results were nongeneralizable. Because our objective was to determine the extent to which agents were clear on their components' roles and responsibilities in areas of shared investigative jurisdiction, we thought it important to obtain the perspectives about these issues from agents who work investigations with overlapping jurisdiction on a daily basis. Our original proposal to DOJ was to conduct a generalizable survey of agents who had investigated crimes in at least one of the six investigative areas in the nine cities we selected. However, because of DOJ's concerns about providing us access to contact information for such a large number of agents, we had to modify our approach and conduct a nongeneralizable survey. DOJ was aware of this throughout the course of our review. We believe that the results we obtained provide us and DOJ with valuable information about the views of agents on important issues, such as how clear they are about their roles and how well they collaborate on investigations. We were also very careful throughout the report to discuss how we conducted our survey and any limitations that were created, as well as what results we obtained and what the results mean based on our agent sample. To help validate and enrich these survey results, we also solicited and reported on the perspectives of field office managers for each of the components in the nine cities we visited regarding clarity of roles and responsibilities. We disagree with DOJ's perspective that the report overstated the frequency and negative effect of disagreements between the law enforcement components. For each key statistic and survey result we report, we include data on the percentage and number of agents who provided a response on that issue, as well as the total number of agents who answered the question. We believe the results of our work provide DOJ with important information on agents' as well as field office managers' perspectives about how well coordination with other components in areas of shared investigative jurisdiction is working. We acknowledge that it is DOJ's responsibility to determine to what extent the department believes the disagreements and negative consequences reported by surveyed agents, such as prolonged investigations and unnecessary use of resources, warrant further study and corrective actions.

²¹ [GAO-11-318SP](#).

As agreed with your offices, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the report date. At that time, we will send copies to the Department of Justice and other interested parties. The report also will be available at no charge on the GAO Web site at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-6510 or larencee@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made major contributions to this report are listed in appendix VI.



Eileen Regan Larence
Director
Homeland Security and Justice Issues

Appendix I: Scope and Methodology

Our review focused on the six crime areas in which two or more Department of Justice (DOJ) components have legal jurisdiction to conduct investigations. We analyzed statutory provisions as well as DOJ and component law enforcement strategic plans to determine the extent to which jurisdiction to investigate crimes is shared among the components. We determined these areas to be: arson, drugs, explosives, gangs, guns, and fugitives, based on our review of laws and regulations. Our approach to evaluating the methods used to clarify roles and responsibilities, and the extent to which the components are clear on their roles and responsibilities was comprised various methods, including reviews of DOJ and component guidance and documentation, site visits, an agent survey, and interviews with officials. For our site visits and field office interviews, we selected a non-probability sample of nine field office locations based on (1) a range of city sizes; (2) the presence of all four DOJ components; and (3) geographic dispersion.¹ The nine cities selected were: (1) Houston, Texas; (2) Los Angeles, California; (3) Minneapolis, Minnesota; (4) New York, New York; (5) Orlando, Florida; (6) Philadelphia, Pennsylvania; (7) Seattle, Washington; (8) Tulsa, Oklahoma and (9) Washington, D.C.

In each of the nine selected cities, we interviewed each component's management and obtained the component's perspective on the clarity of roles and responsibilities in the areas of jurisdiction under review, methods used to clarify roles and responsibilities, and the frequency of disagreements. In addition, we interviewed Assistant U.S. Attorneys to obtain their perspectives on the clarity of roles and responsibilities among the components, and the working relationship of the four components, as well as the U.S. Attorneys Office's (USAO) role in coordination. Also, we interviewed police chiefs from the nine selected cities to obtain their views on the clarity of DOJ components' roles and responsibilities and the methods used to coordinate investigations, as well as their knowledge of the extent to which DOJ components had disagreements about roles and responsibilities during investigations with shared jurisdiction. Table 1 lists the USAOs and police departments we visited in each location.

¹ These offices included division offices, field offices, and resident agencies.

Table 1: USAO Offices and Police Departments Visited in Nine Selected Localities

Locality	USAO office	Local law enforcement agency
Houston, Texas	Texas, Southern District	Houston Police Department
Los Angeles, California	California, Central District	Los Angeles Police Department
Minneapolis, Minnesota	Minnesota, Minnesota District	Minneapolis Police Department
New York, New York	New York, Southern District	New York Police Department
Orlando, Florida	Florida, Middle District	Orlando Police Department
Philadelphia, Pennsylvania	Pennsylvania, Eastern District	Philadelphia Police Department
Seattle, Washington	Washington, Western District	Seattle Police Department
Tulsa, Oklahoma	Oklahoma, Northern District	Tulsa Police Department
Washington, DC.	District of Columbia District	Metropolitan Police Department

Source: GAO.

DOJ agents, particularly those at the special agent and deputy marshal level, work investigations on a daily basis where jurisdictions overlap. We therefore decided to survey them to obtain their perspectives on the level of clarity about roles and responsibilities in the six investigative areas, and the methods used to achieve this clarity. We planned to conduct a survey that would allow us to generalize responses from agents across the 36 field offices—the offices for each of the four components in each of the nine cities. However, because of DOJ’s concerns about providing us access to contact information for such a large number of agents, we were limited to conducting a survey with a nongeneralizable sample of agents across the cities. Each component compiled a list of its agents in that office. We requested that each list contain all agents in the field office classified as non-supervisory 1811 investigators and who had investigated crimes in at least one of the six jurisdictional areas covered in our review.² The Federal Bureau of Investigation (FBI) did not include agents involved in the Joint Terrorism Task Force (JTTF) or agents involved in intelligence matters because of national security concerns. Because of DOJ’s concerns about GAO maintaining agent’s contact information in its work papers, DOJ maintained control of the lists at all times. Once the lists were compiled, DOJ provided us with a count of the total number of agents in each of the 36 offices. Table 2 contains a summary of these survey population counts.

² The 1811 investigators are criminal investigators.

Table 2: Counts of Special Agents and Deputy Marshals by Location and Component

City	ATF	DEA	FBI	USMS	Total
Houston	45	102	124	15	286
Los Angeles	31	134	80	14	259
Minneapolis	7	14	100	13	134
New York	31	238	79	10	358
Orlando	11	19	7	5	42
Philadelphia	31	89	83	6	209
Seattle	14	29	39	4	86
Tulsa	7	4	3	2	16
DC	21	55	64	33	173
Total	198	684	579	102	1,563

Sources: ATF, DEA, FBI, and USMS.

Our nongeneralizable sample of agents was selected to limit disruptions to field office operations. We restricted the size of our sample and randomly selected 10 agents from each office. If an office had 10 or fewer eligible agents, we selected all of them. In total, we selected 315 agents. We do not generalize the survey results to all non-supervisory 1811 investigators who had investigated crimes in at least one of the six jurisdictional areas in each city. However, we believe the survey results we obtained provide us with valuable information about the range of views concerning their roles and responsibilities and experiences in the investigative areas with shared jurisdiction held by federal agents who responded.

Our survey period was from June 17, 2010 through August 25, 2010. The questionnaires were sent by GAO via Federal Express from the DOJ to a point of contact in each of the 36 offices, and the contact person distributed survey packets—including a cover letter, copy of the questionnaire, and postage-paid return envelope—to selected agents. Following the same process, we sent one follow-up survey packet to each nonrespondent. In all, we received responses from 260 of the 315 agents for an overall 83 percent response rate. The response rates for the individual components were 77 percent for the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) (65 of 84 agents); 83 percent for the Drug Enforcement Administration (DEA) (70 of 84 agents); 86 percent for the FBI (69 of 80 agents); and 84 percent for U.S. Marshal Services (USMS (56 of 67 marshals). The numbers of agents who responded to survey questions varied depending on skip instructions contained in the survey questionnaire. Also, agents may have chosen not to answer certain

questions. The survey results we provide in our report depend on these factors. Percentages are based on the number of agents who responded to specific survey questions.

