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# LAW ENFORCEMENT RESPONSES TO MEXICAN DRUG CARTELS

## HEARING

BEFORE THE

SUBCOMMITTEE ON CRIME AND DRUGS

OF THE

COMMITTEE ON THE JUDICIARY

AND THE

SENATE CAUCUS ON INTERNATIONAL NARCOTICS CONTROL

UNITED STATES SENATE

ONE HUNDRED ELEVENTH CONGRESS

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# LAW ENFORCEMENT RESPONSES TO MEXICAN DRUG CARTELS

**TUESDAY, MARCH 17, 2009**

U.S. SENATE,
SUBCOMMITTEE ON CRIME AND DRUGS,
COMMITTEE ON THE JUDICIARY,
AND SENATE CAUCUS ON INTERNATIONAL
NARCOTICS CONTROL,
*Washington, DC*

The Subcommittee and the Caucus met, pursuant to notice, at 10:34 a.m., in room SD–226, Dirksen Senate Office Building, Hon. Richard J. Durbin, Chairman of the Subcommittee, and Hon. Dianne Feinstein, Chairman of the Caucus, presiding.

Present: Senators Durbin, Feinstein, Feingold, Wyden, Klobuchar, Kaufman, Graham, Grassley, Specter, Sessions, and Kyl.

## OPENING STATEMENT OF HON. RICHARD J. DURBIN, A U.S. SENATOR FROM THE STATE OF ILLINOIS

Chairman DURBIN. This hearing will come to order. This is a joint hearing of the Senate Judiciary Committee's Crime and Drugs Subcommittee and the Senate International Narcotics Control Caucus that is chaired by Senator Feinstein. I am happy to be joined by my Ranking Republican Member here, Senator Lindsey Graham. It is my understanding that Senator Grassley serves as the Ranking Member—or Co-Chairman of the International Narcotics Control Caucus. I do not know that we have ever held a joint hearing, but we have common interest in today's issue, which is "Law Enforcement Responses to Mexican Drug Cartels."

Since it is the first hearing, I want to thank Senator Pat Leahy for giving me the opportunity to chair this Subcommittee. Vice President Joe Biden held this gavel for many years. His former staffer and now successor, Senator Ted Kaufman, is here today. He has been invaluable in giving us tips and pointers on what we can do to make this Crime and Drugs Subcommittee an effective voice in the Congress.

I also want to say that when Senator Graham and I first discussed the agenda for this Congress, we quickly agreed that the problem of Mexican drug cartels would be a top priority.

Over 6,200 people died in drug-related violence in Mexico last year. More than 1,000 people were killed in the month of January this year alone, including police officers, judges, prosecutors, soldiers, journalists, politicians, and innocent bystanders.

Today, we are going to hear firsthand testimony from two Mexican witnesses about the devastating human consequences of this



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violence. One of these witnesses was forced to flee his hometown of Ciudad Juárez, a city of 1.5 million where public assassinations are carried out in broad daylight and more than 1,600 people were killed in drug-related violence in the year 2008. Last month, the city's chief of police resigned after drug cartels threatened to kill a policeman every day if he remained on the job. And just this weekend, nine bodies were found in a common grave outside Juárez.

Mexican drug cartels also pose a direct threat to Americans. According to a recent Justice Department report, Mexican drug cartels "control most of the U.S. drug market" and are "the greatest organized crime threat to the United States." In Phoenix, Arizona, last year, 366 kidnappings for ransom were reported—more than in any other American city—and the vast majority of them were related to the Mexican drug trade.

But Mexican drug cartels are not just a threat to border States. They are now present in at least 230 United States cities, up from 50 cities in the year 2006. In my home State of Illinois, the Justice Department found that three Mexican drug cartels—Federation, Gulf Coast, and Juárez—are active in the cities of Chicago, in my home town of East St. Louis, and Joliet. According to the Drug Enforcement Administration, Mexican drug cartels supply most of the cocaine, methamphetamine, and marijuana distributed in the Chicago area. Just last fall, the Justice Department arrested 11 alleged members of the Juárez cartel for distributing large quantities of cocaine and marijuana in Chicago. Law enforcement officials estimate that $10 to $24 million in drug proceeds are sent from Chicago to the Southwest border each month.

What are the root causes of this crisis? As we will hear from our Mexican witnesses, corruption may be the largest obstacle Mexico faces in its efforts to contain drug trafficking. For example, in November, Noé Ramírez, Mexico's former drug czar, was arrested on charges of taking hundreds of thousands of dollars in bribes to pass information to the cartels.

Mexico also lacks the fair and effective criminal justice system needed to combat the drug cartels. Mexican President Felipe Calderón deployed the military into regions of Mexico where law enforcement was no longer able to maintain order, but that is not a long-term fix. Investigating and prosecuting drug- and gun-trafficking networks is fundamentally a law enforcement challenge that will require sustained cooperation across the border and at the Federal, State and local level.

Mexico and America are in this together, and there is enough blame to go around. President Calderón said last week that Mexico's drug cartel problem is exacerbated by being located next to "the biggest consumer of drugs and the largest supplier of weapons in the world." That would be the United States of America.

As this chart demonstrates, and as President Obama said last week, "The drugs are coming north, and we are sending money and guns south. As a consequence, these cartels have gained extraordinary power."

The insatiable demand for illegal drugs in the United States keeps the Mexican drug cartels in business. Mexican Government officials estimate that approximately $10 billion in drug proceeds

cross from the United States into Mexico each year in the form of bulk cash. This allows traffickers to expand their operations further into our country, pay off police and politicians, and buy more guns and weapons from the United States.

The so-called "iron river of guns" from the United States arms Mexican drug cartels to the teeth. The cartels purchase weapons at gun shows from unlicensed sellers who are not required to conduct background checks. Or the cartels use "straw buyers" with clean criminal records to buy guns they need to maintain the arsenals for their drug cartels in Mexico. According to ATF, more than 90 percent of the guns seized after raids or shootings in Mexico have been traced right here to the United States of America.

What can be done to defeat these drug cartels? They are the new face of crime in the age of globalization. The only effective response to this transnational phenomenon is multilateral action with our allies. As President Obama said in his recent address to Congress, "America cannot meet the threats of this century alone."

I look forward to hearing from our witnesses about what Congress can do to contribute to cooperative efforts by the United States and Mexican law enforcement to defeat the drug cartels. In particular, we have to take action to reduce the demand for illegal drugs in our country and stem the flow of guns and money into Mexico.

Let us take one example: ATF's eTrace system for tracing crime guns. A decade ago, I started calling for 100-percent crime gun tracing in my home State of Illinois to provide basic information to find out where these guns were coming from. Today, data collected through eTrace has allowed law enforcement to identify numerous gun-trafficking routes supplying criminals. We need to do more. Even in my State, with this concerted effort, we have not reached the level of effective cooperation that we should have. Would it help to expand ATF's eTrace system in Mexico and Central America? That is a question we will ask.

One final note: The subjects of guns and drugs often split us along partisan lines. When it comes to Mexican drug cartels, there is too much at stake to allow us to be divided. Democrats and Republicans need to work together to find bipartisan, common-sense solutions to this challenge.

I am now going to recognize Senator Graham, followed by Senator Feinstein and Senator Grassley. And I would like to ask Senator Graham as Ranking Member of the Subcommittee for his opening statement.

## STATEMENT OF HON. LINDSEY GRAHAM, A U.S. SENATOR FROM THE STATE OF SOUTH CAROLINA

Senator GRAHAM. Thank you, Mr. Chairman. As you indicated, we discussed this Subcommittee's role in the Congress, and, quite frankly, I was very encouraged and excited after our meeting that we can contribute to what I think is an important dialog when it comes to the war on our Southern border. And like any other war, it is a war of wills. If we have the will to combat the enemy forces here who happen to be drug cartels, we will win because our agenda for our Nation and Mexico and President Calderón's agenda for his country is much more positive. You have just got to enlist the

people and give them confidence to take sides and get into the fight.

In terms of the American Government's response, we have sent hundreds of millions of dollars, more to follow. These are tough economic times back here at home and throughout the world. But I cannot think of a better investment to make than to support our Mexican colleagues who are in the fight of their life, and, quite frankly, the fight of our lives. So when it comes to taxpayers' dollars being spent to help the Mexican army and police force, I think it is a wise investment in these economic down times that we live in here at home. But the world continues to move forward, and I look forward to working with Senator Durbin, who has a lot of expertise in this area, to get a comprehensive approach to partner with our Mexican allies and partners to make sure that we can win a war where you get nothing for finishing second.

This is a war. You either win it or you lose it. And drug consumption is a problem. The guns are a problem. But at the end of the day, I do believe that we have more fire power than they do in light of the weaponry that both governments possess. I believe that our view of the future is better than theirs. And terrorism is a tough thing to combat, but when you can enlist the average person to jump into the fight and get on your side, and honest cops and honest prosecutors, then I think we will be well on our way to winning this.

Mr. Chairman, thank you for picking this topic as our first hearing. I do not think you could have chosen better, and I look forward to working with you on this problem and many others.

Chairman DURBIN. Thanks, Senator Graham.

Senator Feinstein.

## STATEMENT OF HON. DIANNE FEINSTEIN, A U.S. SENATOR FROM THE STATE OF CALIFORNIA

Chairman FEINSTEIN. Thank you very much, Mr. Chairman. I think you have stated the problem as well as it can be stated, and I do not want to repeat your words.

I do want to say that we need to take some steps, and I am delighted to have the witnesses before us that are here today. I am delighted that Senator Grassley is here. We intend to reactivate the Caucus on International Narcotics Control. I have asked Christy McCampbell, whom I think many of you probably know—she formerly headed the Bureau of Narcotic Enforcement for the State of California, worked at Homeland Security, the State Department, is now in Islamabad working for the United Nations on drugs. And she will be here in a couple of weeks, and so I am looking forward to interacting much more with the law enforcement community through Ms. McCampbell.

I received a letter, after a discussion with the Mexican ambassador, and that letter I have distributed to the Committee. It is dated February 4th. I have never seen deeper concern on an ambassador's face than in the discussions I had with him. He pointed out how this Mexican President has really put it all on the line to move to deal with these cartels, how vicious these cartels are. And he indicated to me that, within a matter of days after we talked,

the Mexican Government was sending 5,000 troops into Ciudad Juárez. And I gather it is making a difference.

He says in his letter, and I would like to quote: "In the face of this problem, there is much that the U.S. Government in general and the U.S. Congress in particular can do to help Mexico roll back drug syndicates. For example, enforcing existent legislation, such as the Arms Export Control Act, would effectively criminalize the sale of weapons to individuals whose intent is to export those firearms to countries such as Mexico, where they are deemed illegal."

And it is my understanding that we need to fine-tune this to give DEA or ATF the real authority to go do something, because these people who go to the Phoenix drug establishments have plausible deniability and can buy the weapon and send it to Mexico, and there is very little that our enforcement agency can do about it. That is what I am told.

He goes on to say, "Furthermore, a return to the import ban on assault weapons in accordance with the 1968 Gun Control Act would prohibit the importation of assault weapons not used for sporting purposes."

As you will recall, President Clinton in an Executive order essentially implemented that. The Bush administration did not. I have a strong belief that the Obama administration should reinstitute it.

He then goes on to say, "The reintroduction and passage of a bill to regulate .50-caliber firearms under the National Firearms Act, such as the one I have sponsored during the last legislature, would go a long way in helping to reduce the number of assault weapons flowing into Mexico."

I am appalled that you can buy a .50-caliber sniper weapon anywhere, not only—it is not restricted to a Federal firearms dealer. You can just buy it. And this is a weapon that will send a 5-inch bullet a great distance and permeate barrier walls. So I do not quite understand why we should not have some real regulations concerning its sale.

He goes on to say, "Beyond the enforcement of existing legislation and the enactment of new provisions, three main agencies that have authority over the issue—the Bureau of Alcohol, Tobacco, and Firearms, Immigration and Customs Enforcement, and Customs and Border Protection—are all in dire need of the resources that would enhance their interdiction and intelligence capabilities, and enable them to interdict southbound weapons on the United States side of our common border, and to investigate, determine, and detain individuals that are building weapons from gun shows and FFL dealers so as to introduce them illegally into Mexico."

Now, this is the Mexican ambassador to the United States, and I would be most interested in hearing from our enforcement agencies specifically what they can do in this emergency. If, in fact, they are shorthanded, what is it they need? If they need changes in law, what do they need? It is unacceptable to have 90 percent of the guns that are picked up in Mexico used to shoot judges, police officers, mayors, kidnap innocent people, and do terrible things come from the United States. And I think we must put a stop to that.

So I would be very interested in hearing your comments, and I thank you for your leadership, Mr. Chairman.

Chairman DURBIN. Thanks, Senator Feinstein.

Senator Grassley.

**STATEMENT OF HON. CHUCK GRASSLEY, A U.S. SENATOR FROM THE STATE OF IOWA**

Senator GRASSLEY. Thank you, Mr. Chairman. Thank you for holding this hearing. Senator Feinstein has projected very forceful and energetic work for our Caucus. I intend to fully cooperate with that. I thank her for that effort and upcoming whatever it is.

Also, for the witnesses, I will be in and out because down the hall I am Ranking Member in the Finance Committee, and we have a hearing going on there.

I want to also recognize, as a couple of my colleagues have, the efforts of the President of Mexico. I suppose we can always say more can be done, and I am sure this hearing will say that. But, also, I think we need to say thank you for what he is doing, because it seems to me that he is doing more than any other President of Mexico has.

A root cause of this increasing violence is drug cartels, commonly referred to the in law enforcement community as "drug-trafficking organizations." DTOs pollute our streets with drugs and have been waging an increasingly violent battle against each other, also with law enforcement, and many innocent victims are caught in the crossfire. Today's hearing is to see what our law enforcement agencies are doing to put a stop to the violence.

Since 9/11, the Federal Government has stepped up border security at all of our ports of entry. This increased scrutiny has reduced available smuggling routes and has placed pressure on DTOs that rely on them to bring illegal narcotics, money, and weapons over our border. As a result, the available smuggling routes have become increasingly valuable, and the level of violence has escalated as DTOs compete for a limited number of available avenues.

Despite recent progress, the profits available from DTOs that operate the drug trade continue to rise and fuel conflict. For example, Forbes announced last week that a Mexican druglord who heads the powerful Sinaloa cartel was ranked in an annual list of wealthy individuals with an estimated fortune of over $1 billion.

I do not believe that any one problem is the root cause of security problems throughout the Southwest. What we need is an effective, comprehensive strategy that addresses each of the problems at the border, including drug smuggling, human trafficking, illegal immigration, bulk cash smuggling and money laundering, as well as gun smuggling.

However, to fully eradicate border violence, we cannot act alone. Mexico must change its internal political and legal framework to make its corruption improve. Only when we focus on all these issues in concert will we begin to address the problem of border violence.

There are a number of areas that I am interested in: First, looking at law enforcement in this panel about their efforts to coordinate operations, particularly how these agencies coordinate overlapping jurisdictions and collaborate to enforce our drug, gun, and money-laundering laws. For instance, under Title 18, Congress provided for enforcement by many different partners. Congress cannot legislate all the necessary details, so we have memorandums of un-

derstanding filling in those blanks. These MOUs cover virtually all issues along the border, including narcotics investigation, money laundering, weapons smuggling. Unfortunately, many of these MOUs are significantly outdated. I have been asking both Homeland Security and Justice to update these MOUs for the last couple of years. Secretary Chertoff responded that at least one MOU needs to be updated. I have also raised the issue with Attorney General Holder and Secretary Napolitano.

Second, I am interested in discussing efforts to cut down on criminal money laundering. I am not going to go into detail on that. I will put that in the record.

Finally, I am interested in hearing about efforts underway at ATF and ICE to combat illicit arms smuggling into Mexico. I want to ask about the status of Project Gunrunner, Armas Cruzadas, and the resources dedicated to combating illicit arms trade at our borders. I think that any effort on our part must focus on interdiction of illegal weapons as well as tracing weapons used in crimes in Mexico. I want to make sure first and foremost that we are doing everything within our power to enforce the existing laws on the books. However, stopping the flow of illegal weapons is not only an American problem. Our partners in Mexico also need to step up their efforts and build upon recent initiatives to interdict contraband coming into Mexico. As I said, we cannot act alone.

I would like to have my entire statement put in the record.

Chairman DURBIN. Without objection, the statement will be made part of the record.

[The prepared statement of Senator Grassley appears as a submission for the record.]

Chairman DURBIN. I thank Senators Feingold and Kaufman for waiving their right to opening statements in the interest of moving the hearing along.

We are going to turn to our first panel of witnesses for their opening statements. They will be speaking, each of them, for 5 minutes. Their written statements have been submitted in advance. We have had a chance to review them, and they will be a part of the permanent record of this Committee.

At this point, I am going to swear in the witnesses, which is the custom of the Committee, if they would please stand. Raise your right hand. Do you affirm that the testimony you are about to give will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. GODDARD. I do.

Mr. HOOVER. I do.

Mr. PLACIDO. I do.

Mr. KIBBLE. I do.

Chairman DURBIN. Thank you. Let the record reflect that the witnesses have answered in the affirmative.

Our first witness is Terry Goddard, a consensus witness from both Democrats and Republicans. It is a reflection of the respect that we have for the job that you are doing as Attorney General in the State of Arizona. Your background includes many areas of public service, including one of most challenging—being the mayor of a big city. And you did it for a number of years, having been elected mayor of the city of Phoenix four times.

Since becoming the State's top law enforcement official in 2003, Mr. Goddard has, among other priorities, focused on taking action against illegal trafficking in drugs, arms, money, and human beings. He served as Arizona Director for the U.S. Department of Housing and Urban Development and, as I said, mayor of Phoenix. He holds a law degree from Arizona State University.

Thanks for coming from Phoenix to be here today, Attorney General. The floor is yours.

**STATEMENT OF TERRY GODDARD, ATTORNEY GENERAL, STATE OF ARIZONA, PHOENIX, ARIZONA**

Mr. GODDARD. Thank you, Chairman Durbin, Chairwoman Feinstein, Ranking Member Graham, Ranking Member Grassley, distinguished members of the Crime and Drugs Subcommittee and the Caucus on International Narcotics Control. It is a pleasure and an honor to be here and to try to help you address an issue of critical importance to our State, the State of Arizona, and to the Nation. The comments that have already been made do better than I could to put this incredible issue into focus, and so I will omit some of the comments I was going to make in terms of setting the stage, Mr. Chairman. But I do hope that some of our specific experiences in the State of Arizona combating the organized criminal cartels that members of this Committee have already referred to can be helpful to your deliberations.

The threat posted to American citizens and communities by the Mexican-based drug-trafficking organizations cannot be underestimated. It has been referred to frequently, and I think accurately, as "the organized criminal threat of the 21st century."

Law enforcement in the State of Arizona has been on the front lines for many years—I think sometimes we feel virtually alone—in taking on these vicious and very well organized criminals.

As has been mentioned, the violence in Mexico is the result of drug cartels fighting against law enforcement, the Mexican Army, and each other; and it has reached unprecedented body counts of unprecedented proportions, which you have already referred to. I would add, however, that the bloodshed has included, as Senator Feinstein noted, an appalling spike in assassinations of police officers, prosecutors, and government officials. It is not just cartel-on-cartel violence that we are talking about here. And it is not just a Mexican problem, and I think that has already been made clear by members of this Committee. But what we see, although most of the body count has been in Mexico, we have violent activities in the State of Arizona and moving north of the border that certainly should be a cause for alarm.

The high profit in the trade in drugs, arms, and human beings—I would add one thing, Mr. Chairman, to the chart that you just showed. It is really a four-part trade, and it has caused crime throughout the United States. In the Southwest border region, we feel especially impacted. Arizona has become the gateway for drugs and human being smuggling into the rest of the United States.

Phoenix and Tucson have become gateway and destination locations for further distribution of both drugs and human beings, and as was noted, in the past few years the city of Phoenix, my city, has become known as the kidnapping capital of the United States.

Over 700 kidnappings in the last 2 years have afflicted that city, and police believe that well over twice that number may have gone unreported. So it is a very serious problem.

Like all organized criminal activity, the cross-border crime between Mexico and Arizona is about money. I know that is no surprise to anyone here, but smuggling drugs and human beings depends upon moving vast sums of funds. Reference has been made to bulk cash transactions in the billions of dollars, but we also have been confronting in Arizona the electronic funds transfer, which is critical to the movement of human beings. And that I believe also should be added to this Committee's agenda in terms of concern. The money laundering not only in bulk cash but in electronic funds transfer is extremely serious.

We have found in Arizona that the most effective way to establish a virtual barrier against the criminal activities is to take the profit out of it, to find some way to take the money away from the cartels.

The Arizona Attorney General's Office has been aggressively intercepting what we now call "blood wires." Those are the payments to human smugglers, or "coyotes," as we know them, which is largely done by wire transfer. Between 2003 and 2007, my office seized more than $17 million in wire transfers destined to human smugglers and in the process arrested well over 100 coyotes.

Seizing the money has reduced the volume of suspect wire transfers into Arizona by hundreds of millions of dollars. But, not surprisingly, it has simply been displaced into money transfer locations in northern Mexico. My office then targeted 26 wire transfer locations in Mexico, and a legal battle ensued, which hopefully will be over in the next few months.

Western Union, by far the largest provider of electronic funds transfer services, and other wire transmitters could be providing valuable information about illegal money transmissions and help us put the illegal transmitters out of business. But instead of cooperation, Western Union has made every effort to prevent data disclosure and identification of criminal activity which we could be able to make from that disclosure.

In addition to the blood wire seizures, Arizona law enforcement has had other spectacular successes. In the past year, my office, together with Federal and local officials—a critical partnership—has broken up a major arms-trafficking operation; a coyote organization that smuggled over 10,000 persons a year across the border; another similar organization which transported over 8,000 people around the United States—not across the border but across the country; a drug-smuggling enterprise that in the last 4 years brought 2 million pounds of marijuana into the United States with a wholesale value of over $1 billion.

Our experience in Arizona shows that we need a region-wide, binational effort to stop the sophisticated, well-organized criminals smuggling drugs, people, guns, and money across our Southern border. Otherwise, these criminals will easily displace their activity into another area with less surveillance.

No single law enforcement agency—Federal, State, or local—acting alone has the manpower, jurisdiction, or expertise to prevail against these highly organized and sophisticated criminals. Co-

operation and intelligence sharing are necessary within our country and across the border.

We also have to identify and take down the whole criminal organization. That is what my office has tried to do in the prosecutions that I referred to. Just arresting and deporting foot soldiers is a waste of critical assets.

Finally, I think we can cooperate much better with law enforcement in Mexico. For far too long, organized criminals have been able to use the border as a refuge, as a shelter. One important tool is a section of the Mexican penal code called Article 4. Under Article 4, as you probably are aware, Mexican authorities may prosecute a crime committed in the United States as if it had been committed in Mexico. My office has done a number of these prosecutions where, if the suspect is convicted, they will then be incarcerated in Mexico. The punishment would be carried out there.

Last year, we entered into a new effort to use Article 4 not just for arrest and trial of identified suspects, but for the joint investigation where the identity of the perpetrator is not known. One such investigation is underway right now into a cold-blooded killing in a drop house of someone named Javier by one of the smugglers, one of the coyotes. We are not yet in a position to proclaim success, but we have been working together with Mexican authorities to try to find this murderer and to bring him to justice. And I am very hopeful that this will go a long way toward making the border transparent as to criminals who are trying to avoid apprehension.

In our fight against the drug cartels, Congress can and should play a very significant role. First, you can support the leadership role already undertaken with the Merida Initiative, continue to appropriate funding to assist Mexican law enforcement efforts against the cartels. Treasury, Justice, and Homeland Security can use additional resources, I am sure, for their successful partnerships with State and local law enforcement.

HIDTA, the High-Intensity Drug-Trafficking Area, could expand and I think should expand its scope to include human smuggling and weapons trafficking, along with drug trafficking, in its mission. We also need a region-wide, bi-national coordinated attack on corrupt money transmitters. We estimated on both sides of the border there may be as many as 400 operations that, in fact, are breaking the money-laundering laws, but they are not being apprehended. In that effort, we need additional tools, coordinated regulation of money transmitters on both sides of the border, region-wide data on electronic transfers to identify potentially criminal transmitters, and trace all money going to them—something that our office has tried to do, but we are right now prohibited or prevented from getting that information from Western Union.

And we should lower the threshold for mandatory reporting of single action money transfers. Currently it is $10,000. I believe it could effectively be—we would be much more effective if it was lowered. And in this area, stored value cards and devices are already being used to avoid our money-laundering laws. It is a huge loophole in our anti-money-laundering efforts, and I believe we can expand the definition of "monetary instruments" subject to reporting to include prepaid stored value cards. At the very least, all stored value cards should be required to be readable by law enforcement

agents. Right now, they cannot decipher them. If they impound a card during a stop, they do not know how much it is worth.

Violence in Mexico will not be contained unless and until Mexican drug cartels are dismantled. It is in the interest of the United States to not only assist Mexico in this effort, but to step up our own activities to dismantle the criminal organizations operating across our border. The best way to do that is to cutoff their illegal supply of funds.

In Arizona, we are working hard to disrupt the flow of criminal proceeds to the cartels. We are coordinating at every level of law enforcement and reaching across the border, but we cannot do this alone. We face an urgent public safety challenge, and we need Federal cooperation, coordination, and resources if we are to prevail.

Mr. Chairman, thank you very much.

[The prepared statement of Mr. Goddard appears as a submission for the record.]

Chairman DURBIN. Thank you very much, Mr. Goddard.

Our next witness, William Hoover, is here to represent the Department of Justice's Bureau of Alcohol, Tobacco, Firearms and Explosives. He is Assistant Director of Field Operations. In that capacity, he oversees their operations on our Southwest border. He has held many positions before, including Special Agent in Charge of the Washington Field Division.

Thanks for joining us, and the floor is yours for a 5-minute statement. Your written statement will be made part of the record.

**STATEMENT OF WILLIAM HOOVER, ASSISTANT DIRECTOR FOR FIELD OPERATIONS, BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES, AND ANTHONY P. PLACIDO, ASSISTANT ADMINISTRATOR AND CHIEF OF INTELLIGENCE, DRUG ENFORCEMENT ADMINISTRATION, U.S. DEPARTMENT OF JUSTICE, WASHINGTON, D.C.**

Mr. HOOVER. Thank you, sir. Chairman Durbin, Senator Graham, and distinguished members of the Subcommittee, I am honored to appear before you today to discuss ATF's ongoing role in preventing firearms from being illegally trafficked from the U.S. into Mexico and work to reduce the associated violence along the border. I also want to thank you for your support of Project Gunrunner that you have recently shown.

For over 30 years, ATF has been protecting our citizens and communities from violent criminals and criminal organizations by safeguarding them from the illegal use of firearms and explosives. We are responsible for both regulating the firearms and explosives industries and enforcing the criminal laws relating to those commodities. ATF has the expertise, experience, tools, and commitment to investigate and disrupt groups and individuals who obtain guns in the U.S. and illegally traffic them into Mexico in facilitation of the drug trade.

The combination of ATF's crime-fighting experience, regulatory authority, analytical capability, and the strategic partnerships is used to combat firearms trafficking both along the U.S. borders and throughout the Nation. For instance, from fiscal year 2007 through 2008, Project Gunrunner—ATF's strategy for disrupting the flow of firearms to Mexico—has initiated 1,840 investigations. Those cases

include 382 firearms-trafficking cases involving 1,035 defendants and an estimated 12,835 firearms.

For an example, an 11-month investigation into a Phoenix area gun dealer revealed a trafficking scheme involving at least 650 firearms, including 250 AK–47s semiautomatic rifles that were trafficked to Mexican drug cartels. One of the pistols was recovered on the person of an alleged cartel boss. The investigation that is currently under prosecution resulted in the May 2008 arrest of three defendants and the seizure of 1,300 guns.

While the greatest proportion of firearms trafficked to Mexico originate out of the United States along the Southwest border, ATF trace data has established that drug traffickers are also acquiring firearms from other States as far east as Florida and as far north and west as Washington State. A case from April 2008 involving a violent shootout that resulted in 13 deaths will illustrate that point. ATF assisted Mexican authorities in tracing 60 firearms recovered at a crime scene in Tijuana. As a result, leads have been forwarded to ATF field divisions in Denver, Houston, Los Angeles, Philadelphia, Phoenix, San Francisco, and Seattle to interview the first known purchasers of those firearms. These investigations are continuing.

Additionally, drug traffickers are known to supplement their firearm caches with explosives. Our expertise with explosives has proven to be another valuable tool to use in the fight against these drug cartels. In fact, in the past 6 months, we have noted a troubling increase in the number of grenades seized from or used by drug traffickers. We are concerned about the possibility of explosives-related violence impacting our U.S. border towns.

We have had at least one such incident in San Juan, Texas, when a hand grenade was thrown into a crowd of about 20 patrons. ATF was able to identify the grenade and believes it is linked to a drug cartel. Moreover, we believe these devices were from the same source as those used during an attack on our U.S. consulate in Monterrey, Mexico.

ATF's Project Gunrunner includes approximately 148 special agents dedicated to investigating firearms trafficking on a full-time basis and 59 industry operations investigators responsible for conducting regulatory inspections of federally licensed gun dealers, known as "Federal firearms licensees." As the sole agency that regulates FFLs—roughly 6,700 of which are along the Southwest border—ATF has the statutory authority to inspect and examine the records and inventory of the licensees for firearms-trafficking trends and patterns, and also to revoke the licenses of those who are complicit in firearms trafficking.

For instance, ATF used its regulatory authority to review the records of an FFL in El Paso, Texas, to identify firearms traffickers who purchased 75 firearms that were sold to corrupt local and Federal officials. Our investigation led to the arrest of 12 individuals in November, and the sentences ranged from 36 months to 2 years.

An essential component of ATF's strategy to curtail firearms trafficking to Mexico is the tracing of firearms seized in both countries. Using this information, ATF can establish the identity of the first retail purchaser of the firearm and possibly learn pertinent information, such as how the gun came to be used in the facilitation of

a crime or how it came to be located in Mexico. Furthermore, analysis of the trace aggregate data can reveal drug-trafficking trends and networks, showing where the guns are purchased, who is purchasing them, and how they flow across the border. I would like to note an example of how trace data was used to identify a firearms trafficker.

ATF's analysis of trace data linked a man living in a city along the border to three crime guns recovered at three different crime scenes in Mexico. Further investigation of that information uncovered that he was the purchaser of a fourth firearm recovered at yet another crime scene in Mexico, and that he had purchased 111 AR–15 type receivers and seven additional firearms within a short time span using nine different FFL wholesale distributors as sources for his guns.

In April 2008, we seized 80 firearms from the suspect and learned that he was actually manufacturing guns in his residence. He sold over 100 guns alone to an individual who is suspected of being linked to a cartel. Investigation leads are being pursued, and charges are pending in that investigation.

Chairman Durbin, Senator Graham, distinguished members of the Subcommittee, on behalf of the men and women of ATF, again I want to thank you for your support of our crucial work. With the backing of this Subcommittee, ATF can continue to build on our accomplishments, making our Nation more secure.

Thank you.

Chairman DURBIN. Thank you, Mr. Hoover.

The next witness is Anthony Placido. He is here on behalf of the Justice Department's Drug Enforcement Administration. He is the Assistant Administrator and Chief of Intelligence, responsible for developing the agency's global intelligence collection enterprise. He previously served as Special Agent in Charge of the New York Field Division and Regional Director of the Mexico-Central America Division, and has 30 years of Federal law enforcement experience.

Thank you for joining us. Please proceed.

Mr. PLACIDO. Mr. Chairman, members of the Committee, thank you very much for the opportunity to appear before you today and to discuss this issue of importance to the Nation.

If I may thank you for the kind introduction and elaborate just one item further that may be relevant to this Committee, I also serve as the Co-Chair of a group called the Anti-Drug Intelligence Community Team, or ADICT. It is an organization of 13 U.S. Government agencies with counter-drug intelligence responsibilities, and that group has been very heavily focused on this issue for quite some time.

My testimony today does not represent my personal perspectives alone but represents, rather, the collective judgment of DEA staff located in 11 offices throughout the Republic of Mexico, as well as those of DEA agents and employees posted in 227 domestic and 123 foreign offices around the globe. On behalf of the Acting Administrator, Michele Leonhart, and the nearly 10,000 men and women of DEA, I am honored to have the opportunity to share these perspectives with you today.

Almost immediately following his inauguration as the President of Mexico, Felipe Calderón, of his own volition, initiated a com-

prehensive program to break the power and impunity of the drug cartels. As a consequence of that effort, there has been a sharp spike in murders and violence in Mexico. It has caused some, including Homeland Security Magazine, to speculate about the likelihood of Mexico failing in its effort and for our purposes, and by extension, created a discussion about whether the violence would spill over our Southwest border at increased levels and with adverse consequences to U.S. interests.

DEA believes that the remarkable commitment of President Calderón has resulted in his government making important strides to reduce the immense power and corruptive influence of these well-entrenched drug cartels. We assess that the increased level of violence that currently plagues Mexico represents in large measure a desperate attempt by drug traffickers to resist the sustained efforts of a very determined Mexican administration. It is not the harbinger of imminent failure.

Since the Calderón administration assumed power, the Government of Mexico has made record seizures of drugs, clandestine laboratories, weapons, and cash. They have arrested large numbers of defendants, including high-level representatives of all of the major cartels and, in unprecedented fashion, have extradited more than 178 of these defendants to face justice in the United States.

They have also made advances in the more difficult process of reforming their institutions and have vetted and trained police, prosecutors, and jailers, established a new organized crime tribunal, and have addressed corruption as never before.

We are also seeing benefits closer to home. Beginning in January of 2007, immediately after President Calderón was installed, we began to see and have seen a 24-month sustained period of increased price and decreased purity in nearly every cocaine market in the United States. Over that 2-year period, the price has more than doubled, up 104 percent, and purity has fallen by almost 35 percent.

Mexican drug-trafficking organizations have been placed under unprecedented stress as a result of the sustained efforts by the Government of Mexico together with DEA, the U.S. Interagency, and our partners throughout the region. We are mindful, however, that the success against these powerful criminal adversaries is far from certain and that the consequences of these transnational criminals prevailing in their bloody contest with the Calderón administration would pose devastating consequences to the safety and security of people on both sides of the border.

Through the Merida Initiative and the funding generously provided by this Congress, our Mexican counterparts have additional resources to break the power and impunity of these cartels. However, we continue to hear accounts of the horrific violence in Mexico and must assess the potential for this activity to spill over our border.

It is important to understand that violence has always been part of the Mexican drug trade and that criminal syndicates fight each other for control of a very lucrative market. DEA assesses that the current surge in violence is driven in large measure by the Government of Mexico's offensive against these traffickers, who in turn

perceive themselves to be fighting for a larger share of a shrinking market.

While the cartels are fighting each other and increasingly pushing back against the Government of Mexico in unprecedented fashion, neither DEA nor the U.S. Interagency assesses that in the near term the cartels will deliberately target U.S. Government personnel or interests or intentionally target U.S. civilians in the United States. Defining spillover is a tricky business, and in the interest of the brevity of my opening statement, I will defer to later a more robust discussion of that. But we recognize that we are witnessing acts of true desperation, the actions of wounded, vulnerable, and dangerous criminal organizations. DEA and the Interagency will continue to monitor this situation closely for warnings and indications of deliberate targeting of U.S. interests beyond the established modes of trafficker-on-trafficker or criminal-on-criminal violence.

I would like to conclude briefly by highlighting just a few of the important initiatives DEA has undertaken in cooperation with the Government of Mexico, our interagency and international partners to address this problem.

For 27 years, DEA has been running something called IDEC, the International Drug Enforcement Conference, that brings together currently more than 90 countries from around the world and their senior-most leadership on the counter-drug front. This year, that conference will be held in Mexico, and Mexico will take a leadership role, will also help to build strategies and coalitions among our partners to address this.

For several years, we have facilitated a series of meetings, which we call the "tripartite meetings," between Colombia, Mexico, and the U.S. Government. Those meetings are beginning to bear fruit, and we currently now have vetted representatives of both the Colombian and Mexican Government inside the walls of the El Paso Intelligence Center to help us build strategies and execute plans to protect our borders.

DEA has also developed and, together with our Federal partners begun deployment of a system of license plate readers along the entire Southwest border that will focus on the identification of vehicles known or suspected to be transporting bulk currency or weapons into Mexico. Early results from this effort are promising, and we are hopeful that this tool will prove effective in reducing the southbound flow of cash and weapons into Mexico.

Since DEA was created in 1973, the agency's hallmark has been to target those who organize, direct, and finance transnational crime. Nearly two decades ago, DEA made significant advances in this regard when it created the multi-agency Special Operations Division to identify connections among and between seemingly disparate investigations between distinct elements of DEA, our interagency and international partners. This interagency coordination process has been essential in driving enforcement successes such as Project Reckoning, which targeted Mexico's Gulf cartel, and Operation Accelerator, which targeted Mexico's Sinaloa cartel.

