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United States Government Accountability Office
Washington, DC 20548

November 13, 2009

The Honorable Patrick Leahy
Chairman
Committee on the Judiciary
United States Senate

Subject: *U.S. Marshals: Qualifications and Comparison of Demographic Characteristics to Their Counterparts in Selected Federal Law Enforcement Agencies*

Dear Mr. Chairman:

The U.S. Marshals Service (USMS), a component within the Department of Justice (DOJ), is charged with protecting federal judges and witnesses, transporting federal prisoners, apprehending federal fugitives, and managing assets seized from criminal enterprises, as well as managing USMS offices within federal judicial districts, among other responsibilities. Presidentially appointed U.S. Marshals direct the activities of 94 districts—1 for each federal judicial district, including at least 1 in each state, the District of Columbia, the Commonwealths of Puerto Rico and the Northern Mariana Islands, and 2 U.S. territories—the Virgin Islands and Guam.¹ The process used to appoint U.S. Marshals to the federal judicial districts has not changed since the establishment of the position.² The President, with the advice and consent of the Senate, appoints U.S. Marshals for a 4-year term.

Federal law does not mandate specific qualifications for individuals appointed as U.S. Marshals. However, Section 505 of the USA PATRIOT Improvement and Reauthorization Act of 2005 states that U.S. Marshals should possess certain minimum characteristics in order to serve.³ The suggested characteristics are (1) a minimum of 4 years of command-level law enforcement management duties, including personnel, budget, and accountable property issues, in a police department, sheriff's office, or federal law enforcement agency; (2) experience in coordinating with other law enforcement agencies, particularly at the state and local levels; (3) college-level academic experience; and (4) experience in or with county, state, and federal court systems or experience with protection of court personnel, jurors, and witnesses.

¹The President appoints U.S. Marshals to each of the 94 federal judicial districts, except that the U.S. Marshal of the U.S. Virgin Islands is appointed by the Attorney General. However, the U.S. Marshal appointed for the Northern Mariana Islands may at the same time serve as U.S. Marshal in another federal judicial district.

²U.S. Marshals were placed in federal judicial districts when the positions were created by the first Congress in the Judiciary Act of 1789.

³Pub. L. No. 109-177, § 505, 120 Stat. 192, 247 (2006) (codified at 28 U.S.C. § 561(i)). The act was enacted on March 9, 2006.

In contrast to the appointment process for U.S. Marshals, the senior field supervisors of other federal law enforcement agencies with comparable duties and responsibilities are selected under competitive, merit-based promotion criteria outlined in Title 5 of the U.S. Code. These individuals are required to apply and compete for these positions and meet any identified minimum standards. Minimum qualifications used to select senior field supervisors at some of the federal law enforcement agencies vary, but all require prior supervisory law enforcement experience.

In April 2003, we reported on the appointment and qualifications of U.S. Marshals at which time there were no statutory provisions on the suggested minimum characteristics of U.S. Marshals.⁴ We also reported that while the average length of overall law enforcement experience of U.S. Marshals was not significantly different than that of senior field supervisors at the three selected federal law enforcement agencies,⁵ the level of government (federal, state, local, or county level) from which the experience was obtained differed. With passage of the act, you and the late Senator Edward Kennedy requested that we address the following questions:

- To what extent do the U.S. Marshals possess the four suggested minimum characteristics included in Section 505 of the USA PATRIOT Improvement and Reauthorization Act of 2005?
- To what extent are the U.S. Marshals' experience, education, race, and gender comparable to those of senior field supervisors in other federal law enforcement agencies?

To determine the extent to which each of the U.S. Marshals had the four minimum characteristics consistent with those suggested in the act, we requested that USMS complete a data collection instrument to obtain information on the characteristics of 83 of the 94 U.S. Marshals appointed as of January 1, 2009.⁶ To ensure this instrument was completed in a consistent format and manner, we provided USMS with detailed instructions on completing the data collection instrument. To help ensure the quality of responses provided by USMS, we also verified the accuracy of the information for 24 of the 83 U.S. Marshals' files. Specifically, we randomly selected 12 of the 71 files of U.S. Marshals who were appointed before the act and selected all 12 files of U.S. Marshals who were appointed after the act was enacted on March 9, 2006. We validated USMS determinations of the characteristics for each of the 24 selected U.S. Marshals' files; that is, we determined that the agency's determinations were accurate (i.e., used relevant information to help ensure reliable determinations) and well-documented (i.e., methodology, criteria, results, rationales, and sources of information were retained and available for examination). Additionally, we interviewed knowledgeable USMS officials about how they compiled and analyzed the data from the 83 U.S. Marshals' files that they provided to us and determined that the data were sufficiently reliable for the purposes of this report.