For the survey, the practical difficulties of conducting such surveys may introduce errors, commonly referred to as nonsampling errors. For example, difficulties in how a particular question is interpreted, the sources of information available to respondents, or how data are entered into databases or analyzed can introduce unwanted variability into the survey results. We took steps in the development of the questionnaires to minimize these nonsampling errors. For example, a social science survey specialist designed the questionnaire in collaboration with GAO staff with subject matter expertise. The questionnaire contained a combination of open-ended and close-ended questions, and it asked agents about their experiences with their component in their current location over a period of reference of up to 5 years. We pretested the questionnaire in person with agents in each component in each of two locations. During the pretests, we asked the agents questions to determine whether (1) the survey questions were clear, (2) the terms used were precise, (3) the questionnaire placed an undue burden on the respondents, and (4) the questions were unbiased. We made changes to the content and format of the final questionnaire based on the pretests and reviews of the draft questionnaire by DOJ management. All data from the returned questionnaires were double key-entered into an electronic file in batches (that is, the entries were 100 percent verified), and a random sample of each batch was selected for further verification for completeness and accuracy. Computer analyses were also performed to identify any inconsistencies in response patterns or other indications of errors. All computer syntax was reviewed and verified by a separate programmer to ensure that the syntax had been written and executed correctly.

In addition to the survey and management interviews, we used various other methods to identify mechanisms used to clarify roles and responsibilities in areas of shared jurisdiction. We analyzed memorandums of understanding, descriptions of de-confliction databases, components' inspection reports from selected cities, DOJ working group papers, and task force membership. We also reviewed the reports from two studies conducted by the DOJ Office of the Inspector General's Office about federal law enforcement coordination. We found the conclusions and recommendations drawn in each report to be appropriate based on the methodologies used. In addition, we also examined data from the Executive Office of the U.S. Attorneys, FBI, and USMS. To assess the reliability of the data we obtained, we discussed the sources of the data

with agency officials and determined that the data were sufficiently reliable for the purposes of this report.

We conducted this performance audit from March 2009 through February 2011 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix II: Law Enforcement Coordination Survey Results



United States Government Accountability Office

GAO Survey of ATF, DEA, FBI, and U.S. Marshals Service Law Enforcement Agents

The U.S. Government Accountability Office (GAO), an agency of the Congress, has been asked to assess how DOJ law enforcement agents determine their roles and responsibilities when addressing crimes that involve guns, drugs, gangs, explosives, arson, and fugitives, for which there is shared jurisdiction among DOJ law enforcement components. As part of this review, GAO is surveying field agents with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), Drug Enforcement Administration (DEA), Federal Bureau of Investigation (FBI), and U.S. Marshals Service (USMS) in 9 field office locations. This review is limited to DOJ components and does not include components of the Department of Homeland Security.

GAO has randomly chosen you to receive this survey. We would like you to respond based on your experiences with your component in your current location over the past 5 years. If you have less than 5 years experience in your current location, please answer about the time you have worked there.

Please do not disclose the following information in your narrative responses:

- ◆ Law enforcement sensitive information
- ◆ Information about on-going investigations
- ◆ Information on counterterrorism or other national intelligence matters
- ◆ Any work related to a Joint Terrorism Task Force (**However, you may describe investigations into criminal explosive incidents that were determined to be unrelated to terrorism.**)

GAO will present the aggregate results of this survey in our report to Congress. Although in some cases individual survey responses may be discussed, the report will not include any information that could be used to identify individual respondents. Identifying information will be kept confidential and will not be released outside GAO, unless compelled by law or pursuant to a Congressional request.

Please complete this questionnaire and return it within two weeks of receipt. A pre-addressed postage-paid envelope has been included in which to return this questionnaire. Please do not include your name on the return envelope. If you have any questions, please contact:

Background

*Notes: The number in parentheses is the number of respondents who answered a question.
Missing is the number of eligible respondents who did not answer a question.*

1. With which DOJ component are you employed? (Check one.)

- ATF25% (65)
- DEA27% (70)
- FBI27% (69)
- USMS22% (56)

*Notes: Percentages do not sum to 100 due to rounding.
Missing = 0*

2. In what city are you currently located? (Check one.)

- Washington, DC.....11% (29)
- Philadelphia11% (28)
- New York14% (36)
- Seattle.....11% (28)
- Los Angeles11% (28)
- Tulsa 6% (16)
- Orlando11% (28)
- Minneapolis.....12% (31)
- Houston13% (34)

Note: Missing = 2

3. What is your current title?

(258) _____ *Missing = 2*

4. How many years have you been working for this component in your current location?

0 years	1% (2)
1 to 5 years	40% (104)
6 to 10 years	36% (92)
11 to 15 years	14% (36)
16 to 20 years	5% (13)
21 to 30 years	4% (10)

*Notes: Responses were grouped into the above age categories.
Missing = 3*

5. How many years in total have you been employed by this DOJ component?

0 years	<1% (1)
1 to 5 years	20% (51)
6 to 10 years	33% (86)
11 to 15 years	25% (66)
16 to 20 years	12% (30)
21 to 30 years	10% (25)

*Notes: Responses were grouped into the above yearly categories.
Missing = 1*

6. In your current location over the past 5 years, have you been assigned to any task forces either led by your component or other DOJ components?

Yes	69% (180)	➔ Continue with question 7.
No	31% (80)	➔ Go to the Roles and Responsibilities section on page 3.

Note: Missing = 0

7. If you checked “Yes” to question 6, to which task forces have you been assigned?
 (Check one box in each row.)

	Yes ▼	No ▼
a. USMS Fugitive Task Force	67% (59)	33% (29)
b. FBI Safe Streets Task Force	42% (29)	58% (40)
c. Project Safe Neighborhood Task Force	20% (11)	80% (45)
d. ATF Violent Crime Impact Team (VCIT)	34% (23)	66% (44)
e. DEA Mobile Enforcement Team (MET).....	13% (7)	87% (47)
f. Organized Crime Drug Enforcement Task Force (OCDETF)	44% (29)	56% (37)
g. High Intensity Drug Trafficking Area (HIDTA)	54% (41)	46% (35)
h. Other (Specify) _____	68% (48)	32% (23)

*Notes: Percentages in rows may not sum to 100 due to rounding.
 Missing: a = 92, b = 111, c = 124, d = 113, e = 126, f = 114, g = 104, h = 109*

Roles and Responsibilities

In responding to the following questions, please consider your experiences in your current location over the past 5 years.

8. Approximately what percentage of your investigations involved the following crimes as the principal investigative focus? *(Because investigations can involve more than one type of crime, percentages do not need to sum to 100%)*

	Percentage of investigations
a. Guns	Ave. = 40% (172)
b. Drugs	Ave. = 59% (207)
c. Gangs.....	Ave. = 32% (142)
d. Explosives.....	Ave. = 8% (100)
e. Arson.....	Ave. = 8% (94)
f. Fugitives.....	Ave. = 39% (154)
g. Other	Ave. = 31% (115)

Note: Missing: a = 88, b = 53, c = 118, d = 160, e = 166, f = 106, g = 145

9. In your experience, how often have you had a clear understanding regarding your roles and responsibilities on investigations where there is shared jurisdiction among DOJ law enforcement components (ATF, DEA, FBI, and USMS)? *(Check one.)*

Always	45% (115)
Often	35% (90)
Sometimes.....	14% (35)
Rarely	5% (12)
Never	--
Don't know	2% (6)

*Notes: Percentages do not sum to 100 due to rounding.
Missing = 2*

10. Listed below are investigative areas where DOJ law enforcement components share jurisdiction. How clear are you on your agency's roles and responsibilities in each of these investigative areas? (Check one box in each row.)

	Very clear ▼	Somewhat clear ▼	Not clear ▼	No basis to judge* ▼
a. Guns	67% (168)	28% (70)	4% (11)	9
b. Drugs	70% (176)	26% (64)	4% (11)	7
c. Gangs.....	58% (142)	35% (84)	7% (17)	13
d. Explosives.....	62% (132)	28% (59)	11% (23)	42
e. Arson.....	66% (136)	24% (50)	10% (20)	50
f. Fugitives.....	69% (166)	25% (59)	6% (14)	17

Note: Percentages in rows may not sum to 100 due to rounding.