These DEA-led operations represent the most successful joint law enforcement efforts undertaken between the United States and the Government of Mexico and together resulted in over 1,350 arrests,

the seizure of thousands of pounds of methamphetamine, tens of thousands of pounds of marijuana, more than 20,000 kilograms of cocaine, hundreds of weapons, and $130 million in cash and assets. DEA is convinced that this interagency coordination and collaboration process is essential to the effectiveness of our Nation's counterdrug effort.

Finally, my colleague from Arizona mentioned the threat of money remittances, and the DEA Operation High Wire, through this Special Operations Division connected 89 distinct investigations targeting money remitters who are facilitating the illicit drug trafficking by moving the proceeds of U.S. drug sales back to Mexico. The operation netted in excess of $32 million in cash.

We remain committed to working with both our domestic and international partners to target the command-and-control elements of these transnational drug-trafficking organizations, to stem the flow of bulk cash and weapons south into Mexico, while also working to sustain the disruption of drug transportation routes northward.

Mr. Chairman, thank you for this opportunity to appear, and I will be glad to take questions at the appropriate time.

[The prepared statement of Messrs. Hoover and Placido appears as a submission for the record.]

Chairman DURBIN. Thank you, Mr. Placido.

We will go slightly out of order here. Senator Kyl has asked for a moment to acknowledge one of our witnesses.

Senator KYL. Well, thank you, Mr. Chairman. I really appreciate your indulgence. I had intended to be here a little bit earlier so I would not be as disruptive, and I will have to leave in just a moment, but I did want to put in a very good word for Arizona Attorney General Terry Goddard and commend you for holding this hearing. You have got a very distinguished panel. I look forward to reading the testimony of all of the witnesses. I had hoped to pass on some other indications of the great work that Terry Goddard has been doing on this subject in Arizona. It is a very important subject, and I appreciate the Committee's consideration of it. Thanks.

Chairman DURBIN. Thank you very much, Senator Kyl. I might add that your colleague Senator McCain has also recommended Mr. Goddard's testimony, so you come here with the highest recommendations.

Our next witness, Kumar Kibble, is here to represent U.S. Immigration and Customs Enforcement. He is Deputy Director of ICE's Office of Investigations, serving as ICE's Chief Operating Officer, and a graduate of West Point.

Please proceed. You have 5 minutes to give oral testimony, and then we will ask some questions.

**STATEMENT OF KUMAR C. KIBBLE, DEPUTY DIRECTOR, OFFICE OF INVESTIGATIONS, IMMIGRATION AND CUSTOMS ENFORCEMENT, U.S. DEPARTMENT OF HOMELAND SECURITY, WASHINGTON, D.C.**

Mr. KIBBLE. Chairman Durbin, Chairwoman Feinstein, Ranking Member Graham, Ranking Member Grassley, and distinguished members of the Subcommittee and Caucus, on behalf of Secretary

Napolitano and Acting Assistant Secretary Torres, I thank you for the opportunity to discuss ICE's efforts to combat cross-border crime and related violence. ICE has the most expansive investigative authority and the largest force of investigators within DHS, but this challenge cannot be addressed by any one agency. Partnerships are essential, and ICE works closely with foreign, Federal, tribal, State, and local agencies to secure our borders, including the agencies that my colleagues here today represent.

DHS recognizes that southbound weapons smuggling is a grave concern amid the growing violence along our border with Mexico. This violence requires a comprehensive, bilateral effort, and on January the 30th, Secretary Napolitano responded by issuing a Border Security Action Directive which focused the wide-ranging authorities of the Department on the violence along our Southern border. The Secretary emphasized the necessity of a broad, multi-agency response to attack the flow of weapons and money that continues to fuel the violence. ICE contributes to this fight principally through two bilateral initiatives: Operation Firewall to counter bulk cash smuggling; as well as Operation Armas Cruzadas, to counter weapons smuggling.

The ICE-led Border Enforcement Security Task Forces provide a comprehensive, multi-agency platform to fight these particular threats. Under Armas Cruzadas, U.S. and Mexican investigators synchronize bilateral law enforcement and intelligence-sharing activities in order to detect, disrupt, and dismantle these weapons-smuggling networks. Key supporting actions include: use of ICE's longstanding authorities under the Arms Export Control Act, as well as newly acquired export authority that is particularly useful in targeting these weapons-smuggling networks.

To more seamlessly investigate these networks that span our common border, BESTs, ICE attache offices, a U.S.-vetted Mexican Arms Trafficking Group, and the ICE Border Violence Intelligence Cell exchange weapons-related intelligence. For example, in August of last year, an ICE investigation developed information that was rapidly shared with Mexican investigators regarding a safe house in Nogales, Sonora, used by hit men from the Vicente Carillo Fuentes organization. A subsequent search warrant at the residence resulted in six arrests, the seizure of police uniforms, a large amount of U.S. currency, 12 weapons, and four stolen U.S. vehicles. Intelligence stemming from single actions like this are analyzed by the Border Violence Intelligence Cell, and in December of last year, this cell, in conjunction with other DHS intelligence components, produced a strategic assessment focused on southbound weapons smuggling that informed our current operations along the Southwest border.

Let me share another example of how ICE partners with others, such as ATF and local investigators, in combating weapons smuggling. ICE, ATF, and the San Antonio Police Department initiated an investigation of Ernesto Olvera-Garza, a Mexican national that at the time of his arrest in October of 2007 trafficked in high-powered, high-capacity handguns and assault rifles. He led a gun-smuggling conspiracy that purchased and smuggled more than 50 weapons into Mexico. One of these weapons was recovered after it was used in a gun battle where two Mexican soldiers were killed.

Olvera-Garza has pleaded guilty and is currently pending sentencing.

Altogether, since the initiation of Armas Cruzadas, DHS has seized 420 weapons, more than 110,000 rounds of ammunition, and arrested more than 100 individuals on criminal charges.

Another and one of the most effective methods in dealing with violent, transnational criminal organizations is to attack the criminal proceeds that fund their operations. As we have hardened formal financial systems throughout the United States, the smuggling of bulk currency out of the country has been on the rise. ICE investigates bulk cash smuggling as part of its cross-border crime portfolio. ICE and CBP have conducted Operation Firewall interdiction operations and investigations with Mexican Customs and an ICE-trained Mexican Money Laundering Vetted Unit. Since its inception, Firewall has resulted in the seizure of over $178 million, including over $62 million which has been seized overseas and has resulted in more than 400 arrests.

As I mentioned before, the principal investigative platform for both Armas Cruzadas and Firewall are the eight multi-agency Border Enforcement Security Task Forces, or BESTs, arrayed along high-threat smuggling corridors along the Southwest border. Created to specifically address border violence, these BESTs concentrate on the top threats within their geographic areas, including weapons, bulk cash, narcotics, and alien smuggling. Since July of 2005, the BESTs have been responsible for more than 2,000 criminal arrests, the seizure of about 170,000 pounds of narcotics, hundreds of weapons, and almost $23 million in U.S. currency.

ICE is committed to stemming cross-border crime and associated violence through the deployment of the BESTs, Operation Armas Cruzadas, and Operation Firewall. Partnering with others, we are using a broad range of authorities, to disrupt and dismantle these networks.

I thank the Subcommittee and Caucus members for your support and look forward to answering any questions you may have.

[The prepared statement of Mr. Kibble appears as a submission for the record.]

Chairman DURBIN. Thank you, Mr. Kibble.

I would like to start with questions, and first I would like to ask you about firearms. ICE's program to address firearms smuggling has resulted in the seizure of 420 weapons and 42 convictions; ATF's Project Gunrunner has resulted in 382 firearm-trafficking cases involving over a thousand defendants and approximately 12,800 guns.

On the face of it, it sounds significant and dramatic. We will have testimony later from Professor Dresser from Mexico who tells us that an estimated 2,000 weapons cross the border into Mexico from the United States every single day. If that is true—and I would welcome any comments that you might have to suggest that there is another number we should use as a starting point—are we even making a dent in the firearms smuggling from the United States to Mexico? Mr. Hoover?

Mr. HOOVER. Firearms trafficking is a huge issue. There is no question about it. We currently work with the Mexican authorities

and have asked them through training and education to initiate traces on all the firearms seized or recovered by them.

Chairman DURBIN. Can you give me a metric? I am looking for a metric. What do you think is the volume of weapons being smuggled into Mexico from the United States on a daily basis?

Mr. HOOVER. I would not say it is in the thousands, sir. I would say it is probably in the hundreds. I would not say it is in the thousands.

I can tell you that over the last 2 years, in 2007 we traced 6,561 weapons from Mexico. In 2008, we traced 10,977 firearms from Mexico. And to date this year, we are already approaching that 10,000 number for gun traces from Mexico.

Chairman DURBIN. This is clearly going to be an object of dispute. The Brookings Institution, and I quote, says "some 2,000 guns cross the U.S.-Mexico border from north to south every day, helping to fuel violence among drug cartels."

I think we would agree that whether it is hundreds or thousands, the best efforts that we put in to date are really not addressing the volume of the problem when it comes to weapons smuggling. We have to look to additional ways to fortify our efforts and make them more effective.

I only have a few minutes, and I wanted to allow Attorney General Goddard to address one of the more fundamental issues here. At the base of this whole equation, this bloody, deadly equation, between the United States and Mexico is our virtually insatiable appetite for narcotics. You have been caught in the cross-fire of this for so many years as the leading law officer in Arizona. What are your thoughts about America's drug policies and drug laws?

Mr. GODDARD. Thank you, Chairman Durbin. My thoughts are that we are not winning the battle. The violence that we see in Mexico is fueled 65 to 70 percent by the trade in one drug—marijuana. The interdictions that we have had and that the partnership that you see here at the table have seized extraordinary quantities of marijuana. And, still, the United States is being literally flooded with this particular drug.

I have called for at least a rational discussion as to what our country can do to take the profit out of that one particular main horse, main force that fuels these violent cartels in Mexico.

I also think, as the Wilson Institute has said, that we need to take a hard look at basically treatment on the addiction side. The United States has put a great deal of money into interdiction, but we have put very little into demand reduction. And, frankly, we can have a very profound effect as a country in trying to stop the apparently insatiable demand for these illegal drugs.

We have one bright spot, and I think it needs to be commented upon. The flow of methamphetamines is down. That was, by consensus of law enforcement throughout the country, the No. 1 crime problem in the United States. Among other things, the Mexican Government has taken very strong efforts to stop the precursor chemicals coming into their country and going to the so-called super labs in Mexico. They have also closed down a number of the super labs. So as a result, the flow of crystal methamphetamines into the United States is reduced.

Now, we are not at the end of the story, obviously, but between the interdiction efforts at the border and the very strong effort on the production side by the Government of Mexico, we made a huge amount of progress. And I think that bright spot needs to be highlighted, because everything else we hear is extremely depressing.

Chairman DURBIN. My time is up, but I am going to try to ask everyone to hold to 5 minutes, but just to say that we are going to have future hearings related to America's policies when it comes to the arrest, criminal treatment, and medical treatment of those suffering from drug addictions. We have to really look at the source of this problem. It is our insatiable drug appetite, some 35 million users in the United States, that has created this problem and provides the money that is fueling these drug cartels and this violence. Thank you.

Senator Graham?

Senator GRAHAM. Thank you, Mr. Chairman.

Mr. Placido, from an intelligence point of view, do you believe that the efforts of President Calderón are winning the day, or are we losing ground? How would you characterize the war?

Mr. PLACIDO. Thank you for that question, sir. I have been closely following Mexico since about 1985, and what I can tell you, in my view, the commitment and resolve of the Mexican Government is unprecedented under this administration. They are making great strides to improve the situation.

It is a very difficult situation, and it will not be resolved overnight. Decades of problems related to corruption and the power and impunity of these cartels cannot be resolved overnight. But I believe this Government is making progress and that the violence we see is actually a signpost of success that these cartels are actually under a level of pressure that they have never seen before. It is one of the reasons they are lashing out against each other and the government.

Senator GRAHAM. In the area of pressure, Mr. Kibble and Mr. Hoover, how would your rate the level of corruption now versus last year in terms of pressure being applied to corrupt officials in Mexico? Mr. Hoover?

Mr. HOOVER. Sir, we have had several investigations involving law enforcement officers on both sides of the border involved in the firearms trafficking. But we have certainly—they have been limited. I believe I mentioned that in my statement. They have been limited in that area. And we have not seen a significant increase in law enforcement officers being involved in the firearms trafficking.

Senator GRAHAM. Mr. Kibble.

Mr. KIBBLE. I basically concur with Mr. Hoover, Ranking Member Graham. We have not noticed any trends going up or down. There is generally a steady state of corruption issues that we tend to see during the course of our investigations, and in my recent discussions with our special agents in charge along the Southwest border as recently as last week, they had indicated that they had not seen any trends worthy of note in terms of that.

Senator GRAHAM. OK. What is the single most—the drug consumption problem that Senator Durbin indicated is a problem, and that will not be solved overnight on our side of the border. But in

the short term, what is the most single effective thing that Congress could do, in my opinion, to aid the Mexican Government in their fight? We will start with you, Mr. Kibble, and work our way down.

Mr. KIBBLE. I think the critical—it is the recognition that we see increasingly throughout the country that part of what fuels this violence in Mexico are the flows of weapons and money south. And we have to do more in terms of interdicting that——

Senator GRAHAM. What change in the law would you recommend, if any, in terms of the gun problem?

Mr. KIBBLE. Sir, I think that we have the laws we need. We just need to more effectively and more aggressively pursue them.

Senator GRAHAM. Do you need more agents?

Mr. KIBBLE. With more resources, we could do more.

Mr. PLACIDO. Thank you. First of all, I believe that this Congress, this body, has gone a long way with the Merida Initiative to help provide the resources necessary for the Government of Mexico to take steps on its own. The initial phase of the Merida Initiative is really geared toward interdiction, and I think that in the long term, the most important thing that we can do is to help a willing partner south of our border reform its institutions.

Senator GRAHAM. So you do not suggest any major structural changes in our domestic law?

Mr. PLACIDO. Well, I think that the Merida Initiative provided resources to the Mexican and Central American countries, but there was no corresponding increase for the U.S. law enforcement agencies that have to partner with them.

Senator GRAHAM. Mr. Hoover?

Mr. HOOVER. I would agree with Mr. Placido. Any resource we can get to help us in this struggle is certainly welcome. We——

Senator GRAHAM. Well, my question is: Can you think of any gap in our law that we could remedy in the short term? What about you, Mr. Goddard?

Mr. GODDARD. Mr. Chairman, Senator Graham, I would certainly like to see stuff in our money transmission rules. Bulk cash can be intercepted with these agencies moving south, but wire transfer and stored value cards present overwhelming obstacles to us. Human trafficking in particular is facilitated——

Senator GRAHAM. Does everyone agree with that assessment?

Mr. KIBBLE. Stored value cards have remained a consistent challenge because of their ability to avoid the CMIR regulations and not to declare the currency that they are transporting out. And we see that throughout more of our investigations where we are encountering this desire by our adversaries to rely on stored value cards.

Senator GRAHAM. Thank you, Mr. Chairman.

Chairman DURBIN. Senator Feinstein?

Senator FEINSTEIN. Thank you very much, Mr. Chairman.

Mr. Placido, you mentioned that the Merida equipment has gone to Mexico. To the best of my knowledge, it has not. The appropriation was in the omnibus just passed, and we have contacted the State Department and have been told that the helicopters and surveillance aircraft will not be available until 2011.

Now, I think this is something that we need to pay a lot of attention to and see if we cannot up this in the priority line. So I just wanted to mention that. This was of enormous concern to the Mexicans when they talked to me about this, and I would just like to commend President Calderón. I think he has put his entire political career on this effort to fight drugs, and I think he needs every single bit of our support.

Mr. Attorney General, I want to thank you for your comments. You made a list of strategic things that we could do, and I want to ask you about them in a moment. But one of the things that really has impacted our country are kidnappings, and you mentioned 700 kidnappings in 2 years in the Phoenix area. Tell us a little bit more about that. Tell us what it means. Tell us a little bit about the insurance companies setting up for people to insure themselves against kidnappings and the impact that this is now having in my State as well, in the San Diego area, if you would.

Mr. GODDARD. Mr. Chairman, Senator Feinstein, I am not familiar with the insurance scandal that you just referred to. We have not seen that in Arizona, to my knowledge. What we have seen so far has been largely involving drug drop houses and human-smuggling drop houses, where the violent confrontation between members of rival gangs, rival drug-trafficking organizations, and human-smuggling operations basically seize the cargo, be it drugs or human beings, and change the price or extort the people that they have under their control to get more money from them. So human cargo or drug cargo are very valuable commodities, and they are apparently fungible. And so many of the kidnappings are as a result of this inter-gang, inter-cartel rivalry.

We have been fortunate so far not to see, for example, business leaders or other people simply held as a target of opportunity in kidnappings. It has usually been within the criminal activities, but—so saying I am very concerned both at the possibility of innocent victims getting caught in the cross-fire, if you will. We have had at least one instance in Phoenix where there was a home invasion where they picked the wrong house, and they went after somebody who was totally uninvolved in either the human or the drug trade and assaulted that house with a number of rounds of high-velocity rounds. So we believe that the casual fallout is going to be significant if we cannot do something, as this Committee is considering, to try to assist Mexico in stopping it south of the border.

Senator FEINSTEIN. Thank you. I wanted to ask the law enforcement people about the Arms Export Control Act passed in 1976, particularly Title 18 U.S.C. 922, and whether that—see, I am surprised at the small numbers of guns. Let me be candid. I think Senator Durbin is absolutely right. From what I hear, it is a lot more than just a few hundred. It really is in the thousands. And all these gun dealers that have sprung up in areas that allow these sales, the question is what to do about it. And I am curious if any of you have a recommendation as to how you could be given more authority to go in there and make these arrests of people and shut down the gun dealers that are knowingly selling guns in numbers—I mean, somebody comes in for one, 1 day, and then six in a week, and then another ten in another month. It ought to be pretty clear that they are transferring weapons.

So what do you need to shut it down? Mr. Hoover?

Mr. HOOVER. Yes, ma'am. I would like to qualify what I stated earlier when Senator Durbin asked me about the numbers that flow daily across into Mexico. I am not sure where those institutes get their numbers. The investigations that we have and that we see for firearms flowing across the border do not show us individuals taking thousands of guns a day or at a time flowing into Mexico. And I was simply referring to the amount of weapons that we see these traffickers taking across the border.

The FFLs that we work, we have to remember that these firearms are legally purchased in some instances. In some instances, they are not. And when we have information through our outreach with these Federal firearms licensees, the gun dealers, we certainly take quick action on surveilling those individuals and sharing information not just with my partners here at the table, but also with the officials in Mexico through our relationships with PGR and the various law enforcement agencies. And we provide that information as quickly as we can to those agencies to ensure we are acting on those folks that are taking the weapons across the border into Mexico.

Senator FEINSTEIN. Yes, but, clearly, it is not enough. I mean, they are all over Mexico.

Mr. HOOVER. Yes, ma'am.

Senator FEINSTEIN. When we are told that 90 percent of the weapons used by the cartels come from the United States, we need to shut it off.

Mr. KIBBLE. Ma'am, I would just also add that, speaking specifically to the Arms Export Control Act, that historically has been a statute that has been more challenging to work with because of the willfulness element in terms of the licensing requirements for an exporter to obtain a license from the State Department for U.S. Munitions List items.

But with the renewal of the PATRIOT Act in 2006, we gained smuggling goods from the U.S., 18 U.S.C. 554, which essentially was the converse of our inbound smuggling authority, which dramatically simplified and made more consistent the elements that we need to establish to show smuggling. And that has been a new authority that we have really based our Armas Cruzadas effort on to attack these weapons-smuggling networks.

Just in the past couple months, we have elevated our operations along the Southwest border, and just in a couple months, with some additional resources applied to this problem, we have identified a number of issues.

First off, we have interdicted more weapons than we have in entire previous fiscal years just in a 2-month period.

Second, we found that there are a lot of intelligence gaps, because where as we do see this technique that is called "ant trafficking" in terms of the majority of the weapons are moved in amounts of one or two weapons concealed in vehicles and driven across the land border, we do not know near enough about what is happening in the air domain, in our containerized shipments. And these are all areas where as we apply more resources to the problem, we will get a better picture of some of the vulnerabilities

and be able to better allocate resources to mitigate those particular vulnerabilities.

Senator FEINSTEIN. Thank you. My time is up.

Thank you, Mr. Chairman.

Chairman DURBIN. Senator Grassley?

Senator GRASSLEY. Mr. Chairman, I would like to put an article in the record relating to my questioning.

Senator SPECTER. Mr. Chairman, what happened to the early bird rule?

Chairman DURBIN. Excuse me just a second.

I am trying to establish the appropriate protocol here because we have several Ranking Members. Senator Grassley is the Ranking Member on the Senate Caucus on International Narcotics Control. We could flip a coin or whatever you would like.

Senator GRASSLEY. I could come back at 12:10, but I have got to be at a place at 11:57.

Chairman DURBIN. What would you like to do, Senator Specter, as Ranking Member of the full Committee?

Senator SPECTER. I will decide that the next time I am chairing the hearing.

[Laughter.]

Senator SPECTER. But I recollect being Ranking or something like that myself.

Chairman DURBIN. Well, in my defense, I am going to plead that your Republican staff gave us the order, and I recognized Senator Grassley.

Senator GRASSLEY. I did ask permission to put this in the record.

Chairman DURBIN. Without objection.

Senator GRASSLEY. I have been hearing about the need to reform law enforcement authority to investigate under Title 21. Currently, DEA and FBI have authority to investigate under Title 21 along with a limited number of ICE agents. ICE agents are cross-designated to conduct investigations under supervision of DEA. A 1994 MOU between then-Customs Service and DEA limits the number of cross-designations. Further, I understand that efforts initiated in 2004 to update this MOU failed.

Mr. Kibble, if an ICE agent who is not cross-designated encounters narcotics in the course of another investigation within ICE's jurisdiction, what happens?

Mr. KIBBLE. Sir, he would either need to reach out to a cross-designated ICE agent that could respond to the scene to handle the ensuing investigation or a DEA agent.

Senator GRASSLEY. In other words, that ICE agent could not make that arrest if they encountered——

Mr. KIBBLE. No, sir. Not under Title 21 authority, no, sir.

Senator GRASSLEY. OK. Mr. Placido, how many ICE special agents have cross-designation authority? And how do they coordinate their investigations with the DEA?

Mr. PLACIDO. Thank you for the question, Senator. There are currently 1,263 ICE agents who are cross-designated, and to my knowledge, we have never put an upper limit. That represents about 19 percent of Immigration and Customs Enforcement special agents who are cross-designated. And I do not believe that the discussion, spirited as it may have been over time, really revolves

around whether ICE should have Title 21 or not. It really revolves around the question of coordinating those investigations, the investigations that I cited for you—Project Reckoning and Operation Accelerator—being excellent examples.

If we put more agents working counter-drug work and they do not coordinate through this SOD process, we could actually have the unintended consequence of putting more resources and having less results.

Senator GRASSLEY. How do they coordinate? is my question.

Mr. PLACIDO. Senator, frankly, we do not believe that we have the full measure of coordination within this SOD process that would include participation at the OCDETF Fusion Center, coordinating some of the bits of information we use to connect these seemingly disparate investigations, our communications devices, information that comes from financial investigations, and that has occasionally been a source of problems.

Senator GRASSLEY. OK. Let us go back to Mr. Kibble. Who determines which agency will investigate drug crime with a border or port of entry nexus?

Mr. KIBBLE. Well, currently, sir, we are governed by the MOU that you acknowledged was written in 1994 for seizures involving the port of entry. Cross-designated ICE agents can handle those investigations and also investigations involving smuggling, a border nexus, that are initiated by the agency.

Senator GRASSLEY. Mr. Placido, has ICE asked for permission from DEA for additional personnel to have this special authority? If so, what is the status of that request?

Mr. PLACIDO. Again, to my knowledge, Senator, we have never turned down requests for cross-designation. There is no upper limit on the numbers. The issue with DEA has always been not whether they have the authority, but how they would exercise it and under what conditions in terms of coordination.

Mr. KIBBLE. If I could speak more broadly, Senator, to the issue, I think Tony hits on the exact question, because coordination has got to be key. We have got to figure out ways—we have always got to be working toward more effectively coordinating our efforts. But that extends beyond the Title 21 community. We are seeing these threats converge in cross-border criminal networks. So we have got to use mechanisms such as Fusion Centers, such as the Regional Deconfliction Centers that have proliferated throughout the country, and also new technological innovations such as DOJ's NDEXs or DHS' Law Enforcement Information Sharing Service.

When we get that aside, then it comes to why not leverage 5,000 additional agents, you know, with that authority. Just to kind of clarify what Tony made, there are pending requests, but, really, we have always been told that we are capped at 1,475 positions.

Senator GRASSLEY. Let me answer the question. I think common sense dictates that it would be better to have more investigators looking for illegal drugs than not having more investigators looking at illegal drugs.

Mr. KIBBLE. I would comment in this way: There are some efficiencies that are gained across the U.S. Government when we can deal with the full spectrum of cross-border crime. For example, those teams that we have added to deal with weapons and cash—

or primarily focused on weapons for Armas Cruzadas along the Southwest border—are also seizing millions of dollars in outbound currency, and they are also generating cooperating defendants that are providing information with respect to Title 21 matters.

So there are efficiencies that are gained when an ICE investigator, responding at a particular event, can deal with the full spectrum of crime that is in front of him.

Senator GRASSLEY. Well, let me ask you if you have considered raising the number of agents that can be cross-designated. And if you have not, why not?

Mr. PLACIDO. As I have said, Senator, to my knowledge, there is no upper limit on the numbers of ICE agents that can be cross-designated, but if I may give you a practical example of what I am talking about. This year alone, the Drug Enforcement Administration will spend more than $56 million in taxpayer money to conduct court-authorized Title 3s or telecommunications intercepts. We do that in a way that is coordinated with most of our Federal partners because somebody taking even well-intentioned action that is uncoordinated can cause those month-long investigations, the defendants to drop cell phones, defendants who they were planning to arrest to become fugitives and to leave.

And so our issue is not whether we could use more people to help us prosecute the efforts against drug traffickers. It is that those folks need to be working within a system that has been designed and crafted carefully over two decades and works very, very effectively.

In fact, we see our partners at the FBI now moving their international organized crime center, which deals with non-drug-related organized crime, into the construct of Special Operations Division and the OCDETF Fusion Center for this very purpose.

Chairman DURBIN. Thank you very much.

I will now recognize Senator Feingold, and then, in an attempt to rescue my career on the Senate Judiciary Committee, Senator Specter. Senator Feingold.

Senator FEINGOLD. I will support that and thank you. I do want to thank Senators Durbin and Feinstein for calling this hearing to discuss this urgent national security matter. I thank the witnesses for being here.

First, I want to note how pleased I am that we are finally starting to provide State and local law enforcement with the funding that it needs to keep us safe. This much-needed support was simply not provided during the previous administration, and for the past several years, when I have met with law enforcement personnel everywhere in my State, the conversation has always been about the severe lack of funding and the resulting rising crime rates and job losses and lack of innovation.

Of course, another issue that I am hearing more and more about is the prevalence of Mexican-produced drugs in my State. The DEA recently released its 2008 report including specifics about the drug situation in Wisconsin. According to the report, Mexican drug-trafficking organizations are responsible for most of the cocaine, crack, and marijuana that is available in Wisconsin, and they also bring methamphetamines into the State. And although Wisconsin does not contain a major hub city for Mexican drug traffickers, it is lo-

cated with Chicago to its south and Minneapolis to its west, and this makes cities in Wisconsin easy secondary destinations for large amounts of drugs.

While the effects of the problem are being seen by State and local law enforcement across the country, at its core this is an issue, of course, about our border with Mexico. This problem, as we have heard today, has taken on an increasingly troubling dimension as the violence in Mexico and along the border has exploded over the last 2 years, and this has had devastating consequences for Mexican law enforcement, military personnel, and, as you have said, innocent bystanders.

We must address this crisis in a proactive and coordinated manner focusing on improving law enforcement while also supporting efforts to enhance the rule of law in Mexico. So the hearing today is very important to move this forward.

Mr. Kibble and Mr. Hoover, I was deeply troubled to learn that the vast majority of weapons used by drug cartels in Mexico come from the United States and that the Mexican cartels are increasingly smuggling military equipment that cannot be legally sold to civilians in either country. Could you please describe the primary source of such weapons and what efforts are underway to enhance our ability to prevent these weapons from entering the civilian sector? Mr. Hoover.

Mr. HOOVER. As far as military firearms, sir, we have had fewer than, I believe, a dozen traces that go back to military firearms. Now, we have had some United States—originated military instruments such as grenades that have ended up with the cartels, and I would like to speak to you in another hearing or another matter about that. But I cannot go further into that as we are in this session.

Senator FEINGOLD. We will do that later.

Mr. HOOVER. Yes, sir.

Senator FEINGOLD. Mr. Kibble.

Mr. KIBBLE. Sir, this is more anecdotal, but we do have some investigations that have indicated that those weapons may be diverted from other regions and not necessarily coming directly from the U.S. And that is, again, something that we could discuss in greater detail in another forum.

Senator FEINGOLD. I look forward to doing that.

Mr. Placido, are you coordinating your efforts to train Mexican law enforcement personnel with USAID's judicial reform efforts?

Mr. PLACIDO. Within the embassy, there is a law enforcement country team that does include USAID, and I know that under the Merida Initiative, there is that coordination. Most of the training that DEA is directly involved in involves our vetted units that we work with in Mexico. That portion of the training is not really closely affiliated with the USAID effort. They tend to be focused on the judicial reform piece with the judges, prosecutors, and the institutions that they represent, sir.

Senator FEINGOLD. Could you also comment on the State Department's Merida Initiative? Which aspects of this initiative have been the most effective and where is there some room for improvement?

Mr. PLACIDO. Well, I think as Senator Feinstein mentioned, there certainly is a delay in some of the big-ticket items, like helicopters

and vessels and planes that are—frankly, they require a protracted process for approval here in the United States, and then once they are approved in terms of an exchange, these are not the kinds of items that are sitting on the shelf and they purchase one and send it down. So there has been a lag in the delivery of some of the big-ticket items that will be important in helping the Mexican Government facilitate its important work.

I think the area that we have been most successful in, frankly, has been in the soft side, exchanging intelligence information and collaborating with one another to identify key vulnerabilities in this trade and to immobilize the command-and-control elements of the organizations that foment so much of this violence.

Senator FEINGOLD. Thank you.

Thank you, Mr. Chairman.

Chairman DURBIN. Senator Specter.

Senator SPECTER. The facts about what is going on in Mexico are staggering, posing an enormous threat to the United States. When we listen to the testimony and follow the press, we see that it is anarchy down there. When you have a police chief in Juárez who is forced out of office because they are killing his deputies, how much closer can you come to total breakdown of law and order?

When you see how much drugs are coming into this country from Mexico, threatening our young people and older people alike, I think we just have to do a lot more about it. And the agencies here have an enormous responsibility, which is not being fulfilled. If your resources are insufficient, you ought to be raising hell and bringing those demands to this Committee.

I have made two trips to Mexico, in August of 2005 and also in August of 2008. I had been there before, but I went especially to talk to the narcotics officials. And they emphasized to me that the United States is a major cause of the problem on smuggling, weapons smuggling. And that is something that is our responsibility that we ought to do something about.

The kind of funds which have been allocated to Mexico are small compared to what we spend in other places, looking at $400 million last year. Looking at what was done in Colombia, the United States had an investment of something like $4.5 billion. Colombia had a problem, which was awful, but I do not think any worse than Mexico. The drug cartels shot up the Supreme Court in the early 1980's. When I traveled to Colombia, I would go in in the morning and leave before sunset, because U.S. citizens were being kidnapped. A million dollars was a cheap price tag. So there is really a great deal more that needs to be done.

We are going to have the confirmation hearing of the new so-called drug czar, the Seattle Chief of Police, Gil Kerlikowske, and that will give this Committee an opportunity to really dig in and do something more. I hear people planning trips to Mexico, American citizens, and am wondering if they really ought to go.

Governor Goddard, how serious is the problem for your citizens in a neighboring State?

Mr. GODDARD. Mr. Chairman, Senator Specter, I appreciate the promotion; I am the Attorney General. But my thanks, sir.

Senator SPECTER. Attorney General. You are just one step away.

[Laughter.]

Mr. GODDARD. Aspiring perhaps, but not there.

Senator SPECTER. I may have understated the case by not calling you "Senator," or maybe that would have been less complimentary than "Governor." It is kind of hard to figure that out.

Mr. GODDARD. It would have been highly complementary, Senator. But we are facing a very serious issue. One of our universities basically for spring break said that they did not advise their students to go into Mexico.

Senator SPECTER. How much are your citizens threatened, if at all, by what is going on in Mexico?

Mr. GODDARD. Mr. Chairman, Senator Specter, I believe they are increasingly threatened. Right now, the kind of——

Senator SPECTER. Never mind "increasingly." Are they threatened?

Mr. GODDARD. Yes, sir, through kidnappings, through violent confrontations between drug dealers and human smugglers. Yes, we are threatened.

Senator SPECTER. Let me turn to Mr. Hoover and Mr. Placido and Mr. Kibble. You men have direct responsibilities on the smuggling issue. What kind of resources do you need to stop the smuggling? We talk about illegal immigrants coming in from Mexico. It is a lot more serious if illegal weapons are going into Mexico.

Well, my time is up, and I am not going to exceed it. But I would like an answer in writing from each of you, or maybe from your Directors, as to what you need to solve the smuggling problem. My conversations with the Mexican officials tell me that they think that weopons smuggling is a tremendous part of the problem. They would also like to see us cut down on our demand side so that it would not encourage people to smuggle drugs into the United States. But on the gun smuggling, that is right at our doorstep.

That concludes my questioning.

Chairman DURBIN. Thank you.

Senator Klobuchar.

**STATEMENT OF HON. AMY KLOBUCHAR, A U.S. SENATOR FROM THE STATE OF MINNESOTA**

Senator KLOBUCHAR. Thank you very much, Senator Durbin, for holding this hearing. I also wanted to thank my colleague Senator Kaufman for allowing me to go next.

I want to thank you for all the good work you are doing. I am a former prosecutor. I know how difficult this can be. And I wanted to also say, as Senator Feingold mentioned, we are seeing this in the Midwest as well. We have just seen in Minnesota just last month Federal law enforcement officials arrested 27 individuals in Minneapolis and St. Paul with ties to Mexico's powerful Sinaloa cartel. So this is not just in Arizona, as bad as it is. It is across the United States.

One of the things that I have been reading about, Mr. Placido, is just that there are reports that these major cartels that used to be fighting each other are now potentially joining forces in alliance, which makes it even harder to take them on. Is there any truth to that?

Mr. PLACIDO. Well, thank you for the question. We have heard at various times over the last 2 years discussions about alliances

and partnerships among and between rival cartels. They have never held and they have fallen apart in the past, and what we see is you could actually group the violence in Mexico into three broad categories: intra-cartel violence, where members of the same criminal enterprise are fighting one another, and we see a great deal of that within the Sinaloa cartel as Beltran Leyva has broken away from "El Chapo" Guzman, and Guzman and Ismael Zambada Garcia; we see inter-cartel violence where rival cartels fight each other; and violence between the cartels and the government itself.

One of the things that we have been very pleased about is in our discussions with the Government of Mexico. They appreciate the fact that it is necessary to systematically attack all of the cartels at the same time so that we do not have the unintended consequence of creating a super cartel that does not have to compete with others. We think that that is going to be an important milestone as we advance on the Merida Initiative to make sure that the power and influence of these criminal organizations are decreased at similar levels. So far, we see that happening.

Senator KLOBUCHAR. OK. Very good. Also, we have had some discussions about the corruption and what that means, and I believe, if we are really going to make this work and help President Calderón, who has taken such admirable steps, that we need to have a strong judicial system in Mexico that is not corrupt.

Attorney General Goddard, do you want to comment on how we are going to get there and any ideas you have for that?

Mr. GODDARD. Thank you, Mr. Chairman, Senator Klobuchar. I am pleased to do that because our group of Western Attorneys General is part of, a very small part down at the bottom of the Merida Initiative, trying to provide some training to the Mexican state officials who are changing the way they do criminal justice. They are going to a confrontation style much more similar to ours in terms of courtroom procedure. And I think that is a very exciting change and will have a much greater——

Senator KLOBUCHAR. What did they have before if they did not have—maybe I am just too used to confrontation style.

Mr. GODDARD. They do not have jury trials. They have criminal trials based before a judge, without witnesses, entirely based on sworn deposition testimony. So it is a paper trial, and, unfortunately, that I believe has had—I do not want to be critical of a different system of jurisdiction, but, nonetheless, it has tended to be nontransparent, it has tended to be fairly slow to convict some of the criminals that come before the bar. And I think the change is something that would be very positive.

There also have been some very significant efforts to help, let us say, professionalize the police force throughout Mexico. Literally thousands of officers have been discharged because of their connections with the drug cartels. And I think, as has been said by many of the panelists here, the efforts by the Calderón administration to basically fight on every front against the threat that they are facing is extraordinary and commendable.