⁴GAO, *Appointment and Qualifications of U.S. Marshals*, [GAO-03-499R](#) (Washington, D.C.: Apr. 2, 2003).

⁵The three selected federal law enforcement agencies were the Bureau of Alcohol, Tobacco, Firearms and Explosives; Drug Enforcement Administration; and Internal Revenue Service-Criminal Investigation.

⁶The remaining 11 U.S. Marshal positions were vacant as of January 1, 2009.

To assess the extent to which U.S. Marshals' experience, education, race, and gender are comparable to those of senior field supervisors in other federal law enforcement agencies, we analyzed Office of Personnel Management guidance⁷ and interviewed officials from USMS and other federal law enforcement agencies to obtain information on the qualifications, responsibilities, and duties for their senior field supervisor positions. As a result, we compared the USMS senior field supervisor position to the following federal law enforcement agencies' senior field supervisor positions: the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF); Drug Enforcement Administration (DEA); Federal Bureau of Investigation (FBI); Immigration and Customs Enforcement (ICE)-Office of Detention and Removal Operations (DRO); ICE-Office of Investigations (OI); and the U.S. Secret Service (USSS). Enclosure I provides information on the senior field supervisors at selected federal law enforcement agencies. We obtained demographic information from USMS and the other federal law enforcement agencies on each of the senior field office supervisors serving as of May 1, 2009. This information included the field office assigned; date appointed; pay grade; gender; race; education level and highest degree earned prior to assignment; law enforcement experience prior to assignment (including whether that experience was obtained at the same agency, another federal agency, or a local, state, or county agency); and supervisory law enforcement experience prior to assignment. To gauge the quality of the responses, we analyzed the data to identify any inconsistencies and conducted follow-up interviews, as appropriate. We determined that the data were sufficiently reliable for the purposes of our report.

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

USMS Documentation Shows That a Majority of U.S. Marshals Possessed Command-Level Law Enforcement Experience and College-Level Academic Experience

A majority of U.S. Marshals possessed the suggested command-level law enforcement and college-level academic experience, according to USMS documentation. However, the absence of documentation made it difficult to determine the extent to which U.S. Marshals possessed the suggested experience in coordinating with other law enforcement agencies and experience with court systems and protecting court personnel. As shown in table 1, of the 83 U.S. Marshals that were serving as of January 1, 2009, 54 reportedly possessed the suggested minimum characteristic of 4 years of command-level experience, while 28 did not.⁸ USMS based its determination that U.S. Marshals had at least 4 years of "command-level law enforcement management" experience on whether U.S. Marshals previously had served in a police or sheriff's department at the lieutenant level or above; as a supervisory criminal investigator in a federal law enforcement agency; or as a colonel or above in a military police unit, criminal investigation unit, or a similar military law enforcement function. USMS officials stated that this experience helps ensure that U.S. Marshals can effectively and

⁷U.S. Office of Personnel Management, *Handbook of Occupational Groups and Families*, (Washington, D.C., January 2008).

⁸There was no documentation in the file for one U.S. Marshal. The law does not require the USMS to obtain or retain information in its files related to whether the U.S. Marshals meet the four suggested minimum characteristics.

efficiently manage the district offices. USMS did not consider positions in security or as prosecutors to be command-level experience.

Of the 83 U.S. Marshals, USMS documentation showed that 64 possessed the suggested minimum characteristic of college-level academic experience, while 19 did not. USMS defined college-level academic experience to be, at a minimum, a 2-year college degree.