Missing: a = 2, b = 2, c = 4, d = 4, e = 4, f = 4

*Responses not included in the calculation of percentages

11. In your current location over the past 5 years, did you use any of the following methods to determine <u>your</u> roles and responsibilities when working on an investigation where there was shared jurisdiction between your and another DOJ component?		12. In your experience, how effective was this method in helping you to determine <u>your</u> roles and responsibilities?	
<p>a. Accessed a deconfliction database</p>	<p>Yes..... 65% (168) No 30% (77) Don't know 5% (14)</p> <p><i>Note: Missing = 1</i></p>	➔	<p>Very effective..... 29% (48) Somewhat effective 60% (100) Not effective 11% (18)</p> <p><i>Note: Missing = 2</i></p>
<p>If you checked "No" for item a, please explain why you did not use the method.</p> <p>(72) <i>Missing = 5</i></p> <hr/> <hr/> <hr/> <hr/>		<p>If you checked "Very effective" or "Not effective" for item a, please explain why you felt the method was very effective or not effective.</p> <p>(49) <i>Missing = 17</i></p> <hr/> <hr/> <hr/> <hr/>	
<p>b. Conferred with agents from other components when initiating the investigation</p>	<p>Yes..... 85% (220) No 13% (33) Don't know. 2% (5)</p> <p><i>Note: Missing = 2</i></p>	➔	<p>Very effective..... 40% (89) Somewhat effective 57% (125) Not effective 3% (6)</p> <p><i>Note: Missing = 0</i></p>
<p>If you checked "No" for item b, please explain why you did not use the method.</p> <p>(32) <i>Missing = 1</i></p> <hr/> <hr/> <hr/> <hr/>		<p>If you checked "Very effective" or "Not effective" for item b, please explain why you felt the method was very effective or not effective.</p> <p>(70) <i>Missing = 25</i></p> <hr/> <hr/> <hr/> <hr/>	

11. In your current location over the past 5 years, did you use any of the following methods to determine <u>your</u> roles and responsibilities when working on an investigation where there was shared jurisdiction between your and another DOJ component?		12. In your experience, how effective was this method in helping you to determine <u>your</u> roles and responsibilities?	
c. Sought direction from superiors	Yes..... 85% (216)	→	Very effective..... 36% (76)
	No 13% (34)		Somewhat effective 59% (125)
	Don't know. 2% (5)		Not effective 6% (12)
	Note: Missing = 5		Note: Missing = 3
If you checked "No" for item c, please explain why you did not use the method. (32) Missing = 2		If you checked "Very effective" or "Not effective" for item c, please explain why you felt the method was very effective or not effective. (65) Missing = 23	
_____		_____	
_____		_____	
_____		_____	
_____		_____	
d. Consulted Memorandums of Understanding (MOUs)	Yes..... 53% (135)	→	Very effective..... 23% (31)
	No 40% (103)		Somewhat effective 67% (90)
	Don't know. 7% (17)		Not effective 10% (13)
	Note: Missing = 5		Note: Missing = 1
If you checked "No" for item d, please explain why you did not use the method. (86) Missing = 17		If you checked "Very effective" or "Not effective" for item d, please explain why you felt the method was very effective or not effective. (34) Missing = 10	
_____		_____	
_____		_____	
_____		_____	
_____		_____	

11. In your current location over the past 5 years, did you use any of the following methods to determine <u>your</u> roles and responsibilities when working on an investigation where there was shared jurisdiction between your and another DOJ component?		12. In your experience, how effective was this method in helping you to determine <u>your</u> roles and responsibilities?	
<p>e. Relied on my experience from working with task forces</p>	<p>Yes..... 79% (200) No 17% (44) Don't know. 4% (10)</p> <p><i>Note: Missing = 6</i></p>	➔	<p>Very effective..... 49% (98) Somewhat effective 48% (96) Not effective 2% (4)</p> <p><i>Note: Missing = 2</i></p>
<p>If you checked "No" for item e, please explain why you did not use the method.</p> <p>(39) <i>Missing = 5</i></p> <hr/> <hr/> <hr/> <hr/>		<p>If you checked "Very effective" or "Not effective" for item e, please explain why you felt the method was very effective or not effective.</p> <p>(76) <i>Missing = 26</i></p> <hr/> <hr/> <hr/> <hr/>	
<p>f. Consulted my component's policy directives, such as the agent manual</p>	<p>Yes..... 62% (157) No 32% (80) Don't know. 6% (16)</p> <p><i>Note: Missing = 7</i></p>	➔	<p>Very effective..... 29% (45) Somewhat effective 65% (102) Not effective 6% (9)</p> <p><i>Note: Missing = 1</i></p>
<p>If you checked "No" for item f, please explain why you did not use the method.</p> <p>(63) <i>Missing = 17</i></p> <hr/> <hr/> <hr/> <hr/>		<p>If you checked "Very effective" or "Not effective" for item f, please explain why you felt the method was very effective or not effective.</p> <p>(42) <i>Missing = 12</i></p> <hr/> <hr/> <hr/> <hr/>	

<p>11. In your current location over the past 5 years, did you use any of the following methods to determine <u>your</u> roles and responsibilities when working on an investigation where there was shared jurisdiction between your and another DOJ component?</p> <p>g. Other (Specify:) _____</p> <p>_____</p> <p>_____</p>	➔	<p>12. In your experience, how effective was this method in helping you to determine <u>your</u> roles and responsibilities?</p> <p>Very effective..... 49% (22) Somewhat effective..... 49% (22) Not effective 2% (1)</p> <p style="text-align: right;"><i>Note: Missing = 0</i></p>
<p>Yes..... 36% (45) No 64% (81) Don't know. --</p> <p style="text-align: right;"><i>Note: Missing = 134</i></p>		<p>If you checked "Very effective" or "Not effective" for item g, please explain why you felt the method was very effective or not effective. (18) <i>Missing = 5</i></p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p>

Note: Percentages may not sum to 100 due to rounding.

13. In your current location over the past 5 years, have you experienced disagreements with another DOJ component (ATF, DEA, FBI, and USMS) when determining roles and responsibilities during an investigation where there was shared jurisdiction?

Yes 37% (97) ➔ **Continue with question 14.**
 No 63% (162) ➔ **Go to question 24.**

Note: Missing = 1

14. If you checked “Yes” to question 13, how often have you experienced disagreements with any of the following components over roles and responsibilities in areas of shared jurisdiction? (Check one box in each row.)

	Have not worked with this component while in this office*	Not applicable, I work in this component*	Always	Often	Sometimes	Rarely	Never
a. ATF.....	4	28	9% (5)	15% (8)	28% (15)	22% (12)	26% (14)
b. DEA	8	18	--	10% (5)	27% (14)	35% (18)	27% (14)
c. FBI	4	12	9% (6)	48% (32)	32% (21)	6% (4)	5% (3)
d. USMS ...	6	12	5% (3)	13% (8)	21% (13)	26% (16)	34% (21)

Notes: Percentages in rows may not sum to 100 due to rounding.

Missing: a = 11 (includes 2 ATF agents who provided either a response other than “Not applicable” or did not provide any answer)

b = 20 (includes 13 DEA agents who provided either a response other than “Not applicable” or did not provide any answer)

c = 15 (includes 7 FBI agents who provided either a response other than “Not applicable” or did not provide any answer)

d = 18 (includes 7 USMS deputy marshals who did not provide any answer)

*Responses not included in the calculation of percentages.

15. What were some of the reasons for these disagreements? (Please provide examples to illustrate your answer.)

(92) Missing =5

16. In your experience, what were are the most effective methods used to resolve disagreements?

(88) *Missing = 9*

17. To the extent of your knowledge, what are the top three levels at which disagreements are most commonly resolved? (Place a "1" in the space next to the level where disagreements are most commonly resolved, followed by a "2" and "3" for those that follow. Please enter "1", "2", and "3" only once each.)

	Three most common levels ▼
a. Agent to Agent (Deputy US Marshal).....	89% (71)
b. Group Supervisor/Supervisory Deputy Marshal.....	84% (67)
c. ASAC/Assistant Chief US Marshal.....	59% (47)
d. SAC/US Marshal.....	26% (21)
e. USAO.....	31% (25)
f. Your component's headquarters.....	10% (8)
g. DOJ headquarters	6% (5)
Check "Don't know" if you feel you do not have enough information to answer this question	Don't know (11)

Note: Missing = 6

18. In your experience, how often have the components involved reached a consensus on roles and responsibilities following a disagreement? (Check one.)