Senator KLOBUCHAR. So, in other words, when they do it just on paper, it could lend itself to more corruption because it is not transparent, there are not hearings in public?

Mr. GODDARD. Senator, that is certainly my belief.

Senator KLOBUCHAR. OK. Very good. And the last question just quickly, the banking. You raised that, Attorney General Goddard. To get to the proceeds, to get to the money, which you all talked about, we are going to have to be able to follow those monies. As we used to say in our office, "Follow the money and you find the bad guys." So could you talk about how that cooperation is going?

Mr. GODDARD. In light of the discussion, Senator, it could be certainly better. For a long time, we have been the only agency—Federal, State, or local—that has done the money transfer prosecutions in connection with human smuggling.

Now, the drug transfers are very different, and they largely involve bulk cash. Human smuggling involves electronic transfer. And as I said in my testimony, we could use a lot of help in terms of interagency coordination, in terms of interstate coordination. We definitely believe all the border States ought to be involved in both Mexico and the United States. And locating the money transmitters—we believe we know where they are, just based on the data. But our data now is 3 years old. Nothing from the wire transmitters has come into our hands since then. We have gotten pretty good at being able to identify those particular transmitting agents who are corrupt.

Senator KLOBUCHAR. OK. Thank you very much.

Mr. KIBBLE. I would——

Chairman DURBIN. Thank you very much—oh, I am sorry. Go ahead.

Mr. KIBBLE. I would just add that, speaking more broadly about money laundering, and bilateral money-laundering efforts in particular, the collaboration has never been better with the Mexicans, whether it be bulk cash smuggling, whether it be trade-based money laundering, such as a black market peso exchange. We have run parallel electronic intercept operations, and we exchange information real time. It has never been better.

Senator KLOBUCHAR. Thank you very much.

Chairman DURBIN. Before recognizing Senator Sessions, Senator Feinstein has asked for our indulgence to clarify the record.

Senator FEINSTEIN. If I may, on the funding of Merida, as I understand it, the first funding of Merida was in last year's emergency supplemental. The omnibus that we just passed added $300 million of funding. I think you are correct, Mr. Placido, that it is the big equipment, it is the helicopters and the surveillance equipment which they need, and need long before 2011, when they are slated to get it.

Thank you very much, Mr. Chairman.

Chairman DURBIN. Senator Sessions.

Senator SESSIONS. Thank you.

On the question of guns, isn't it true, Mr. Hoover, that most of the gun dealers operating illegally, you do undercover operations and other things if you think they are illegal, and their guns can be bought or stolen, and those tend to be the guns that are probably shipped into Mexico? It is not like there are one or two gun dealers selling guns by the hundreds to bad people, is it?

Mr. HOOVER. If we uncover FFLs doing that, we would revoke them and prosecute them. I can tell you that ATF in calendar year 2008 conducted over 11,000 inspections of Federal firearms licens-

ees and found that less than 1 percent needed to have their licenses——

Senator SESSIONS. Well, yes, and it is just—we have got a constitutional right to keep and bear arms, and Mexico does not. And so it is really not an answer to this problem that the United States is going to stop providing its citizens with guns. That is just not going to happen.

Can a non-citizen buy a gun in the United States?

Mr. HOOVER. Under certain circumstances, yes, sir. An alien can purchase a firearm with proper identification. He can have a——

Senator SESSIONS. What about if they are illegally here?

Mr. HOOVER. No, sir, not illegally.

Senator SESSIONS. So if a person is using false identification or something, that is a Federal crime?

Mr. HOOVER. That is, sir.

Senator SESSIONS. Wouldn't that be a good way to help Mexico, identify people who are here illegally, that are buying guns and are receiving and transporting them illegally?

Mr. HOOVER. Absolutely.

Senator SESSIONS. That would be a Federal offense already. Well, I think we could look for other things we could do to help, but to me, that is not the problem. We have got a lot of guns on our side of the fence, and people can go and buy them whenever they want to. But we do not have the murder rate that Mexico now has. The problem with the murder rate in Mexico, I think, as some of you have indicated, is the President is stepping up; he is taking on these cartels. It is causing violence, and if he will see this through, like President Uribe has done in Colombia, I believe he is going to be successful. And he needs to be successful not for the United States but for the people of Mexico. He cannot allow organized criminal elements to use violence, intimidation, and murder to operate in his country and be a safe, decent place that the good people of Mexico would like it to be. So I respect what he is doing. I appreciate that.

I would note that we had dramatic decreases in violence along the area of the border in San Diego where a fence was placed. We still have not completed all the fencing. I see recently in the Arizona Star Sunday, Border Patrol Station Chief Alan White said, "These fences are absolutely necessary. I can't look you in the eye and tell you I am doing a good job without these barriers." So I think we need to complete what the Congress has passed, and I hope this administration will do so.

Now, let me get to the thing I would like to say. It strikes me as a prosecutor—and Attorney General Goddard is—you talk about the joint operations that have been successful. That is my idea of what works. It seems to me—Mr. Placido, you are an intel guy. It seems to me that these organizations in Mexico have tentacles that reach all into the United States, and it is those tentacles that collect the money and funnel it back that builds their power. Is that correct, fundamentally?

Mr. PLACIDO. Yes, sir.

Senator SESSIONS. And isn't one of the best ways we can help Mexico is to identify through intelligence, through task forces, and that sort of thing, and target these organizations that are collecting

the money in the United States and prosecute them aggressively? Wouldn't that be a very good way to weaken the cartels in Mexico?

Mr. PLACIDO. It is, and it is, in fact, what we are doing, sir. If you look at Operation Accelerator that recently came down, a joint Interagency-OCDETF investigation led by DEA results in over 750 arrests of people, predominantly in the United States, affiliated with the Sinaloa cartel. Prior to that, Project Reckoning that targeted the Gulf cartel in Mexico resulted in similar numbers of arrests, as well as seizures in aggregate between both operations of over $130 million in cash that fuels that violence. So, yes, sir, we agree.

Senator SESSIONS. So that is a continual flow of American wealth that strengthened these illegal cartels.

Mr. Attorney General, what do you think about that? You see it from a border State's perspective, and you talked about some of these effective joints operations.

Mr. GODDARD. Thank you, Mr. Chairman, Senator Sessions. The only way we have been successful has been through joint operations with local police forces and sheriffs and through the Federal agencies that are here at this table and a number of others—Border Patrol, FBI, Park Service. There is truly an extraordinary number of different Federal resources that are necessary to deal with this problem.

I would simply point out that the cartels are dealing in four things for sure: human beings, drugs, arms, and cash. And here at the table we have different agencies that deal with arms, that deal with drugs, that deal with human beings. Somewhere else the cash people, I suppose, are sequestered. The only way we are going to be successful is to truly mount a comprehensive attack upon the cartels. They are doing a comprehensive attack on us through all four of these different criminal activities.

I am afraid in this country we tend to segregate by specialty the various areas that we are going to prosecute, and our experience on the border is we cannot do that. We have got to cross the jurisdictional lines, or we are going to fail.

Senator SESSIONS. That I could not agree more, Mr. Chairman. Thank you, Attorney General.

Chairman DURBIN. Thank you, Senator Sessions.

Senator Kaufman.

Senator KAUFMAN. Thank you, Mr. Chairman, and thank you Co-Chairman Senator Feinstein. I think this is a great idea. Clearly, the hearing already has helped me understand what has gone on, and I think that this Subcommittee on Crime and Drugs has a very ambitious schedule, and I think it will be a good one. And I am look forward to participating.

Attorney General Goddard, I think you are quite compelling on wire transfers. What could this Committee do, what could the Congress do, what could the Federal Government do to help you as an Attorney General deal with these problems or make it easier for you to catch these folks?

Mr. GODDARD. Thank you, Mr. Chairman, Senator Kaufman. I think the first thing is data. We need to know the volume. We can discriminate within the billions of dollars of wire transfers back and forth across the border those that are most characteristic of

criminal activity. But we have to have the data first, and that is what we have had, comprehensive and systematic efforts to avoid providing that information.

I think it is going to take a certain amount of Federal authority to make sure that it happens. I think we have to change some of the definitions. We have talked about stored value cards. It is a huge loophole that I think is already blowing a hole in our money-laundering prevention ability, and we need to step up that. And we have, I think, too high a threshold for individual daily amounts of financial transactions, especially by electronic transfer, that result in a reported incident. It is $10,000 today. I am not going to get in the way of the legislators in terms of where it should be, but I would submit it should be much lower than it is today.

Senator KAUFMAN. Thank you.

Representatives of the Federal agencies, I do not know how you do this. I mean, with corruption as rampant as it is in Mexico in the law enforcement community—at least, that is my understanding—does the local law enforcement, even President Calderón, have the ability to investigate and catch drug cartels with the amazing of corruption that is going on? Mr. Placido?

Mr. PLACIDO. Yes, sir. Thank you for the question, Senator. Again, as someone who has followed Mexico closely, I have to tell you, I have been deeply impressed with the level of commitment to not only fighting the cartels, but to cleaning up corruption in Mexico by this administration. I think it was mentioned here earlier by the Chairman, but effectively the deputy attorney General of PGR of Mexico's attorney general office, was arrested and is being prosecuted in Mexico. That is not at the insistence of the U.S. Government. That is because the government in Mexico, President Calderón, is committed to cleaning it up.

I do not want to minimize how difficult it will be. He has a large challenge in front of him. But we see them absolutely committed, and they have been collaborating not only with DEA but with the U.S. Department of Justice on a project that I guess translates to "Operation Clean-up" to comprehensively address corruption, not only in the attorney general's office but in the secretariat of public security and in the military, and they have arrested senior-level officials in all three of those organizations.

Their commitment, in my view, is absolutely unparalleled in the time that I have been watching this situation.

Senator KAUFMAN. Mr. Kibble and Mr. Hoover, is that pretty much your feeling?

Mr. Placido, I understand there is an effort in this line to create kind of a national police force with even kind of an anti-drug division similar to DEA. What do you think? Is this something that is realistic? Can it work? How do you feel about it?

Mr. PLACIDO. Senator, in the past in Mexico, there have been any number of attempts to reorganize changing the names and the identities of the organizations involved. And while it may, in fact, be beneficial for them to create the so-called Cuerpo Policia Federal, or the Federal Police force, that will not be the solution. The solution is what they are doing right now, the hard work of eliminating corruption and building organizations that are credible and competent. And may I say, there are in those organizations today

many courageous and heroic people who are laboring at great personal risk to help Mexico and, by extension, help the United States.

Senator KAUFMAN. Thank you.

Mr. Hoover, just to kind of clarify the record, are guns being shipped from the United States into Mexico part of the problem?

Mr. HOOVER. Shipped into Mexico, they would be trafficked illegally, yes, sir, that would definitely be part of the problem.

Senator KAUFMAN. I just want to make sure that we all understand. This is a key part of the problem, guns that come from the United States into Mexico.

Mr. HOOVER. Yes, sir. As indicated previously by both Senator Durbin and Senator Feinstein, 90 percent of the weapons that we traced that the Mexicans recover are source state here in the United States.

Senator KAUFMAN. Thank you.

Thank you, Mr. Chairman.

Chairman DURBIN. Thank you, Senator Kaufman.

Senator Wyden.

Senator WYDEN. Thank you, Mr. Chairman. I want to commend you, Mr. Chairman, and also Senator Feinstein. I know both of you have a longstanding interest in this, and I think it is an extremely important hearing, and I want to commend my colleagues for getting into it.

Attorney General Goddard, a question for you, and I am going to spare, I think, you other three, at least from my initial round, because the Attorney General has been working in an area that Oregon law enforcement officials are particularly interested in, and that is, this matter of Article 4 prosecutions.

Article 4 prosecutions allow U.S. authorities to pursue Mexican nationals who have committed a crime—a crime in Oregon or California or Illinois—and then flee to Mexico. And in our State, law enforcement officials are dealing with a case exactly like this right now.

There has been an allegation of a double murder. The accused is a Mexican national who was charged with killing his cousin and niece in January in Polk County and has fled to Mexico. And Oregon law enforcement officials would like to see this individual prosecuted.

So could you tell us your experience, Attorney General Goddard, with Article 4 prosecutions?

Mr. GODDARD. Thank you, Mr. Chairman, Senator Wyden. I certainly would be happy to. I believe Article 4 is one of the important tools in the arsenal. In Arizona, we have used the process on many occasions while I have been Attorney General, and it goes back way before then.

It is complicated, and it requires a certain amount of specialized knowledge. We have in Arizona specialized prosecutors and investigators who understand the process that is required by Article 4. It is very different from our method of criminal trial. But it does provide the opportunity in the case that you have given—and we have several similar in Arizona—where we know who the suspect is, to be able to bring it to the attention of the Mexican authorities and have them tried and, if convicted, serve their sentence in Mexico.

Senator WYDEN. Let us talk about ways to make it simpler, because I think you have put your finger on it, that this is a useful tool, but at present it is just too complicated as it is presently constituted.

Would it be helpful, in your judgment, to have the Justice Department, the U.S. Justice Department, involved in these cases? The Justice Department, as the program is now set up, is not involved.

Mr. GODDARD. Mr. Chairman, Senator Wyden, I am cautious of that. As a State Attorney General, we like to do things ourselves. But you put your finger on an important disparity. Article 4s are handled by the Justice Department in Mexico, by the PGR. And so we have sort of the anomalous situation of States dealing with a Federal agency. I think it has worked pretty well, but it probably could be improved, both in terms of understanding of the process and making it simply more available to prosecutors throughout our country.

Senator WYDEN. Because my sense is, talking to local law enforcement officials, they certainly do not want the Federal Government to come on in and dictate to them various things with respect to these prosecutions. But they do like the idea of some help with coordinating the way these cases are brought. There may be instances where some training and specialized assistance is necessary. I gather that those kinds of things you would see as useful.

Mr. GODDARD. Mr. Chairman, Senator Wyden, absolutely. I think anything that could raise the bar in this kind of joint prosecution effort and in the new area that we are just beginning to look at now, which is using Article 4 not just where we have a carefully identified suspect, which is the way it is done today, but to actually collaborate with Mexican authorities in the investigation of crime so that when we have a suspect but we do not know who they are, we could open an investigative file on both sides of the border using Article 4, and thereby I think significantly increase our ability to cross the border with law enforcement efforts.

Senator WYDEN. So if you are me, and you are drafting legislation because your local law enforcement officials want to get more mileage out of Article 4, what else would you consider putting in other than the issues we are talking about with respect to the Justice Department?

Mr. GODDARD. Mr. Chairman, Senator Wyden, I would be happy to work on that with some of our Article 4 folks in Arizona. I believe training, funding, and the enhancement of investigations jointly on both sides of the border are tremendously helpful. Certainly, Justice Department active involvement could be very helpful in coordinating what right now is an extremely diverse and, I would say, fractured effort to——

Senator WYDEN. We will follow up with you, and just so I am clear, this is something that you consider a useful tool, you would like to make more use of it in the future. Looking at ways to make it simpler and to expedite it would be helpful, I——

Mr. GODDARD. Senator, absolutely.

Senator WYDEN. OK. Thank you, Mr. Chairman. Then Senator Feinstein.

Chairman DURBIN. Thank you, Senator Wyden.

I want to thank the entire panel and just note for the record that we had ten members of this Committee come to ask questions, which is extraordinary for a Subcommittee meeting and I think reflects the gravity of the issue that we are considering. Thanks to each of you for your testimony.

I would like to thank the Attorney General of Arizona especially for coming. I think you have really issued a challenge to this Committee. We acknowledge your statement that we are dealing with the organized criminal threat from these Mexican drug cartels in the United States today, and this will not be the last of the hearings on the subject. There will be more, and I am going to invite Senator Feinstein, as often as she would like to, to participate with members of her panel as well.

My frustration from time to time with these Subcommittee hearings, for those who are watching, those who are testifying, is you wonder: Now what is going to happen? What is next? I think you have given us three practical, specific ideas that we are going to look into. There may be more ideas that have come out of this testimony. But certainly one would be to expand the High Intensity Drug Trafficking Areas to include weapons and human trafficking; second, to lower the $10,000 reporting threshold for these fund transfers; and third, to expand our efforts when it comes to stored value cards so that they can be read by law enforcement and we can appreciate how much money is being transferred at any given time. Those are three issues that I wrote down quickly. As we review the record, there may be more, but we would like to work with you on that.

The last point I would like to make is that you mentioned Western Union in both your written and oral testimony. When we read that yesterday, we contacted Western Union and asked them if they would like to submit a written statement for the record. They may do that, and if so, I will send it to you for your reply as well so that the record is complete.

To the other members of the panel, thank you as well. There could be written questions coming your way. We certainly appreciate your being here today.

Thank you.

Chairman DURBIN. We are now going to move to the second panel of witnesses and complete the hearing. As these witnesses are taking their place at the witness table, I am going to give you a brief bio for each in the interest of saving some time.

Our first witness will be Professor Denise Dresser, who has been a professor of Political Science at the Instituto Tecnológico Autónomo de México since 1991. She is a contributing editor at the Los Angeles Times, writes a political column for the Mexican newspaper Reforma and the news weekly Proceso. I hope I pronounced that correctly. Professor Dresser is the author of numerous publications on Mexican politics and on U.S.-Mexico relations. She has taught at the highly regarded Georgetown University and the University of California at Berkeley. She has a doctoral degree in politics from Princeton University and a bachelor's degree from El Colegio de México. Professor Dresser, thank you for traveling so far to join us today.

We also have as a witness Jorge Luis Aguirre, Founder and Director of LaPolaka.com, the most popular electronic newspaper in the State of Chihuahua. Mr. Aguirre was born in the State of Chihuahua in Mexico and has worked as a journalist for three decades, has a law degree from Universidad Autónoma de Ciudad Juárez. I majored in French. Mr. Aguirre was forced to flee from Juárez late last year because of his work as a journalist, and he is currently living in hiding in El Paso. The topic of today's hearing has affected his life personally in a way that most of us can only imagine.

I would ask the witnesses if they would not mind standing to accept the oath before their testimony, so if you would not mind, both please stand. Do you affirm that the testimony you are about to give will be the truth, the whole truth, and nothing but the truth, so help you God?

Ms. DRESSER. I do.

Mr. AGUIRRE. I do.

Chairman DURBIN. Let the record reflect that both witnesses have answered in the affirmative.

Professor Dresser, your written statement will be part of the record, and now if would give us your oral statement, please.

**STATEMENT OF DENISE EUGENIA DRESSER GUERRA, PROFESSOR, DEPARTMENT OF POLITICAL SCIENCE, INSTITUTO TECNOLOGICO AUTONOMO DE MEXICO, MEXICO CITY, MEXICO**

Ms. DRESSER. Thank you. Chairman Durbin, honorable members of the Committee, I welcome the opportunity to speak about Mexico's efforts to combat drug trafficking and organized crime.

As has been said earlier today, at the helm of an increasingly visible and active army, President Felipe Calderón has declared a war against drug trafficking and the organized crime networks it has spawned. Given the increasingly lawless conditions of the country he inherited, Calderon had little choice but to act, and he is to be commended for doing so, because my home has become a place where too many people die, gunned down by a drug trafficker or assaulted by a robber or shot by an ill-trained police officer or kidnapped or strangled by a member of a criminal gang.

Now, dealing with this problem that Calderon took on has not been easy, because the surge of drug trafficking in Mexico reflects a painful paradox. The government's drug efforts are undermined by the corrupting influence of the drug trade, yet the drug trade cannot survive without the protection of compromised elements within the government itself. As a result, it frequently becomes difficult to distinguish those charged with smuggling from the smugglers themselves. Mexico is a place where, if you are the victim of a crime, the last person you call is a police officer.

In the face of police corruption, Calderon has turned to the military to take on the anti-drug effort, but the bringing of soldiers out of the barracks and moving them around the country at will is also a cause for concern. Given its expanded role, the military is becoming the supreme authority, in some cases the only authority, in parts of some states, and great militarization is also leading to cor-

ruption within an institution that has turned into the last credible beachhead in Mexico's longstanding battle.

What we have seen is that over the past decade, Mexico's transition to democracy has cast a glaring light on our precarious, uneven, and limited rule of law. Cases of official corruption abound, and the credibility of public institutions has suffered when those proven guilty have eluded punishment. As a result, impunity runs rampant. Imagine living in a country where 75 percent of crimes are never reported due to lack of trust in the authorities and where 98 percent of crimes are never resolved or punished.

So while President Calderon's efforts are to be applauded, they must also be accompanied by comprehensive efforts that entail more than soldiers on the streets. The prospects for a more stable, less insecure Mexico will be contingent on the government's capacity to enact a major overhaul of the judiciary and law enforcement apparatus. It will be dependent on the government's political will to confront corruption at the highest levels of the political system—something the President has been reluctant to do. Otherwise, it will not matter how many troops are trained, how many weapons are shipped, and how many helicopters are bought.

Colombia has spent over $5 billion in U.S. aid with mixed results, more security but no end to the drug production. So the lesson is clear: One of the main objectives of the war that the Mexican Government is fighting should not only be the destruction of the drug cartels, but also the construction of the rule of law in Mexico.

I would urge you to face what has undoubtedly become a shared bilateral challenge with honesty, realism, and determination, and that would entail a recognition of U.S. responsibilities, an understanding of what the U.S. has done and failed to do vis-a-vis Mexico.

As has been said, Mexican drug traffickers buy arms that the U.S. sells. Over 2,000 weapons cross the border on a daily basis, and many of them are sold in an illegal fashion. Mexican drug traffickers provide cocaine that U.S. users demand. Over 35 million American citizens are drug users. Mexican drug traffickers have been able to set up distribution networks across over 200 U.S. cities because very little has been done to stop them.

So, in the face of an increasingly dire situation, the U.S. can help by providing more anti-narcotics operations within its own borders of the sort announced by Attorney General Eric Holder several weeks ago. The U.S. can help, as has been suggested here by Terry Goddard, on clamping down on money laundering and financial flows that have enabled people like Mexican drug trafficker Joaquin Guzman to amass a billion dollar fortune and enter the Forbes list. The U.S. can help by addressing the demand for drugs in its own cities, and President Obama's recent remarks in this regard are most welcome.

The U.S. can help by cooperating more and not less on security matters, and in this regard, it is worrisome that the funds channeled to the Merida Initiative were reduced recently.

Finally, I think the U.S. Government and its people need to understand that this war cannot be waged effectively if the demand for drugs here is not stymied. To believe that it can be won without dealing with drug consumption and demand-driven forces in the

U.S. is to believe that one can stop an earthquake or a hurricane. For every drug trafficker that is caught, another one will emerge in his place. Indeed, Mexico is paying a very high price for our inability—and I think we recognize this—to construct a prosperous, dynamic, inclusive, lawful country in which citizens are not propelled into illicit activities in order to survive and criminals are not protected by the government itself. But we are also paying a very high price for American voracity. Ours is a shared problem that will require shared solutions. Ours is a joint struggle that will demand, if not the audacity of hope, at least the audacity of understanding that the time has come to make the neighborhood, our neighborhood, safe again.

Thank you very much.

[The prepared statement of Ms. Dresser appears as a submission for the record.]

Chairman DURBIN. Thank you, Professor Dresser.

Mr. Aguirre, I understand you are going to rely on an interpreter, and we invite you now to submit your oral testimony.

**STATEMENT OF JORGE LUIS AGUIRRE, JOURNALIST, EL PASO, TEXAS**

Mr. AGUIRRE. [In English.] Chairman Durbin and Chairman Feinstein, members of the Subcommittee, and members of the Caucus, I thank you for inviting me to testify firsthand about some of the suffering and death that people who live along the border between the State of Chihuahua and Texas face on a daily basis.

It must be difficult for you to get an inside view of the belly of the beast from here and to understand the devastating corruption that devours Ciudad Juárez, where violence has erased all authority and government from the map and replaced it with a dictatorship of the crime underworld.

Starting a few months back, the government of Chihuahua allowed the state to be converted into an instrument of organized crime. Press freedom is threatened by a terrifying dilemma: "Plata o Plomo," meaning accept a bribe or face a bullet!

I am exiled from my country and staying in El Paso with my wife and three children legally on a temporary visa because of this violence. Thanks to God and the hospitality of this blessed country, which really cannot be underestimated, I am still alive.

The story of my exile began on November 13, 2008, when Armando Rodriguez, a friend and journalist at El Diario, was shot dead outside his home. That night, when I was driving to Armando's wake in my pickup truck, my cell phone rang. I was at a busy intersection and waiting for the light to turn green, so I took the call.

Recalling the conversation still scares me:

"Jorge Luis Aguirre?" asked a man with an eerie voice.

"Yes?" I said.

"You're next, son of a [expletive deleted]!" yelled the man.

I almost went into a state of shock. I didn't know if it was sweat or a cold chill that was running through my body. I thought I was going to be riddled with bullets right there.

I looked all around, expecting to see rifles pointing at my head, but didn't see anything. The cars started moving and I accelerated

too, turning around to head back home. On the way, I called my wife and, without giving her any details because I didn't want her to worry, I asked her to pick me up on a quiet road where I would be waiting on foot. I told her to bring our sons as well. That night, we crossed the border in my wife's car and thankfully saved our lives.

Weeks later, I confirmed the source of the threats. Victor Valencia, a representative of the Governor of the State of Chihuahua, had sent people to warn me to "tone down" my criticisms of the Prosecutor, Patricia Gonzalez—I mean Chihuahua's Attorney General—because if I didn't, he was going to kill me, using the Juárez drug cartels' preferred method of kidnapping followed by execution.

In early December, Victor Valencia called and threatened the woman who had passed along his messages before. She is a U.S. citizen and lives in El Paso. Valencia told her that Patricia Gonzalez was very upset with me, and that she was going to come after her and me in El Paso to kidnap us and murder us in Juárez.

For obvious reasons, my return to Juárez would be a death sentence. I would likely face fire from AK–47s upon crossing the border into Mexico.

I am sure you are wondering what has happened in Juárez since I received these threats. Nothing. In Mexico, it is an aggravated crime to investigate serious political offenses. Those who try to investigate them can lose their jobs or even be executed.

Impunity rules. There has been no order or government for many years now. In the desert, innocent people—women, men, teenagers, and children—die, sometimes buried alive.

Today, I live in exile in a foreign country in order to avoid being murdered for my work as a journalist. I left my office, my house, my friends, and several years of my life dedicated to work. In contrast, those who persecuted me are still in their government positions, using public money to try to attain their objectives of becoming a representative, mayor of Juárez, or Governor of Chihuahua.

On a daily basis, ordinary citizens in Juárez are condemned to die, to be kidnapped, to be assaulted, to suffer extortion, or to be exiled at any moment. Who can help them if they are persecuted and threatened? Criminals, police, and politicians are often one and the same. People are more afraid of the police than of the drug cartels.

The press has been silenced both by force and through self-censorship. My exile is a taboo subject in Chihuahua. It is not mentioned by legislators, political parties, ombudsmen, or the press.

The violence in Juárez crossed the border into the United States a long time ago. For this reason, I continue to live in hiding in El Paso. Every day, I pray with my wife because God has kept me alive.

Sometimes, I look at the mountains of Juárez and dream, like many people, of a city that is no longer a paradise for drug cartels, but a safe and dignified place where I can live with my family.

God bless America, God bless Mexico, and God bless Ciudad Juárez! Thank you.

[The prepared statement of Mr. Aguirre appears as a submission for the record.]

Chairman DURBIN. Mr. Aguirre, thank you very much. It took a lot of courage for you to come here today, and we appreciate it. Your heartfelt testimony puts a human face on numbers and policies, and I thank you for your courage in being here today.

We have had a lot of discussion here today about the drugs and the demand for drugs in the United States. I thought Attorney General Goddard was honest and candid with us about that issue. We talked about the cash. I want to speak about the guns for a moment.

I would like to ask each of you, What does the average Mexican think about the role of the United States in supplying all these guns to the drug cartels? Do they believe that the United States is doing everything that it can to try to lessen this traffic in weapons that is headed into Mexico, giving these drug cartels an arsenal of modern weapons, many of them military weapons, that they can use to terrorize the people, the innocent people, like Mr. Aguirre and others? Professor Dresser?

Ms. DRESSER. I think that if you asked any Mexican today about the role of the U.S. in multiple regards, not only the weapons, the response would be, "You are not doing enough." We are waging a war that is demand driven. We are waging a war that we are paying a very high price for. And yet, over the past years, there seems to have been very little effort in terms of curbing demand, stopping the flow of drugs across the border, dealing with money laundering and so on.

Too frequently, all the blame is placed on Mexico, and it is clear that drug trafficking has built upon a country with weak institutions and an infiltrated state. But at the same time, there is a perception that we would not be waging this war were you not one of the largest consumers of drugs in the world.

So I think there is a perception today of a need for the U.S. to understand its own responsibilities and own up to them. I think Mexicans feel that at every hearing they are deservedly bashed in some areas, but that too much blame is placed on Mexico's shoulders in the context of a country that has many less resources to deal with this issue than you do in terms of intelligence, courts, law enforcement, that Mexico is struggling to keep up with this tidal wave, but that not enough is being done north of the border.

Chairman DURBIN. Mr. Aguirre, I would like to ask you the same question. Since you have been a victim of this violence and these threats, how do people in Juárez and the people that you speak to in Mexico view the role of the United States in this whole troubled time, whether it is the demand for drugs, the money that is flowing back into Mexico, or the weapons flowing into Mexico, or the coyotes bringing people illegally into the United States? How do the Mexican people view our Nation in this context?

Mr. AGUIRRE. Excuse my English. I would like to——

Chairman DURBIN. No, that is fine. We will rely on your——

Mr. AGUIRRE.—speak in Spanish.

Chairman DURBIN. That is fine.

The Interpreter. He says that Mexico needs a lot of support from the U.S., and people think that it is not enough at the moment. And in the State of Chihuahua, there is not an actual government. The government of the State of Chihuahua is not actually gov-

erning what is going on. And the actions that are taken by Felipe Calderón, the President of the nation, are having a huge impact in the state, but people want the U.S. to take care that it does not get corrupted as well, because usually what happens in these kind of situations in Mexico is that one comes and takes off the other, but then gets corrupted and does the same. So people want the U.S. to take care that it does not happen with the army the same that is going on with the local law enforcement.

And also that the politicians are so corrupted and so—and are the same as the cartels, and people wish the politicians to be punished as well.

Chairman DURBIN. Thank you.

Senator Feinstein?

Chairman FEINSTEIN. I would like to thank you both very much for testifying.

Mr. Aguirre, you are a very brave man, and I thank you for that. And you have made a friend in me, and anything I can do to help you, I certainly will. And I think I could say that for the other members of this Committee, the members that are here right now and those that are not.

I have read about you in the newspapers and am just very pleased to know that there are people like you in the world. So be strong.

Mr. AGUIRRE. Thank you, ma'am.

Chairman FEINSTEIN. We will take some action. I think there is no question that we are at a time of real escalating conflict with the Mexican drug cartels.

Professor Dresser, you are right about the demand problem. We are the cause. We have the demand problem, and we need to pay attention to that as well.

It becomes very difficult because the only proposals we are given to consider, on the one hand, legalize drugs and, on the other hand, keep going the way we are going. For a government, the legalization of narcotics, when you see what they can do to an individual and have watched the legalization in other countries, is very difficult. So we are searching for a path there.

I think the prior panel has been very helpful. Senator Durbin has pointed out, I think, some very good steps that we can take, and we will look into those and try to take them. But I would hope that you would continue to give us your thoughts and your ideas, in writing if necessary, or by phone. And, Mr. Aguirre, I would just hope that you would stay in contact with us, and any information you have to provide us we would be very happy to receive.

So thank you both very, very much.

Chairman DURBIN. Thank you, Senator Feinstein.

Senator Sessions?

## STATEMENT OF HON. JEFF SESSIONS, A U.S. SENATOR FROM THE STATE OF ALABAMA

Senator SESSIONS. Thank you very much, and I just would repeat that I am proud of Mexico and that they are beginning to confront this systemic problem. It threatens the integrity of the entire Mexican Government. People's lives are at stake.

Don't you think, Mr. Aguirre, that—well, I will ask your opinion. How do you feel about Mr. Calderón and the increased effort that they are making against the cartels? Wouldn't you agree that his life may be in danger and a lot of other people who are executing that, but they are attempting to do so and making some progress?

Mr. AGUIRRE. [Interpreted from Spanish.] I believe Calderón is the first President of Mexico who is trying to make it for our country, and I really hope that he can actually gain back the security that criminals have taken off the government—the power that criminals have taken off the government.

I believe, of course, that his life is in danger, as well as all of the people that are involved in this drug war, including us journalists that are trying to do our work honestly, and people in general that are every day threatened and killed.

I believe it is a lot of cultural thing, issue, that Mexico has to change its point of view about America and see it as an ally rather than an enemy, as well as America should see Mexico as a neighbor and an ally instead of a backyard disposal.

Senator SESSIONS. Well, thank you. I agree with that. I was active in the Mexican-American Interparliamentary for a number of years, chaired that for a while, and it got better over the years, but I think it was sort of a "Blame America" conference for a while there. And we had some really good times and learned some of the frustrations that Mexico deals with. But I think we need to get away from blame and see how we can work together to be successful in this common effort.

My personal view, having been a Federal prosecutor that prosecuted international drug-smuggling cases out of Mexico and Colombia and Haiti and all over the world, actually, and having studied the issue some, I believe the best thing we can do is to aggressively prosecute and eliminate the cartel groups that are in the United States selling the drugs and collecting the money, sending it back to fund these groups. And if they do not get guns from the United States, they will get them from their own military. They will steal them from other countries. They will buy them on the markets out there.

The problem really is not the guns. It is a part of it. But the real problem is that this group is attempting to continue an illegal operation in Mexico, and they will intimidate and kill people who try to stop them. And we need to be as helpful as we can be. We sent, I think, a billion-plus dollars now to our joint effort. I hope that that will be successful. We have a common problem, and we need to work together to solve it.

Thank you, Mr. Chairman. It is a very good panel.

Chairman DURBIN. Thank you, Senator Sessions.

Those that follow this Committee will not be surprised to know that Senator Sessions and I may see issues a little differently. And so, for the record, I would like to say guns are a problem. Guns are a serious problem. The fact that literally thousands of guns are flowing from the United States into Mexico every day is arming these drug cartels so that they can kill Mr. Aguirre's colleague and threaten his life and force his family out of the country.

Senator SESSIONS. I would just say, Mr. Chairman, just in response, there are already guns in Mexico. They can guns from

South America. They can get them from their own military. American guns are already there. We have a constitutional right in America to keep and bear arms, and we are not changing our Constitution.

Chairman DURBIN. I would just say——

Senator SESSIONS. So I just would say that the—why are people being killed at such an extraordinary rate across the border in Mexico, so much higher, hundreds of times higher than in the United States where we have guns, too?

Chairman DURBIN. May I respond?

Senator SESSIONS. Yes.

Chairman DURBIN. I recognize the right of American citizens to defend themselves, to use guns legally for sporting and hunting. That is part of America's Constitution as decided by the Supreme Court. It is part of the American experience. We are different than some other countries. That is the way we see it when it comes to firearms.

That does not allow us to aid and abet criminal conspiracies in neighboring countries by shipping thousands of firearms every day with impunity. To ignore our laws and policies makes life dangerous for people living south of the border.

We have a responsibility, and to ignore it by saying, well, if we were not irresponsible, somebody else would be irresponsible, is cold comfort to people living in a country where 6,000 people were killed last year, mainly because of American firearms and the insatiable American appetite for drugs. That is the way I feel. I disagree with the Senator from Alabama, but I wanted to put it on the record.

Senator SESSIONS. I do not think it is all our fault.

Chairman DURBIN. I never said it was.

Before I end, I would like to place in the record written statements from the following organizations and individuals: Border Network for Human Rights, Brady Campaign to Prevent Gun Violence, Conference of Western Attorneys General, International Union of Police Associations, Major County Sheriffs, Mexico Institute at the Woodrow Wilson Center, National Association of Police Organizations, National District Attorneys Association, National Narcotics Officers Association, National Sheriffs Association, Washington Office on Latin America, Houston Police Chief Harold Hurtt, and San Diego Police Chief Bill Lansdowne. Without objection, they will be included in the record.

If there are no further comments, I would like to thank those who attended. Again, Professor Dresser, thank you for your fine testimony. Mr. Aguirre, thank you for your courage in coming here today. You have given us a perspective on this issue that we could not have from anyone else.

At this point, this session will stand adjourned. Witnesses may receive written questions and will be asked to give prompt replies.

Thank you.

[Whereupon, at 1:05 p.m., the Subcommittee and the Caucus were adjourned.]

[Questions and answers and submissions for the record follow.]

QUESTIONS AND ANSWERS

**U.S. Department of Justice**

Office of Legislative Affairs

Office of the Assistant Attorney General

*Washington, D.C. 20530*

June 3, 2010

The Honorable Patrick Leahy
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

Enclosed please find responses to questions for the record arising from the appearance of William Hoover, Executive Assistant Director of the Bureau of Alcohol, Tobacco, Firearms and Explosives before the Subcommittee on Crime and Drugs and the Senate Caucus on International Narcotics Control on March 17, 2009, at a hearing entitled "Law Enforcement Responses to Mexican Drug Cartels." We apologize for the delay and hope that this information is of assistance.