Table 1: USMS Documentation Showing the Extent to Which the 83 U.S. Marshals⁹ Appointed as of January 1, 2009, Had the Suggested Minimum Characteristics Included in the Act¹⁰

Categories	Minimum of 4 years of command-level experience ^a	College-level academic experience	Experience in coordinating with other law enforcement agencies ^b	Experience with court systems and protecting court personnel ^c
U.S. Marshals who met the suggested characteristic	54	64	45	26
U.S. Marshals who did not meet the suggested characteristic	28	19	0	0
U.S. Marshals for whom documentation was not available to determine whether they met the suggested characteristic	1	0	38	57
Total U.S. Marshals	83	83	83	83

Source: GAO analysis; USMS information.

Note:

^aA minimum of 4 years of command-level law enforcement management duties, including personnel, budget, and accountable property issues, in a police department, sheriff's office or Federal law enforcement agency.

^bExperience in coordinating with other law enforcement agencies, particularly at the State and local level

^cExperience in or with county, State, and Federal court systems or experience with protection of court personnel, jurors, and witnesses.

Further, regarding experience in coordinating with other law enforcement agencies, USMS documentation showed that 45 of the 83 U.S. Marshals possessed this suggested characteristic, while 38 had insufficient documentation in the file to determine whether they possessed this characteristic. USMS determined whether the U.S. Marshals had this characteristic based on documentation in USMS files indicating that the U.S. Marshals had been employed at a law enforcement agency and had experience in working with other law enforcement agencies, such as being a member of a task force that included other law enforcement agencies.

Finally, of the 83 U.S. Marshals, USMS documentation showed that 26 possessed the suggested characteristic of experience with court security and protection, while 57 had insufficient documentation in the file to make a determination. For those U.S. Marshals with documentation in their files, USMS determined that experience with court security and protection included providing security for judges, prosecutors, witnesses, prisoners, court personnel, and courthouses. USMS officials said that they do not consider experience

⁹One U.S. Marshal serves in each of the 94 federal judicial districts; however, we only reported results for 83 positions since we did not include 11 vacant positions in our analysis.

¹⁰Section 505 of the USA PATRIOT Improvement and Reauthorization Act of 2005.

testifying in court, obtaining an arrest warrant, providing support to a prosecutor, or being involved in a legal action to qualify as experience in coordinating with other law enforcement agencies.

U.S. Marshals Had Similar Prior Law Enforcement Experience but Less Diversity and College-Level Experience Than Senior Field Supervisors in Other Federal Law Enforcement Agencies

While U.S. Marshals and senior field supervisors at selected federal law enforcement agencies had similar amounts of law enforcement experience before they were appointed or assigned to their position, there was a smaller proportion of U.S. Marshals with prior federal law enforcement experience than the senior field supervisors at other federal law enforcement agencies. Also, the U.S. Marshals had less diversity and education than their counterparts at other law enforcement agencies. The U.S. Marshals had an average of 25 years prior law enforcement experience, as shown in table 2. Similarly, supervisors from the other six federal law enforcement agencies averaged between 20 and 24 years of prior law enforcement experience. Further, U.S. Marshals had an average of 10 years of prior supervisory law enforcement experience, compared to senior field supervisors at the other six federal law enforcement agencies who ranged from 6 to 12 years of prior supervisory law enforcement experience.

Table 2: Comparison of U.S. Marshals' Experience to That of Senior Field Supervisors at ATF, DEA, FBI, ICE-DRO, ICE-OI, and USSS

	Federal law enforcement agencies						
	USMS ^a	ATF	DEA	FBI	ICE-DRO	ICE-OI	USSS
Total number of senior field supervisors^b	83	25	20	65	22	24	41
Average years of prior law enforcement experience	25	20	24	21	23	22	20
Average years of prior supervisory law enforcement experience	10	9	9	12	12	9	6
Number of senior field supervisors with prior law enforcement experience^c							
Within agency	21	25	20	65	22	23	41
With other federal agency	19	7	0	0	13	7	4
With state, local, and county agencies	62	7	0	0	7	6	0
Number of senior field supervisors with prior supervisory law enforcement experience							
None	25	0	0	0	0	0	0 ^d
1 year to 4 years	2	0	0	0	2	3	10
5 years or more	55	25	20	65	20	21	31

Sources: GAO analysis; U.S. Marshals Service (USMS); Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF); Drug Enforcement Administration (DEA); Federal Bureau of Investigation (FBI); Immigration and Customs Enforcement (ICE)—Office of Detention and Removal Operations (DRO); ICE—Office of Investigations (OI); and U.S. Secret Service (USSS) information.