Always	7% (7)
Often.....	31% (30)
Sometimes.....	32% (31)
Rarely	20% (19)
Never.....	3% (3)
Don't know.....	6% (6)

Notes: Percentages do not sum to 100 due to rounding.
Missing = 1

19. How often has the disagreement negatively affected the investigation? (Check one.)

Always	7% (7)
Often.....	31% (30)
Sometimes.....	40% (39)
Rarely	21% (20)
Never.....	1% (1)
Don't know.....	--

Note: Missing = 0

20. Have any of the disagreements you have experienced with other DOJ law enforcement components (ATF, DEA, FBI, and USMS) about roles and responsibilities, resulted in any of the following negative consequences?
(Check one box in each row.)

	Yes ▼	No ▼	Don't know ▼
a. Prolonged investigation	73% (69)	18% (17)	9% (9)
b. "Blue on Blue" incidents	6% (6)	83% (78)	11% (10)
c. Low morale	64% (61)	23% (22)	13% (12)
d. Fugitive not apprehended.....	24% (23)	56% (53)	19% (18)
e. Insufficient evidence collected for prosecution	31% (29)	50% (47)	19% (18)
f. Unwillingness of components to work with each other	73% (70)	19% (18)	8% (8)
g. Unnecessary use of resources (i.e., technical equipment, agents' time and efforts)	64% (60)	26% (24)	11% (10)
h. Other <i>(Specify)</i> _____	33% (7)	29% (6)	38% (8)

*Notes: Percentages in rows may not sum to 100 due to rounding.
 Missing: a = 2, b = 3, c = 2, d = 3, e = 3, f = 1, g = 3, h = 76*

21. If you checked "Yes" to any of the items in question 20, please identify the item and explain why you answered "Yes".

(79) Missing = 7 _____

22. In your experience, have there been any disagreements regarding roles and responsibilities among the DOJ components that, because of their severity or frequency, need to be addressed?

Yes45% (43) ➔ **Continue with question 23.**
No55% (52) ➔ **Go to question 24.**

Note: Missing = 2

23. If you checked “Yes” to question 22, please provide an example of such disagreements.

(42) *Missing = 1* _____

24. Within the past 5 years, did you become aware – either during or after an investigation – of any instances where you did not receive relevant information from another DOJ law enforcement component (ATF, DEA, FBI, and USMS) related to one of your investigations?

Yes27% (68) ➔ **Continue with question 25.**
No73% (186) ➔ **Go to question 26.**

Note: Missing = 6

25. If you checked “Yes” to question 24, did not receiving this information result in any of the following negative consequences? (Check one box in each row.)

	Yes ▼	No ▼	Don't know ▼
a. Prolonged investigation.....	78% (49)	17% (11)	5% (3)
b. “Blue on Blue” incidents.....	9% (5)	82% (45)	9% (5)
c. Low morale	60% (35)	28% (16)	12% (7)
d. Fugitive not apprehended	33% (19)	53% (30)	14% (8)
e. Insufficient evidence collected for prosecution	26% (15)	53% (30)	21% (12)
f. Unwillingness to work with other components	65% (39)	32% (19)	3% (2)
g. Unnecessary use of resources (i.e., technical equipment, agents’ time and efforts)	72% (44)	20% (12)	8% (5)
h. Other (Specify) _____	10% (2)	60% (12)	30% (6)

Notes: Percentages in rows may not sum to 100 due to rounding.
Missing: a = 5, b = 13, c = 10, d = 11, e = 11, f = 8, g = 7, h = 48

26. Based on your experience in your current location over the past 5 years, overall how would you characterize your agency's working relationship with each of the following DOJ components? (Check one box in each row.)

	Not applicable, I work in this component*	Very good	Good	Adequate	Poor	Very poor	Don't know
a. ATF	64	39% (75)	28% (54)	17% (32)	4% (7)	4% (7)	8% (15)
b. DEA	51	37% (69)	31% (58)	18% (33)	3% (5)	1% (2)	11% (20)
c. FBI	55	10% (19)	18% (33)	35% (64)	19% (34)	9% (17)	8% (15)
d. USMS	38	39% (77)	35% (70)	17% (33)	4% (7)	2% (3)	5% (10)

*Notes: Percentages in rows may not sum to 100 due to rounding.
 Missing: a = 6 (includes 3 ATF agents who provided either a response other than "Not applicable" or did not provide any answer)
 b = 22 (includes 19 DEA agents who provided either a response other than "Not applicable" or did not answer)
 c = 23 (includes 16 FBI agents who provided either a response other than "Not applicable" or did not provide any answer)
 d = 22 (includes 19 USMS deputy marshals who provided either a response other than "Not applicable" or did not provide any answer)
 Responses not included in the calculation of percentages.

27. What additional comments or suggestions would you like to share about your component's roles and responsibilities in areas of shared jurisdiction with other DOJ components?

(91) *Missing = 169*

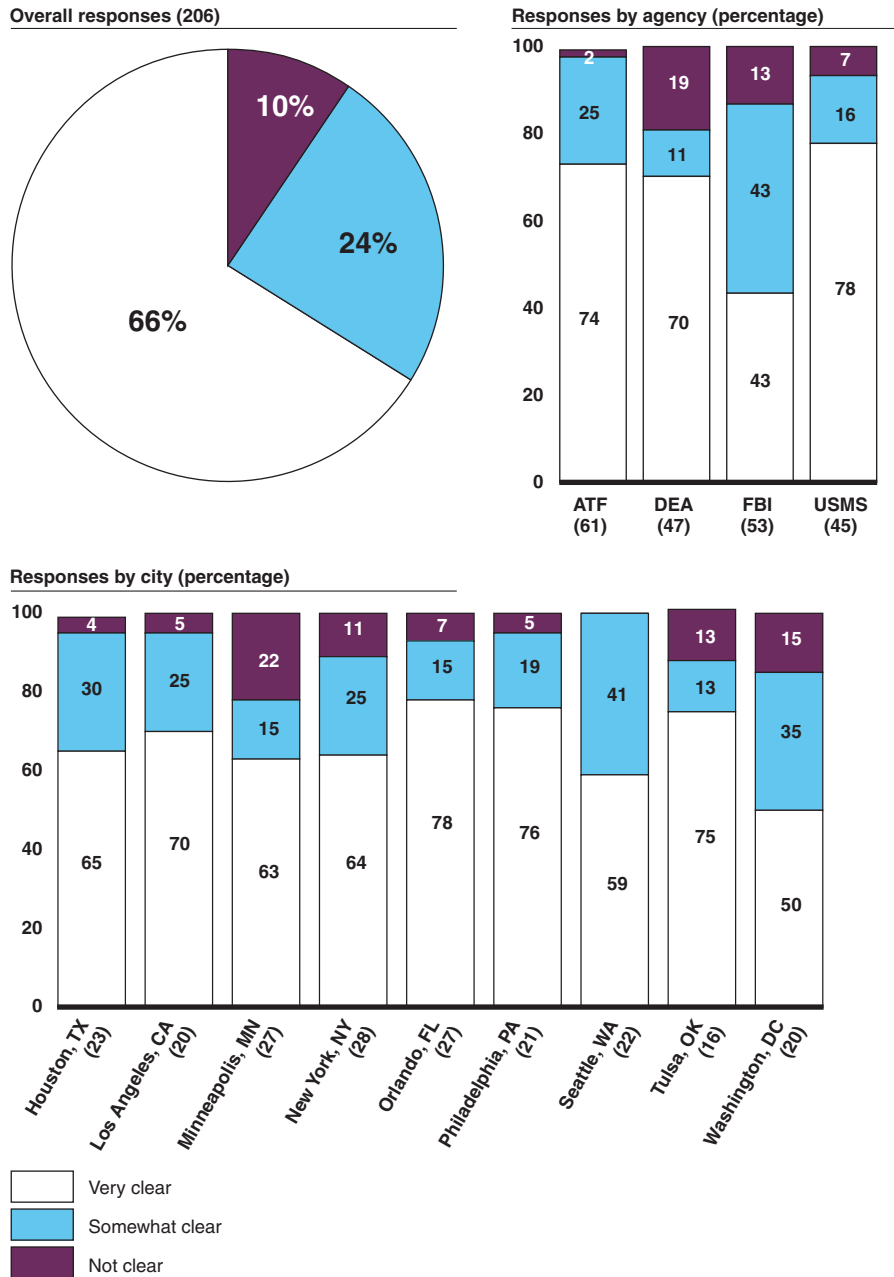
Thank you very much for your cooperation!