Please do not hesitate to call upon us if we may be of additional assistance. The Office of Management and Budget has advised us that there is no objection to submission of this letter from the perspective of the Administration's program.

Sincerely,

Ronald Weich
Assistant Attorney General

Enclosure

cc: The Honorable Jeff Sessions
Ranking Minority Member

**Questions for the Record**
**Posed to ATF Executive Assistant Director William Hoover**
**Senate Judiciary Committee Hearing Entitled**
**"Law Enforcement Responses to Mexican Drug Cartels"**
**Hearing date: March 17, 2009**

1.) *When firearms are found in Mexico that were purchased in the United States, firearm traces are run to see from where the firearm was purchased. How many "terminals" are there in Mexico from which firearm trace data can be extracted or requested?*

Response: The Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) does not provide "terminals" nor does ATF provide direct access to its Firearms Tracing System (FTS). ATF has developed an internet-based firearms trace submission tool called eTrace. Through eTrace, approved law enforcement agencies can prepare and transmit firearm trace requests and retrieve the associated trace results. As of May 2010, there are 24 registered eTrace users in Mexico.

2.) *Who has access to these terminals? What parameters are put on firearm trace searches?*

Response: As noted above, the Government of Mexico currently has 24 registered eTrace users. In addition, nine specifically selected U.S. consulate locations in Mexico have access to eTrace. The consulate sites provide the Government of Mexico with indirect access to the eTrace service, whereby US law enforcement assigned to the consulates will conduct trace requests on behalf of Mexican law enforcement who are conducting criminal investigations. The ATF Country Attaché office in Mexico City also coordinates the receipt and entry of firearm trace requests on behalf of Mexican law enforcement agencies and ATF will occasionally receive trace requests from CENAPI which are entered via eTrace by ATF on their behalf.

3.) *Does the department have to physically take these requests from the terminal, find the information and send it back?*

Response: The eTrace application provides approved users with the ability to electronically submit a firearm trace request to ATF in a secure, real-time environment. Firearm trace request data that is submitted via eTrace is automatically uploaded into the Firearm Tracing System (FTS) database. By definition, firearms tracing is the systematic tracking of the movement of a firearm recovered by law enforcement officials from its creation by the manufacturer or its introduction into U.S. commerce by the importer through the distribution chain (wholesaler/retailer) to the first retail purchase. The tracing process itself is a manual one whereby ATF staff must independently process each request. Therefore, trace results are not instantaneously made available to the requestor. The average processing time for a routine trace request is 8.5 business days. Upon completion of each firearm trace request, the results are made available to the requesting agency via eTrace. As a result, although the process is a manual one for ATF, the eTrace user submits and receives trace information electronically.



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4.) *How is the department gatekeeping this information?*

Response: ATF only processes trace requests for authorized law enforcement agencies in connection with a criminal investigation. Traces are performed on "crime guns," and a 'crime gun' is defined as "any firearm that is illegally possessed, used in a crime, or suspected by law enforcement officials of having been used in a crime or act of terrorism". Each law enforcement agency that is granted access to eTrace designates each and every authorized user by name in order to obtain access to eTrace. Agencies that utilize eTrace only have access to firearm trace data relative to those requests that were submitted by their own agency. As such, Mexico law enforcement agencies who submit trace requests via eTrace and receive the results are only provided access to their own trace results. An exception is that Mexican law enforcement agencies can elect to share their trace data using the new opt-in/opt-out feature in Spanish eTrace -- that means that a Mexican law enforcement agency would have access to its own data as well as the data of another Mexican law enforcement agency that is voluntarily sharing it. The only other exception is the PGR who will have access to ALL trace data for Mexico, meaning the trace data for each individual Mexican law enforcement agency. There are no parameters within eTrace that allow any foreign law enforcement agency access to U.S. agency trace data.

5.) *Has Mexico asked for unfettered access to this data? What is the department's position on giving Mexican officials such access?*

Response: Mexico has not requested access to all firearms trace data. Mexico only has access to the trace results for the trace requests that they have made. The content of the trace results for all law enforcement agencies is the same, with the exception that Social Security Numbers are not provided relative to any foreign trace results. ATF continues to review data access issues and to discuss these issues with our law enforcement partners.



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# SUBMISSIONS FOR THE RECORD

**Testimony of**
**Jorge Luis Aguirre***

**Senate Judiciary Committee, Subcommittee on Crime and Drugs and Senate Caucus on International Narcotics Control**

**Law Enforcement Responses to Mexican Drug Cartels**

**March 17, 2009**

Chairman Durbin, Ranking Member Graham, Chairman Feinstein, Ranking Member Grassley, members of the Subcommittee and members of the Caucus: I thank you for inviting me to testify firsthand about some of the suffering and death that people who live along the border between the state of Chihuahua, Mexico and Texas face on a daily basis.

It must be difficult for you to get an inside view of the belly of the beast from here and to understand the devastating corruption that devours Ciudad Juárez, where violence has erased all authority and government from the map and replaced it with a dictatorship of the crime underworld.

Starting a few months back, the government of Chihuahua allowed the State to be converted into an instrument of organized crime. Press freedom is threatened by a terrifying dilemma: 'Plata o Plomo,' meaning accept a bribe or face a bullet!

I am exiled from my country and staying in El Paso with my wife and three children legally on a temporary visa because of this violence. Thanks to God and the hospitality of this blessed country, which really cannot be underestimated, I am still alive.

The story of my exile began on November 13, 2008, when Armando Rodriguez, a friend and journalist at El Diario, was shot dead outside his home. That night, when I was driving to Armando's wake in my pickup truck, my cell phone rang. I was at a busy intersection and waiting for the light to turn green, so I took the call.

Recalling the conversation still scares me:

"Jorge Luis Aguirre?" asked a man with an eerie voice.

"Yes?" I said.

"You're next, son of a [expletive deleted]!" yelled the man.

I almost went into a state of shock. I didn't know if it was sweat or a cold chill that was running through my body. I thought I was going to be riddled with bullets right there.

I looked all around, expecting to see rifles pointing at my head, but didn't see anything. The cars started moving and I accelerated too, turning around to head back home. On the way, I called my wife and, without giving her any details because I didn't want her to worry, I asked her to pick



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me up on a quiet road where I would be waiting on foot. I told her to bring our sons as well. That night, we crossed the border in my wife's car and thankfully saved our lives.

Weeks later, I confirmed the source of the threats. Victor Valencia, a representative of the governor of the state of Chihuahua, had sent people to warn me to 'tone down' my criticisms of the Prosecutor, Patricia Gonzalez, because if I didn't, he was going to kill me, using the Juárez drug cartels' preferred method of kidnapping followed by execution.

In early December, Victor Valencia called and threatened the woman who had passed along his messages before. She is a U.S. citizen and lives in El Paso. Victor Valencia told her that Patricia Gonzales was very upset with me, and that she was going to come after her and me in El Paso to kidnap us and murder us in Juárez.

For obvious reasons, my return to Juárez would be a death sentence. I would likely face fire from AK-47s upon crossing the border into Mexico.

I am sure you are wondering what has happened in Ciudad Juárez since I received these threats. In Mexico, it is an aggravated crime to investigate serious political offenses. Those who try to investigate them can lose their jobs or even be executed.

Impunity rules. There has been no order or government for many years now. In the desert, innocent people – women, men, teenagers and children – die, sometimes buried alive.

Today, I live in exile in a foreign country in order to avoid being murdered for my work as a journalist. I left my office, my house, my friends and several years of my life dedicated to work. In contrast, those who persecuted me are still in their government positions, using public money to try to attain their objectives of becoming a representative, mayor of Juárez or governor of Chihuahua State.

On a daily basis, ordinary citizens in Juárez are condemned to die, to be kidnapped, to be assaulted, to suffer extortion or to be exiled at any moment. Who can help them if they are persecuted and threatened? Criminals, police and politicians are often one and the same. People are more afraid of the police than of the drug cartels.

The press has been silenced both by force and through self-censorship. My exile is a taboo subject in Chihuahua. It is not mentioned by legislators, political parties, ombudsmen or the press.

The violence in Juárez crossed the border into the United States a long time ago. For this reason, I continue to live in hiding in El Paso. Every day, I pray with my wife because God has kept me alive.

Sometimes, I look at the mountains of Juárez and, like many people, dream of a city that is no longer a paradise for drug cartels, but a safe and dignified place where I can live with my family.

God bless America, God bless Mexico, God bless Ciudad Juárez!

* Translated from Spanish.



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# Major County Sheriffs' Association

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March 16, 2009

The Honorable Richard Durbin
Chairman, Senate Judiciary Subcommittee on Crime and Drugs
309 Hart Senate Office Building
Washington, DC 20510

The Honorable Dianne Feinstein
Senate Caucus on International Narcotics Control
331 Hart Senate Office Building
Washington, DC 20510

**RE: LAW ENFORCEMENT RESPONSES TO MEXICAN DRUG CARTELS**

Dear Senator Durbin and Senator Feinstein:

Thank you for the time and attention you are dedicating to finding solutions to the violence and drug cartel crime at the United States and Mexico border. Sheriffs throughout the country share in your growing concern, particularly of course, our border sheriffs.

Already, the violence has escalated with more ransom kidnappings occurring in Phoenix, AZ than anywhere else within the United States. This tragedy along with the proliferation of drugs, weapons and violence create an extremely dangerous, crisis situation with far reaching consequences. Though our border sheriffs are seeing escalating violence first hand, other MCSA sheriffs are not naïve to the fact that the border is merely an entry point.

We know that drug cartels have established cells well beyond the border. Those cells translate into gang involvement which translate into more drugs and crime on America's streets and in our communities. Law enforcement is preparing for an escalation of drug activity and stronger, tougher ways of the movement of those drugs stemming from the current state of violence at the border.

This crisis is a problem for all of law enforcement – throughout the country and at every level. For the protection of the citizens of the communities in our southern border states and the law enforcement officers who serve them, fortification of the border with resources, manpower and funding is an immediate necessity. Your quick action to this crisis situation is paramount to the safety of the men and women in uniform and the citizens we collectively serve.

Thank you and please feel free to contact me with any questions or the need for additional information. We look forward to working with you and your colleagues as together we work towards keeping all areas of our homeland safe.

Sincerely,

Michael J. Bouchard

Sheriff Michael J. Bouchard
PRESIDENT, MAJOR COUNTY SHERIFFS' ASSOCIATION

# STATEMENT FOR THE RECORD

**Ronald E. Brooks, President**

**National Narcotic Officers' Associations' Coalition (NNOAC)**

**"Law Enforcement Responses to Mexican Drug Cartels"**

**Joint Subcommittee Hearing**

**Subcommittee on Crime and Drugs**

**Committee on the Judiciary**

**and**

**Caucus on International Narcotics Control**

**United States Senate**

**March 17, 2009**

**INTRODUCTION:**

Chairman Durbin, Ranking Member Graham, Co-Chairwoman Feinstein, Co-Chairman Grassley, members of the Subcommittee and members of the Caucus, I appreciate the opportunity to submit a statement for the record to discuss the immediate and long-term consequences of rising violence, increased lawlessness and border instability in Mexico due to war being waged between Mexican President Felipe Calderon and the Mexican government with Mexican drug cartels -- and the real threat Mexican Drug Trafficking Organizations (DTOs) pose to hundreds of American cities and every state in America.

I am presenting this statement as the President of the National Narcotic Officers' Associations' Coalition (NNOAC), which represents 44 state narcotic officers' associations, as well as the RISS and HIDTA Directors and East Coast Gang Investigators associations with a combined membership of more that 69,000 police officers throughout the nation.

I am a veteran police officer and have spent more than 29 of my 35-year law enforcement career assigned to drug enforcement. In 2004, I retired as an Assistant Chief with the California Department of Justice, Bureau of Narcotic Enforcement and continue to serve in law enforcement as the Director of both the Northern California High Intensity Drug Trafficking Area (NC HIDTA) and the Northern California Regional Intelligence (Fusion) Center (NC RIC). In addition to my 14 years of service with the NNOAC, the last 8 as president, I have served on the Executive Board of the California Narcotic Officers' Association for 22 years and as that organization's president in 1995. I am the current Vice Chair of the Criminal Intelligence Coordinating Council (CICC) and Global Intelligence



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Working Group (GIWG), both components of the Global Justice Initiative which advises the Attorney General of the United States on matters relating to criminal intelligence and information sharing. I am also the Chairperson of the State and Local Law Enforcement and Homeland Security Partners Group for the Office of the Director of National Intelligence (ODNI). I am a member of the International Association of Chiefs of Police (IACP) Narcotics and Dangerous Drugs Committee and I serve on the Board of Directors of the National HIDTA Directors Association. I only highlight my experience in this detail so that members of the subcommittee and caucus will know that this presentation is based on 35 years of real life experience in the field of drug enforcement and information sharing.

**BACKGROUND**

Despite the danger posed by domestic and international terrorist organizations, the threat posed by violent Mexican drug cartels to the stability of Mexico and the security of America may be the most significant danger our two nations currently face. The media has focused attention on the recent surge of horrific drug cartel related violence both in Mexico and on the US side of the border. Every American has seen the articles and heard the stories of beheadings, kidnappings and entire Mexican police forces that have been intimidated by the cartels into resigning. But we must address this issue by realizing that the threat extends far beyond Mexico and our border towns. This much reported violence, while more pronounced and horrific during the past two years is a manifestation of the illicit drug trade between Mexico and the United States, and a continuing threat that existed long before I began my law enforcement career. We have only to remember the horror suffered by DEA Enrique "Kiki" Camarena in 1985 at the hands of Mexican drug lords.

In past years, you could ask veteran DEA or Border Patrol agents, Directors from the High Intensity Drug Trafficking Area Program (HIDTA), border sheriffs or narcotics officers from the Western states and they could clearly understand and articulate the threat posed by Mexican DTOs. Unfortunately, the problem has now become so pervasive, you can ask cops, or their colleagues from emergency medicine, the courts, treatment providers or drug prevention workers from Davenport Iowa, Atlanta Georgia or Camden New Jersey, or for that matter, from cities and towns across America, and they could relate stories of the impact of Mexican DTOs on the safety of their communities.

Mexican cartel sponsored drug smuggling and trafficking penetrates across our 2,000 mile border with Mexico and cuts through our state boundaries and city lines as if they do not exist. This rampant flow of powerful drugs threatens our nation and risks the health, safety and future of every child. To consider the significance of this threat: since 9-11 no child has been injured or killed in a terrorist attack on American soil. Unfortunately, every child in America has been exposed to the opportunity to use drugs and has been faced with making that life changing decision. The wrong decision, tempted by cheap and readily available drugs supplied by Mexican DTOs, can drive many of our young people into the deep one-way abyss of drug abuse - a path that threatens their health and future. A threat that has killed far too many of our children and has shattered the dreams of families while fueling gang activity and drug related violent crime in almost every community in America.

When considering our nation's response to the violence in Mexico and along the border our decisions must not be made in a vacuum. These important decisions, those dealing with

international policy and the allocation of scarce US resources must be made after viewing the problem through a wide-angle lens that considers not only the violence and threat posed to Mexico and our border region but one that balances decisions against the threat posed by Mexican supplied drugs and the gang activity and drug related violent crime that plague our communities.

We must address the Mexican cartels not only through our efforts in Mexico and along the border, but in every community in the nation. We must realize that in addition to every sensational story about beheadings in Mexico reported on the eleven o'clock news, tens of thousands of American's die from drug overdoses and drug related medical conditions and hundreds of thousands more suffer from the disease of addiction and lost opportunities. Unfortunately, drug abuse in America is no longer the media's *issue de jour* and those stories of death, suffering and abandonment often go without notice.

The key to combating Southwest border violence and related drug trafficking, gun smuggling and money laundering is continuing our effective partnership with President Calderon and his government through initiatives such as the Merida Initiative. Success will also depend greatly upon the courageous work of the agents of the Drug Enforcement Administration (DEA) who are truly the experts on drugs and violence in Mexico. And they will be assisted by their federal law enforcement partners including ATF, the Border Patrol, CBP and ICE. There have been recent discussions in the Congress about granting ICE or other DHS components Title 21 authority. While this may seem like it would bring additional federal resources to deal with the drug enforcement problem, in reality it would create a confused

and chaotic approach to federal drug enforcement. With DEA controlling Title 21 authority and granting it to ICE or other agencies for specific and limited purposes, DEA is able to coordinate federal drug enforcement efforts. Because they are the coordinating agency for federal enforcement, this also gives state and local agencies a single point of contact when partnering with federal law enforcement on drug investigations.

To be effective in breaking the backs of the cartels and to combat not only border violence but the carnage created across the country from drugs sold by the cartels, we must also turn to America's 850,000 state and local law enforcement officers who investigate and arrest drug traffickers everyday and who provide our nation's last line of defense in the fight against drugs, gangs and violence. This state and local commitment to the fight comes primarily from multi-jurisdictional taskforces funded and coordinated by the High Intensity Drug Trafficking Area Program (HIDTA) and Byrne Justice Assistance Grant (JAG) program-funded task forces.

I have spent most of my career investigating Mexican drug trafficking organizations (DTOs), operating in California and throughout the United States and Mexico. These DTOs are widespread and involved with virtually every aspect of the drug trade, including smuggling, cultivation and distribution organizations which have branched outward to all 50 states but only answer to the command and control cells of cartels operating in Mexico. I have investigated some of these groups for more than 30 years and as a result of those investigations, I have arrested and prosecuted three generations, all from the same cities or villages along the border or in the states of Michoacan or Sinaloa.

These poly-drug Mexican DTOs are the primary foreign supplier of methamphetamine and marijuana to the United States. Mexican DTOs are also heavily involved in smuggling cocaine into the US with almost 90% of our cocaine shipped from producing nations through Mexico. Although Mexico only produces 6% of the world's opium, it is responsible for most of the heroin consumed west of the Mississippi. Mexican DTOs operating in California are also responsible for most of the domestically-produced methamphetamine produced from 1994 through 2005 in California-based super-labs, and for millions of high potency marijuana plants grown on public lands throughout the Western States.

Mexico is quickly ascending the list as one of the world's most dangerous places. Since taking office late in 2006, Mexican President Felipe Calderon's courageous crack-down on Mexican drug cartels has exploded into a full-scale war. While the government's intent was to curb the power of entrenched drug cartels, Mexican DTOs have responded in kind with extreme brutality, targeting government forces and the civilian public alike. Mexican federal police, 130,000 military troops and local law enforcement have been engaged in this war for over two years. In December 2008, the death toll topped the 5,000 mark, pushing the total number of deaths for the entire two year period well over 7,000 – over 1 ½ times the casualties suffered by American troops during wartime operations in Iraq and Afghanistan since the attacks of 9/11.

The scope of the situation in Mexico is nearly impossible for most US-based state and local law enforcement to comprehend although because of its long standing efforts in Mexico,

DEA certainly does. Recent Department of Defense estimates indicate Mexico's two largest drug cartels have fielded a combined army of 100,000 foot soldiers in their ongoing fight against the Mexican military, never mind their in-fighting with each other. If these estimates are accurate, this approximation would place the manpower of Mexican drug trafficking organizations nearly on par with the nation's 130,000-member armed forces. Mexico is literally a war-zone - in every sense.

The increasing sophistication of Mexican drug cartels is beyond worrisome and these criminals are brutally efficient. In fact, Mexican DTOs, like many modern organized criminal groups across the globe, are more akin to paramilitary forces than traditional criminal structures. In Mexico, DTO ranks are populated with ex-police and military figures. The Gulf Cartel has a quasi-military unit known as the Zetas, a vicious hit-squad composed of highly-trained ex-guerillas used to execute rival cartel members and federal authorities. Two gangs known as the Pelones and the Negroes are reported to carry out armed-enforcement duties for the Sinaloa Cartel. Underpaid soldiers and police are often desperately lured into DTOs under threat of harm and promise of profit.

Generally, Mexican DTOs have well-established intelligence networks, propaganda engines, safe-houses, clandestine training facilities and the support of corrupt government officials. They are often military-trained, armed to the teeth with advanced weaponry and equipped with hi-tech communications.

Mexican DTOs also demonstrate an increasing willingness to use terroristic methods to influence public opinion and force change in government policy. Heinous tactics include the indiscriminant slaughter of civilians, kidnapping campaigns and the assassination of specifically targeted public officials. Abduction targets are often locked in cages and tortured. Civilians and police are brazenly slain in broad daylight. The methods that DTOs employ are sadistic and gruesome. Burnings, beheadings, dismemberment, acid-drowning and other forms of mutilation have become commonplace. Bodies are slashed with threats, hung from highway overpasses, stuffed in barrels and dumped in schoolyards. The pattern of horror currently playing out in Mexico is frighteningly similar to Escobar-era Colombia.

However, some authorities indicate the intensified violence is a sign that DTOs are becoming desperate and losing control of funding and markets. Given the willingness of DTOs to cross a threshold of cruelty and the potential for lost narco-profits, Mexican drug-cartels are not likely to surrender any time soon. In fact, the level of bloodshed may continue to worsen as DTOs fight bitterly against the government and one another.

In response to increasing drug gang violence within Mexico and increased cross-border trafficking in drugs and arms between Mexico and the United States, the Bush and Calderon administrations agreed on a framework of counter-narcotics and Mexican justice system improvements through the Merida Initiative. The Initiative took several months to negotiate, several more months to pass Congress as part of the FY 2008 wartime supplemental appropriations bill, and several more months to finally result in US financial assistance flowing to Mexico. Congress broke the $1.4 billion US commitment into three parts, the first

being $400 million for Mexico and around $60 million for Central America and the Caribbean. While this is a heavy burden for the American taxpayer to bear, aiding Mexico in this war is the right thing to do and will protect America in the long-run from the dangers Mexican DTOs pose to our communities.

Spillover from the narco-war has already had a deadly, direct impact on the US. The killing of US CBP Senior Border Patrol Agent Luis Aguilar in January of 2008 by drug cartel suspects stands as one of the most tragic incidents. The drug-war has also spurred a number of cross-border criminal industries. The most notable of these is the expanding and highly lucrative trade in firearms. While illegal narcotics flow north, truckloads of weapons flow south; illegal handguns, assault rifles and even crew-served heavy weapons and explosive armaments stock the armories of lethal DTOs. While arms-traders in the US sell weapons across the border, authorities suspect that heavier weapons are flowing into Mexico from regions further abroad. International auto-theft, kidnapping, human-trafficking and money-laundering are other crimes directly tied to the Mexican drug trade. For many years, Mexican drug cartels have hired US gang members to carry out violence including retaliations and debt collection on the US side of the border. That has included the use by the Arellano-Felix organization and Tijuana cartel of Logan Heights and other San Diego based gangs to carry out their dirty work in California's San Diego and Imperial counties.

The increasing sophistication of Mexican drug cartels have created frighteningly complex and organized criminal structures – in fact, the US Department of Justice has just identified that Mexican DTOs pose the biggest organized criminal threat to the US. Mexican DTOs

control the largest portion of the US drug trafficking market; their involvement in every aspect of the drug trade, including production, trafficking, distribution and enforcement, is greater than any other identified criminal group. Mexican DTOs are truly a problem for America, coast-to-coast; their market share is worth billions of dollars annually and they are reported to operate distribution networks or to supply distributors in at least 230 US cities. Drugs of all substances are moved by Mexican DTOs from Mexico into the US on overland routes and via maritime and aerial transport. The December 2008 DEA New Jersey task force investigation into Mexican DTOs - which resulted in the largest methamphetamine seizure in the history of New Jersey - is a testament to Mexican DTOs capabilities and reach.

Surprisingly, reports indicate the major hub for Mexican DTOs that serves the entire east coast of the US is not a border city or even a coastal city: Of the 230 US cities where Mexican drug-trafficking organizations are currently operating, federal law enforcement officials say Atlanta has emerged as the new gateway to our Southwest border.

Rival drug cartels have established Atlanta as the principal distribution center for the entire eastern US, according to the Justice Department's National Drug Intelligence Center. Drug Enforcement Administration records show in fiscal year 2008, federal drug authorities seized more drug-related cash in Atlanta — about $70 million — than any other region in the country. This year alone, more than $30 million has been intercepted in the Atlanta area — far more than the $19 million in Los Angeles and $18 million in Chicago. These alarming numbers indicate the depth of the problem posed by Mexican DTOs to the US; this is a fight

we must become more engaged in to protect the threat these DTOs present not only to the US, but to all of North America.

**EXPANDING THE ROLE OF STATE AND LOCAL LAW ENFORCEMENT:**

From FY 2002 to FY 2008, funding for justice assistance programs in the Department of Justice had fallen dramatically from $2.2 billion to $800 million – a cut of more than 63%. While reductions in crime and drug use rates over the past 10 years have been significant, they have leveled off over the past two years. The majority of the reductions occurred when state and local law enforcement assistance accounts were funded at high levels. Although impossible to draw a causal link between robust funding for justice assistance programs and reduced crime rates, the correlation cannot be ignored. Improved information sharing, cooperation, equipment, and training for state and local law enforcement has contributed to more orderly communities and more effective law enforcement.

Drug enforcement was hit five years ago when the original Edward Byrne Memorial Grant Program and the Local Law Enforcement Block Grant were consolidated into the Byrne Justice Assistance Grant (JAG) Program with an overall reduction in funding without a mandate to use those funds for drug-related criminal justice programs. The program again suffered greatly in recent years, most notably when the combined funding total was reduced from $520 million in FY 2007 to $170 million in FY 2008 – a cut of almost two-thirds. Ground gained in the past against DTOs and other organized drug distribution rings has been lost due to this gap in funding: cases have gone cold, informants have disappeared, traction

has been lost simply due to lack of federal resources meant to help address the threat DTOs present to America's communities.

The one program that made many significant contributions to supporting America's state and local drug enforcement efforts especially during the severe funding shortages created by cuts to Byrne-JAG is the High Intensity Drug Trafficking Area Program (HIDTA). Despite efforts by the Bush Administration to dismantle this effective program, the Congress - including many of you in this hearing, along with former Senator and current Vice President Biden - fought successfully to keep the program alive. HIDTA has been a model program in the fight against Mexican DTOs because of its mandate to maintain balanced federal, state and local governance thus reducing turf battles and increasing information sharing, the program's reliance on using intelligence to drive decisions and resource allocation and required case deconfliction to increase efficiency and officer safety. HIDTA programs across the nation - especially those along the Southwest Border and in border states - continue to offer leadership and commitment to fighting the threat of Mexican DTOs on our side of the border by working with DEA and its El Paso Intelligence Center (EPIC) to share intelligence on DTOs and other cartel-related threats in Mexico.

However, this trend of cutting federal assistance to state, local and tribal law enforcement has been reversed in recent months by the actions of President Obama and the 111th Congress. Upon passage of the American Reinvestment and Recovery Act of 2009, Byrne-JAG received a substantial and vital increase in funding to re-invigorate multi-jurisdictional drug task forces across America. Additionally, $532 million has been allocated towards Byrne-

JAG in the recently-passed FY'09 Omnibus Appropriations Act, showing a renewed commitment to this critically important program. It is our hope this trend continues so we can re-gain the ground lost over the past several years to drug traffickers nation-wide.

As shown by the problems that Mexican DTOs have presented to America's communities, drug traffickers and drug facilitators are not bound by the borders of one state, any more than they are bound by the borders of one nation. Criminal mobility is why multi-jurisdictional task forces, both Byrne and HIDTA funded, are critical in battling this threat to our personal, community and national security. A joint approach is essential in targeting drug trafficking organizations. Multi-jurisdictional task forces are the lifeblood of state and local drug law enforcement. They help reduce the impact of drug and firearm traffickers, gangs, pharmaceutical diversion, and organized crime in America's communities by linking organizations with information, leveraged assets, and a real-time advantage for law enforcement. However, due to their ruthless nature and sophisticated structure, Mexican DTOs will present a unique challenge for state and local law enforcement and could become one of the most important battles drug enforcement has faced in decades.

Information sharing and proper training programs are critically important towards a comprehensive drug enforcement strategy. The BJA-funded Regional Information Sharing System (RISS) is indispensable to multi-jurisdictional task forces. This program assists law enforcement in effectively sharing information regarding criminal conduct and provides us with the tools and resources necessary to allow us to connect the dots. Using RISS allows law enforcement officers across the country to deconflict case information, and build and

maintain a culture of collaboration among disparate state and local law enforcement agencies while protecting privacy and civil liberties because of the safeguards that are mandated for the program by 28 CFR part 23. Also, training for Byrne or HIDTA-funded task forces and other multi-jurisdictional drug, gang and violent crime taskforces are provided free of charge to state, local and tribal law enforcement through the Bureau of Justice Assistance (BJA) Center for Task Force Training (CenTF); this is crucial for the safe and successful operation of these enforcement programs.

The information sharing capabilities that began with the RISS program and the HIDTA Investigative Support Centers (ISCs) are being enhanced and refined by the Global Information Sharing Initiative. Through Global, especially the work of the Global Intelligence Working Group (GIWG) and the Criminal Intelligence Coordinating Council (CICC), much has been accomplished to improve criminal intelligence and information sharing capacity to allow more effective gathering and sharing of criminal intelligence between state and local law enforcement agencies and our federal law enforcement partners. Beginning with the publication of the National Criminal Intelligence Sharing Plan (NCISP) by BJA and Global, there has been a constant stream of outstanding publications and policies that have been offered for adoption by the Department of Justice, the Department of Homeland Security and state, local and tribal law enforcement agencies throughout the nation. The Global Justice Initiative and BJA have developed and published the Fusion Center Guidelines and Baseline Capabilities for information sharing fusion centers. These guides and other technical assistance by BJA and DHS has led to the establishment of more than 70 state or local law enforcement managed intelligence fusion centers which serve to

increase the information sharing and criminal intelligence analytics capability. Last week, I attended the National Fusion Center Conference in Kansas City Missouri. The conference was sponsored by the Global Justice Initiative, Program Manager for the Information Sharing Environment, Bureau of Justice Assistance, Office of the Director of National Intelligence, Criminal Intelligence Coordinating Council (CICC), Department of Homeland Security, and the FBI. DHS Secretary Janet Napolitano, someone who has extensive experience in border crime issues, was the keynote speaker. It was clear in discussions with many of the 1,000 attendees at the conference and from the guidance that Secretary Napolitano will be providing on this issue, these all crimes fusion centers will be serving as important resources in coordinating intelligence analysis and information sharing related to the investigation of Mexican DTOs.

Although programs like Byrne-JAG, HIDTA, RISS and the Global Justice Initiative are the glue that holds multi-jurisdictional drug task forces together, other programs remain critically important towards America's domestic battle against Mexican DTOs. Programs like Project Gunrunner – which targets US-based weapons traffickers transporting truckloads of armaments from the US to Mexico via the interstate highway system – and the Southwest Border Initiative need robust funding in order to reverse the brutal violence along America's border with Mexico.

Mexico is at an all-out war with itself and unless America undertakes a comprehensive strategy to combat Mexican DTOs along the Southwest border, within American cities and through enforcement along America's interstate highway system, the dangers these

sophisticated criminal organizations present will only multiply and create widespread violence and anarchy on America's side of the border.

**CONCLUSION**:

Although the current situation in Mexico and along our border may seem grim, perhaps even insurmountable, for the first time in my career we have the opportunity to destroy the cartels. President Calderon has made a courageous stand against evil and while the outcome is yet to be determined, he is the first President of Mexico to commit the resources of his nation along with personal courage and integrity to battle the narco-terrorists that have paralyzed his nation and threatened ours. America and Calderon's Mexico are joined in a great battle - one that we can ill afford to lose. In order to succeed, we must rely upon the resources that the Congress has allocated to this fight through the Merida Initiative. We must trust in the courage and integrity of the brave men and women of the Drug Enforcement Administration and their federal law enforcement partners and the 850,000 state, local and tribal law enforcement officers from 18,000 law enforcement agencies throughout our great nation who are engaged in this fight. We must rely upon the expertise that DEA brings to this fight which has been gained from many frustrating and dangerous years of operating in Mexico and with Mexican law enforcement. Finally, we must remember that there is more at stake than the obvious security and safety of our border or even the more obvious security and sovereignty of our neighbor and ally. We must realize that the poison and violence that flows across our Southwest border places every American at risk.

Our nation's leaders must continue to support and fund DEA and the Merida Initiative. They must do all that they can to secure our border and protect US citizens both in Mexico and America. Equally as important, they must continue to support the robust sharing of information through programs like RISS and Global to give law enforcement the ability to share vital information and connect the dots from the murky world of global drug trafficking. Finally, the Administration and the Congress must continue to work together to fund federal assistance to state and local law enforcement through programs such as HIDTA and Byrne JAG. We can not afford to lose this battle; the futures of millions of American and Mexican lives are at stake.

**Testimony of Denise Dresser**

**Senate Judiciary Committee, Subcommittee on Crime and Drugs and Senate Caucus on International Narcotics Control**

**Law Enforcement Responses to Mexican Drug Cartels**

**March 17th, 2009**

Chairman Durbin, Ranking Member Graham, Chairman Feinstein, and Ranking Member Grassley, members of the Subcommittee and members of the Caucus, I welcome the opportunity to speak about Mexico's efforts to combat drug-trafficking and organized crime. As I reflect on my troubled country, the lyrics of a Bruce Springsteen song come to mind: "We are far, far away from home. Our home is far, far away from us." And that's how it feels to live in Mexico during these turbulent times: far from democratic normalcy; far from the rule of law; far from home and close to everything that imperils it. Always on the lookout, anxious, suspicious of our own shadow. Invaded by the legitimate fear of walking on the street after dark, taking money out of an ATM, hopping into a cab, being stopped by a corrupt policeman, receiving the call of a kidnapper saying that he has taken your child, losing a son, burying a daughter. My home has become a place where too many people die, gunned down by a drug-trafficker, or assaulted by a robber, or shot by an ill-trained law enforcement officer or kidnapped and strangled by a member of a criminal gang, as was the case with the teenage children of prominent businessmen Alejandro Martí and Nelson Vargas.

At the helm of an increasingly active and visible army, President Felipe Calderón has declared a bold war against drug-trafficking and the organized crime networks it has spawned. In a country where over 6,000 people have died over the last year in drug-related violence, insecurity is top-of-mind for most Mexicans. Given the increasingly lawless conditions of the country he inherited, Calderón had little choice but to act, and he is to be commended for doing so.

The former ruling party that governed Mexico in an authoritarian fashion for over 71 years left behind a toxic legacy. During the 1980s, drug-trafficking blossomed throughout the country as a result of political protection; drug-traffickers infiltrated the Mexican government, frequently aided and abetted by members of the Federal Judicial Police as well as state-level officials. The political structure built by the Revolutionary Institutional Party (PRI) provided a shell for organized crime that was able to swell not despite the government but thanks to the blind-eye it often turned.

After Mexico's electoral transition to democracy in 2000, when members of the National Action Party (PAN) came into power, they discovered a precarious state of affairs, but did little to confront a festering problem. Years of government inaction under former President Vicente Fox left key institutions infiltrated, hundreds of policemen dead, scores of judges assassinated, dozens of journalists missing. During the Fox administration, Mexico turned into a more violent country than Colombia; his successor's task has been to recover lost



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ground and clean it up. As President Calderón stated in a recent interview: "we decided to operate on the body politic and discovered that it had cancer."

Dealing with a problem that is more widespread and embedded than President Calderón originally envisioned has not been easy because the surge of drug trafficking in Mexico reflects a painful paradox: the government's drug enforcement efforts are undermined by the corrupting influence of the drug trade, yet the drug trade cannot survive without the protection of compromised elements within the government. Cocaine traffickers spend as much as $500 million on bribery, which is more than double the budget of the Mexican Attorney General's office. As a result, it frequently becomes difficult to distinguish those charged with policing smuggling from the smugglers themselves.

Policemen regularly play dual roles: they act as drug enforcers and as drug-smuggling protectors. Violent conflicts routinely erupt between police operating as law enforcers and police acting as lawbreakers. So it's no wonder that as part of "Operation Tijuana" last year, they were forced to relinquish their weapons; too often their arms are used to commit crimes rather than prevent them. In Tijuana, the army has effectively been brought in to protect the population from the police. Mexico is a place where, if you are the victim of a crime, the last person you call is a police officer.

In the face of police corruption, Calderón has turned to the military to take on the anti-drug effort. But bringing soldiers out of the barracks and moving them around the country at will is a cause for concern. As a result of its expanded role, the military is becoming the supreme authority – in some cases the only authority -- in parts of some states. And greater militarization is also leading to greater corruption within an institution that has turned into the last credible beachhead in Mexico's longstanding battle.

When Sinaloa drug cartel Héctor "El Guero" Palma was arrested in 1995, he was at the home of a local police commander and the majority of the men protecting him were federal police he had bought off. When events such as these have created a national scandal, the official response has been to transfer individual officers or simply suspend them. But mass firings only begin to make a dent in the problem. Many are simply rehired in other regions of the country or reinstated after challenging their dismissals in corrupt courts. So using the military as a roving, cleanup force may solve some short-term image problems, but also create other intractable ones.