Note:

^aUSMS officials reported that prior supervisory law enforcement experience data were not available for one U.S. Marshal.

^bThe number of vacant positions is not included in the total number of senior field office supervisors for the respective federal law enforcement agencies. These data reflect the number of senior field office supervisors assigned as of May 1, 2009. Enclosure I provides the total number of field office supervisor positions assigned to each of the selected law enforcement agencies.

^cSome of the senior field supervisors may have obtained prior law enforcement experience at more than one federal, state, local, or county law enforcement agency before they were appointed or assigned to their position. Therefore, each of the senior field supervisors may be included in more than one prior law enforcement experience category.

^dUSSS officials reported that data on the number of senior field supervisors with prior supervisory law enforcement experience with state, local, and county agencies were not available.

There were more U.S. Marshals with prior law enforcement experience at the state, local, or county levels than their counterparts at the other federal law enforcement agencies. While available data showed that 62 out of the 83 (75 percent) U.S. Marshals had experience at the state, local, or county levels, none of the senior field supervisors at three federal law enforcement agencies had experience at the state, local, or county levels. However, virtually all (196 of 197) of the senior field supervisors from the other six federal law enforcement agencies had experience within their respective agencies before they were assigned as senior field supervisors. Further, 25 out of the 82¹¹ (30 percent) U.S. Marshals had no years of prior supervisory law enforcement experience before they were appointed to the position, unlike all of the senior field supervisors from the other six federal law enforcement agencies, who had prior supervisory law enforcement experience. Senior field supervisors from three of the six other federal law enforcement agencies—ATF, DEA, and FBI—all had at least 5 years of prior supervisory law enforcement experience before becoming senior field supervisors.

USMS data show that a higher proportion of its senior field supervisors were males compared to senior field supervisors in the six other federal law enforcement agencies, as shown in table 3. While the majority of senior field supervisors at all seven federal law enforcement agencies were male, USMS had the highest percentage—98 percent (81 of the 83 U.S. Marshals). The percentage of senior field supervisors who were male at the other federal law enforcement agencies ranged from 82 percent (53 out of 65 at FBI) to 96 percent (23 out of 24 at ICE-OI). Additionally, the U.S. Marshals had the highest rate of Caucasians at 83 percent (69 out of 83), whereas the percentage of senior field supervisors who were Caucasian at the six other federal law enforcement agencies ranged from 64 percent (16 out of 25 at ATF) to 82 percent (18 out of 22 at ICE-DRO). The percentage of American Indians, Asian Americans, and Hispanics at USMS was within the range of the other federal law enforcement agencies. However, USMS had a smaller percentage of African Americans, 7 percent (6 out of 83), compared to the six other federal law enforcement agencies which ranged from 10 percent (2 out of 20 at DEA) to 16 percent (4 out of 25 at ATF).

Finally, and as highlighted in table 3, most (67 percent) U.S. Marshals had obtained a bachelor or advanced degree. In fact, the percentage of U.S. Marshals who had obtained at least a bachelor degree was slightly higher than the percentage of senior field supervisors at one agency (67 percent for USMS compared to 64 percent for ICE-DRO), but lower than the percentage of senior field supervisors at the other five federal law enforcement agencies. However, unlike the U.S. Marshals, senior field supervisors in four of the five remaining federal law enforcement agencies all had obtained at least a bachelor degree.¹² Finally, the range of education for the U.S. Marshals was greater than that of the senior field supervisors at the other federal law enforcement agencies. Seventeen percent (14 out of 83) of U.S. Marshals' highest level of education was high school, whereas senior field supervisors at the other six federal law enforcement agencies all had at least some college experience. Table 3 shows the demographic information of U.S. Marshals and senior field supervisors at the six selected federal law enforcement agencies.

¹¹USMS officials reported that prior supervisory law enforcement experience data were not available for one U.S. Marshal.