Appendix III: Extent to Which Survey Respondents Reported Being Clear on Their Component's Roles and Responsibilities in Each Area of Shared Jurisdiction

Figures 9 through 14 show the extent to which respondents to our survey reported being clear on their component's roles and responsibilities in each shared jurisdiction area.

Appendix III: Extent to Which Survey Respondents Reported Being Clear on Their Component's Roles and Responsibilities in Each Area of Shared Jurisdiction

Figure 9: Percentages of Survey Respondents Who Reported Being Very Clear, Somewhat Clear, and Not Clear regarding Roles and Responsibilities in Arson Investigations—Overall, by Component, and by City

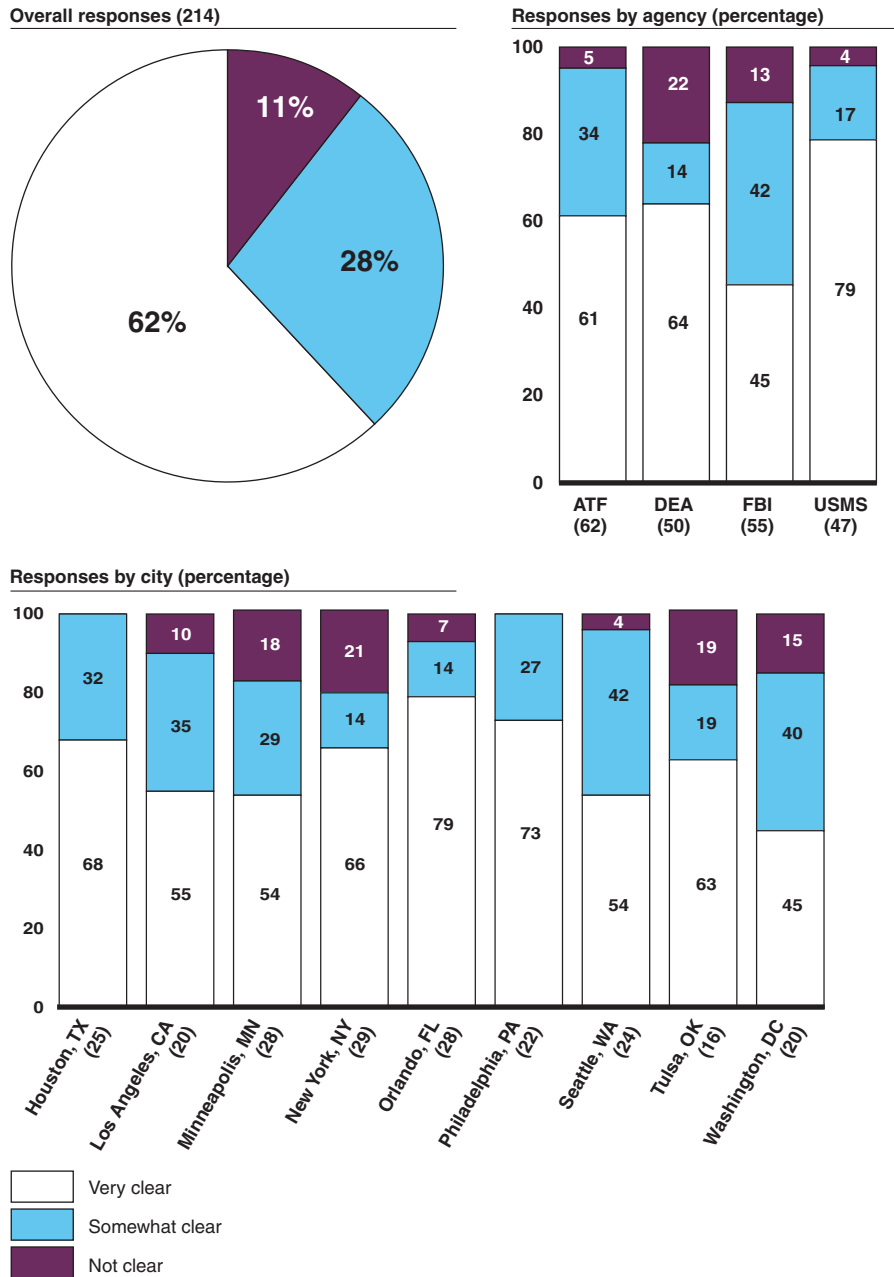


Source: GAO analysis of survey responses.

Notes: The number in parentheses is the number of agents who responded to the question. Percentages may not sum to 100 because of rounding.

Appendix III: Extent to Which Survey Respondents Reported Being Clear on Their Component's Roles and Responsibilities in Each Area of Shared Jurisdiction

Figure 10: Percentages of Survey Respondents Who Reported Being Very Clear, Somewhat Clear, and Not Clear regarding Roles and Responsibilities in Explosives Investigations—Overall, by Component, and by City

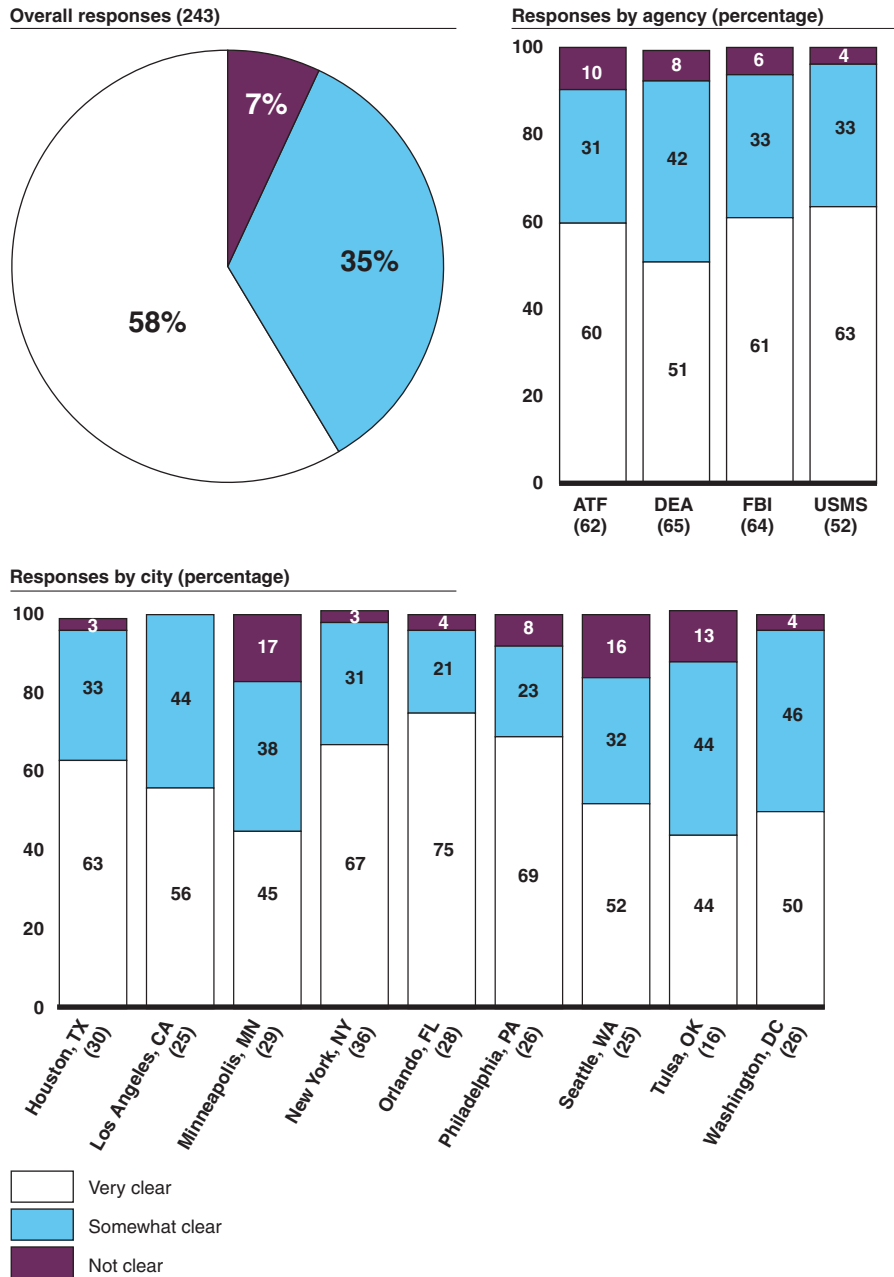


Source: GAO analysis of survey responses.