President Calderón hopes to overcome the corrupting influence of the drug trade by creating a new national police force – still in the works – as well as a special anti-drug division, similar to the DEA. He hopes that with greater resources and more autonomy, those in charge of combating crime will not end up succumbing to it. But creating a new agency and extending its reach will not be enough, as the arrest of top members of the elite anti-drug unit three months ago underscored. In order to be more effective, Calderón needs to deal with Mexico's culture of illegality.

Over the past decade, Mexico's transition to democratic rule has cast a glaring light on the country's precarious, uneven, and limited rule of law. Saddled by inefficiency and corruption, the Mexican judiciary cannot establish, ensure or enforce the rule of law.



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Oftentimes, judges and prosecutors themselves have been unable to withstand the corrupting influence of the drug trade, a $15-25 billion a year business. Cases of official corruption – those of former governors accused of drug-trafficking – abound and the credibility of public institutions has suffered when those proven guilty have eluded punishment. As a result, impunity runs rampant.

Over the past decade, the surge of drug-trafficking and Calderón's unsuccessful efforts to contain its effects are symptomatic of what doesn't work in Mexico's dysfunctional democracy. As George Orwell wrote, "people denounce the war while preserving the type of society that makes it inevitable." Mexico has a political, economic and social structure that makes crime possible. It is a country characterized by politicians who protect drug-traffickers and drug-traffickers who finance politicians; by those who launder money and unregulated financial institutions that allow the practice to occur; and by judges who become accomplices of criminals and criminals who can bribe them. And although Felipe Calderón has declared that the Mexican state is "winning the war" against the drug mafias, the truth is that government institutions frequently shelter their members. Drug-trafficking in Mexico is nurtured by extensive corruption, and persistent impunity. It feeds upon a country where 75 percent of crimes are not reported due to lack of trust in the authorities; where 98 percent of crimes are never resolved or punished.

So while Calderón's efforts are to be applauded, they must also be accompanied by comprehensive measures that entail more than soldiers on the streets, and photo opportunities of the president dressed in olive green. The prospects for a stable, less insecure Mexico will be contingent on Calderón's capacity to enact a major overhaul of the country's judiciary and law enforcement apparatus. It will be dependent on the government's political will to confront corruption at the highest levels – something Calderón has been reluctant do. In other words, the President needs to fight not only drug-traffickers but also the political networks that protect them. Otherwise, Calderón's move to confront organized crime will be tantamount to trying to cure cancer with an aspirin. Otherwise Mexico will continue to combat symptoms while ignoring their causes.

Several months ago, President Barack Obama and President Felipe Calderón met, exchanged points of view, and spoke about the importance of U.S.-Mexico relations. But now it's time to face the hard, cold facts south of the border. Mexico is becoming a country where lawlessness prevails; where more people died in drug-related violence last year than those killed in Iraq; where the government has been infiltrated by the mafias and cartels it has vowed to combat. And although many believe that Obama's greatest foreign policy challenges lie in Pakistan or Iran or the Middle East, they may in fact be found in the immediate neighborhood. Mexico may not be a "failed state" yet, but it desperately needs to wage a more effective war against organized crime, and American collaboration will be required to do so.

President Calderón has told the United States that the heightened level of violence is a result of government efficiency in combating drug cartels; that the rise in executions is evidence of a firm hand and not an ineffectual one. But Calderón's stance – and one he is forced to maintain due to political and electoral imperatives at home – side-steps structural problems that cannot be solved with more weapons, more bullets, more members of the



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military policing key cities, more blood on the streets, more simplistic solutions to complex dilemmas.

The current strategy – based largely on the increased militarization of Mexico – ignores high-level government corruption that no one really wants to combat. It ignores a police force so weak, so ill-trained, so underpaid and so infiltrated that good apples are spoiled by rotten ones. It ignores that U.S. military training of Mexican troops can end up empowering splinter groups like the "Zetas", who leave the army to start up their own criminal gangs. It ignores that an enhanced military presence will probably result in more human rights abuses in a country where too many of them already occur. It ignores a concentrated, oligopolistic economic structure that thwarts growth and social mobility, forcing people across the border or into the drug trade in record numbers: 450,000 Mexicans are involved in the cultivation, processing and distribution of drugs according to a recent estimate. It ignores the existence of a permanent sub-class of 20 million people who live on less than two dollars a day and view drug cultivation a way out of extreme poverty. Drug-traffickers are becoming more powerful in Mexico due to historic, recalcitrant patterns that recent governments have failed to confront.

The United States government needs to understand the enormity of the problem brewing in the neighborhood, and the negative role the U.S. has played by largely ignoring it. At first, President George W. Bush sought to engage Mexico on immigration and other issues, but after 9/11, the bilateral relationship was placed on hold by the war on terror elsewhere. As General Barry McCaffrey declared recently: "During the last eight years we witnessed the disappearance of leadership in the area of anti-drug policy". The Mérida Initiative, through which the U.S. provides a small level of financial and military assistance, is a necessary but insufficient step, given the urgency of the situation.

I would urge you to confront what has undoubtedly become a shared, bilateral challenge with honesty, realism and determination. That would entail a recognition of U.S. responsibilities, an understanding of what the U.S. has done or failed to do *vis-à-vis* Mexico. Mexican drug-traffickers buy arms that the U.S. sells; over 2,000 weapons cross the border on a daily basis, and many of them are sold in an illegal fashion. Mexican drug-traffickers provide cocaine that U.S. users demand; over 35 million American citizens are drug-users. Mexican drug-traffickers have set up distribution networks across U.S. cities because very little has been done to stop them from doing so; according to a recent article in Forbes magazine, drug-trafficker Joaquín Guzmán has turned Atlanta into the East Coast distribution center of cocaine and other drugs for the Mexican cartels. Atlanta's accessibility to key interstates like I-95 and I-85 make it a perfect hub for moving cocaine and marijuana and taking bulk cash back to Mexico. Atlanta's fast-growing Mexican population, lured largely by the region's building boom, has provided excellent cover and resources for the cartels' U.S. emissaries. From there, cocaine is moved to New York, Pittsburgh, Washington, D.C., Miami and Chicago.

In the face of an increasingly dire situation, the U.S. can help by promoting more antinarcotics operations within its own borders, of the sort announced by Attorney General Eric Holder several weeks ago. The U.S. can help by clamping down on money laundering and financial flows that have enabled Mexican drug-trafficker Joaquín Guzmán to amass a



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billion dollar fortune and enter the Forbes list of richest men in the world. The U.S. can help by addressing the demand for drugs in its own cities, and President Obama's recent remarks in this regard are most welcome. The U.S. can help by cooperating more and not less on security matters; by demanding more and not less accountability for the aid it offers; by insisting that if Mexico wants a helping hand it will have to clean up its own house and accept hard truths the government has tried to obscure.

A strategic partnership is possible and viable, but in order to request it, Mexico must be reformed more profoundly, so that the U.S. feels encouraged to engage more deeply. If Mexico is unable to confront its domestic corruption, it won't matter how many troops are trained, how many weapons are shipped, and how many helicopters are bought. Colombia has spent over $5 billion in U.S. aid with mixed results: more security but no end to drug production. The lesson is clear: the main objective of the "war" that the Mexican government is engaged in should not only be the destruction of the drug cartels, but also the construction of the rule of law.

At the same time, the U.S. government needs to grasp that this is a war that will never be "won"; that will never end with a certain triumph of the forces of good over the forces of evil, if the demand for drugs here is not stymied. To pretend that it can be won without dealing with drug consumption and demand-driven forces in the United States is to believe that one can stop an earthquake or a hurricane. For every drug-trafficker who is caught, another one will emerge in his place. As Detective McNulty says in the final scene of The Wire – the American television series that recreated the futile war against drugs in Baltimore – as he gazes upon his devastated city with a mixture of love and sadness: "It is what it is." His despair is shared by many Mexicans today as we pay a very high price for our inability to construct a prosperous, dynamic, inclusive, lawful country in which citizens aren't propelled into illicit activities in order to survive, and criminals aren't protected by the government itself. But we are also paying a very high price for American voracity. Ours is a shared problem that will require joint solutions. Ours is a joint struggle that will demand if not the audacity of hope, at least the audacity of understanding that the time has come to make the neighborhood safe. So that people like me can feel at home again. So that home does not feel so far, far away.



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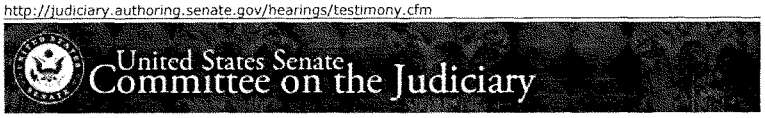


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Statement of

# The Honorable Richard J. Durbin

United States Senator
Illinois
March 17, 2009

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Opening Statement of Senator Richard J. Durbin
Hearing on "Law Enforcement Responses to Mexican Drug Cartels."
March 17, 2009

This hearing will come to order. This is a joint hearing of the Senate Judiciary Committee's Crime and Drugs Subcommittee and the Senate International Narcotics Control Caucus on "Law Enforcement Responses to Mexican Drug Cartels."

This is the first hearing of the Crime and Drugs Subcommittee in the 111th Congress. I want to thank Judiciary Committee Chairman Patrick Leahy for giving me the opportunity to chair this Subcommittee. Vice-President Joe Biden held this gavel for many years and I hope to build on the work that he did.

I want to thank Lindsey Graham, the Ranking Member of the Crime Subcommittee for being here today. Senator Graham and I have had constructive discussions about the Subcommittee's agenda and I look forward to working with him.

I also want to thank Senator Feinstein and Senator Grassley, the Chair and Ranking Member of the Senate International Narcotics Control Caucus, for holding this joint hearing with us.
When Senator Graham and I first discussed our agenda for the 111th Congress, we quickly agreed that the problem of Mexican drug cartels would be a top priority.

Over 6200 people died in drug-related violence in Mexico last year. More than 1000 people were killed this January alone, including police officers, judges, prosecutors, soldiers, journalists, politicians and innocent bystanders.

Today we will hear firsthand testimony from two Mexican witnesses about the devastating human consequences of this violence. One of these witnesses was forced to flee his hometown of Ciudad Juárez, a city of 1.5 million where public assassinations are carried out in broad daylight and more than 1600 people were killed in drug-related violence in 2008. Last month, the city's chief of police resigned after drug cartels threatened to kill a policeman every day he remained on the job. And just this weekend, nine bodies were found in a common grave outside Ciudad Juárez.
Mexican drug cartels also pose a direct threat to Americans. According to a recent Justice Department report, Mexican drug cartels "control most of the U.S. drug market" and are "the greatest organized crime threat to the United States." In Phoenix last year, 366 kidnappings for ransom were reported - more than in any other American city - and the vast majority of these kidnappings were related to the Mexican drug trade.

But Mexican drug cartels aren't just a threat in border states. They are now present in at least 230 U.S. cities, up from about 50 cities in 2006. In my home state of Illinois, the Justice Department found that three Mexican drug cartels - Federation, Gulf Coast and Juárez - are active in the cities of Chicago, East St. Louis and Joliet. According to the Drug Enforcement Administration, Mexican drug cartels supply most of the cocaine, methamphetamine, and marijuana distributed in the Chicago area. Just last fall, the Justice Department arrested 11 alleged members of the Juárez cartel for distributing large quantities of cocaine and



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marijuana in Chicago. And law enforcement officials estimate that $10 to $24 million in drug proceeds are sent from Chicago to the Southwest border each month.

What are the root causes of this crisis? As we will hear from our Mexican witnesses, corruption may be the largest obstacle Mexico faces in its efforts to contain drug trafficking. For example, in November, Noe Ramírez, Mexico's former drug czar, was arrested on charges of taking hundreds of thousands of dollars in bribes to pass information to drug cartels.

Mexico also lacks the fair and effective criminal justice system needed to combat the drug cartels. Mexican President Felipe Calderón deployed the military into regions of Mexico where law enforcement was no longer able to maintain order, but that is not a long-term fix. Investigating and prosecuting drug and gun trafficking networks is fundamentally a law enforcement challenge that will require sustained cooperation across the border and at the federal, state and local level.

Mexico and America are in this together and there is enough blame to go around. President Calderón said last week that Mexico's drug cartel problem is exacerbated by being located next to, quote, "the biggest consumer of drugs and the largest supplier of weapons in the world" – the United States of America.

The insatiable demand for illegal drugs in the United States keeps the Mexican drug cartels in business. Mexican government officials estimate that approximately $10 billion in drug proceeds cross from the United States into Mexico each year in the form of bulk cash. This allows traffickers to expand their operations further into our country, pay off police and politicians and buy more weapons from the United States.

The so-called "iron river of guns" from the United States arms Mexican drug cartels to the teeth. The cartels purchase weapons at gun shows from unlicensed sellers who are not required to conduct background checks. Or the cartels use "straw buyers" with clean criminal records to buy guns for them. According to ATF, more than 90% of guns seized after raids or shootings in Mexico have been traced to the United States.

What can be done to defeat the drug cartels? They are the new face of crime in the age of globalization. The only effective response to this transnational phenomenon is multilateral action with our allies. As President Obama said in his recent address to Congress, "America cannot meet the threats of this century alone."

I look forward to hearing from our witnesses about what Congress can do to contribute to cooperative efforts by U.S. and Mexican law enforcement to defeat the drug cartels. In particular, we must take action to reduce the demand for illegal drugs in the United States and to stem the flow of illegal guns and money to Mexico.
Let's take just one example: ATF's eTrace system for tracing crime guns. A decade ago, I started calling for 100% crime gun tracing in Illinois. Today, data collected through eTrace has allowed law enforcement to identify numerous gun trafficking routes supplying criminals. Would it help to expand the use of ATF's eTrace system in Mexico and Central America?

One final note: the subjects of guns and drugs often split us along partisan lines. When it comes to Mexican drug cartels, there's too much at stake to allow ourselves to be divided. Democrats and Republicans must work together to find bipartisan, common-sense solutions to this challenge.



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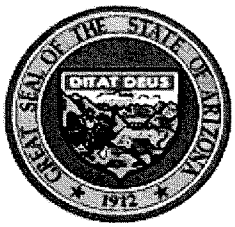


Testimony of Terry Goddard
Attorney General
State of Arizona

Senate Judiciary Committee
Subcommittee on Crime and Drugs

-and-

Senate Caucus on International Narcotics Control

"Law Enforcement Responses to Mexican Drug Cartels"

Tuesday, March 17, 2009

1275 West Washington, Phoenix, Arizona 85007-2926 • 602.542.5025 • Fax 602.542.4085 • www.azag.gov



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**I. Overview of the Problem**

The United States and Mexico share vital interests in preserving the rule of law and the security of their citizens. Those interests are under attack by sophisticated, violent, highly-organized criminals who are smuggling drugs, human beings, guns and money across the border and are using unimaginable violence to protect and grow their criminal enterprises. Law enforcement officers in the State of Arizona have been on the front lines of the efforts to combat one of the most serious organized crime threats of the 21st Century.

An estimated 80 percent of the methamphetamine on the streets in the United States is produced in Mexico. Similarly, over 2.4 million pounds of marijuana smuggled into the U.S. each year is grown in Mexico. Cocaine is not produced in Mexico, but more than 90 percent of the cocaine imported into the U.S. comes through Mexico. In turn, profits from drug sales in the United States generate between $15 billion and $25 billion per year, which is smuggled back into Mexico, either in the form of cash or weapons.

Human smuggling has also evolved into a high-dollar crime, controlled by many of the same criminal organizations that smuggle drugs. A 2004 study estimated that 3,000 to 4,000 individuals per day enter the U.S. illegally through Arizona, and approximately $2 billion per year is paid to coyotes to transport undocumented individuals across the Arizona border. Human smuggling is largely facilitated by illicit wire transfers of money to pay the "coyotes."

Violence from these criminal cartels claimed over 6,000 lives in Mexico last year alone, including a spike in assassinations of police officers, prosecutors, and other government officials and their families. Meanwhile, the high-profit trade in drugs, arms and human smuggling now stretches from coast to coast, fueling crime in cities throughout the United States.

**II. Arizona Law Enforcement Efforts to Combat the Problem**

Arizona has become the gateway for drug and human smuggling into the U.S. The reasons for this include Arizona's transportation infrastructure, increased enforcement along the California and Texas borders and increased competition among Mexican criminal organizations for control of entry points into the U.S. Phoenix has become a prime distribution point for both drug and human trafficking. In the past two years, the City had more than 700 reported kidnaps



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for ransom – the most in the Nation – and police believe at least twice that number went unreported.

In the effort to secure our border and protect our communities, we have learned that no single law enforcement agency, federal, state or local, has the manpower or expertise to combat our highly organized and sophisticated antagonists alone. We must work together to go after the head of the monster. This means cutting off the financial resources and dismantling the leadership of the violent criminal cartels operating on both sides of the border.

The most effective method of combating human smuggling is to block the flow of funds to the organized criminal cartels. The Arizona Attorney General's Office has aggressively pursued these "blood wires" sent through Western Union and other money transmitters for over six years. In doing so, we have successfully moved millions of dollars in smuggling proceeds out of Arizona.

**A. The Crucial Role of Wire Transfers**

Organized, cross-border crime between Mexico and Arizona is concentrated on trafficking in illegal drugs, humans and weapons. Each of these activities involves the movement of money. Human trafficking in particular requires rapid movement of money among people who have no ongoing relationship. Western Union is by far the largest provider of illicit money-movement services, so it is the source of valuable information about illicit money movements and has been the focus of interdiction efforts aimed at criminal proceeds in transit.

Human smuggling organizations, also known as "coyotes," are well-organized and violent. Their human "cargo" are often victimized, held for ransom or worse. In one typical case, 20 undocumented immigrants were taken by six smugglers to a Phoenix drop house. Soon after arriving, the immigrants were informed that the price for bringing them into Arizona would be twice as high as they had been told. When one member of the group objected, the coyotes walked him into another room, shot and killed him.

Human smuggling is not just violent, it is highly profitable. Hundreds of millions of dollars have been wire transferred into Arizona to pay for smuggling human beings. To cut down on coyote activities, the Arizona Attorney General's Office has for several years used



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"sweeping" warrants to screen the wire transfers of cash that pay coyotes for smuggling people into Arizona and intercept the most suspicious.

Intercepting wire transfers of criminal proceeds has proven an effective tool. Between 2003 and 2007, my Office seized more than $17 million in wire payments and arrested more than 100 smugglers. Every effort has been made to focus the warrants on activity known to be consistent with human smuggling based on a variety of identifying factors. Any legitimate cash transfers detained in the process were promptly returned, usually within 24 hours. On investigation, less than 10 percent of intercepted transfers over those years turned out to be legitimate.

Our success in seizing smuggling payments sent to Arizona dramatically reduced the volume of wire transfers into Arizona by hundreds of millions of dollars. The coyote organization that committed the Phoenix drop house murder in the example above, like many other such organizations, began to route its wire transfer payments to Sonora in northern Mexico. In response to this change in coyote tactics, we targeted 26 wire transfer locations on the Mexican side of the border. Western Union, the nation's dominant wire transfer company, went to court to stop our efforts. The Arizona Court of Appeals upheld our methods. The matter is still in litigation.

Our seizure warrants are similar to court-ordered wiretaps. Our warrants do temporarily detain some legitimate transfers, in the same way wiretaps sometimes record non-criminal conversations. Courts have authorized both seizure warrants and wiretaps when presented with evidence of reasonable probability of criminal activity and when every effort is made to minimize the impact on innocent people. That is exactly what my Office has done in this program.

With Arizona the Nation's leading gateway for human trafficking, I will continue to use all legal means available to deter and prosecute human smugglers. Seizure warrants have proven to be the most effective weapon in the fight. However, even though wire transfers are the coyotes' payment method of choice, Western Union still refuses to comply with subpoenas for vital data. I plan to use every legal means to force the compliance of money transmitters and stop Western Union and other money transmitters from doing business with these brutal criminals.



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**B. Multi-Agency Investigations and Prosecutions**

My Office has been involved in numerous multi-agency investigations and prosecutions of human smuggling, drug smuggling and arms trafficking. Most include federal, state and local law enforcement working in close collaboration. Below are a few representative cases:

**Operation Tumbleweed, 2008:** Three months ago, in one of the largest drug trafficking takedowns in Arizona history, we broke up a bi-national drug trafficking organization with the indictment of 59 people and the arrest of 39. Since 2003, the organization is believed to have smuggled close to two million pounds of marijuana from Mexico into the United States with a wholesale value estimated at $1 billion. Working with a drug cartel in the Mexican state of Sinaloa, the organization is alleged to have used vehicles stolen in the U.S. to transport large quantities of marijuana across the border into Arizona and then on to major cities across the country. Traffickers used sophisticated transportation, communication and surveillance technology to bring the drugs across the border and through the desert to Phoenix. This year-long investigation involved U.S. Immigration and Customs Enforcement, U.S. Border Patrol, U.S. Customs Air and Marine, U.S. Drug Enforcement Administration, Arizona Attorney General's Office, Arizona Department of Public Safety, Pinal County Sheriff's Office and Phoenix Police.

**Operation En Fuego, 2008:** This seven-month investigation led to the indictment of 35 individuals on felony charges for smuggling more than 10,000 undocumented immigrants in the past two years. The smuggling organization contracted with other criminal groups to transport 40 to 90 undocumented immigrants a week from Phoenix to destinations throughout the United States. This investigation led to the discovery of five drop houses and the detention of 86 undocumented immigrants who were turned over to federal authorities for deportation. The organization made up to $63,000 per week, using a fleet of vans to transport immigrants from Phoenix to 22 states. The investigation was conducted by the Arizona Financial Crimes Task Force and U.S. Border Patrol.

**Phoenix Gun Store, 2008:** Last May, an 11-month investigation by federal, state and local law enforcement led to the breakup of a major arms trafficking operation that supplied hundreds of AK-47 type assault rifles, other long guns and handguns to criminal organizations in



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Mexico. Some 1,300 weapons were seized in raids at a gun store in Phoenix and the home of its owner. My office is currently prosecuting the owner. He is accused of selling more than 700 weapons to straw buyers and showing the buyers how to falsify purchase records. Hundreds of guns found in Mexico have been traced to this store. The Bureau of Alcohol, Tobacco, Firearms and Explosives believes the weapons were among some 7,700 recovered in Mexico last year and traced to American sales.

**Operation River Walker, 2008:** My Office indicted 48 people in 2008 in the breakup of a major human smuggling organization operating in Phoenix and Naco, Arizona. The defendants were accused of smuggling 8,000 undocumented immigrants per year across the Mexican border to Phoenix drop houses. The organization, which made as much as $130,000 a week transporting up to 60 immigrants per day, had been active for years. Thirteen drop houses were closed. The organization used "sub-contractors" to transport undocumented persons through Arizona, including "walkers" to take immigrants along the San Pedro River, drop house operators, bank account holders, load drivers and even cooks. The indictments followed a seven-month investigation by the Arizona Financial Crimes Task Force, a federal, state and local law enforcement effort.

**Operation Fly-By-Night, 2007:** In 2006, investigators with the Arizona Financial Crimes Task Force noted an unusual level of travel activity associated with a travel agency booking flights in and out of Las Vegas, Nevada. Working closely with major airline carriers and the Airlines Reporting Corporation (ARC), the Task Force identified individual travel agencies participating. Undercover detectives posed as "coyotes" and became customers of travel agency personnel who were providing guidance, direction and passage for undocumented immigrants. In March 2007, I announced indictments involving six Phoenix-area travel agencies that provided one-way airline tickets to more than 6,800 undocumented immigrants since August 2005 (the date when Arizona's human smuggling statute took effect). All of the tickets, worth a total of nearly $2 million, were for travel from McCarran International Airport in Las Vegas, where immigration security was known to be less rigorous than at Sky Harbor Airport in Phoenix. This case won the top award given by International Association of Chiefs of Police in 2007.

**Used Car Lot Seizures, Ongoing:** One prominent case in metro Phoenix involved cutting off important transportation methods used by coyotes. Twenty-one defendants were



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indicted on felony conspiracy and trafficking charges. Eleven used car lots and 400 vehicles — worth $1.5 million — were seized. The cars were used to move humans and drugs from the border. This sophisticated operation provided phony car titles to avoid detection. Cars apprehended by the U.S. Border Patrol were returned to the "lien holder" car lots and continued in service to the criminal organization.

**C. Merida Initiative, Attorneys General Partnership**

In October 2007, the United States and Mexico announced the Mérida Initiative, a multi-year program to provide assistance to Mexico and Central America, aimed at combating drug trafficking, gangs and other forms of organized crime.

Congress initially authorized $1.4 billion for the first three years of the Mérida Initiative. Much of the funding will go toward the purchase of helicopters, airplanes, surveillance software and other goods and services produced by U.S. private defense contractors for delivery to Mexico. According to the U.S. Department of State, 59 percent of the proposed assistance will go to civilian law enforcement agencies and 41 percent to operational costs for the Mexican Army and Mexican Navy.

The Mérida Initiative will also provide vital funding for technical advice and training to strengthen the institutions of justice, case management software to track investigations, new offices of citizen complaints and professional responsibility and witness protection programs in Mexico. In August 2008, Mexico announced that two states, Chihuahua and Nuevo León, are pioneering public trials, in which the state must prove its case. Before, the accused bore the burden of proof, and trials were secret. The new procedures are hoped to bring transparency and accountability to the legal process and to significantly reduce corruption, shoddy investigations, coerced testimony and an extremely low conviction rate.

I agree wholeheartedly with the underlying principle of the Mérida Initiative: The organized criminal cartels that smuggle drugs, people, guns and money must be confronted with all of the strength of the governments of both the United States and Mexico. Toward that end, serving as chair of the Conference of Western Attorneys General, I have helped forge a stronger partnership among state Attorneys General in the U.S. and Mexico. Following meetings in Cuernavaca and Phoenix, we announced last year "a new era of bi-national cooperation to



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fight organized crime in both countries." Those lofty words have had practical consequences. The Attorneys General in the two countries have been working more closely together in four primary areas:

**Human Trafficking and Smuggling:** Bi-national exchange of information about smuggling networks, information provided by witnesses, operational modes, money transmitters, routes and other information. We also agreed to work together to plan and execute enforcement operations.

**Drug Trafficking:** Pilot projects to better investigate drug trafficking on both sides of the border. We further agreed to send drug traffickers caught with amounts under current U.S. federal thresholds to Mexico for prosecution.

**Money Laundering:** Use of investigative techniques pioneered in Arizona to aid in the prosecution of human traffickers in Mexico and to disrupt their flow of funds. We also agreed to assist Mexico with analysis of selected money transmissions from the U.S. to Mexico and other evidence related to money laundering.

**Arms Trafficking:** Expand joint U.S. — Mexican undercover operations aimed at illegal arms sales to prosecute those who sell arms illegally for transport to Mexico. We agreed to pursue an expansion of the registration requirement for multiple gun sales of weapons such as AK-47s.

Additionally, the Attorneys General are working together to establish databases similar to Arizona's THEFTAZ Web site to provide timely information about stolen vehicles and other equipment to law enforcement on both sides of the border.

Another significant step affirmed at the Phoenix meeting was broadening the use of a provision in the Mexican Penal Code that treats crimes committed in other countries as if they were crimes committed in Mexico. This provision, known as "Article 4," was previously limited to criminal prosecutions but will now be used as the basis for joint investigations. This change has exciting long-term possibilities to keep criminals from using the international border as protection.



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Taken together, the Mérida Initiative and our new partnership among Attorneys General promise to invigorate crime-fighting efforts on both sides of the border and significantly reduce the threats from organized criminal operations.

**III. Additional Steps Need to be Taken**

President Obama asserted last week that our Country needs a comprehensive approach, including a closer partnership with Mexico, to combat violent criminal organizations. I agree. Our experience in Arizona has shown that cooperation and intelligence sharing on both sides of the border are necessary if we are to prevail against the sophisticated, well-organized criminals smuggling drugs, people, guns and money across our southern border. For example:

- The goals of the Mérida Initiative are essential, and Congress should appropriate the funds to continue the vital work of assisting Mexican law enforcement and military efforts against the drug cartels.

- All levels of United States law enforcement must help our Mexican counterparts by collaborating on bi-national investigations, cooperating in intelligence gathering and analysis, sharing techniques in science and forensics and investing in compatible technologies and equipment for communication and data storage.

- We must assist Mexico's nascent program to reform its state and federal courts and criminal procedures, including training and technology sharing.

- We must assist Mexico's ambitious program to modernize its police agencies, including establishing mechanisms to ensure transparency and accountability, developing professionalism programs and training officers and technicians in crime scene investigation and maintenance of the chain of custody of physical evidence.

- The departments of the Treasury, Justice and Homeland Security must continue to provide support, people and resources to the various federal-state-local task forces that have proven so successful. They must also expand them where it makes sense, such as broadening the High Intensity Drug Trafficking Area (HIDTA) mission to include the crimes of human trafficking and weapons trafficking in addition to drug trafficking.



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- Gun trafficking and tracing laws need to be updated to recognize the realities of today's sophisticated weapons trade.

- Law enforcement agencies on both sides of the border need to target corrupt money transmitters. To do this effectively, we need additional tools, such as coordinated regulation of money transmitters and currency exchange businesses on both sides of the border, cross-border cooperation to seize criminal assets, streamlined extradition procedures, a lower threshold for mandatory reporting of single-transaction money transfers and cash importation into Mexico, which is currently $10,000, and better procedures for identifying the corrupt actors and their methods by tracing all money going to at least the known trouble spots in Mexico.

- Today's "money transmitter" procedures and infrastructure are becoming obsolete as new alternatives emerge, such as the "prepaid stored value cards" that already are being used for money laundering purposes. Law enforcement agencies must anticipate and deal with tomorrow's cash transfer methods. We need legal and investigative tools specifically addressing such new developments as stored value cards. Such devices should be included in the definition of "monetary instruments" for purposes of Currency and Monetary Instrument Reports (CMIRs). Law enforcement agencies must be able to identify suspicious cards and reporting requirements should allow law enforcement agencies to access cardholders' identities, track transactions and identify patterns of suspicious activity. Stored value cards and devices should be readable by law enforcement to determine the amounts stored on them.

Winning the fight against the criminal organizations that operate on both sides of the border demands increased commitment by law enforcement agencies in both the United States and Mexico. The explosion of violence we have seen in Mexico will not be contained there unless the Mexican government's courageous effort to confront and destroy the drug cartels is successful. It is in the interest of the United States to assist Mexico in that effort and to step up our own law enforcement activities to dismantle the criminal organizations operating across the border. To this end, we are working hard in Arizona through federal, state and local partnerships, to strengthen relationships with our counterparts in Mexico. The challenge we face is critical and requires assistance from the federal government.



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OFFICE OF THE ATTORNEY GENERAL
STATE OF ARIZONA

TERRY GODDARD
ATTORNEY GENERAL

April 1, 2009

**Response to Statement of Western Union Financial Services, Inc.**

Following the March 17, 2009, Joint Hearing before Senate Judiciary Subcommittee on Crime and Drugs and the Senate Caucus on International Narcotics Control regarding "Law Enforcement Response to Mexican Drug Cartels," Western Union Financial Services, Inc. ("Western Union") submitted a "Statement for the Record" dated March 24, 2009. This is my response to Western Union's statement.

Unlike Western Union, I believe this is a proper and compelling forum in which to discuss all of the critical factors in law enforcement's response to Mexican drug cartels. After all, Congress is in a unique position to direct and fund the kinds of cooperative solutions that we absolutely must have to deal with the accelerating problem of crime and violence at the U.S.-Mexico border. To date, the courts have played a vital role in efforts to stem the tide of violence and crime. *See*, for example, *State v. Western Union Financial Services, Inc.*, 219 Ariz. 337, 199 P.3d 592 (App. 2008) (where the appellate court disapproved Western Union's refusal to obey a seizure warrant directed at drug and coyote money moving to Arizona/Sonora smuggling organizations; that case is now before Arizona's Supreme Court); *State v. Western Union*, 97 A.2d 480 (N.J. 1953) (upholding the criminal conviction of Western Union for participation in organized gambling); and *In Re Grand Jury Proceedings: Subpoenas Duces Tecum*, 827 F.2d 301 (8th Cir.1987) (overruling Western Union's resistance to a grand jury subpoena in an investigation of a Western Union location in Kansas City, Missouri, regarding drug transactions). The facts learned from those and other cases provide a pretty clear idea of what is needed to deal more efficiently with these criminal enterprises and how Western Union has frustrated legitimate law enforcement efforts.

While it is true—as Western Union asserts—that many money transfers are made for legitimate family purposes, it is equally clear that huge amounts of money are sent through money transmitters from the interior of the United States to the Southwest border as payment for drugs and undocumented immigration. That money is the life blood of the criminal gangs that were the focus of the Joint Hearing. Use of money transmitters in illegal enterprises is not a

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new phenomenon, as evidenced by the court cases cited above, which stretch back almost fifty years. But the present scope and intensity of the drug violence on the Southwest border are unprecedented, and that violence is financed by the money that passes through the offices of corrupt money transmitters.

**We Need Risk-Based Federal Examinations of Corrupt Money Transmitters**

With better coordination between federal and state regulators and law enforcement, we can halt this critical drug money conduit. Arizona investigators have found that corrupt money transmitters and those who seek ways to evade anti-money laundering measures have an uncanny ability to find each other. A relatively small set of corrupt money transmitters account for a relatively large percentage of the money laundered. IRS examines money transmitters for Bank Secrecy Act compliance, but does so randomly. This is inefficient and contrary to the recommendations of the Financial Action Task Force (FATF), which wisely recommends a "risk-based approach." This approach allocates resources to higher risk locations and agents.

Arizona analysts with access to money transmitter data have found that it is not difficult to locate the corrupt agents based on many factors. Factors include the ratio of incoming to outgoing business, ratio of large and small transactions, transaction sender patterns and seasonal patterns. They also include more transaction-specific circumstances, such as allowing customers to use apparently false identification (such as Social Security numbers or Mexican Voter Identification numbers that are not in the correct format), allowing structuring to evade reporting thresholds, and allowing customers to make name or other identification changes (such as multiple Social Security numbers).

Arizona has made its analytical capabilities available to the IRS in Arizona to assist it in applying a risk-based approach to its examinations. I suggest that this program be implemented nationwide, starting with the Southwest border region. Arizona stands ready to provide federal analysts with a crash course on money transmitter data bases and how to read them and to offer other assistance.

Western Union's statement advocates "a stronger federal role in the fight against border violence," but at the same time it is refusing to supply my office with the very data that is needed to support such a program in Arizona. Specifically, Western Union has not supplied data of any kind to Arizona authorities since January 1, 2009, while all other major money transmitters continue to supply such data. Western Union's statement asserts that its reluctance is based on interstate commerce concerns, but it is not even providing data relating to transactions taking place wholly within the State of Arizona.



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**We Need Federal Geographic Targeting Procedures on the Southwest Border**

Arizona law permits a court to implement a Geographic Targeting Order ("GTO") modeled on federal law. We have used this tool to require disclosure of the true identities of money transmitter customers with great success in Arizona. During the years in which we had GTOs in effect (mid 2003 to 2007) the amount of apparent criminal proceeds transiting Arizona through money transmitters dropped from many hundreds of millions of dollars per year to a tiny fraction of that. Certainly some of the decline was due to criminals (including corrupt money transmitter agents) making their transactions less obvious by using better evasion tactics, but it is also true that denying drug dealers and coyotes free access to money transmitters made an enormous difference in the ease with which they do business. I suggest that federal agencies adopt this program and extended it to the entire Southwest border. Arizona analysts believe that the situation on the rest of the border, particularly in Texas, is similar to the situation in Arizona before we employed these anti-money laundering measures.

I anticipate that this will encounter some resistance from money transmitters. Our experience and that of other states with Western Union, for example, reveals that it has rarely voluntarily self-regulated or mitigated obvious money-laundering activity. Western Union was the subject of two Arizona Department of Financial Institution fines primarily for failure to effectively supervise and control their agents' money-laundering activities ($3 million in June 2006 and $2 million in October 2008). Western Union was also fined by State Banking Departments in New York ($8 million in 2002) and California ($5 million in 2003) for similar anti-money laundering compliance failures.

I raise this subject because I disagree with Western Union's suggestion that Congress should take over money transmitter regulation from the states. Rather, Congress should require federal agencies to join the states and fund the federal agencies to do so.