¹²At the remaining federal law enforcement agency, ICE-OI, the percentage of senior field supervisors who had obtained at least a bachelor degree was 92 percent (22 out of 24).

Table 3: Comparison of U.S. Marshals' Education, Race, and Gender to That of Senior Field Supervisors in ATF, DEA, FBI, ICE-DRO, ICE-OI, and USSS

	Federal law enforcement agencies						
	USMS	ATF	DEA	FBI	ICE-DRO	ICE-OI	USSS
Total number of senior field supervisors^a	83	25	20	65	22	24	41
Gender							
Female	2	2	2	12	3	1	4
Male	81	23	18	53	19	23	37
Race/ethnicity							
African American	6	4	2	10	3	2	6
American Indian	0	1	0	0	0	0	1
Asian American	1	0	0	3	0	1	1
Caucasian	69	16	14	45	18	18	32
Hispanic	7	4	4	7	1	3	1
Highest level of education							
High school diploma	14	0	0	0	0	0	0
Some college	5	0	0	0	6	2	0
Associate's degree	8	0	0	0	2	0	0
Bachelor's degree	37	17	16	35	10	15	34
Advanced degree	19	8	4	30	4	7	7

Sources: GAO analysis; U.S. Marshals Service (USMS); Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF); Drug Enforcement Administration (DEA); Federal Bureau of Investigation (FBI); Immigration and Customs Enforcement (ICE)—Office of Detention and Removal Operations (DRO); ICE—Office of Investigations (OI); and U.S. Secret Service (USSS) information.

Note:

^aThe number of vacant positions is not included in the total number of senior field office supervisors for the respective federal law enforcement agencies. These data reflect the number of senior field office supervisors assigned as of May 1, 2009. Enclosure I provides the total number of field office supervisor positions assigned to each of the selected law enforcement agencies.

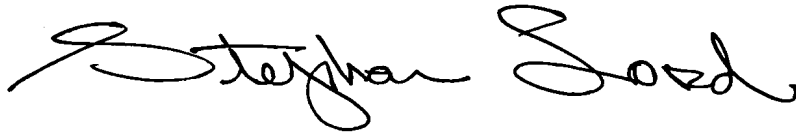
Agency Comments and Our Evaluation

We provided a draft of this report to the Attorney General, the Secretary of Homeland Security, USMS, ATF, DEA, FBI, ICE-DRO, ICE-OI, and USSS for review and comment. These agencies did not provide written comments to include in our report. However, in emails received in October 2009, the liaisons for DOJ, DHS, USMS, ATF, and FBI said that these agencies had no comments on the findings in the report. The USMS, DEA, and USSS provided technical comments, which we incorporated into the report as appropriate.

We are sending copies of this report to interested congressional committees, the Attorney General, the Secretary of Homeland Security, and other interested parties. This report will also be available at no charge on GAO's Web site at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-4379 or lords@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. Glenn Davis, Assistant Director, and Frederick Lyles, Jr., Analyst-in-Charge, managed this assignment. Jeremy Manion and Lisa Shibata made significant contributions to this report. James Ashley and Stanley Kostyla assisted with design and methodology. Tracey King provided legal support. Lara Kaskie provided assistance in report preparation. John Cooney and Ramon Rodriguez provided assistance related to law enforcement issues.

Sincerely yours,

A handwritten signature in black ink that reads "Stephen Lord". The signature is written in a cursive style with a large, stylized initial 'S'.

Stephen Lord
Director, Homeland Security and Justice Issues

Enclosure

Agency Names, Titles, Number of Positions, and Responsibilities and Duties for U.S. Marshals and Senior Field Supervisors at Selected Federal Law Enforcement Agencies