Notes: The number in parentheses is the number of agents who responded to the question. Percentages may not sum to 100 because of rounding.

Appendix III: Extent to Which Survey Respondents Reported Being Clear on Their Component's Roles and Responsibilities in Each Area of Shared Jurisdiction

Figure 11: Percentages of Survey Respondents Who Reported Being Very Clear, Somewhat Clear, and Not Clear regarding Roles and Responsibilities in Gang Investigations—Overall, by Component, and by City

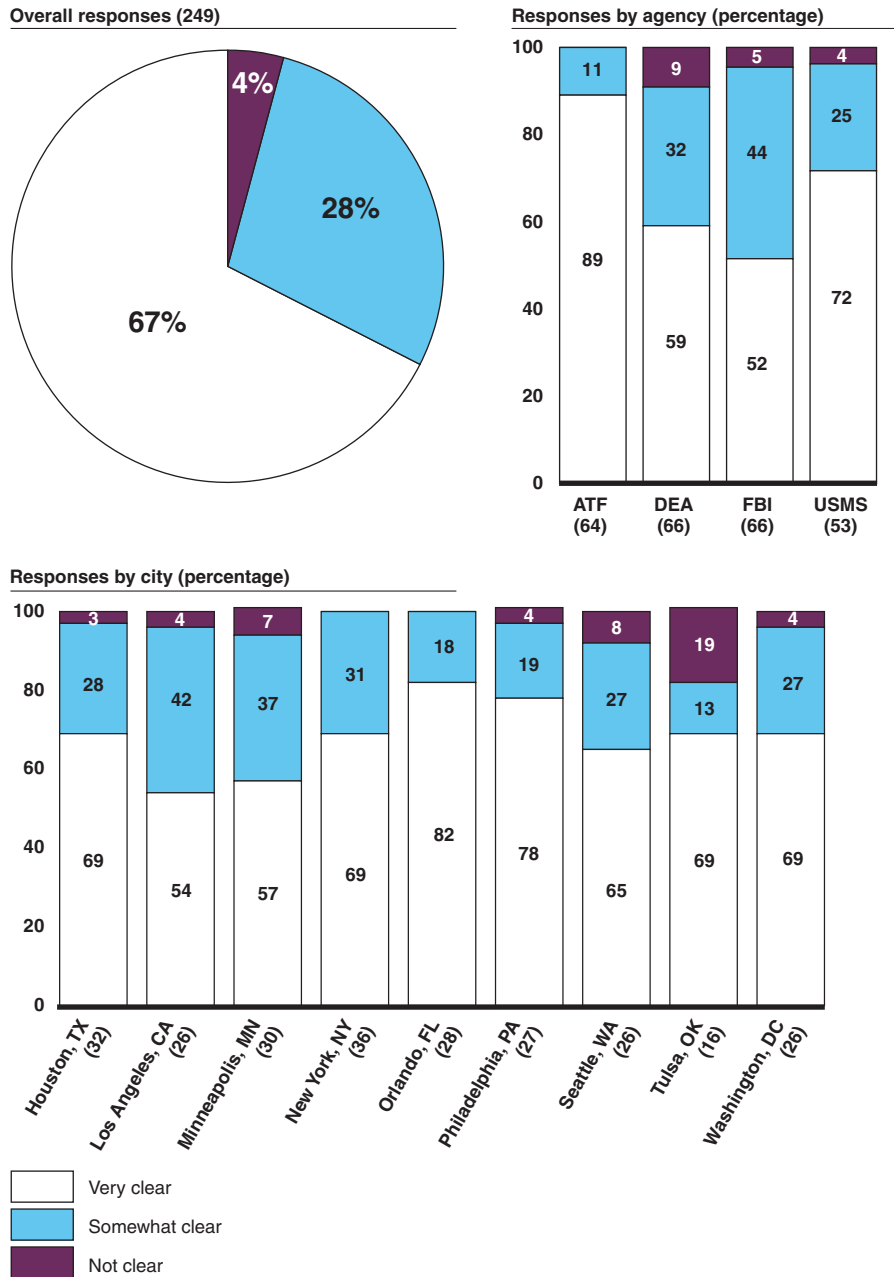


Source: GAO analysis of survey responses.

Notes: The number in parentheses is the number of agents who responded to the question. Percentages may not sum to 100 because of rounding.

Appendix III: Extent to Which Survey Respondents Reported Being Clear on Their Component's Roles and Responsibilities in Each Area of Shared Jurisdiction

Figure 12: Percentages of Survey Respondents Who Reported Being Very Clear, Somewhat Clear, and Not Clear regarding Roles and Responsibilities in Firearms Investigations—Overall, by Component, and by City

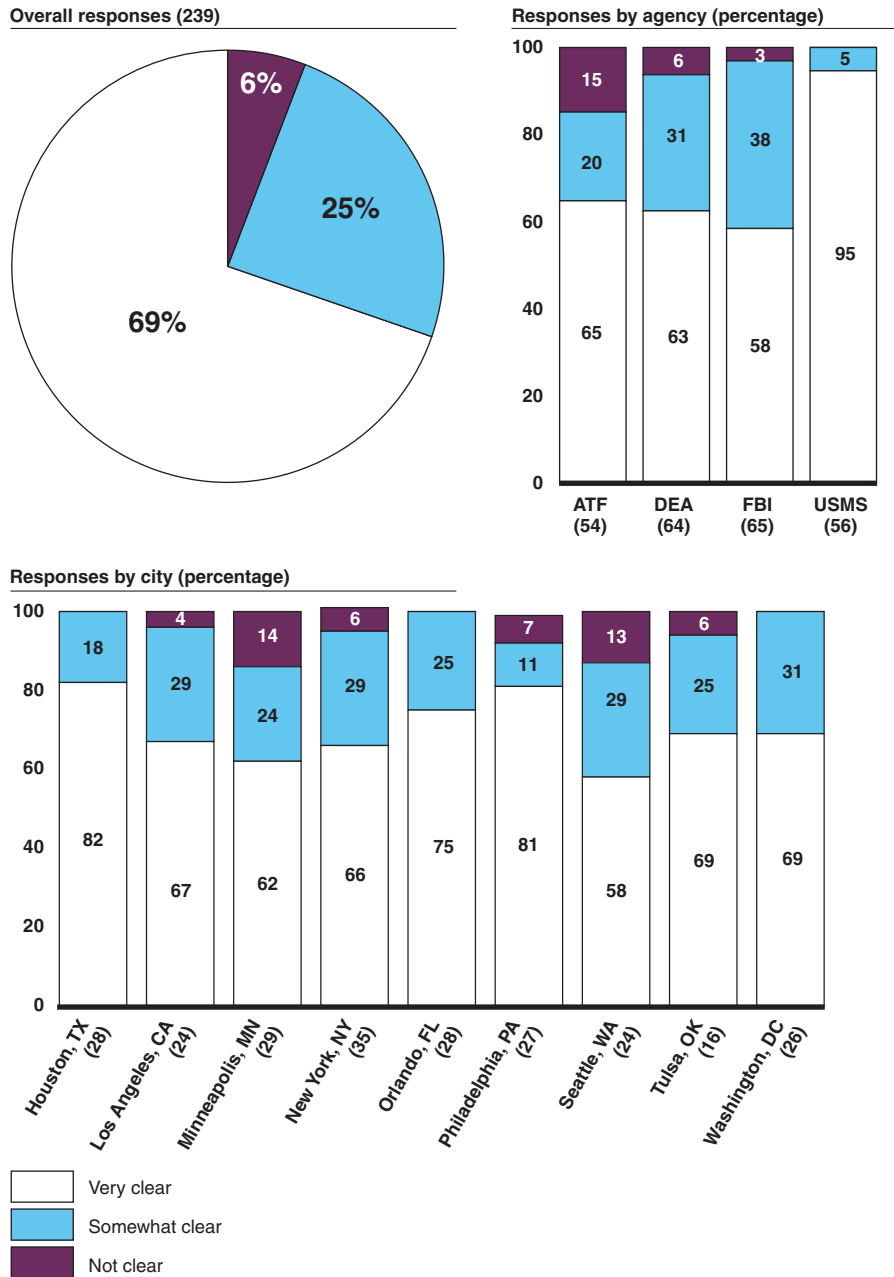


Source: GAO analysis of survey responses.