The following is an excerpt of testimony by Diana Taylor, the former Superintendent of Banks for the State of New York before the U. S. Senate Committee on Banking, Housing and Urban Affairs on Policies to Enforce the Bank Secrecy Act and Prevent Money Laundering in Money Services Businesses and the Gaming Industry. On Sept. 28, 2004, Ms. Taylor addressed the fact that in a high-risk drug trafficking areas and high-risk financial crime areas, federal agencies do not have the manpower or the will to deal effectively with rampant criminal behavior in the money service business industry without state participation. She referred to the $8 million fine assessed against Western Union in 2002 by her agency for failure to effectively monitor and control its agents in the anti-money laundering area:



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> I am Diana Taylor, Superintendent of Banks for the State of New York. My Department is the regulator for over 3,400 financial institutions in New York State, including state-chartered banking institutions, the vast majority of the United States offices of international banking institutions, all of New York State's money transmitters, check cashers, mortgage brokers, mortgage bankers, and budget planners....
>
> The $8 million case involved Western Union and is perhaps the best known. And, better yet, for the purpose of this hearing is a perfect cautionary tale. Because we are the regulator for Western Union, we supervise and examine it. And unlike some of our counterparts in other states, we do have the capacity and expertise to conduct BSA/AML [Bank Secrecy Act/Anti-Money Laundering] exams for these entities. In the course of a regular examination, our examiner noticed that Western Union did not aggregate transactions for each customer across all of their locations. Under the USA PATRIOT Act, the IRS has been given the examination and enforcement authority over MSB [Money Services Business] businesses. But it was my Department that was in Western Union and able to spot the problem, not the IRS. This goes to my point that state regulators are the ones performing regular examinations of MSBs -- it's in our mandate. FinCEN and the IRS should take advantage of this on-the-ground force. The IRS simply does not have the resources to perform BSA compliance examinations of the tens of thousands of MSBs, nor does doing this have any relation to the core mission of the IRS. For us, it is our core mission. The Department held that Western Union had an obligation to ensure that transactions by the same party conducted at different agents of the money transmitter were being aggregated for the purpose of filing CTRs and detecting suspicious activities. Since Western Union would not, our examiners did conduct the aggregations and, lo and behold, suspicious activities became clearly apparent. Still Western Union continued to maintain that they were not required to aggregate under the law.

I believe that the joint federal/state application of the risk-based approach analysis I am suggesting will leverage the resources of federal and state regulators and law enforcement for the benefit of all.

Again, I anticipate some resistance. Western Union states that its concern is for interstate commerce. This is the same tactic it raised in Arizona and, for that matter, that it raised in *State v. Western Union*, 97 A.2d 480 (N.J. 1953), in which Western Union pointed out that its wires were routed through a neighboring state and argued that the prosecution violated the Interstate Commerce Clause. The Supreme Court of New Jersey rejected this argument, holding that because organized gambling was a violation of New Jersey law, the transactions were not "commerce" at all, so the Interstate Commerce Clause did not protect Western Union's criminal transactions. I find it interesting that after raising the Interstate Commerce Clause and the Foreign Commerce Clause before the courts of Arizona, Western Union appears before you—the very body that it claimed was being supplanted by Arizona state authorities—and says that this is not the proper forum to air differences. My larger point is that Congress should address the movement of money to the cartels on a regional basis. Western Union has the



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resources to stall and deflect state efforts, so Congress must add its authority to existing state efforts to address the flow of criminal proceeds into Mexico.

On this point, I want to be very clear that I am targeting criminal proceeds, not the many billions in earned remittances being sent home to the families of immigrants and other loved ones. The essence of money-laundering statutes is that there is an important distinction between criminal proceeds and legitimate money. This truth is the reason that criminal proceeds are not the rightful property of those who possess them. This truth is also the reason that allowing criminal proceeds to flow into Mexico is the opposite of encouraging legitimate money to flow to Mexico.

Legitimate money builds homes, funds businesses, and supports the legitimate economy of Mexico. Criminal proceeds are fueling the cartels and making them powerful. Criminal proceeds are no less harmful than weapons flowing into Mexico—in fact, criminal proceeds fund the purchase of those weapons. These criminal proceeds are sapping our neighbors in Mexico of the rightful benefits of their free democracy by forcing Mexico's citizens to live in fear and by depriving them of the trust that they have a right to have in their elected government. Wire transfers that fuel drug dealers and coyotes are "blood wires" as surely as diamonds that fuel warlords are "blood diamonds." Blood wires are responsible for the deaths of courageous Mexican law enforcement officials, military officers, journalists, judges, elected officials and countless undocumented immigrants. This subcommittee will not have done what it can about the violence in Mexico until it has addressed blood wires.

I appreciate the opportunity to testify and submit this statement. I look forward to working with the Subcommittee and Caucus toward renewed federal efforts that I hope will be part of your response to these serious problems.



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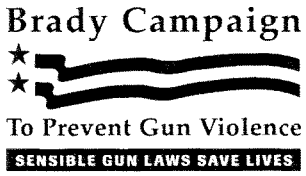


**Statement of Paul Helmke**
**President, Brady Campaign to Prevent Gun Violence**

**On The Impact of U.S. Gun Laws On The Mexican Drug War**

**Submitted to the**
**Senate Committee on the Judiciary, Subcommittee on Crime and Drugs and the Senate Caucus on International Narcotics Control**

**Joint Hearing on "Law Enforcement Responses to Mexican Drug Cartels"**

March 17, 2009

I am the President of the Brady Campaign to Prevent Gun Violence, a national non-profit organization working to reduce the tragic toll of gun violence in America through legislative and grassroots mobilization efforts, along with our network of Million Mom March Chapters. These efforts are complemented by the legal action and public education programs of our affiliate, the Brady Center to Prevent Gun Violence.

Mexico's escalating war with well-armed drug cartels has killed thousands of police, government officials, and ordinary citizens, and threatens the stability of the Mexican government. U.S. Attorney General Eric Holder, Homeland Security Secretary Janet Napolitano, and President Obama have recognized that helping stem the violence in Mexico is of urgent national — and international — importance. The Mexican drug cartels are so well armed that there are serious concerns that the Mexican government will be unable to defeat them, and that our neighbor to the south may become a narco-state, or that the drug lords will be able to continue their ruthless, illegal operations with impunity. The prospect of our neighbor to the south being controlled by gun-toting drug lords is frightening, to say the least.

Additionally, Mexico's drug war has recently begun to wreak havoc in the United States. Gangs affiliated with the Mexican cartels have infiltrated virtually every part of the country, from Atlanta to Anchorage, and the gruesome violence and kidnappings that are their trademarks are no longer confined to Juarez and Tijuana. In Las Vegas, a 6 year old boy was abducted; in Atlanta, a man was chained and tortured; in Texas, a truck driver was taken across the border – all the work of thugs tied to the Mexican drug cartels.[1]



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In recent years, when there have been reports that other nations might be supplying or condoning the transfer of weapons to criminals or terrorists abroad, we have heard much sabre-rattling from Washington, and occasionally calls for military action against the nations who shield those suppliers. But with the crisis in Mexico, the threat is just across the border, Americans are already being killed here at home, and ***American gun sellers are supplying the arms to the Mexican drug lords***. It has been well-reported that American gun sellers supply the cartels with between 95 and 100 percent of their guns.[2]

The policy proposals discussed thus far on Capitol Hill, such as increased resources for law enforcement and better policing of our border, may help, but they are inadequate to stop this war, as they will not address the core of the problem. ***The Mexican drug cartels are arming themselves here because weak, nearly non-existent, gun laws in the U.S. make it too easy for criminals and traffickers to get guns***. The drug gangs cannot obtain guns in Mexico, because their laws are too tough. But in America, traffickers can arm themselves easily with all the weapons they can desire, from military surplus .50 caliber sniper rifles, to AK-47 assault weapons, to semi-automatic handguns by the crate. Mexican Attorney General Eduardo Medina Mora correctly called American gun laws "absurd."[3]

President Obama has called for a "a comprehensive approach" that supports Mexican President Calderón, while "also making sure we are dealing with the flow of drug money and guns south, because it's really a two-way situation there."[4] As the President explained, "The drugs are coming north, we're sending funds and guns south."[5] Any comprehensive approach must address one of the core causes of the crisis in Mexico – weak U.S. gun laws that make it easy for criminals and traffickers who supply them with guns.

The United States must strengthen its laws to make it harder for dangerous people to get guns. Most critically, if we are to make a serious effort to prevent criminals from obtaining guns, in Mexico and the United States, we should no longer allow guns to be sold without a background check. We also must stop allowing traffickers to buy unlimited numbers of guns, including military-style assault weapons and sniper rifles. We must remove the restrictions placed on our law enforcement and special protections given to gun companies that enable corrupt gun sellers to flourish.

The vast majority of the American people, including gun owners, support these and other common sense proposals.[6] None of these proposals will infringe on the rights of law-abiding gun owners. They will only make it harder for criminals to obtain lethal firearms. It is time that Congress stop listening to the gun lobby, and start listening to the pleas of the American people, as well as our neighbors to the south. Especially now that our national security may hang in the balance, Congress must bring sanity to our nation's gun laws.

Two crucial points need to be included in developing policy responses to the crisis:

1) ***To stem the violence in Mexico, we need to prevent criminals and traffickers from buying guns in the U.S. by plugging loopholes in our gun laws and strengthening our law enforcement's ability to crack down on corrupt gun dealers.*** This crisis is not happening just because of border security issues; it is happening because our gun laws allow unlicensed sellers to sell guns without Brady background checks, unlimited numbers of military-style assault weapons to be freely sold, and corrupt dealers to thrive. Making our borders less porous will take years, and will not stop the immediate Mexican crisis.



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2) ***The same legal loopholes and corrupt gun sellers who arm Mexican criminals also arm American criminals.*** While we should heed the call of Mexican officials to help stop the violence there, we also should heed the call of the majority of Americans who want to stop the violence in their communities. Every year, 30,000 men, women and children die in America as a result of guns, and over 70,000 are wounded, often severely.

**Loopholes in Our Gun Laws Enable Mexican Drug Cartels to Obtain Deadly Weapons**

Mexican criminals can't get the guns they need in Mexico because the gun laws in Mexico, like those in most industrialized nations, do not allow a vast unregulated gun market, in which military-style weapons and all manner of guns are easily available to be purchased in unlimited quantity without a background check. Stymied by Mexico's tough gun laws, the drug lords and the traffickers who supply them come to the U.S. to take advantage of our gun laws' gaping loopholes:

- ***No Brady Background Check Sales***: Federal law allows guns to be sold by unlicensed sellers without Brady background checks. The Bureau of Alcohol, Tobacco, Firearms and Explosives ("ATF") has found that "no background check" sales are a major source for supplying dangerous people with guns. Investigations of gun shows have found that unlicensed sellers have trafficked thousands of guns without background checks, making them the second most prominent source of illegal gun trafficking.[7] Mexican drug cartels are exploiting this loophole, buying guns in "no background check" sales at gun shows or other private venues.[8]

- ***Military-style Assault Weapons***: Federal law in the U.S. allows civilians to purchase military-style assault weapons, as well as military surplus .50 caliber sniper rifles that can shoot through armored vehicles and bring down airplanes. Mexican law enforcement is increasingly being out-gunned by drug gangs using military-style weapons. Mexico Attorney General Medina Mora has said that before the U.S. assault weapons ban was allowed to expire in 2004, only 21 percent of the weapons Mexico seized from traffickers were assault rifles, while today, it is more than half.[9] For example, a Bushmaster carbine, a civilian version of the M-16 assault rifle, bought in Houston was used by drug gangsters disguised as soldiers to massacre four police officers and three secretaries in the "2007 Acapulco Massacre."[10]

- ***Bulk Sales***: Federal law does not limit the number of guns a purchaser can buy at a time – the only limit is the buyer's ability to pay for them. This enables gun traffickers to buy guns in bulk, and/or buy guns repeatedly from the same store. For example, between January and November 2003, Adan Rodriguez purchased more than 150 guns for Mexican drug gangs, returning repeatedly to Ammo Depot in Mesquite, Texas. One of the guns he sold was connected to the shooting of a police officer in Reynosa.[11]

- ***Restrictions on Law Enforcement:*** Only one percent of federally licensed firearms dealers are responsible for nearly 60 percent of guns traced to crime in the U.S.,[12] and many of the guns trafficked to Mexico are also sold by gun dealers who are at worst corrupt, at best, willfully indifferent when they sell guns to straw purchasers.[13] Yet federal law makes it too hard for law enforcement to crack down on corrupt gun dealers. For example, ATF is limited to one spot inspection per year, and the standard of proof for license revocations is difficult to meet. Riders attached annually to Justice Department appropriations legislation since 2004, known as the Tiahrt Amendment, prohibit ATF from requiring gun dealer inventory audits, restrict



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disclosure of crime gun data, and require the destruction of Brady Background Records after 24 hours. These restrictions make it harder for law enforcement to investigate corrupt dealers.

**The Loopholes That Arm Mexican Cartels Are Also Killing Americans**

Just as criminals in Mexico find it necessary to go to the U.S. to get guns, American criminals get a disproportionate share of their guns from states with weak gun laws. For example, states that require permits for handgun sales export only one-third of the crime guns as states with no such requirement.[14] States like Texas, that allow gun sales without background checks export crime guns on average at about twice the rate of states that have closed the gun show loophole.[15] Texas leads the nation as the primary source of guns for drug cartels[16] and Texas dealers are the third highest supplier of interstate crime guns in the U.S.[17] The states with the highest rate of supplying crime guns to other states all have weak gun laws.[18] States with weak gun laws also supply a larger percentage of in-state criminals with guns – because criminals in those states do not need to travel to get guns.[19]

**Current Proposals Are Insufficient to Stem the Violence in Mexico – or America**

In response to the Mexican crisis, legislation has been introduced to expand resources for ATF to crack down on firearms trafficking across the border,[20] and U.S. Attorney General Eric Holder has called for reinstatement of an assault weapons ban.[21] While these proposals are positive steps, they alone will not be sufficient to stem the gun crisis in Mexico, or in the United States. In formulating a policy to stem the flow of guns to Mexico, policymakers must focus on the fundamental problem – that our laws in the U.S. make it far too easy for criminals and other dangerous people to obtain guns. We need to require Brady background checks for all gun sales. We should not allow the purchases of unlimited numbers of guns at one time. We should strengthen ATF's legal authority to crack down on corrupt gun dealers.

So long as unlicensed sellers are allowed to sell guns without background checks, and there are no reasonable limits on bulk gun sales, and military-style weapons are legal, even if law enforcement has all the resources in the world they would have to sit idly by and watch as traffickers and criminals buy limitless numbers of AK-47s and .50 caliber sniper rifles, no questions asked. Unless our weak, loophole-ridden, nearly non-existent gun laws are strengthened, "enforcing the laws on the books" is a meaningless catch phrase that will not prevent the supplying of guns to criminals in Mexico – or the U.S.

An intelligent, comprehensive approach on guns will not only prevent criminals in Mexico from being armed, it will also prevent gun violence here at home. The United States suffers more than 30,000 deaths and more than 70,000 injuries due to gun violence every year.[22] Estimates of direct medical expenses for firearm injuries range from $2.3 billion[23] to $4 billion[24] per year in the U.S., nearly 50% of which is covered by taxpayers.[25] By strengthening our federal gun laws, we can start preventing criminals in Mexico and the U.S. from acquiring guns.

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[1] Sam Quinones & Richard A. Serrano, *Mexico drug wars spill across the border*, LOS ANGELES TIMES, Nov. 16, 2008, *available at:* http://www.latimes.com/news/nationworld/nation/la-na-cartels16-2008nov16,0,1692616.story.

[2] John Asbury, *Guns move south via Inland gangs*, THE PRESS-ENTERPRISE, Sept. 28, 2008 (95%); U.S. DEPT. OF STATE, BUREAU FOR INTERNATIONAL NARCOTICS AND LAW ENFORCEMENT AFFAIRS, *International Narcotics Control Strategy Report, Vol. 1, Drug and Chemical Control* 414 (Mar. 2009) (95%); Manuel Roig-Franzia, *U.S. guns behind cartel killings in Mexico*, WASHINGTON POST, Oct. 29, 2007, at A1 (100%).

[3] *Mexico slams 'absurd' US gun laws as drug war rages*, REUTERS, Jan. 14, 2007.

[4] Maria Recio, *Obama Weighs in On Drug War*, MIAMI HERALD, March 13, 2009, *available at:* http://www.miamiherald.com/news/americas/story/947461.html.

[5] *Id.*



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[6] *See* Greenberg Quinlan Rosner Research and The Tarrance Group, *Americans Support Common Sense Measures to Cut Down on Illegal Guns* (Apr. 10, 2008), *available at*: http://www.mayorsagainstillegalguns.org/downloads/pdf/polling_memo.pdf (finding that 87% favor requiring everyone who sells guns at gun shows to conduct criminal background checks on the purchasers, and 83% of gun owners approve of background checks at gun shows).
[7] BUREAU OF ALCOHOL, TOBACCO & FIREARMS, *Following the Gun: Enforcing Federal Firearms Laws Against Firearms Traffickers* xi (June 2000).
[8] *See* Todd Bensman, *The Sellers: Gun merchants caught between profit and conscience*, SAN ANTONIO EXPRESS-NEWS, Dec. 14, 2008 ("an exemption known as the 'gun show loophole' that federal agents say has been a boon to cartel buyers"); Guillermo Contreras, *The Buyers: Straw purchasers in the U.S. profit from murder in Mexico*, SAN ANTONIO EXPRESS-NEWS, Dec. 14, 2008 ("Cartels also exploit what is known as the 'gun show loophole'...Cartel figures can buy these used guns themselves"); James C. McKinley, Jr., *U.S. is arms bazaar for Mexican cartels*, THE NEW YORK TIMES, Feb. 26, 2009 ("Some of the smuggled weapons are also bought from private individuals at gun shows, and the law requires no notification of the authorities in those cases").
[9] *Mexico: U.S. must stop gun trade at border*, CBSNEWS.COM, Feb. 28, 2009.
[10] Dane Schiller, *Guns Sold Here Kill in Mexico*, HOUSTON CHRONICLE, Nov. 30, 2008.
[11] James Verini, *Arming the drug wars*, PORTFOLIO, July 2008.
[12] BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES, *Commerce in Firearms in the United States* 2 (2000). *See also* BRADY CENTER LEGAL ACTION PROJECT, *Shady Dealings: Illegal Gun Trafficking from Licensed Gun Dealers* 9 (2007).
[13] For example, according to criminal charges, George Iknadosian moved his X-Caliber gun shop from California to Phoenix, where the state laws are weaker and where he knowingly supplied firearms to Mexican drug cartels over two years, selling more than 700 weapons intended for Mexico. *See* James C. McKinley, Jr., *U.S. is arms bazaar for Mexican cartels*, THE NEW YORK TIMES, Feb. 26, 2009.
[14] MAYORS AGAINST ILLEGAL GUNS, *The Movement of Illegal Guns in America* 12, Dec. 2008 [hereinafter MAIG].
[15] MAIG at 10.
[16] Guillermo Contreras, *The Buyers: Straw purchasers in the U.S. profit from murder in Mexico*, SAN ANTONIO EXPRESS NEWS, Dec. 14, 2008.
[17] MAIG at 6.
[18] MAIG at 7.
[19] MAIG at 24.
[20] Sens. Jeff Bingaman (D-NM) and Kay Bailey Hutchinson (R-TX) introduced in the Senate S.205, the Southwest Border Violence Reduction Act of 2009; Rep. Ciro Rodriguez (TX) introduced similar legislation, H.R.495, in the House of Representatives.
[21] Jason Ryan, *Obama to seek new assault weapons ban*, ABCNEWS.COM, Feb. 25, 2009.
[22] CDC National Center for Injury Prevention and Control, Web-based Injury Statistics Query and Reporting System (2005 (deaths) and 2006 (injuries), most recent year available), *available at*: www.cdc.gov/ncipc/wisqars/ (calculations by Brady Center to Prevent Gun Violence, Feb. 29, 2008).
[23] *American Academy of Pediatrics: Firearm-Related Injuries Affecting the Pediatric Population*, 105 PEDIATRICS 888, 889 (2000).
[24] Kizer KW et al., *Hospitalization charges, costs, and income for firearm-related injuries at a university trauma center*, 273 J. AM. MED. ASS'N. 1768, 1773 (June 14, 1995).
[25] Philip Cook et al., *The Medical Costs of Gun Shot Injuries in the United States*, 282 J. AM. MED. ASS'N. 447 (1999).



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# Department of Justice

STATEMENT OF

WILLIAM HOOVER
ASSISTANT DIRECTOR FOR FIELD OPERATIONS
BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES
UNITED STATES DEPARTMENT OF JUSTICE

AND

ANTHONY P. PLACIDO
ASSISTANT ADMINISTRATOR FOR INTELLIGENCE DIVISION
DRUG ENFORCEMENT ADMINISTRATION
UNITED STATES DEPARTMENT OF JUSTICE

BEFORE THE

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY
SUBCOMMITEE ON CRIME AND DRUGS

CONCERNING

"LAW ENFORCEMENT RESPONSES TO MEXICAN DRUG CARTELS"

PRESENTED

MARCH 17, 2009

Chairman Durbin, Senator Graham and distinguished Members of the Subcommittee, the Department of Justice (the Department) is honored to appear before you today to discuss the Department's ongoing role in breaking the power and impunity of the Mexico-based criminal organizations that supply illicit drugs to the U.S., smuggle firearms from the U.S. into Mexico, and carry out unprecedented violence in Mexico and along the border.

No other country in the world has a greater impact on the drug situation in the United States than does Mexico: the result of a shared border, Mexico's strategic location between drug producing and consuming countries, and a long history of criminal enterprises with diversified poly-drug profit-minded approaches that specialize in cross-border smuggling. All four major drugs of abuse, cocaine, heroin, cannabis, and methamphetamine, are either produced in, or are transshipped through Mexico before reaching the United States. Mexico is an opium poppy-cultivating/heroin-producing country and nearly all of the heroin produced in Mexico is destined for the U.S. It is believed to be the number one foreign supplier of marijuana abused in the United States and marijuana is the top revenue generator for Mexican drug trafficking organizations; these proceeds are used to purchase weapons and corrupt public officials. Most foreign-produced methamphetamine enters the United States through Mexico. Although the Mexican government has made enormous strides in controlling the importation of the methamphetamine precursor chemicals, Mexican methamphetamine trafficking organizations are proving to be extremely resourceful in circumventing the strict regulatory measures put in place by the Calderon Administration. Moreover, upwards of



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90 percent of the cocaine abused in the U.S. transits Mexico. Mexican traffickers dominate the retail distribution markets for all of the aforementioned drugs within the U.S. It is important to point out that they exploit the very same routes, methods and procedures that they use to smuggle drugs into the U.S. to move the bulk cash proceeds from the sale of drugs, as well as weapons and ammunition, back into Mexico.

That violence, which is fueled by Mexico's drug cartels, poses a serious challenge for U.S. and Mexican law enforcement and threatens the safety of innocent citizens on both sides of the border. Reports indicate that the drug war has left more than 6,000 dead last year and more than 1,000 dead so far this year. By far, most of the killings are trafficker on trafficker murders; however, some innocents have been caught in the crossfire. The violence also has been directed against law enforcement personnel, political leaders, and the press. The U.S Department of State has cautioned U.S. citizens who work and travel in Mexico to be wary of the ongoing danger in particular areas. Mexican President Felipe Calderon and Mexican Attorney General Eduardo Medina Mora have identified cartel-related violence as a top security priority and proclaimed the illegal trafficking of U.S.-source firearms to be the "number one" crime problem affecting the security of Mexico. Almost immediately following his inauguration as President of Mexico in December 2006, President Calderon, of his own volition, initiated a comprehensive program to break the power and impunity of the drug cartels. As a direct consequence of this effort, there has been a sharp spike in murders and violent crimes in Mexico, generating significant concern that cartel violence has escalated to the



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level of an attack on the Mexican government itself and that this violence would spill over our Southwest border with adverse consequences to U.S. interests.

The increased level of violence that currently plagues Mexico represents, in large measure, a desperate attempt by drug traffickers to resist the sustained efforts of a very determined Mexican Administration. Since the Calderon Administration assumed power, the Government of Mexico has made record closures of clandestine laboratories and made record seizures of drugs, weapons and cash. They have arrested large numbers of defendants, including high level representatives of all of the major Mexican Cartels and, in unprecedented fashion, extradited more than 178 of these defendants to face prosecution in the U.S. Beginning in January 2007, immediately after the Calderon government was installed, the price per gram of cocaine in the United States began to rise, with a correlative drop in cocaine purity. We are now in a 24-month sustained period of declining purity and increasing price in nearly every major cocaine market in the United States and have seen that price more than double and purity fall by almost 35 percent.

The Department believes the Government of Mexico has demonstrated remarkable commitment and resolve. As a result of Mexico's efforts together with efforts undertaken by the various Department components and the interagency domestically and by our partners throughout the region, Mexican drug trafficking organizations have been placed under unprecedented stress. We are mindful, however, that success against these powerful criminal adversaries is far from assured and the



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consequences of transnational criminals prevailing in their bloody conflict with the Calderon Administration would pose serious consequences for the safety and security of citizens on both sides of our Southwest border. As we sit before you today, the U.S. has seized this historic opportunity to collaborate with Mexico. Through the Merida Initiative and the funding provided by the U.S. Congress our Mexican counterparts have additional resources to protect the safety and security its citizens and to mount aggressive enforcement actions against the drug cartels.

An Associated Press article appearing in the Washington Post on March 5, 2009, reported that American professionals living along the border, including doctors, lawyers and factory owners, who routinely travel across the border, feel so threatened by the murders and kidnappings that they are having armor plating and bullet-proof glass installed in their cars and pickup trucks. According to the Washington Post, one San Antonio company specializing in bulletproofing cars says that it expects a 50 percent increase in business this year. Clearly we need to take action now to protect our citizens and their property from harm. While it may seem counterintuitive, the extraordinary level of violence in Mexico is another signpost of successful law-and-order campaigns by military and law enforcement officials in Mexico.

Because of the enormous profit potential, violence has always been associated with the Mexican drug trade as criminal syndicates seek to control this lucrative endeavor. The violence in Mexico can be organized into three broad categories: intra-cartel violence that occurs among and between members of the same criminal syndicate,



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inter-cartel violence among and between rival cartels, and cartel versus government violence. It is significant to note that intra- and inter-cartel violence have always been associated with the Mexican drug trade. The Department assesses that the current surge in violence is driven in large measure by the Government of Mexico's offensive actions against the traffickers, who in turn perceive they are fighting one another for an increased share of a shrinking market.

**ATF EXPERTISE**

For over 30 years the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) has been protecting our citizens and communities from violent criminals and criminal organizations by safeguarding them from the illegal use of firearms and explosives. ATF is responsible for both regulating the firearms and explosives industries and enforcing criminal laws relating to those commodities and has the experience, expertise, tools, and commitment to investigate and disrupt groups and individuals who obtain guns in the U.S. and illegally traffic them into Mexico in facilitation of the drug trade.

The synergy of ATF's crime-fighting expertise, regulatory authority, analytical capability, and strategic partnerships is used to combat firearms trafficking both along the U.S. borders and throughout the nation. For instance, from Fiscal Year 2004 through February 17th of this year, Project Gunrunner – ATF's strategy for disrupting the flow of firearms to Mexico – has referred for prosecution 795 cases involving 1,658 defendants;



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those cases include 382 firearms trafficking cases involving 1,035 defendants and more than 12,800 guns.

Project Gunrunner includes approximately 148 special agents dedicated to investigating firearms trafficking on a full-time basis and 59 industry operations investigators (IOIs) responsible for conducting regulatory inspections of federally licensed gun dealers, known as Federal Firearms Licensees (FFLs), along the Southwest border.

As the sole agency that regulates FFLs—roughly 6,700 of which are along the Southwest border—ATF has the statutory authority to inspect the records of licensees, examine those records for firearms trafficking trends and patterns, and revoke the licenses of those who are complicit in firearm trafficking. As part of Project Gunrunner, IOIs work to identify and prioritize for inspection those FFLs with a history of noncompliance that represents a risk to public safety. They also focus on those primary retailers and pawnbrokers who sell the weapons of choice that are the preferred firearms being trafficked in this region. Moreover, utilizing ATF trace data analyses, IOIs prioritize for inspection those FFLs with numerous unsuccessful traces and a large volume of firearms recoveries in the targeted high-crime areas. This focused inspection effort assists in the identification and investigation of straw purchasers and the traffickers who employ them. In FY 2007, ATF inspected 1,775 of FFLs along the border and, in FY 2008, inspected 1,884. In addition to inspections, the IOIs work to improve relations with firearms industry members, enhance voluntary compliance, and promote licensees'



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assistance in preventing firearms diversion by conducting training and outreach activities with FFLs in the targeted areas.

Admittedly, more can and should be done to stop the flow of weapons from the United States into Mexico. It is an undisputable fact that the weapons and firearms used to fuel the drug-related violence in Mexico can be traced back to guns procured legally or illegally here. ATF is aggressively working to keep weapons out of the hands of the cartels and other dangerous criminals in Mexico by adding additional Special Agents and other personnel to disrupt firearms trafficking networks, increasing our oversight of the federal firearms licensees along the border, and improving the coordination of firearms trafficking information amongst federal, state, and local law enforcement agencies stationed along the border.

**DEA EXPERTISE**

The Drug Enforcement Administration (DEA) has a large international presence. With eleven offices in Mexico, and a decades-long history of working with the Mexican government, DEA has an excellent vantage point from which to assess the drug trafficking situation in Mexico, the related violence, its causes, and its historical context. In collaboration with Mexican law enforcement, DEA is actively working to systematically dismantle the cartels. Shortly after Congress approved the Sensitive Investigative Unit (SIU) program in 1996, the Mexico City SIU was established, and DEA now works closely with a number of trusted counterparts throughout the country. Our SIU counterparts have undergone a rigorous vetting process, to include robust



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background investigations and polygraph examinations. DEA works closely with these vetted units to collect and analyze sensitive law enforcement information and to further the case development against, and the prosecution of, major drug trafficking organizations. Working with our Mexican counterparts, DEA and U.S. interagency partnerships have taken the offensive against Mexico-based cartels on their own turf and sought to systematically identify and dismantle U.S. based cells of these Mexican cartels. Project Reckoning and Operation Xcelerator are recent examples of this U.S.-Mexico collaboration. Both Projects were investigated and prosecuted in multiple Organized Crime Drug Enforcement Task Forces (OCDETF) cases, involving DEA and other OCDETF investigative agencies, numerous United States Attorney's Offices, and the Department's Criminal Division.

Project Reckoning was a 15-month operation targeting the Gulf Cartel and remains one of the largest, most successful joint law enforcement efforts ever undertaken between the U.S. and Mexico. Because of intelligence and evidence derived from Project Reckoning, during 2008 the U.S. was able to secure indictments against the Gulf Cartel "triumvirate" of Ezekiel Antonio Cardenas-Guillen (brother of extradited Kingpin Osiel Cardenas-Guillen), Eduardo Costilla-Sanchez, and Heriberto Lazcano-Lazcano, head of Los Zetas. Project Reckoning resulted in over 600 arrests in the U.S. and Mexico, including 175 active Gulf Cartel/Los Zetas members, thousands of pounds of methamphetamine, tens of thousands of pounds of marijuana, nearly 20,000 kilograms of cocaine, hundreds of weapons, and $71 million. Operation Xcellerator began in May 2007 from an investigation in Imperial County, California and targeted the Sinaloa



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Cartel. Operation Xcellerator was recently concluded and resulted in over 750 arrests, multi-drug seizures running to the tens of thousands of pounds, aircraft and maritime vessel seizures, and over $59 million in seized currency. While these operations are intended to break the power and impunity of the cartels, in the short term they also exacerbate the violence in Mexico. The aforementioned Operations and Projects are by no means complete. These examples represent ongoing efforts that will continue, with as many iterations as are necessary, to cripple and destroy the Mexico-based drug cartels.

**Defining the Problem**

The southwest border is the principal arrival zone for most illicit drugs trafficked into the U.S., as well as the predominant staging area for the subsequent distribution of these drugs throughout the U.S. Guns are an integral part of these criminal enterprises; they are the "tools of the trade." Drug traffickers routinely use firearms against each other and have used these weapons against the Mexican military, law enforcement officials, and Mexican civilians. Because firearms are not readily available in Mexico, drug traffickers have aggressively turned to the U.S. as their primary source. Firearms are routinely being transported from the U.S. into Mexico in violation of both U.S. and Mexican law. In fact, according to ATF's National Tracing Center, 90 percent of the weapons that could be traced were determined to have originated from various sources within the U.S. One thing must remain clear in any discussion of violence in Mexico, or violence practiced by Mexican traffickers operating in the U.S.: drug gangs are inherently violent, and nowhere is this more true than in Mexico, where "Wild West"-



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style shootouts between the criminals and the cops, and elements of opposing trafficking groups are unfortunately considered normal.

To elaborate, the rising incidences of trafficking U.S.-sourced firearms into Mexico is influenced by a number of factors, including increased demand for firearms by drug trafficking organizations, and the strictly regulated and generally prohibited possession and manufacturing of firearms in Mexico. Remarkable amounts of cash are accumulated on the U.S. side of the border and it is believed that, in certain cases, it is used to procure firearms and ammunition that eventually makes their way south to Mexico. Weapons sources typically include secondary markets, such as gun shows and flea markets since—depending on State law—the private sale of firearms at those venues often does not require background checks prior to the sale or record keeping.

A comprehensive analysis of firearms trace data over the past three years indicates that Texas, Arizona and California are the three largest source States, respectively, for firearms illegally trafficked to Mexico. In FY 2007 alone, Mexico submitted approximately 1,112 guns for tracing that originated in Texas, Arizona and California. The remaining 47 States accounted for 435 traces in FY 2007.

It should be noted, though, that while the greatest proportion of firearms trafficked to Mexico originate out of the U.S. along the southwest border, based on successful traces, ATF trace data has established that drug traffickers are also acquiring firearms from other States as far east as Florida and as far north and west as Washington State. A case from April 2008 involving the Arellano Felix Drug Trafficking



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Organization illustrates this point. A violent dispute between elements of this drug trafficking organization left 13 members dead and 5 wounded. ATF assisted Mexican authorities in tracing 60 firearms recovered at the crime scene in Tijuana. As a result, leads have been forward to ATF field divisions in Denver, Houston, Los Angeles, Philadelphia, Phoenix, San Francisco and Seattle.

In addition, drug traffickers frequently resort to using "straw purchasers" to gain firearms from federally licensed gun dealers in the U.S., dealers who often are unwitting participants in these schemes. Straw purchases refer to instances wherein an individual purchases a firearm for someone who is either prohibited by law from possessing one, such as a convicted felon, or who does not want his or her name associated with the transaction. In other words, a straw purchase when someone poses as the buyer of a firearm although that person is not the true purchaser and is doing so for someone else who wishes or needs to the law and the creation of a paper trail.

Until recently drug traffickers' "weapon of choice" had been .38 caliber handguns. However, they now have developed a preference for higher quality, more powerful weapons, such as .223 and 7.62x39mm caliber rifles, 5.7x28 caliber rifles and pistols, and .50 caliber rifles; each of these types of weapons has been seized by ATF in route to Mexico. ATF also has seized large quantities of ammunition for use in these firearms. Drug trafficker's taste for high-power weaponry is evidenced by a joint ATF, FBI and Tucson Police Department investigation in April 2006. That effort led to the arrest of three members of the aforementioned Arellano Felix Organization for attempting to purchase machineguns and hand grenades from undercover agents. One



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individual, a Mexican citizen, was sentenced to 70 months in Federal prison while the other two, both U.S. citizens, were sentenced to 87 months. This case demonstrates that drug traffickers are known to supplement their firearms cache with explosives. ATF's expertise with explosives has proven to be another valuable asset to use in the fight against drug cartels. For the past 18 months ATF has been working closely with Mexican law enforcement and military personnel by quickly responding to grenade seizures in Mexico in order to positively identify and trace these explosives. Unfortunately, in the past six months we have noted a troubling increase in the number of grenades, which are illegal to possess and sell, seized from or used by drug traffickers, and we are concerned about the possibility of explosives-related violence spilling into U.S. border towns.

The brutality and ruthlessness of the violence is appalling—we cringe at news stories detailing the arrest of the "pozolero" (stew-maker), a killer who disposes of his victims' body parts in barrels of acid, or the discovery of a mass grave containing the remains of countless victims decomposing under a layer of lime. But these and other gruesome tactics are not new. Both new and disturbing however, are the sustained efforts of Mexican drug trafficking organizations to use violence as a tool to undermine public support for the government's counter-drug efforts, intentionally displaying the beheaded and mutilated bodies of their victims with messages that threaten even greater violence.

In 2007, the number of drug-related killings in Mexico doubled from the previous year. Of the 2,471 (source: PGR) drug-related homicides committed in that year, law enforcement and intelligence sources estimate that around 10 percent were killings of law



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enforcement or military personnel. Just over 8 percent of the 6,263 drug-related killings in 2008 were of law enforcement or military officials. Since January 2009, approximately 1,000 people have been murdered in Mexico, about 10 percent of whom have been security officers or public officials.

Particularly worrisome are those tactics intended to intimidate police and public officials creating in some cases defections from police organizations – at times with former police officials seeking asylum and protection in the U.S. As disturbing as these tactics are, they do not appear to be having any impact on staffing of the federal police or military that are the primary tools in the Calderon Administration's offensive. Although Calderon currently enjoys a high level of public support, as does his crack down against the traffickers, DEA assesses that the Calderon Administration is not only fighting a formidable adversary in the traffickers, it is also fighting to maintain the public's support and its resolve against the horrific intimidation tactics of the traffickers. In the case of President Calderon's government, the evidence shows that they will not waver even in the face of the most horrific acts of violence.