Agency	Title of senior field office supervisor	Total number of senior field office positions	Summary of responsibilities and duties
U.S. Marshals Service (USMS)	U.S. Marshal	94	(1) Leads a USMS district office; (2) protects the judicial process by ensuring the safe and secure conduct of judicial proceedings and protecting federal judges, jurors and other members of the federal judiciary; (3) executes federal court orders; (4) supervises investigations involving the apprehension of federal fugitives; (5) provides emergency and tactical support services in response to emergencies, disasters, homeland security incidents, and at times of heightened law enforcement; (6) provides for the safe and secure housing and transportation of federal prisoners while in USMS custody; and (7) maintains and disposes of property seized and forfeited to the federal government.
Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF)	Special Agent in Charge	25	(1) Manages a major field division of ATF, and exercises executive responsibility for the enforcement of federal alcohol, tobacco, firearms, explosives, and arson laws and regulations; (2) plans, directs, implements, and evaluates comprehensive law enforcement and regulatory programs; (3) manages all administrative and program matters, including budget formulation, allocation of human and material resources, implementation of technological solutions, and related matters; (4) serves as the ATF representative to law enforcement organizations, industry groups, political and community groups, the media, and the public; and (5) coordinates with other field special agents in charge and ATF headquarters officials.
Drug Enforcement Administration (DEA)	Special Agent in Charge	21	(1) Implements and directs programs designed to perform criminal investigations, and cooperates with other law enforcement agencies in their investigations when feasible; (2) conducts audits and on-site inspections of pharmaceutical companies to determine possible diversion of controlled drugs from legitimate commerce; (3) provides training for law enforcement officials to improve drug law enforcement; (4) conducts education programs for regulated industry officials and local groups to discourage illegal drug activities; (5) compiles intelligence data on narcotic activities for DEA use and coordination; and (6) represents DEA within the area.
Federal Bureau of Investigation (FBI)	Special Agent in Charge	65	(1) Oversees operations at field office level; (2) maintains responsibility for all counterterrorism, intelligence, and investigative operations; (3) protects the United States from terrorist and foreign intelligence activity, combats criminal activity, preserves civil liberties and provides leadership, intelligence and law enforcement assistance to other law enforcement partners; and (4) streamlines administrative and operational processes, improves internal communications, maximizes organizational collaboration, and appropriately executes finance and budget planning to achieve management excellence.

Enclosure I

Agency	Title of senior field office supervisor	Total number of senior field office positions	Summary of responsibilities and duties
Immigration and Customs Enforcement (ICE)—Office of Detention and Removal Operations (DRO)	Field Office Director	24	(1) Provides adequate and appropriate custody management to support removals, to facilitate the processing of illegal aliens through the immigration court, and to enforce their departure from the United States, including identifying and removing all high-risk illegal alien fugitives and absconders, ensuring that those aliens who have already been identified as criminals are expeditiously removed, and developing and maintaining a robust removals program with the capacity to remove all final order cases issued annually, thus precluding growth in the illegal alien absconder populations; and (2) plans, directs, manages, and coordinates operations and functions relating to the apprehension, transportation, and detention of aliens ordered removed execution of final orders of deportation and serves as the liaison with departmental, interagency, and community partners on DRO matters.
ICE—Office of Investigations (OI)	Special Agent in Charge	26	(1) Maintains responsibility for a geographical area consisting of multiple jurisdictions; (2) manages the day-to-day programs, operations, and staff, including immigration and customs-related criminal investigations; (3) oversees the investigation of issues including terrorism, criminal financing, export enforcement, money laundering, human trafficking, anti-smuggling, contraband, and fraud; (4) regularly briefs and advises supervisor concerning all investigative matters; (5) cooperates with other officials in the assigned area in resolving matters crossing organizational lines; and (6) works with civic organizations.
U.S. Secret Service (USSS)	Special Agent in Charge	42	(1) Controls, directs, and coordinates the work of professional, technical, and administrative support personnel engaged in carrying out the various law enforcement, investigative, and protective programs of the USSS; (2) develops, reviews, and evaluates present and proposed policies, programs, procedures, and operations of assigned USSS areas; conceives, develops, and revises procedures and work methods to provide the most efficient accomplishment of assigned areas of responsibility; conducts comprehensive and continuing evaluations of the effectiveness and adequacy of program operations; establishes and maintains liaison and coordination with senior officials of the Secret Service and other law enforcement organizations on program and policy matters; and recommends changes in assigned day-to-day programs and operations to accommodate the specific needs and requirements of the employees and the USSS.

Sources: GAO analysis; USMS, ATF, DEA, FBI, ICE-DRO, ICE-OI, and USSS information.

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