Notes: The number in parentheses is the number of agents who responded to the question. Percentages may not sum to 100 because of rounding.

Appendix III: Extent to Which Survey Respondents Reported Being Clear on Their Component's Roles and Responsibilities in Each Area of Shared Jurisdiction

Figure 13: Percentages of Survey Respondents Who Reported Being Very Clear, Somewhat Clear, and Not Clear regarding Roles and Responsibilities in Fugitives Investigations—Overall, by Component, and by City

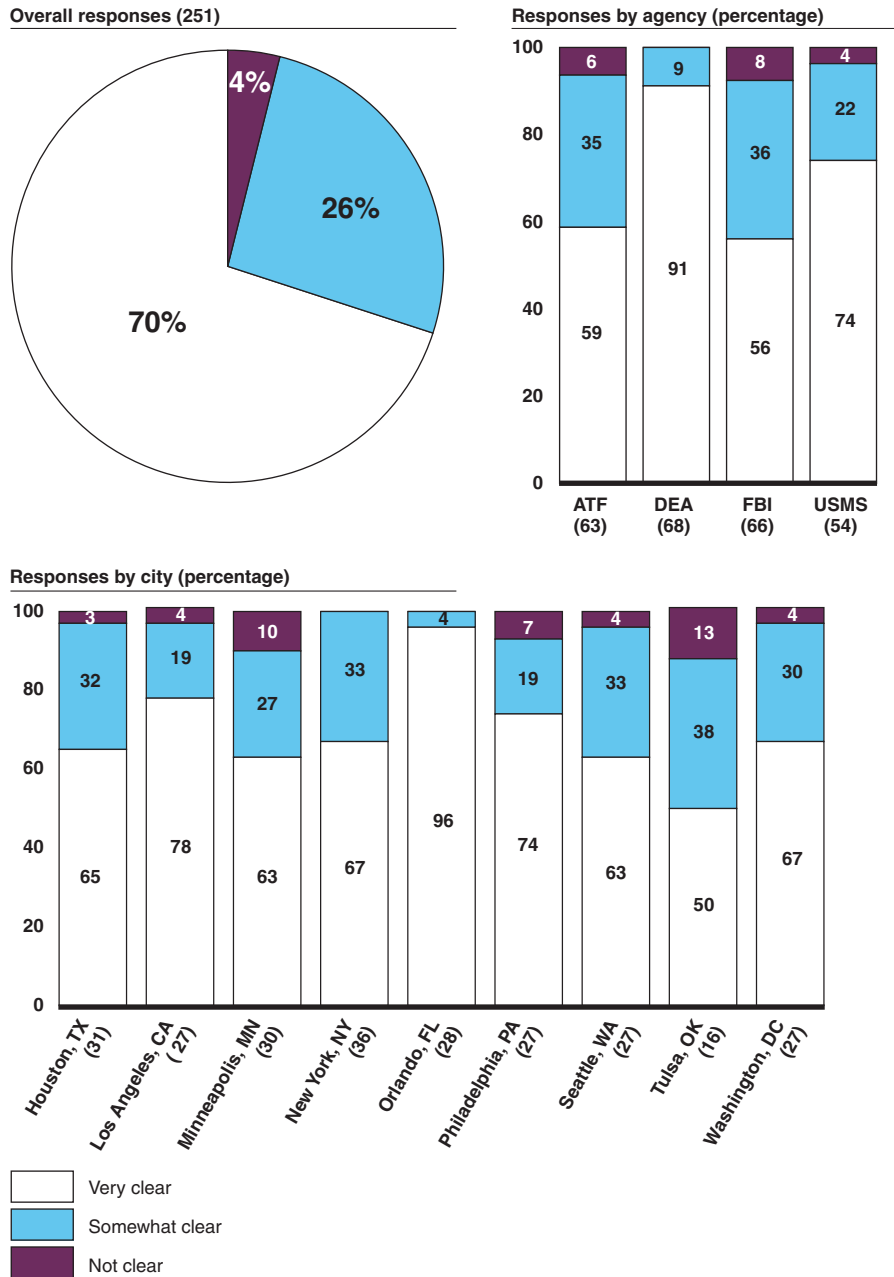


Source: GAO analysis of survey responses.

Notes: The number in parentheses is the number of agents who responded to the question. Percentages may not sum to 100 because of rounding.

Appendix III: Extent to Which Survey Respondents Reported Being Clear on Their Component's Roles and Responsibilities in Each Area of Shared Jurisdiction

Figure 14: Percentages of Survey Respondents Who Reported Being Very Clear, Somewhat Clear, and Not Clear regarding Roles and Responsibilities in Drug Investigations—Overall, by Component, and by City



Source: GAO analysis of survey responses.

Notes: The number in parentheses is the number of agents who responded to the question. Percentages may not sum to 100 because of rounding.

Appendix IV: Survey Respondents' Perspectives regarding Their Component's Working Relationship with Other DOJ Components

Table 3 shows the percentage of respondents from the nine cities we surveyed who reported very good or good working relationships with agents from other components.

Table 3: Percentages of Respondents from the Nine Cities Who Reported Very Good or Good Working Relationships with Other Components

Cities	ATF	DEA	FBI	USMS
Houston, TX	79 (19 of 24)	83 (20 of 24)	48 (11 of 23)	77 (20 of 26)
Los Angeles, CA	71 (15 of 21)	55 (11 of 20)	11 (2 of 19)	71 (17 of 24)
Minneapolis, MN	69 (18 of 26)	55 (12 of 22)	22 (5 of 23)	86 (18 of 21)
New York, NY	74 (20 of 27)	85 (22 of 26)	30 (7 of 23)	70 (19 of 27)
Orlando, FL	65 (13 of 20)	94 (17 of 18)	13 (3 of 23)	83 (19 of 23)
Philadelphia, PA	53 (9 of 17)	73 (16 of 22)	68 (13 of 19)	55 (12 of 22)
Seattle, WA	68 (15 of 22)	60 (12 of 20)	17 (3 of 18)	75 (18 of 24)
Tulsa, OK	33 (3 of 9)	33 (4 of 12)	23 (3 of 13)	79 (11 of 14)
Washington, DC	68 (15 of 22)	57 (13 of 23)	16 (3 of 19)	76 (13 of 17)
Overall	68 (127 of 188)	68 (127 of 187)	28 (50 of 180)	74 (147 of 198)

Source: GAO analysis of survey responses.

Note: The numbers in parentheses are the numbers of agents who answered the question.

Also of interest are the responses provided by agents in certain cities that have at least a 20 percentage point difference from agents' overall responses regarding working relationships. For example, the percentages of agents in Tulsa who reported good or very good relationships with ATF and DEA were lower than the percentages of agents who reported favorable relationships with these components in other cities. On the other hand, the percentages of agents in Orlando who reported having a favorable working relationship with DEA and in Philadelphia who reported having a favorable working relationship with the FBI are higher

**Appendix IV: Survey Respondents’
Perspectives regarding Their Component’s
Working Relationship with Other DOJ
Components**

than the percentages reported by agents in other cities. DOJ components did not have perspectives on possible reasons for these patterns.