**The Way Forward**

Through its experience with combating violent crime along the southwest border and around the world, the Department has learned that interagency and international collaboration and coordination is fundamental to our success. We must sustain the positive momentum achieved to date by supporting President Calderon's heroic efforts against organized crime. We must also manage expectations, as we anticipate that the



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gruesome violence in Mexico may get worse as the Mexican Government increases its efforts against the cartels. We must recognize that we are witnessing acts of desperation: the actions of wounded, vulnerable and dangerous criminal organizations. We remain committed to working with our U.S. law enforcement and intelligence partners as well, to stem the flow of bulk cash and weapons south, while also working to sustain the disruption of drug transportation routes northward.

Bringing to the criminal and civil justice system of the U.S., or any other competent jurisdiction, those organizations and principal members of organizations involved in the cultivation, manufacture, and distribution of controlled substances appearing in or destined for trafficking in the U.S. is of foremost importance. Continuing to identify, investigate and eliminate the sources of and networks for transporting illicitly trafficked firearms also remains an important focus.

The El Paso Intelligence Center, the central repository and clearinghouse for all weapons-related intelligence collected and developed by all federal, State and local law enforcement entities involved in narcotics interdiction and investigation along the U.S.-Mexico border is an important tool in the Department's work to cease border violence. Another important tool is the OCDETF Fusion Center (OFC), a comprehensive data center containing all drug intelligence information from six OCDETF federal member investigative agencies, the National Drug Intelligence Center (NDIC), EPIC, and other agencies with relevant information. The OFC conducts cross-agency integration and analysis of drug and related data to create comprehensive intelligence pictures of



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targeted organizations, including those identified on the Attorney General's Consolidated Priority Organization Target (CPOT) List, which identifies the most significant drug trafficking organizations in the world that impact the U.S. drug supply. These fused-intelligence analytical products result in the development of actionable leads, which are passed to OCDETF participants in the field through the multi-agency Special Operations Division (SOD), ultimately resulting in the development of coordinated, multijurisdictional OCDETF investigations of the most significant drug trafficking networks. Using these tools, the Department swiftly relays intelligence about potential threats to the agencies that are responsible for serving as first-line defenders.

Internationally, the Department enjoys a strong collaborative relationship with law enforcement and other government agencies within Mexico and throughout the world. The Department would not have achieved the success it has without the remarkable support and courageous actions of the Mexican government. The daily challenges posed by drug trafficking organizations in the U.S. and Mexico are significant, but are overshadowed of late by a very specific set of challenges: ensuring that the violence in Mexico does not spill over our border; closely monitoring the security situation in Mexico; and, perhaps most importantly, lending our assistance and support to the Calderon Administration to ensure its continued success against the ruthless and powerful cartels.

**Conclusion**

Chairman Durbin, Senator Graham, distinguish Members of the Subcommittee, on behalf of the men and women of the Department, I thank you and your staffs for your



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support of our crucial work. We recognize and are grateful for your commitment and contributions to the law enforcement community. With the backing of this Subcommittee, the Department can continue to build on our accomplishments, making our nation even more secure. We look forward to working with you in pursuit of our shared goals and will be happy to answer any questions that you may have.



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# CITY OF HOUSTON

Houston Police Department
Bill White, Mayor
1200 Travis Houston, Texas 77002-6000 713/308-1600

CITY COUNCIL MEMBERS: Toni Lawrence Jarvis Johnson Anne Clutterbuck Wanda Adams Michael Sullivan M.J. Khan, P.E. Pam Holm Adrian Garcia James Rodriguez Peter Brown Sue Lovell Melissa Noriega Ronald C. Green Jolanda "Jo" Jones CITY CONTROLLER: Annise D. Parker

March 14, 2009

Harold L. Hurtt
Chief of Police

The Honorable Richard Durbin
The Honorable Diane Feinstein
United States Senate
Dirksen Senate Office Building
Washington D.C.

Re: Letter to the Senate Hearing on Law Enforcement Responses to Mexican Drug Cartels

Dear Senator Durbin and Feinstein:

Over the past couple of years I, along with law enforcement officials in border-states like Texas, have watched with keen interest as drug-related violence in Mexico has increased dramatically. Reports from our colleagues in Mexico and our federal law enforcement counterparts tells us that the cartels are engaged in their murderous rampages as a result of an internal struggle over territory and cocaine distribution routes within Mexico and into the United States. A view of the situation from a law enforcement perspective informs us that we are achieving some measure of success in our efforts to stem the tide of illegal narcotics crossing our borders and infecting our communities. How do I know our efforts are working?

I know our efforts are working because seizures of Heroin, Marijuana, and Methamphetamines in Gulf States have increased in the last few years. This is an indication of the cartels seeking additional outlets and revenue opportunities as a result of the disruption of traditional cocaine trafficking routes. I know because local and federal law enforcement agents have informed me that the price of street cocaine has risen dramatically, another indication of the disruption of traditional cocaine trafficking routes. Finally, I know this because the brazen murder of law enforcement officials in Mexico who stand up to the cartels is in retaliation for the increased pressure Mexican law enforcement officials are putting on the cartels. This brazen assault on the rule of law in an ordered society has forced some officials in Mexico to resign and has spread fear in the Mexican law enforcement community and citizenry. Unfortunately, as

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citizens in the United States in general, and in my city of Houston in particular, learn of these horrible events though the evening news and other sources, the fear of such violence crossing the border and into our communities is becoming a growing homeland security concern. I am therefore heartened by the convening of this committee and I hope that the testimony of the

witnesses you hear and read today will result in greater resources being directed to addressing the fear of spillover violence crossing our national borders. That fear offers a different homeland security perspective.

A review of the history of community and problem-oriented policing reminds us of the importance of addressing fear as a community concern. We learned that addressing issues such as neighborhood blight and "broken-windows" are important elements in combating the fear of crime. Isolated incidents are sufficient to create in the minds of citizens the fear that criminals are rampant in our communities. As Chief of Police I can direct or re-direct resources to address tangibles indicia of crime and violence in my community. We have had some measure of success in this area too. Through the efforts of our Crime Reduction Unit (CRU), our Homicide Gang Detail, and directed patrol, gang related murder and drive by shootings in Houston have decreased over 30% in the last three years. Overall violent crime is down during the same period. I know that intelligence data tells us that Houston is a source city for stolen cars and weapons that end up as instrumentalities in the hands of narcotics traffickers in Mexico and other Central American countries. We know that the cartels reportedly are using gang members in the United States to carryout violence and other activities in the U.S.

However, our partnerships with the ATF, FBI, DEA, ICE, and other federal, local, and state agencies have proven effective in forging a winning strategy for addressing tangible evidence of crime and criminal enterprises in our communities. These partnerships allow us to "marshal" our resources to "wrap our hands" around the problem. However, the fear of crime is intangible and difficult to encapsulate. The fear of drug violence in Mexico spilling over to Houston is even more difficult to encapsulate but I know it exists because I can see it and feel it in my interactions with citizens in Houston, and I am painfully aware of it as a result of seemingly isolated incidents that have occurred in my city.

Business and professional leaders inquire whether it is safe to travel to Mexico in the pursuit of international commerce. Parents inquire whether it is safe to allow their children to travel to Mexico to enjoy the beach and warmth of their many popular spring break destinations. More importantly, however, the fear of such violence in the minds of Houstonians has been sharpened by specific incidents of violence that have occurred in the city.

In 2005, rival human smugglers engaged in a violent shoot out in broad daylight as one group of "coyotes" attempted to hijack the "cargo" of the other. The incident was captured on video by traffic cameras strategically placed at various intersections in our cities. In 2006, an innocent citizen was mistakenly shot and killed while eating dinner with his family, a victim of

an attempted drug cartel hit on a rival. This occurred in my city. More personally, as Chief of Police, specific incidents of violence have hit my department hard and left an indelible imprint on the department and the City of Houston. In 2006, Officer Rodney Johnson was shot and killed in the performance of a "routine" traffic investigation. Less than two weeks ago, Officer Richard Salter was shot and critically injured while executing a narcotics search warrant in east Houston. Officer Salter is fighting for his life and my prayers and the prayers of the citizens of Houston continue to be with him. The suspects in both incidents were confirmed to be in this country illegally. While it is true that these horrific events are not directly related to the brutal narco-violence occurring within Mexico, to the average citizen in my city and surrounding cities, these incidents points out holes in efforts to keeps criminals from crossing our borders. In the minds of average citizens, if criminals can cross our borders and kill an innocent citizen and a person sworn and trained to protect our liberty, what chance awaits them? Plainly speaking, the fear of crime, and pointedly, the fear of spillover violence from Mexico crossing into the United States have homeland security implications. What can Congress do about this and how can local governments help.

Local communities and border-states can benefit from increased resources dedicated to enforcement and protection of our borders. ICE and Border Patrol officials need more personnel, equipment, and technology to assist them in securing our borders. Additionally, local law enforcement and cities needs more resources for hiring and equipping local police as we know local police provide vital assistance too in securing our airports, highways, and seaports. The technological challenges facing law enforcement in local communities are enormous. We need additional federal resources to meet these challenges. While I recognize the primary responsibility for securing our borders rests with the federal government, specific incidents of violence and the fear of the spread of sub-border violence transcends the Texas and Mexico, Arizona and Mexico, and the California and Mexico borders. It reaches our living rooms over the airways and through the internet. Therefore, combating and winning the battle against this fear will require direct and focused attention of our federal government and its local community partners.

Sincerely,

Harold L. Hurtt
Chief of Police

hlh:mad

# U.S. Immigration and Customs Enforcement

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**STATEMENT**

**OF**

**KUMAR C. KIBBLE**

**DEPUTY DIRECTOR**
**OFFICE OF INVESTIGATIONS**
**U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT**
**DEPARTMENT OF HOMELAND SECURITY**

**REGARDING A HEARING ON**

**"LAW ENFORCEMENT RESPONSES TO MEXICAN DRUG CARTELS"**

**BEFORE THE**

**SENATE COMMITTEE ON THE JUDICIARY**
**SUBCOMMITTEE ON CRIME AND DRUGS**

**AND THE**

**SENATE CAUCUS ON INTERNATIONAL NARCOTICS CONTROL**

**Tuesday, March 17, 2009 @ 10:30 am**
**226 Dirksen Senate Office Building**

**INTRODUCTION**

Chairman Durbin, Chairwoman Feinstein, Ranking Member Graham and Ranking Member Grassley, and distinguished Members of the Crime and Drugs Subcommittee and the Caucus on International Narcotics Control:

On behalf of Secretary Napolitano and Acting Assistant Secretary Torres, I would like to thank you for the opportunity to discuss U.S. Immigration and Customs Enforcement's (ICE) efforts to combat cross-border smuggling organizations and the violence related to their enterprises. ICE has the most expansive investigative authority and largest force of investigators in the Department of Homeland Security (DHS), and we protect national security and uphold public safety by targeting transnational criminal networks and terrorist organizations that seek to exploit vulnerabilities at our borders. Recognizing that partnerships are essential, ICE works closely across agency and international boundaries with our law enforcement partners at the foreign, federal, tribal, state and local level creating a transparent border and united front to disrupt and dismantle criminal organizations.

ICE's expertise in combating smuggling organizations that exploit vulnerabilities in the sea, air, and land environments has proven essential in countering the bi-lateral smuggling of narcotics, illicit money, and other dangerous goods, people, and materials that threaten the well-being of the United States. Our law enforcement presence extends beyond our borders. ICE has agents in attaché offices in embassies and consulates worldwide. I am proud of these agents who work with their foreign counterparts to combat crime that originates overseas but may eventually cross the Nation's borders.

Let me share with you an example of the mutual security benefits we continue to derive through our partnerships with Mexican law enforcement agencies such as Secretaria de



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Seguridad Publica (SSP). In August 2008, ICE agents provided confidential information to SSP through our Assistant Attaché in Hermosillo, Mexico about a residence allegedly used to store weapons and narcotics and which was believed to be a safe house for security personnel ("hit men") for the Vicente Carrillo Fuentes drug trafficking organization (DTO) operating in Nogales, Sonora. SSP executed a search warrant at this residence that resulted in six arrests, the seizure of police uniforms, a large amount of U.S. currency, 12 weapons, and four stolen U.S. vehicles. The six people arrested are suspected of being involved in two separate crimes: first, an armed confrontation on August 5, 2008, in Nogales, Sonora where a civilian was injured after a grenade was detonated during a shootout between two DTOs, and second, the murder of two Mexican nationals whose bodies were found with threatening messages from rival narcotics traffickers.

DHS recognizes that southbound weapons smuggling is a grave concern amid the growing violence along our border with Mexico. This violence requires a comprehensive, bilateral effort and on January 30, 2009, Secretary Napolitano responded by issuing a Border Security Action Directive which focused the wide-ranging authorities of the Department on the rampant violence along our southern border. The Secretary emphasized the necessity of a broad, multi-agency response to attack the flow of weapons and money that continues to fuel the violence. ICE contributes to that fight through two principal bilateral initiatives: Operation Firewall to address bulk cash smuggling; and Operation Armas Cruzadas, to detect, disrupt and dismantle weapons smuggling networks. Particularly in Armas Cruzadas, ICE-led Border Enforcement Security Task Forces (BESTs) function as critical enablers in coordinating a comprehensive, multi-agency approach to fighting weapons smuggling. These DHS task forces include important partners such as Customs and Border Protection (CBP), Alcohol, Tobacco,



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Firearms and Explosives (ATF) and other foreign, federal, state and local task force officers. When it comes to countering the illicit weapons trade in particular, we closely coordinate our efforts with ATF, as they possess long-standing expertise in gun trafficking investigations and in engagement with Federal Firearms Licensees.

**Armas Cruzadas:**

The rampant border violence along the United States/Mexico border is a direct result of criminal organizations attempting to exert their control over not only the democratically elected officials of the Mexican government but also rival criminal organizations. For instance, many of the instruments of this violence are weapons smuggled from the United States into Mexico.

Criminal organizations commonly use straw purchasers with clean criminal histories to purchase firearms and turn them over to smugglers. The challenge in countering the smuggling activity is compounded by the reliance on the technique called "ant trafficking," where small numbers of weapons are smuggled through multiple ports-of-entry, on a continued basis.

In June 2008, ICE formally launched Operation Armas Cruzadas to combat transnational criminal networks smuggling weapons into Mexico from the United States. As part of this initiative, the United States and the Government of Mexico (GoM) synchronize bilateral interdiction, investigation and intelligence-sharing activities to identify, disrupt, and dismantle these networks engaged in weapons smuggling. Key components of Armas Cruzadas include training for BEST task force officers and our partners in ICE's long-standing authorities under the Arms Export Control Act, as well as newly-acquired export authority under Title 18, United States Code, Section 554 (Smuggling goods from the United States). This statute augments the broad arsenal of cross-border criminal authorities available to ICE investigators, and is particularly useful in targeting weapons smuggling. Another important Armas



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Cruzadas component is industry outreach, including presentations to groups involved in the manufacture, sale, or shipment of firearms and ammunition along the southwest border. This industry outreach includes a collaborative initiative between ICE and Mexico's Procuraduria General de La Republica (PGR) prosecutors to produce bilingual posters identifying potential penalties for weapons smugglers under U.S. export and Mexican gun trafficking laws. The posters solicit the public for information related to these schemes, and are displayed in shops and agencies in the border region, including ports-of-entry. The Government of Mexico has also distributed these posters within Mexico.

In addition to outreach, more rapid exchange of information is essential to success in confronting the southbound weapons flow. Armas Cruzadas strengthens bilateral communication through deployment of ICE Border Liaisons to sustain cooperative working relationships with foreign and domestic government entities; and also through a Weapons Virtual Task Force, comprised of a virtual online community where U.S. and Mexican investigators can share intelligence and communicate in a secure environment. In order to more seamlessly investigate the networks that span our common border, BESTs, ICE attaché offices, a U.S.-vetted GoM Arms Trafficking Group, and the Border Violence Intelligence Cell exchange cross-border weapons-related intelligence. The Border Violence Intelligence Cell, housed at the El Paso Intelligence Center (EPIC), along with the ATF weapons desk, serves as ICE's central point for analyzing all-source intelligence and trends in firearms smuggling. In December of last year, this cell, in conjunction with DHS intelligence components, produced a strategic assessment of southbound weapons smuggling that guided increased weapons investigation and interdiction operations along the Southwest Border.

Let me share an example of how ICE partners with others, such as ATF and local investigators, in combating weapons smuggling. ICE, ATF, and the San Antonio Police Department initiated an investigation of Ernesto Tornel Olvera-Garza of Monterrey, Mexico who first began trafficking in



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hunting rifles in June 2005. During the course of the investigation, agents learned that between 2006 and the time of his arrest in October 2007, he trafficked in high-powered, high-capacity handguns and assault rifles. Since his temporary visa did not allow him to legally buy guns in the United States, Mr. Olvera-Garza instead paid people in the United States to buy guns for him and lied about who the guns were for. Mr. Olvera-Garza organized and led the gun-smuggling conspiracy, which included at least nine "straw purchasers" who purchased firearms on his behalf. More than 50 weapons were purchased and smuggled to Mexico as part of this ring. One of Mr. Olvera-Garza's smuggled pistols was recovered in Mexico after it was used in a running gun battle where two Mexican soldiers were killed. Mr. Olvera-Garza has pleaded guilty and is pending sentencing.

Since the initiation of Operations Armas Cruzadas, DHS has seized 420 weapons, 110,894 rounds of ammunition and arrested 104 individuals on criminal charges, resulting in 58 criminal indictments and 42 convictions to date.

**Operation Firewall:**

Another, and one of the most effective methods to deal with violent, transnational criminal organizations is to attack the criminal proceeds that fund their operations. ICE targets those individuals and organizations exploiting vulnerabilities in financial systems to launder illicit proceeds and pursue the financial component of every cross-border criminal investigation. The combination of successful financial investigations, Bank Secrecy Act (BSA) reporting requirements, and Anti-Money Laundering (AML) compliance efforts by traditional and non-traditional financial institutions has forced criminal organizations to seek other means to transport illicit funds across our borders. As we have hardened these formal financial systems, the smuggling of bulk currency out of the United States, especially along the Southwest Border,



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has continued to rise. ICE, as the investigative agency with jurisdiction over all border crimes, can investigate bulk cash smuggling (BCS) crimes, which are predicated on the failure to file a Currency and Monetary Instrument Report (CMIR).

The ICE Office of Investigations (OI), along with the ICE Office of International Affairs (OIA) and CBP, coordinates with our state, local, and foreign partners on BCS operations. These operations disrupt the flow of bulk cash that can be used by terrorist groups, drug traffickers, and other criminal organizations. ICE, in concert with CBP, also provides money laundering training and BCS interdiction equipment to our law enforcement partners in the United States and abroad.

ICE has a number of initiatives to address BCS. Operation Firewall focuses on the threat of BCS via commercial and private passenger vehicles, commercial airline shipments, airline passengers, and pedestrians. Since 2005, Operation Firewall efforts have been enhanced to include jump team surge operations targeting the movement of bulk cash destined for the southwest border for smuggling into Mexico. ICE and CBP have conducted various Operation Firewall operations with Mexican customs and the ICE-trained Mexican Money Laundering Vetted Unit. Many Operation Firewall seizures result in criminal investigations to identify the source of the funds and the responsible organizations.

ICE's experience in conducting international money laundering investigations has identified numerous smuggling routes and methodologies used by criminal organizations to launder illicit proceeds. This experience enables ICE, CBP, and our domestic and international partners to concentrate resources. Initially, Firewall operations in Mexico focused on the targeting of commercial flights from Mexico City to Central and South America. In 2008, based on our experience, we expanded Mexico Firewall operations to target shipments in containers



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departing from the seaport of Manzanillo and the airports of Tuluca, Mexicali, Cancun, and Guadalajara. Throughout operations in Mexico, ICE and CBP personnel have trained our Mexican law enforcement partners on passenger analysis and investigative techniques proven effective in the United States.

Operation Firewall produced immediate results. On the first day of operations in 2005 at the Benito Juarez International Airport in Mexico City, Mexican authorities seized $7.8 million en route to Cali, Colombia concealed inside deep fryers, rotisseries, and voltage regulators. Other notable seizures include $7.3 million seized inside rolls of fabric and plastic and $4.7 million concealed inside air conditioning equipment and metal piping destined for Colombia. Since its inception, Operation Firewall has resulted in the seizure of over $178 million including over $62 million seized overseas, and 416 arrests.

On June 26, 2008, Rafael Ravelo, a member of a Mexican based narcotics trafficking organization, was sentenced to 126 months of incarceration and the forfeiture of $1,147,000. This sentence was the result of the ICE-led Operation Doughboy, an investigation that was initiated prior to Operation Firewall, based on a bulk cash smuggling interdiction. This joint U.S./Mexico investigation involved the monitoring of 18 phone lines of the heads of a Mexican narcotics trafficking organization and began when ICE agents in 2003 successfully linked a $149,000 bulk cash seizure by the Texas Department of Public Safety to the narcotics trafficking organization.



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**Border Enforcement Security Task Force (BEST):**

As I mentioned before, the principal investigative platform for both Operations Armas Cruzadas and Firewall are the Border Enforcement Security Task Forces (BESTs). These task forces were specifically created to address border violence.

In July 2005, in response to increased violence in Nuevo Laredo, Mexico and Laredo, Texas, ICE, CBP and other federal, state, and local law enforcement agencies, including Mexican agencies, expanded the ongoing Border Crimes Initiative by creating an international, multi-agency initiative, Operation Black Jack. This initiative used the respective authorities and resources of its members to dismantle cross-border criminal organizations. In its first six months, its target-driven focus led to the dismantling of a murder/kidnapping cell operating on both sides of the border, including the seizure of high-powered fully automatic weapons and live grenades; the components to make over 100 improvised explosive devices (IEDs), such as pipe bombs and grenades; and over $1 million in U.S. currency.

Based on the success of Operation Black Jack, DHS established the first BEST in Laredo, Texas in January 2006. Since that time, we have established 12 BESTs: eight on the Southwest Border; two on the Northern Border; and two at seaports. BEST participants include: ICE (as the lead agency); CBP; ATF; the Drug Enforcement Administration (DEA); the Federal Bureau of Investigation (FBI); the U.S. Coast Guard; the U.S. Attorney's Office; and other federal, state, local and foreign law enforcement.

The BESTs are arrayed along the Southwest Border in high-threat smuggling corridors in: Arizona – Tucson (March 2006), Phoenix (March 2008), and Yuma (March 2008); Texas – El Paso (October 2006) and Rio Grande Valley (March 2007); and California – San Diego (November 2006) and Imperial Valley (June 2008). In early 2008, the first Northern Border BESTs initiated operations in



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Blaine, Washington (February 2008) and Buffalo, New York (March 2008). Each BEST concentrates on the prevalent threat in its geographic area, including: cross-border violence; weapons smuggling and trafficking; illegal drug and other contraband smuggling; money laundering and bulk cash smuggling; human smuggling and trafficking; transnational criminal gangs; and tunnel detection. Recently, we established BESTs at the seaports of Los Angeles, California (October 2008), and Miami, Florida (November 2008) to focus on maritime threats including the importation of contraband; commercial fraud; cargo theft; unlawful exportation of controlled commodities and munitions; stolen property; alien smuggling; and exportation of illicit proceeds. These BESTs will target internal conspiracies of corrupt transportation employees who participate in the smuggling of contraband and humans. Crucial to our success is the cooperation of our international partners. At BESTs on the Southwest Border, we have the participation of the Mexican law enforcement agency, SSP. On the Northern Border and in the northern BESTs, we have Canadian law enforcement agencies such as the Canada Border Services Agency, the Royal Canadian Mounted Police, the Ontario Provincial Police, the Niagara Regional Police Service, and the Toronto Metropolitan Police Service. In addition, we have the participation of the Argentinean customs agency at our Miami BEST. Through the interaction and coordination of all the member agencies, BESTs provide for immediate and international enhanced information sharing on border violence due to geographic proximity to the U.S. borders.

Through BESTs, we have dismantled arms trafficking, bulk-cash, alien and narcotics smuggling organizations and their hostage-taking and murder/kidnapping cells in the United States and Mexico. Since July 2005, the BESTs have been responsible for 2,034 criminal arrests, 2,796 administrative arrests, 885 indictments, and 734 convictions. In addition, BESTs have seized approximately 7,704 pounds of cocaine, 159,832 pounds of marijuana, 558 pounds of methamphetamine, 39 pounds of crystal methamphetamine, 1,023 pounds of ecstasy, 213



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pounds of heroin, 97 pounds of hashish, 22 pounds of opium, 515 weapons, 745 vehicles, six properties, and $22.7 million in U.S. currency and monetary instruments.

I would like to share a few of our successes with you: the discovery and repatriation by the El Paso BEST of one of Mexico's top ten most wanted fugitives; the arrest by the Laredo BEST of a weapons trafficker supplying cartels with assault rifles used to murder Mexican police officer Navarro Rincon and others; the arrest by the Laredo BEST of a member of the Mexican Mafia in possession of approximately 897 pounds of smuggled marijuana after he attempted to run over a Texas Department of Public Safety officer; and the arrest by the LA Seaport BEST of an arms trafficker and seizure of 38 military style weapons.

**CONCLUSION**

In conclusion, ICE is committed to stemming the cross-border criminal activity and associated violence through the deployment of the BESTs, Operation Armas Cruzadas, and Operation Firewall. Partnering with others, we are using a broad range of authorities, including the most sophisticated investigative tools available, such as certified undercover operations and electronic surveillance operations, to disrupt and dismantle these networks.

I thank the Subcommittee and the Caucus Members for their support of ICE, CBP, DHS and our law enforcement mission. I would be happy to answer any questions that you may have at this time.



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THE CITY OF SAN DIEGO

March 16, 2009

IN REPLYING
PLEASE GIVE
OUR REF. NO.
19911

Senate Committee on the Judiciary
Subcommittee on Crime and Drugs
Senate Caucus on International Narcotics Control
Chairman Durbin
Chairman Feinstein

Dear Committee Members:

First, I would like to thank Senators Durbin and Feinstein and members of the Subcommittee on Crime and Drugs for your concern over the violence that is occurring just south of our border and its effect on the City of San Diego. San Diego is a border city with approximately 1.3 million residents and enjoys one of the lowest crime rates of any major city in the United States. San Diego is situated directly on the border with Mexico, specifically the City of Tijuana, which has approximately the same population as San Diego. In 2008, Tijuana experienced an unprecedented level of violence, which included open gun battles in the streets and over 800 drug related murders. These murders include both rival cartel violence, as well as violence within each cartel itself.

Due to the level of violence just south of the border, the San Diego Police Department has been very concerned about the potential of "spillover" violence and crime into the City of San Diego. While it is sometimes difficult to determine which local crimes have a direct connection or nexus to the drug cartels and violence in Mexico, there is no question that there is at least some "spillover" violence and crime occurring in San Diego.

In the past two years, the City of San Diego has seen an increase in cartel related kidnappings, both in San Diego itself, as well as U.S. Citizens being abducted in Tijuana. In addition, San Diego had at least four murders in the past two years that were directly related to the drug cartels in Mexico. Another major concern for San Diego is the increased alignment of the Mexican drug cartels with local San Diego street gangs who are used to carry out the cartel's criminal business on this side of the border. It is also believed that up to 90% of the firearms used by the Mexican cartels enter Mexico via the United States, including through the San Diego border crossing. In addition, San Diego is a natural hub for Mexico's illegal drug trade that has the unfortunate effect of increasing the drug trade in our city as well.

Aware of the prospect that the deadly violence occurring in the Tijuana area could spread to the San Diego region, San Diego has taken proactive steps and has worked diligently to try to prevent any such incursion by working cooperatively with state, local, and federal agencies to

SAN DIEGO POLICE DEPARTMENT
OFFICE OF THE CHIEF OF POLICE
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coordinate information and law enforcement resources. We continue to work closely with the FBI, DEA, Border Patrol, and Office of Homeland Security. Recently the San Diego Fusion Center was formed which consists of three major components: the San Diego Law Enforcement Coordination Center (SD-LECC), the San Diego Regional Terrorism Threat Assessment Center (SD-RTTAC), and the FBI's Joint Terrorism Task Force (JTTF). The San Diego Law Enforcement Coordination Center is a law enforcement partnership consisting of local, state, and federal agencies that acts as an information sharing gateway with the intent to assist law enforcement to detect, prevent, and solve crimes, through the production of tactical, operational and strategic intelligence.

Recommendations for San Diego Region:

While providing the National Guard or adding Federal Military troops to the San Diego region may have some value, it is our belief that the following recommendations would be of even greater value at this time as we try to ensure that the violence in Mexico does not flow into the San Diego region.

1. Increase the number of FBI, DEA Agents, and US Attorneys in the San Diego region to work with local law enforcement on these issues.

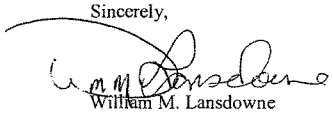
2. Provide grant funding to enhance the surveillance capabilities of local law enforcement in San Diego to increase our interdiction and enforcement capabilities in an effort to limit and prevent the violence and crime occurring in Mexico from flowing in the San Diego region.

3. Increase the amount of federally reimbursed overtime that local agencies can receive while participating on an Organized Crime Enforcement Task Force (OCDETF) (Currently, local police agencies can only receive up to 25% of the salary of a GS-12, step 1 per officer.)

4. Develop a strategy for stemming the flow of firearms entering Mexico from the United States.

Please contact me if I can be of further assistance. I can be reached at 619-531-2777.

Sincerely,



William M. Lansdowne
Chief of Police

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**National District Attorneys Association**
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703.549.9222 / 703.836.3195 Fax
www.ndaa.org

Honorable Senator Richard Durbin
Chair of the Senate Judiciary Subcommittee on Crime and Drugs
Honorable Dianne Feinstein
Chair of the Senate Caucus on International Narcotics Control

March 16, 2009

Re: Hearing on Law Enforcement Responses to Mexican Drug Cartels

Dear Senators Durbin and Feinstein:

On behalf of the National District Attorneys Association, we welcome the opportunity to submit some comments on the current law enforcement efforts to stem the violence and trafficking impacts and activities of the Mexican Drug Cartels.

Amid violence, mayhem and the seemingly endless numbers of almost daily executions, which has become commonplace within Mexico and near or within United States territory, law enforcement remains the single most potent guardian of America's health and safety. While the more visible battles center over the control of drug trafficking, like any other war, it necessarily involves the larger issues of guns and money. The impacts of these Mexican Cartel Drug wars on federal and state and local law enforcement and prosecutors can not be over estimated, but it would also be shortsighted to believe that this war and its impacts are not reverberating beyond America's border cities and states. This is a national problem and despite the outstanding job the law enforcement and prosecutors are currently doing this is not a war that is going to be won without a concerted effort at all levels of government and law enforcement.

We appreciate the Committee's concern and focus on this important problem and strongly encourage the Committed to elevate the recognition of these Cartel Wars as national problem deserving of national support for federal, state and local law enforcement and prosecutors' efforts in this battle.

If the prosecutor's of America can be of any further assistance to your Committee please do not hesitate to contact us.

Very Truly Yours

THOMAS W SNEDDON JR
INTERIM EXECUTIVE DIRECTOR, NDAA

*To Be the Voice of America's Prosecutors and to Support Their Efforts to Protect the Rights and Safety of the People*



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# NATIONAL SHERIFFS' ASSOCIATION

1450 Duke Street • Alexandria, VA 22314-3490 • 703-836-7827 • Fax 703-683-6541
WWW.SHERIFFS.ORG • NSAMAIL@SHERIFFS.ORG

March 13, 2009

The Honorable Richard J. Durbin
Chair
Subcommittee on Crime and Drugs
Senate Judiciary Committee
224 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Lindsey O. Graham
Ranking Member
Subcommittee on Crime and Drugs
Senate Judiciary Committee
152 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Dianne Feinstein
Chair
Senate Caucus on International
Narcotics Control
818-C Hart Senate Office Building
Washington, D.C. 20510

The Honorable Charles E. Grassley
Co-Chair
Senate Caucus on International
Narcotics Control
818-C Hart Senate Office Building
Washington, D.C. 20510

Dear Chairman Durbin, Ranking Member Graham, Chairwoman Feinstein, and Co-Chairman Grassley:

We thank you for allowing the National Sheriffs' Association (NSA) to submit this letter into the official record for the Senate Judiciary Subcommittee on Crime and Drugs hearing on "Law Enforcement Responses to Mexican Drug Cartels," held on March 17, 2009.

On behalf of the National Sheriffs' Association, we are writing to express our grave concerns regarding the escalation of violence, perpetrated by Mexican drug cartels, along the U.S.-Mexico Border. This violence poses a serious, and potentially deadly, threat to sheriffs and their deputies along the Southwestern Border. It is imperative that the federal government swiftly provide the resources and funding necessary to enable law enforcement along the border to contain this vicious epidemic.

The recent outbreak of violence along the U.S.-Mexico Border is not a new phenomenon to sheriffs within its path. It is a problem which has been steadily building over the years. As the federal government has lapsed in its responsibility to protect and secure the Southwestern Border, criminal aliens, human smugglers, and drug cartels have become increasingly brazen in their encroachment into the United States. On a daily basis, border sheriffs are faced with criminals crossing the border who are willing to do anything necessary to gain entry into the U.S. Drug cartels in particular pose a serious threat to law enforcement. Not only are the cartels bold enough to move drug shipments across the border in broad daylight, but also stand guard on the Mexico side of the border with assault rifles, sending an ominous message to U.S. law enforcement to leave the drugs alone.



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The threats and intimidation do not end there. Sheriffs and their deputies are routinely shot at, have large boulders and Molotov cocktails hurled in their direction, and even in some cases, have death threats issues on their lives and the lives of their families. Former Val Verde County, Texas Sheriff D'Wayne Jernigan, in his 2006 testimony to the Senate Judiciary Committee, stated that based on the intelligence his office received Mexican drug traffickers plan to kill as many police on the U.S. side of the border, in order to scare away law enforcement from border protection. Essentially, law enforcement along the Southwestern Border is being held hostage by these narcoterrorists.

Senators, as you are all aware, Mexican drug cartels have been extremely violent and deadly throughout Mexico. The cartels are not threatened by Mexican police or the fear of arrest. In cities such as Mexico City and Cuidad Juarez, police officers have been murdered to send a message to law enforcement officials to back off the cartels. The violence reached a new level a few weeks ago when the police chief of Cuidad Juarez was forced to resign by the cartels, who had threatened to murder a police officer every 48 hours until the chief stepped down.

This level of brutality is now spilling across the border and into the laps of U.S. law enforcement. U.S. cities along the Southwestern Border are becoming havens for drug cartels and are experiencing dramatic increases in violent crime. Innocent American citizens are being caught in the crossfire. Murders and kidnappings, connected to the Mexican drug trade, are becoming more frequent in occurrence and are paralyzing residents in once peaceful border towns.

There are thousands of miles of land which need to be protected. And because many local law enforcement agencies are small, funding is critical to enable the hiring of additional officers and create a stronger law enforcement presence along the Southwestern Border. Vital funding is also needed to provide local law enforcement with the tools and equipment necessary to continue to protect their communities.

Furthermore, the federal government must commit to securing the Southwestern Border. This includes ensuring Customs and Border Patrol (CBP) Agents also have the necessary tools and resources to perform their duties. Along the border, CBP and sheriffs work very closely together, and their relationship is crucial to ensuring dangerous criminals and paraphernalia do not enter into the U.S.

Unfortunately, there is no quick fix or simple solution to combat the advancement of Mexican drug cartels on American soil; however, providing increased federal assistance to U.S. law enforcement along the border must be a priority. To our dismay, in the FY'08 Emergency Supplemental (P.L. 110-252), $465 million was allocated for law enforcement in Mexico and Central America for counter-narcotics efforts. This funding was allocated at a time when funding for state and local law enforcement drug and gang task forces was drastically reduced to the point of obliteration. While we recognize that combating the cartels will require the efforts of both Mexican and U.S. law enforcement, we hope that Congress will agree that U.S. law enforcement must receive higher priority when allocating valuable federal resources, and that we must also effectively address the rampant drug and gang trafficking here in our backyard.

As the border violence rapidly increases and the threat to law enforcement and American citizens becomes greater, the message to the Mexican drug cartels must be clear that we will not tolerate narcoterrorism. We urge Congress to swiftly allocate the sufficient funding necessary to law



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enforcement along the Southwestern Border to continue to enable law enforcement to protect our homeland.