Appendix V: Comments from the Department of Justice



U.S. Department of Justice
Justice Management Division

MAR 28 2011

Washington, D.C. 20530

Ms. Eileen Larence
Director
Homeland Security and Justice
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Dear Ms. Larence:

Thank you for the opportunity to comment on the draft Government Accountability Office (GAO) report entitled "Law Enforcement Coordination: DOJ Could Improve Its Progress for Identifying Disagreements among Agents" (GAO-11-314). The draft was reviewed by participating Department of Justice (DOJ or Department) components. The Department shares some of the overarching conclusions presented in the draft. Further, the Department appreciates those GAO observations that will help the Department in its continuing efforts to limit disagreements over jurisdictional boundaries between our law enforcement components (LECs) when they collaborate on investigations. This letter constitutes the Department's formal comments and I request that the GAO include this letter in the final report.

The Department agrees with the reports' two main premises: (1) personnel from the Department's LECs should effectively coordinate on joint investigations; and (2) the Department should ensure that its guidance continues to promote cooperation and collaboration. As explained in the report, the GAO attempted to assess the extent to which agents are clear on their agencies' roles and responsibilities, and how our LECs determine and coordinate roles and responsibilities to avoid unnecessary use of resources. We were gratified to learn that "[t]he majority of agents who responded to the GAO's survey reported that they are very clear about their components' roles and responsibilities in the six investigative areas where they share jurisdiction—drugs, firearms, fugitives, gangs, arson, and explosives—and that mechanisms DOJ has in place to coordinate and clarify roles and responsibilities, such as memorandums of understanding, are somewhat effective."

Our LECs regularly work in concert to keep this country safe from those who attempt to do us harm. Given the complexity and dimensions of certain crimes, multiple law enforcement components may potentially be involved in aspects of the same case or investigation. Our priority is to have clear roles and responsibilities in such circumstances. Where there are disagreements or lack of clarity, the Department employs various deconfliction techniques to resolve disagreements before they can compromise

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our law enforcement activities. Additionally, it is important to recognize that to the extent we have some overlapping or complementary response capabilities, these help avoid gaps in response and ensure that we do not rely on single points of success which can also result in a single point of failure.

The GAO Report Could Have Done More to Highlight Existing Department Strategies to Address and Resolve Conflicts

Even though we agree with the report's overarching conclusion that the majority of Department agents clearly understand their responsibilities and roles, the Department believes the GAO could have better highlighted the Department's on-going efforts to enhance working relationships among the LECs as well as the ongoing and significant collaboration between the LECs that presently exists.

The GAO was given access to documents that govern collaboration among LECs, descriptions of many of the Department's tools to resolve interagency law enforcement differences, and documentation showing how differences have been resolved. For example, the FBI provided the GAO with access to documentation about the FBI's policy directives, Memoranda of Understanding (MOUs), Joint Task Forces, and Deconfliction Databases (collectively, "mechanisms of collaboration") that currently exist. This information could have been discussed in greater detail as they provide a significant means of collaboration and are used to resolve jurisdictional misunderstandings of the type mentioned in the report.

The Department and the LECs use Policy Directives to tell employees about the operational procedures they should follow. Memoranda of Understanding are non-contractual agreements between operational units, sometimes between the Department's LECs, that document the responsibilities, functions, and understandings of two or more parties regarding a matter of mutual interest. Over the years, the negotiation of MOUs has proven to be among the most effective mechanisms for reaching executive level consensus on how different LECs can mesh the strategies and techniques they employ to eliminate jurisdictional and operational overlap. The Department gave the GAO access to many MOUs governing joint law enforcement activities. The task force model is another extensively used and productive mechanism that builds collaboration. Task forces bring together law enforcement agents of diverse skills and expertise, and the resources of numerous law enforcement entities. Agents who participate learn techniques that increase collaboration and information sharing. Also, they learn to appreciate their distinct roles and responsibilities and how to avoid conflicts over jurisdiction. Moreover, task force members create lasting relationships and partnerships that can maximize the likelihood of successful collaborations in the future.

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Deconfliction databases are another important and proven mechanism of collaboration. A deconfliction database is a clearinghouse of law enforcement information used to avoid conflicts. For example, by running a subject's name through a deconfliction database, a law enforcement officer can determine whether another agency is investigating the same subject. The GAO report talks about deconfliction databases in passing but does not mention the Special Operations Division (SOD), a multi-agency, DEA-led operational coordination and deconfliction center. SOD has participation from over 20 agencies, and has a proven record of successfully coordinating some of the largest multi-agency law enforcement initiatives. The DEA recently developed capability to provide non-DEA agents direct access to the deconfliction capability at SOD through an Internet-based system linked to SOD's deconfliction system (prior to the development of this capability, non-DEA users deconflicted through their agency representatives at SOD). When a jurisdictional or operational overlap is reported, SOD notifies users and provides them with contact information for their colleagues. SOD then assists in the coordination among the users so they can share information and expand or restrict their investigations as appropriate to avoid overlap.

The Department and its LECs, over the past half dozen years, have written many guidance documents about interagency conflict and distributed them to agents and their supervisors. Also, the LECs have helped refine that guidance, have prepared their own policy directives that promote collaboration, and have negotiated, at the executive level, memoranda that improve the investigative interrelationships among the LECs.

We note the survey results cited in the report resulted from interviews taken prior to the Explosives Protocols issued by the Deputy Attorney General on August 3, 2010, and the Department's efforts since then to implement the Protocols. We expect the clarity provided by the Deputy's protocols would result in improved survey responses today since the Department has addressed the roles and responsibilities of ATF and FBI agents during explosives investigations.

The Protocols provide clear guidance to ATF and FBI on how to better coordinate explosives jurisdiction, training, information sharing and laboratory services. Also, the Protocols provide a framework for how each law enforcement component will respond to incidents involving the criminal and terrorist misuse of explosives. Since the issuance of the Protocols, ATF and FBI formed working groups that met regularly to ensure the Protocols are effectively implemented. In the process, ATF and FBI forged a closer alliance as to how they will better cooperate and leverage each other's unique capabilities. Both law enforcement components have reported unprecedented cooperation between each organization concerning explosives-related matters since the issuance of the clarified guidance.

The Department's efforts to minimize unnecessary or unproductive overlap and its consequences began years ago, remain active today, and will continue going forward.

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The GAO Report Could Have Relied Less on Opinion Surveys

Even though the Department appreciates the rationale behind the GAO's survey methodology, the survey was limited and Department believes the GAO could have more thoroughly explored the actual mechanisms of collaboration and their effectiveness, particularly since this survey's results were "non-generalizable" according to the report.

Finally, it also would have been beneficial if the report had more fully discussed the extent to which disagreements interfered with the Department's performance. For example, in response to one set of questions, one third of respondents reported experiencing disagreements with another DOJ component over the last five years. Of those who responded, more than half reported that the disagreements were not so severe or frequent that they needed to be addressed. The report, however, emphasizes the opinion of the minority (16.6%) who did believe that such disagreements were severe or frequent. As a result, the report can be read to overstate the frequency and negative effect of disagreements between the LECs. And, as noted above, some of the survey responses that indicated disagreement appeared to date from the timeframe prior to the Department's issuance of the new explosives protocol, and we believe that timing influenced the results seen by GAO.

Conclusion

We understand that conducting business as a multi-entity Department entails an expected number of conflict and coordination issues. The Department and its LECs have a number of mechanisms in place to reduce investigative conflicts. The Department meets regularly with the LECs to ensure coordination and effective management of our law enforcement activities. We will continue, as a matter of course, to work on conflicts as they arise to minimize the disruption of investigations.

If you have any questions, you or your staff may contact Richard Theis, Audit Liaison Group, on (202) 514-0469.

Sincerely,



Lee J. Lofthus
Assistant Attorney General
for Administration

cc: Richard Theis, MPS, JMD

Appendix VI: GAO Contact and Staff Acknowledgments

GAO Contact

Eileen R. Larence, (202) 512-6510 or larencee@gao.gov

Staff Acknowledgments

In addition to the contact named above, Kristy N. Brown, Assistant Director, and Martene Bryan, Analyst-in-Charge, managed this assignment. David Alexander, Nick Benne, Billy Commons, Linda Miller and Jan Montgomery made significant contributions to this report. Gregory Borecki, Sandra Burrell, Theresa Canjar, Stuart Kaufman, Mark Ramage, Christine San, Daren Sweeney and Adam Vogt also provided valuable assistance.

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