Respectfully submitted,

Sheriff David A. Goad
President

Aaron D. Kennard
Executive Director

*Serving Our Nation's Sheriffs Since 1940*

U. S. SENATE – COMMITTEE ON THE JUDICIARY
SUBCOMMITTEE ON CRIME AND DRUGS
CAUCUS ON INTERNATIONAL NARCOTICS CONTROL

**Statement of**
**THOMAS J. NEE, PRESIDENT**
**NATIONAL ASSOCIATION OF POLICE ORGANIZATIONS**
**317 South Patrick Street, Alexandria, Virginia 22314**

***"Law Enforcement Responses to Mexican Drug Cartels"***
**March 17, 2009**

Chairman Durbin, Chairman Feinstein, members of the Subcommittee and the Caucus, my name is Tom Nee and I am a Patrolman with the Boston Police Department. I also serve as the president of the Boston Police Patrolmen's Association, as well as the National Association of Police Organizations (NAPO). I am submitting this statement today on behalf of NAPO, representing over 241,000 active and retired law enforcement officers throughout the United States. NAPO is a coalition of police unions and associations from across the nation, which was organized for the purpose of advancing the interests of America's law enforcement officers through legislative advocacy, political action and education.

The duty of every law enforcement officer in America is to serve and protect the people of our communities. The violent crime threatening to spill across the Mexican border as a result of the growing power of Mexican drug cartels is a major concern for state and local law enforcement. Drug trafficking from Mexico is a national security threat for the United States and it is threatening the safety of America's citizens along the Southwest border. Mexican drug cartels are only one aspect of this national security issue; illegal immigration and internal drug distribution centers also play significant roles. We believe any border security plan must be multifaceted and not only address the violent crime and drugs that are coming across our southwest border from Mexico, but also address the issue of illegal immigration.

Crime and terrorism are most effectively combated through a multi-level approach that encompasses federal, state and local resources, skills and expertise. As the first responders on the scene when there is an incident or an attack against the United States, state and local law enforcement officers and the agencies they serve play a critical role in protecting our homeland. Additionally, it is state and local law enforcement officers, who, during the course of daily patrols and duties, will encounter foreign-born criminals and immigration violators who pose a threat to national security or public safety. Local Law enforcement has more knowledge and intelligence about the criminals in their jurisdictions than their federal counterparts, making them an essential part of a national strategy to combat crime and drugs. For these reasons, it is vital that the federal government fully engage state and local law enforcement in a plan that addresses the current and emerging security issues along the southwest border.

On February 25, 2009, the Department of Justice announced that authorities had arrested more than 730 people across the country in a 21-month investigation targeting Mexico's Sinaloa drug cartel and its infiltration into U.S. Cities. Arrests were made in California, Minnesota, Maryland, and Washington, D.C., showing the extent to which this cartel has penetrated into the United



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States. The Sinaloa is responsible for bringing tons of cocaine, methamphetamine and marijuana into the U.S. through a sophisticated distribution network. The U.S. National Drug Intelligence Center believes that Mexican cartels maintain drug distribution networks or supply drugs to distributors in as many as 195 U.S. cities.

Multijurisdictional crime and drug task forces are essential to shutting down the cartels' supply lines in the U.S. Task forces such as those funded by the Byrne Justice Assistance Grant (Byrne-JAG) program have been extremely effective in apprehending drug suspects and taking supply off the streets. The key is local control of the task forces and information sharing among and across federal, state and local jurisdictions. As the Byrne-JAG program is the only source of federal funding for task forces, it is vital that the federal government continue to give significant support to the program in order that state and local law enforcement can retain one of its most effective tools in fighting illegal drugs.

The Byrne-JAG program, and consequently drug task forces across the country, suffered major losses in fiscal 2008 due to a slash in federal funding. In fiscal 2008, the program only received $170 million, which was a 67% cut from its fiscal 2007 funding level. These cuts resulted in the closing of many drug and gang task forces in California, Nevada, and Texas and throughout the Mid-West, at a time when these forces are making tremendous strides in the fight against methamphetamine coming in from Mexico. Thankfully, this year, due to the American Recovery and Reinvestment Act and the fiscal 2009 appropriations, Byrne-JAG has been allocated approximately $2.5 billion, strengthening state and local law enforcement's ability to play a major role in our nation's drug control and border security strategy.

Another issue of significance for a robust border security plan is illegal immigration. Many of the cartels' low level operatives in the U.S. are illegal immigrants; another reason why it is imperative that this nation develop and establish a concrete, unified immigration enforcement plan. The federal government needs to boost its support for state and local immigration enforcement efforts through the hiring of additional Border Patrol Agents and Criminal Alien Program officers and the expansion of federal training programs for state and local law enforcement officers. One such program is the Immigration and Customs Enforcement (ICE) 287(g) program, which grants state and local officers the necessary resources and latitude to pursue investigations relating to violent crimes, human smuggling, and gang and drug activity. These investigations are essential to keeping our nation's communities safe by getting dangerous criminal aliens off of our streets. Funding provided through the 297(g) program allows state and local law enforcement to take a comprehensive approach in securing the lasting safety of our communities.

Additionally, there is a need for federal aid to assist state and local law enforcement agencies along the border hire, train and retain additional officers to take on immigration enforcement duties. These additional federal resources would help state and local law enforcement better cooperate and assist the Department of Homeland Security and ICE in keeping our nation's borders and communities secure.

Without additional federal manpower and resources, there is a high risk of state and local law enforcement along our Southwest border becoming overwhelmed with the amount of drug-



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related crime that is coming across the border from Mexico. While collaborative efforts by federal, state and local law enforcement have led to the take down of major Mexican cartel operations in the U.S., like the Sinaloa case, there needs to be more support for law enforcement's daily fight against drug-related crime in our communities.

In 2008, Phoenix, Arizona had the highest incidences of kidnapping in the country with 359 kidnappings. The majority of these kidnappings involved cartels "stealing" the smugglers or drug mules, all of whom were illegal immigrants, of other cartels for ransom. The investigation of these kidnappings takes valuable law enforcement time and resources as detectives and officers work long hours on the cases. To the Phoenix Police Department, closing down and securing the border is the number one priority. Local law enforcement there believe that once the border is secure, crime and drug reduction will follow. Furthermore, since the city changed its immigration policy from sanctuary to enforcement of the law, over-all crime has decreased.

Law enforcement in cities and communities along the southwest border, such as Phoenix, do not have the resources or personnel to thwart the violence and crime coming across the border and continue community policing efforts. However, in towns such as El Paso, Texas, where there is a significant ICE and border patrol presence, local law enforcement has been able to maintain a balance between border protection and community policing. The El Paso police department has not seen a significant spike in drug-related crime due to this collaborative relationship. El Paso is a noteworthy example because it lies right across the border from Ciudad Juárez, Mexico, where drug cartel-related violence has killed thousands of people. Nevertheless, El Paso is unfortunately a unique case, which is why state and local law enforcement along the southwest border need more federal resources to protect our communities and the border.

State and local law enforcement are playing an increasingly important part in thwarting illegal immigration, drug trafficking and related criminal activity. As part of a national border security plan, agencies require the full support of the federal government. This support includes collaboration and cooperation between federal law enforcement agencies and state and local law enforcement in regards to immigration, crime and drug enforcement; funding for the Byrne-JAG program to help task forces fight drug trafficking; and funding for the 287(g) program and additional Border Patrol presence in cities and towns along the southwest border to aid state and local law enforcement in fighting illegal immigration and crime along the border. These issues are interrelated and cannot be separated, particularly when addressing the issue of securing our border from drugs and crime.

Thank you for your time and consideration of this important issue. NAPO looks forward to working with the Committee to ensure state and local law enforcement are given the resources they need to protect our nation's communities from drug-related crime and terrorism.



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Statement for the Record of
Joy Olson
Executive Director of the Washington Office on Latin America
on the Merida Initiative

before the

Senate Judiciary Committee
Subcommittee on Crime and Drugs

"Law Enforcement Responses to Mexican Drug Cartels"

March 17, 2009

WOLA has followed drug related violence in Mexico for several years, consulting extensively with colleagues in Mexico with a variety of expertise including: human rights, constitutional law, judicial reform, policing and the military. These discussions, which continue, have informed our view of the drug trafficking and violence in Mexico and the recent Merida Initiative.

We believe that the U.S. can most effectively address drug trafficking and violence in Mexico in three ways, by:

1) launching an ambitious effort to reduce demand for drugs here at home, in particular through improved access to high-quality drug treatment;
2) combating the flow of arms and illicit drug profits from the U.S. into Mexico; and
3) supporting institutional reforms in Mexico's police and judicial systems that can lead to the rights respecting arrest and prosecution of drug traffickers.

My statement will focus on the last point, where we think the U.S. government's financial contribution might have the most impact.

## WHERE WE ARE

In spite of president Calderon's large-scale efforts to combat organized crime, there has been a dramatic increase in drug-related violence in Mexico since the beginning of his Administration in December 2006. It is estimated that there were over 6,000 drug-related killings in 2008 and more than 1,000 people were killed in the first two months of 2009. The recent arrests of several government officials for passing on information to drug-trafficking organizations, reports of campaign financing by drug traffickers in state and local elections, and widespread corruption among federal, state and local police



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agents illustrate the penetration of drug trafficking into state structures and the daunting challenges faced by the Mexican government to effectively address the security crisis in the country.

As the State Department's 2008 Human Rights Report indicates, there is corruption, inefficiency, and lack of transparency in the Mexican judicial system, as well as "impunity and corruption at all levels of government".[1] The Mexican Citizen Institute for Research on Insecurity's (INCESI) estimates that only one out of every five crimes are ever reported. Initial investigations are begun for only 13% of the crimes reported and in only 5% of these crimes are the alleged perpetrator brought before a judge.[2] Widespread police abuse also contributes to a lack of trust by the civilian population in their law enforcement institutions.

To respond to this crisis, the Calderon Administration has enacted a series of initiatives to strengthen Mexico's public security institutions such as efforts to professionalize and purge the federal, state and local police and financial support to the 150 Mexican municipalities most affected by crime and violence. Nonetheless, the predominant element of Mexico's security strategy continues to be large-scale counter-drug operations which have been launched throughout Mexico. The military dominates these operations with the participation of approximately 45,000 soldiers and the Mexican military is increasingly becoming involved in other public security tasks. In the most recent stage of the Joint Operation in Chihuahua, an additional 7,000 soldiers were sent to Ciudad Juarez in early March and personnel from Mexico's Defense Ministry (*Secretaría de Defensa Nacional*, Sedena) took charge over the municipal Public Security Ministry, the local prison and traffic office.[3] Although the Mexican government's National Human Rights Plan establishes the objective of progressively removing the armed forces from public security tasks linked to organized crime, there are no clear signs that this is taking place and human rights violations perpetrated by military personnel have dramatically increased.

**HOW WE GOT HERE**

Mexico did not get to this point overnight, and the tactics being used to confront the drug trade – restructuring and purging the police and bringing in the military - are not new. Efforts to purge the influence of drug trafficking on the Mexican police go back at least to the 1980's and the presidency of Miguel de la Madrid. Subsequently, President Salinas de Gortari set up the Center for Drug Control Planning (Cendro) and the National Institute to Combat Drugs and declared drugs a national security threat, leading to the expansion of the military's involvement in counter-drug activities. President Zedillo continued expanding the use of the military, substituted Federal Judicial Police with

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[1] 2008 Human Rights Report: Mexico, Bureau of Democracy, Human Rights, and Labor 2008 Country Reports on Human Rights Practices

[2] *Instituto Ciudadano de Estudios sobre la Inseguridad*, "Fifth National Survey on Insecurity", 2007. http://www.icesi.org.mx/documentos/encuestas/encuestasNacionales/ENSI-5.pdf

[3] Cano, Luis Carlos, *Militares controlan funciones municipales*, El Universal, March 4, 2009.



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members of the army and placed high-ranking military officials within civilian law enforcement agencies. More attempts at police reform were made in the Zedillo and Fox administrations. June of 2005 saw "Operation Safe Mexico" which included the deployment of large numbers of troops to combat drug-related violence and corruption in Tamaulipas, Baja California and Sinaloa, and was later expanded to Michoacán, the State of Mexico, Guerrero and Chiapas. One of the perceived intentions of this operation was to purge the municipal police corps of corrupt agents. Indeed, when the federal police and military arrived in Nuevo Laredo as part of the operation they removed the 700 municipal police officers from their posts and investigated them for corruption.[4] Less than half were cleared to return yet corruption continues to be widespread among Mexico's state and municipal police forces.

History is important here. As is illustrated above, there have been many past efforts to purge Mexico's police of corrupt agents and create new security agencies, but all have failed to put into place the structural reforms necessary to ensure police accountability and have generated both a serious lack of faith in the police and attempts at police reform. Often implicated in crimes and struggling to exhibit legitimate authority, the police and past efforts at reforms are viewed with great cynicism and mistrust by civilians. In public opinion, there is often a fine line between the police and the criminals.

The problem with each police purge was that they were incomplete, and internal and external controls were not put in place to enable the continual ferreting out of corruption. Military deployments are equally problematic. Military and police are not interchangeable entities. Military forces are trained for combat situations, with force used to vanquish an armed enemy. Police are a civilian corps, trained to address threats to public security using the least amount of force possible, to investigate crime and identify those responsible, and to arrest criminals with the cooperation of the people. Also, the military can only occupy a city for so long. They are unable to arrest and prosecute the traffickers. Ultimately, they return to the barracks and the fundamental dynamics don't change.

## U.S.-MEXICO SECURITY COOPERATION AND THE MERIDA INITIATIVE

In the first year of Merida Initiative funding, Mexico is receiving $400 million in security assistance, with an additional $300 million currently being discussed as part of the FY09 Omnibus Appropriation. Since the first tranche of the money was just released, it is still too soon to assess the impact of this support for Mexico. However, the recognition implicit in the Merida Initiative that Mexico and the United States share responsibility for addressing drug trafficking and violence is important, as are the unprecedented levels of security cooperation between the two countries.

However, WOLA continues to be concerned by the imbalances in the assistance package which focuses too heavily on hardware and equipment and not enough on

[4] Freeman, Laurie, "State of Siege: Drug Related Violence and Corruption in Mexico, unintended consequences of the War on Drugs," WOLA, June 2006.



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support for judicial and police reform and institutional strengthening. Equipment and technology will do little to bring the accountability; transparency and reform that Mexican security forces need to fight criminal groups over the long haul.

Success in Mexico's counter drug efforts will not hinge upon helicopters or ion scanners. These may contribute to tactical victories, but ion scanners are only useful if those who use them are not corrupt. An increased number of detained drug traffickers is also ineffective unless there is a judiciary who is capable of prosecuting them.

The Merida Initiative also continues to be one-sided. Although the Initiative was pitched in the framework of "cooperation" between the two countries, it contains no additional commitments or funds for actions to be taken on the U.S. side of the border. Many studies have shown that treatment for heavy drug users is by far the most cost-effective way to reduce problem drug use and yet treatment in the U.S. has remained under-funded, with federal spending on treatment since 2002 growing at less than half the rate as spending on source-country programs and less than one-quarter the rate of spending on interdiction.

Efforts to curb firearms traffic into Mexico continue to fall short. The Bureau of Alcohol, Tobacco and Firearms (ATF) reports that 95 percent of the weapons confiscated from the cartels in Mexico were originally purchased in the United States. While conclusive numbers of the size of the illicit gun trade are not known, it appears to be growing. ATF recently reported that the number of confiscated weapons more than doubled in 2008[5]. In spite of an increase in confiscated weapons, violence on the border has not been quelled, with over 1,000 people killed in the first two months of 2009.

The widespread and legal availability of military-style firearms and assault weapons in the United States and loose regulations governing gun sales facilitate illegal arms trafficking into Mexico and ensures that as long as there is a demand for these guns they will continue to cross the border. In 1989, President George H.W. Bush enacted a ban on the importation of assault weapons. This import ban was subsequently abandoned by the George W. Bush administration, resulting in a flood of assault weapons into the U.S. Lax regulations of firearms' sales, including the failure of many states to regulate dealers, the irregular application of inspections, and the possibility of purchasing weapons at gun shows without being subject to the Brady Law's mandatory background check all facilitate the illicit flow of weapons into Mexico[6].

Rather than preventing assault weapons from getting into the hands of traffickers, ATF's current strategy is fundamentally reactionary, focusing on apprehending and prosecuting traffickers after the guns have already been used in violent crimes. Any serious effort to stop violence on the border must involve the U.S. addressing these gaps in our domestic policy. In the short term, the Obama administration could mandate a

[5] "Cartels in Mexico's Drug War get Guns from U.S." The Associated Press, January 27, 2009

[6] Congressional Testimony of Tom Diaz before the U.S. House of Representatives Committee on Oversight and Government Reform's Subcommittee on National Security and Foreign Affairs, Hearing on "Money, Guns and Drugs: Are U.S. Inputs Fueling Violence on the U.S./Mexico Border?" March 12, 2009.



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return to the enforcement of the ban on imported assault weapons, which would have a significant impact on the availability of assault weapons in the US market and send a powerful signal to Mexico that we are committed to doing our part to end drug-related violence in Mexico.

Now is the time for coordinated budget priorities that integrally address the security crisis along the U.S.-Mexico border. Any next stage for the Merida Initiative should contain a truly bi-national plan of action outlining what the U.S. will do on our side of the border to reduce drug trafficking and violence in Mexico.

Compared to what the Mexican government is investing in counter drug efforts, the U.S. financial contribution is a drop in the bucket. The aid we give this year or next is not what will turn this situation around. It is a change in police and judicial institutions that will make a difference and that is where the limited U.S. dollars should be spent. What the U.S. decides to fund signals what we think is important. Strong, effective, rights respecting institutions and the rule of law have the best chance of addressing the problems of insecurity, violence and corruption.

**POLICE REFORM**

A lack of accountability and corruption in the Mexican police forces plagues the public security system. A January 2009 tally by the Mexican newspaper *Reforma* reports that in 2008, 759 police in 16 states were arrested, most of them due to ties to drug trafficking organizations.[7] Operation Clean-up (*Operativo Limpieza*), launched by Mexico's Attorney General's Office (*Procuraduría General de la República*, PGR), has detained numerous Mexican officials for their links to organized crime, including members of the President's security team, the former director and other agents from the federal organized crime unit (SIEDO), and two former directors of Interpol Mexico's office.

The Calderon Administration has adopted several measures to vet Mexico's police forces and establish centers (*centros de control de confianza*) that have begun to carry out annual reviews of police performance utilizing a series of evaluations. President Calderón has stated that between January and October 2008 the Office of Control and Confidence within the Public Security Ministry (*Secretaría de Seguridad Pública*, SSP) evaluated 56,065 officers, which is approximately 15% of the police in Mexico. These police were primarily state and municipal police from the Subsidy for the Municipal Public Security (SUBSEMUN) program and various other programs within the Federal Preventive Police (PFP). Of the police evaluated, 41.7% were found to be "recommendable," and 49.4% were "not recommendable."[8] President Calderón did not provide information on what procedures were undertaken for those police who were "not recommendable" or whether these police officers remain in service. To date we have been unable to obtain specific information on this issue.

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[7] "Detienen a 759 policías ligados al narco en 2008," *Reforma*, January 6, 2009.
[8] Pregunta No. 6, Partido Acción Nacional, *Respuestas a las preguntas formuladas en relación con el Segundo Informe de Gobierno*. http://gaceta.diputados.gob.mx/Gaceta/60/2008/nov/2PAN.pdf



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Information is lacking in order to fully assess the effectiveness of these centers and there is a risk that, like past efforts, they will never be fully operational or will lack the follow-up necessary to be effective. Experts on policing in Mexico have affirmed that there is interest among Mexican police institutions, particularly at the state and municipal level, to improve aspects such as recruitment criteria, training and creating more standardized hiring and promotion procedures. However, it appears that priorities, again at the state and municipal level, are not focused on establishing or strengthening internal and external accountability measures. Significant political will is necessary to implement mechanisms designed to combat corruption and curtail police abuses.

U.S. policymakers should explore ways for the United States to support and strengthen Mexico's efforts to evaluate police performance at the federal, state and local levels. This should ensure that there are mechanisms in place to investigate, sanction or retrain police who do not "pass" the performance evaluations being implemented by the government.

Likewise, Mexico's National Registry of Police Personnel is not fully functional and consulting this registry to hire police at the state and municipal level is only done erratically. Without a complete national police registry and an established consultation mechanism, there is no way to verify the service record, educational background, places of employment, etc. of the police (federal, state and local), impeding thorough background checks and vetting processes. This is essential so that police sanctioned or removed because of corruption or abuses from one entity are not simply rehired by another. The first year of the Merida Initiative provides $3 million to assist Mexico in making its national police registry fully operational. Before additional U.S. assistance is provided to Mexico's police forces, the progress made by the Mexican government to complete and fully apply the police registry should be assessed. A functioning police registry should be a minimal benchmark for assessing the seriousness of institutional reform.

**JUDICIAL REFORMS**

The police are part of a larger set of criminal justice institutions. The persistence of corruption and impunity within the Mexican criminal justice system encourages police to take matters into their own hands, and contributes to a lack of trust in the justice system, legal bodies and police forces. An effective system would ensure efficient investigations and adequate collection of evidence while respecting due process guarantees. A reformed criminal justice system would also increase citizen trust, leading to a greater willingness to report crimes and offer evidence.

Historic constitutional reforms to Mexico's justice system were approved in 2008. These judicial reforms represent an authentic procedural revolution of the judicial system, including conducting oral trials and opening up alternative means of conflict resolution in criminal procedures. In sum, they aim to strengthen the rule of law in the country and put pressure on law enforcement agents to carry out more professional investigations, as well



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as address corruption. It is expected that these reforms will reduce the level of impunity for crimes, which is currently estimated to be around 96%.[9] Furthermore, the implementation of oral trials should in principle reduce the likelihood of testimony obtained through torture of being admitted in legal proceedings. Torture is still a problem in Mexico. This year's State Department Human Rights Report says, "...cruel treatment and physical abuse in particular continued to be a serious problem, particularly among state and local law enforcement elements."

The breadth of Mexico's transition from an inquisitorial to an adversarial judicial system, including oral trials, implies an overhaul of the Mexican judiciary. As such, a transition period of up to eight years has been established for these reforms to be fully in force at the federal as well as state level.

The U.S. government has been a firm supporter of judicial reform in Mexico, particularly through USAID Mexico's rule of law program, which has been important in promoting judicial reforms in several states such as Chihuahua and Oaxaca. U.S. policy makers should provide additional funding for Mexico to support judicial reform undertaken at the federal and state levels. Possible support could include funding for: revamping law school curriculums and text books; exchange programs for judges and lawyers to countries experiencing similar changes; programs to strengthen Mexico's judicial work in the areas of evidence handling and chain of custody and for equipment and training for expert services (ballistics, criminology); and Victim and Witness Protection and Restitution programs as an essential component for effective criminal investigations.

**SUPPORT FOR HUMAN RIGHTS IS IMPORTANT**

Drug trafficking and violence in Mexico are a serious problem and we believe that the U.S. must be a part of the response, but "*OJO,*" as they say in Spanish, or watch out, because you are giving security assistance to unreformed and un-transparent security forces. The U.S. has a bad track-record of providing assistance to unreformed security forces that in turn commit human rights abuses in which the U.S. is implicated.

The human rights reporting requirements in the Merida Initiative should not be viewed as simple window dressing. Human rights abuses continue to be widespread in Mexico. While the majority of the perpetrators of human rights violations are state and local police, there has been a disturbingly dramatic rise in reported human rights violations perpetrated by military personnel during the Calderón Administration and in relation to the military's role in the drug war.

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[9] A study by the Mexican Citizen's Institute for Research on Insecurity (INCESI) indicates that only 4 out of every 100 people accused of crimes are convicted. If one takes into consideration the number of crimes never reported, the rate of impunity is even higher.
http://www.icesi.org.mx/icesi_hoy/impunidad_en_mexico.asp



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The number of complaints filed against Mexico's Department of Defense (Sedena) before Mexico's National Human Rights Commission (CNDH) more than doubled during the first year of the Calderón Administration, going from 182 in 2006 to 367 in 2007. In 2008, the CNDH received 1,231 complaints of human rights abuses by members of the military[10], resulting in 13 recommendations, particularly regarding violations against civilians such as torture, arbitrary detentions and sexual abuse.[11] The majority of these violations occurred as a result of the military's deployment in counter-drug operations throughout the country. Several cases involve the unlawful death of civilians, including several minors, whose vehicles failed to stop at military checkpoints,, illegal detentions, searches, and acts of torture and sexual abuse that occurred in counter-drug operations in the state of Michoacán in May 2007.[12]

Because most cases of human rights abuses committed by members of the military against civilians are remitted to military jurisdiction, those responsible are seldom punished. In fact, although over 700 investigations were opened against members of the military for crimes such as bodily injury and homicide from 2000-2008, only 10 soldiers have been sentenced.[13] We know of only one case in which civilian authorities assumed the investigation and prosecution of members of the military, involving the rape of a group of women in Castaños, Coahuila in 2006. The lack of objectivity, transparency, and independence that characterizes the military justice system's investigation into abuses committed by members of the military fosters a climate of entrenched impunity.

The 15% withholding that Congress has required until the State Department reports that Mexico is making progress in four human rights related areas - transparency and accountability within the federal police; consultations with civil society; investigations and prosecutions of security forces accused of abuse; and enforcement of Mexican law prohibiting the use of testimony obtained through torture - is completely appropriate and important. Congress should also monitor the State Department's implementation of the Leahy Law.

**CONCLUSION**

No matter what Mexico does, it will remain stuck between cocaine production in the Andes and drug users in the United States. It continues to be a significant source of the marijuana, heroin, and methamphetamines consumed in the United States and now has a growing population of drug consumers itself. Drug trafficking, consumption, and organized crime are serious problems shared by the U.S. and Mexico and require common remedies. The U.S. should start by developing a U.S. component to the Merida

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[10] Comisión Nacional de Derechos Humanos, "Informe anual de actividades" 2008, pg. 36.
[11] "Recibe el Ejército el mayor número de quejas: CNDH", *Milenio*, December 26, 2008, http://www.milenio.com/node/137794
[12] Recommendations 38/2007 and 39/2007
[13] Aranda, Jesus, *Se disparan las denuncias por lesiones u homicidios cometidos por militares*, La Jornada, January 19, 2009.



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Initiative detailing what we will do here to reduce consumption, bulk cash transfers and arms trafficking.

Drug traffickers in Mexico are committing horrendous crimes. To contain the drug trade, traffickers must be identified, prosecuted and punished, and prevented from carrying out their illegal activities from behind bars. Effective police and judiciaries, free from corruption, are essential in achieving that end. Transparency and accountability, and internal and external controls (mechanisms for routing out corruption and abuse) in security forces are mechanisms for preventing human rights violations and holding abusers responsible for their actions. Police and justice reform, holding criminals accountable, and human rights in Mexico should all go hand-in-hand. Those are the areas where U.S. should prioritize support through the Merida initiative.



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**"Limiting Organized Crime Violence in Mexico: What the United States Can Do"**

**Written Testimony by**
**Andrew Selee, Ph.D., Director of the Mexico Institute, Woodrow Wilson Center to the Senate Judiciary Subcommittee on Crime and Drugs and Senate Caucus on International Drug Control**

**Chairs: Hon. Richard Durbin and Hon. Dianne Feinstein**

**March 17, 2009**

I would like to thank Chairman Durbin and Chairwoman Feinstein for the opportunity to submit written testimony. This is a very timely issue that the subcommittee is addressing, and a very constructive way to approach it.

The issue of organized crime tied to drug trafficking in Mexico is timely because of the rising violence in Mexico, which reached around 6,000 drug-related killings last year. Even though most of these killings took place in three cities and overwhelmingly involved those who work for drug trafficking organizations, the reach of organized crime is much broader than this, and it is undermining rule of law in many places in Mexico and creating a growing sense of insecurity. The Mexican government has accurately defined this as the country's greatest threat and taken a valiant stance against organized crime, while trying to strengthen Mexico's police forces and judicial institutions.

The Subcommittee's approach to this problem is constructive because this issue is one in which the United States has a significant stake. We share a 2,000 mile border with Mexico and the country is a strategic partner in the hemisphere, as well as the second destination for U.S. exports. However, even more importantly, the issue of organized crime tied to drug trafficking is one that we share. The drug trafficking organizations that are causing death and destruction in Mexico have a presence in both of our countries, and their trade is a truly binational and, indeed,



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global. Although much of the violence is on the Mexican side of the border, these organizations are sustained by the appetite for narcotics on our side, with U.S. drug sales accounting for as much as $15 to 25 billion that is sent back to Mexico each year to fuel the cartels' activities. Some of these proceeds are used to buy weapons for the drug trafficking organizations, usually in the United States. When we see the violence across the border – and its deeper consequences for democracy and rule of law – we should recognize that our country houses those who knowingly or unknowingly finance and equip the organized crime organizations behind it. And that means that we also hold the key to at least part of the solution of this problem.

Fortunately, law enforcement cooperation between the governments of the United States and Mexico has increased significantly in recent years. We are now able to track and apprehend some of the worst criminals involved in the drug trade as they move from one country to another, and to share timely intelligence that helps disrupt the operations of drug trafficking organizations. The approval by Congress of the Merida Initiative last year has further deepened this cooperation by strengthening contacts and building trust between the two governments to address this common threat together.

**However, the most important actions that the U.S. government could take to undermine the reach and violence of these drug trafficking organizations need to be taken on this side of the border.** There are three sets of actions that we could reinforce that would be especially vital to undermining the drug trafficking organizations. All of these actions are in our national security interest because they will help stabilize the situation in Mexico and prevent any spillover into the United States. They are also good domestic policy because they would make our communities in the United States safer and more secure. The ideas I suggest here are drawn from a report published by the Woodrow Wilson Center, *The United States and Mexico:*



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*Towards a Strategic Partnership,* that is available on our website, www.wilsoncenter.org/mexico.

**First, we can do a lot more to reduce the consumption of drugs in the United States.** The demand for narcotics in this country drives the drug trade elsewhere in the hemisphere, including Mexico. There is, of course, no magic bullet to do this – and I claim no particular expertise on the prevention and treatment of addictions. However, even a cursory look at recent federal expenditures on narcotics shows that we have increasingly emphasized supply reduction and interdiction while scaling down our commitment to lowering consumption in the United States. Available research suggests that investing in the treatment of drug addictions may not only be good for U.S. communities, but also be the most cost effective way at driving down the profits of drug trafficking organizations by reducing their potential market. We have also learned a great deal in recent years about preventing addictions, including the highly successful campaigns against tobacco addictions, which could be put to good use in renewed efforts at preventing illegal drug use. We cannot eliminate drug use or addictions, but it is worth making a concerted effort to drive down demand not only for public health reasons but because it hurts the bottom line of criminal organizations.

**Second, we can do much more to disrupt the 15 to 25 billion dollars that flow from drug sales in U.S. cities back to drug trafficking organizations in Mexico and fuel the violence we are seeing.** The Treasury Department has done a good job of making it difficult to launder money in financial institutions. However, the drug trafficking organizations have now turned to shipments of bulk cash, which has become the preferred way of getting their profits back across the border. Currently no single agency is fully tasked with following the money trail in the way that agencies are tasked with pursuing the drugs themselves. DEA, CBP, ICE, FBI,



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Treasury, and local law enforcement are all part of this effort currently, but all are primarily tasked with other responsibilities. It is worth noting that it is both impractical and undesirable to try to stop this flow only at the border. Massive sweeps of cars exiting the United States for Mexico would disrupt the economic linkages between border cities and probably yield few gains, since the cash is often divided up and taken across the border in small amounts (or converted into luxury goods for legal export). The real challenge is developing the intelligence capabilities to detect the flow of money as it is transported from one point to another in the United States as cash, or when it enters financial institutions as money transfers, foreign exchange purchases, and bank deposits. There are recent experiences in pursuing terrorist financing that may be useful models for similar efforts to pursue the finances of drug traffickers; however, with bulk cash especially, coordination among law enforcement agencies should be paramount.

**Third, we can do much more to limit the flow of high caliber weapons from the United States to Mexico.** Most of the high-caliber weapons – over 90% – that are used by Mexican drug trafficking organizations are purchased in the United States and exported illegally to Mexico. It is vital to increase the number of ATF inspectors at the border, as well as to strengthen cooperation with other law enforcement agencies, which often have relevant intelligence on trafficking organizations. The current prosecution by the Arizona Attorney General's office of a gun dealer who was knowingly selling arms to drug trafficking organizations is a powerful precedent, but it is only a first step. The Obama administration might also look more broadly at the question of access to high-caliber assault weapons in the United States, although these are clearly difficult issues that arouse significant passions on all sides. There is much that we can do to limit the access that criminals now have to high-powered



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weapons without violating the spirit of the second amendment or affecting the interests of American hunters and gun collectors.

Over the past few years our efforts to deal with drug trafficking organizations have been primarily focused on interdicting the supply of drugs abroad and at home. While this has led to some positive results in making drug trafficking more difficult, it is time to complement aggressive interdiction with a comprehensive approach that attacks the sources of the profits and the weaponry that now fuel drug-related violence. This requires looking at our domestic responsibilities for reducing consumption rates and disrupting the supply of money and guns, while helping Mexico develop both the law enforcement capacity and institutions that make it difficult for organized crime to operate there.

This requires both presidential and congressional leadership to get our foreign policy and domestic agencies working together to address this problem from a variety of angles. There is no magic solution to the threats posed by organized crime, but a more comprehensive strategy would help reduce the reach and impact of these criminal organizations. If we do this, we will not only be performing a service to our neighbors and partners in Mexico, who wish to live in peace without the threat that drug trafficking organizations now present to their safety and to the rule of law, but also to communities throughout the United States that live with both the public health and public security consequences of drug trafficking.



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**INTERNATIONAL UNION OF POLICE ASSOCIATIONS AFL-CIO**

*THE ONLY UNION FOR LAW ENFORCEMENT OFFICERS*

SAM A. CABRAL
*International President*

DENNIS J. SLOCUMB
*International Executive Vice President*
*Legislative Affairs*

TIMOTHY A. SCOTT
*International Secretary-Treasurer*

March 13, 2009

**Testimony of Dennis Slocumb,**
**International Executive Vice President for the**
**International Union of Police Associations**

**Before Sub Committee on Crime and Drugs,**
**The Senate Committee on the Judiciary**

My name is Dennis Slocumb, and I am the International Executive Vice President for the International Union of Police Associations, AFL-CIO. The I.U.P.A. is an international labor organization representing working level law enforcement officers who are on the front lines of the war on drugs and drug cartels. I appreciate the opportunity to submit this written testimony for the Committee's hearing on the impact of Mexican drug cartels on America's public safety officers.

The impact of Mexican drug cartels on America's public safety officers as well as the American public is astounding and frightening. A month ago, an unknown assailant threw a hand grenade into a nightclub in Donna, Texas. The grenade, thankfully, did not detonate. It is believed the incident was gang related. The grenade was traced back to a seizure by Mexican police. How it ended up in the bar in Donna is still being investigated. It is clear that cartels are not only supplying drugs to gangs in the United States, but armament as well.

Police officers in McAllen, Texas, 5 miles from the border, report that vehicle theft, particularly of SUVs and heavy duty pickup trucks have increased. They state that the vehicles are being taken into Mexico, outfitted for smuggling both humans and drugs, and then driven back across the border into the United States with their illegal cargo.

Houston has long been a major staging ground for importing illegal drugs from Mexico and shipping them to the rest of the United States, but a recent Department of Justice report notes it is just one of 230 cities where cartels maintain distribution networks and supply lines. Just this month, in northwest Houston, two victims of what authorities believe are cartel-related murders were a husband and wife who were tortured and shot in their heads. About 220 pounds of cocaine were later found in their attic.

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The influence of these criminal armies have long been experienced along our southern borders, but recently has been felt in such diverse areas as Los Angeles, Atlanta, Sioux Falls, Omaha and Des Moines.

Most of the ransom kidnappings in Los Angeles County have been the result of drug cartels being owed money. In fact, during the 1990's, I was a Detective Lieutenant with the Los Angeles County Sheriff's Department heading a unit that investigated and prosecuted ransom kidnaps. Even back then, the majority of our ransom kidnap cases involved the abduction of the family members of drug dealers who owed money to the drug cartels. The kidnapping of innocent family members has been one of the accepted methods of debt collection by the cartels and that practice continues to this day. In one case, a minor child and her mother were held for more than 9 weeks because of a drug debt incurred by her son to the Juarez cartel. They were kidnapped in Lynwood, California and driven to Ciudad Juarez, Mexico before being freed. In October 2008, a 6 year old boy was abducted in Las Vegas because of his grandfather's connections with a Mexican drug cartel. In 2008 there were 9 drug-related kidnappings in Gwinnett County, Georgia. This violent evolution has already turned Phoenix into a major kidnapping capital. In that city, drug gangs are so well armed and trained in military tactics that witnesses have mistaken their attacks for police SWAT raids. These scenarios are playing out across the nation and will continue to grow in number.

The cartels are well trained and well equipped. They possess military equipment and state of the art communications gear. They are providing the bulk of the illegal drugs consumed here, the street sales of which enrich local gangs and spur violence among these groups.

*Sicarios*, or hired assassins, are regularly contracted and carry out hits in the U.S. Los Zetas, a Mexican paramilitary organization that works for the Gulf cartel, has been connected to murders in Alabama and Georgia. They are involved in arms trafficking, kidnap, and extortion as well. A DOJ Bulletin stated that "U.S. law enforcement have reported bounties offered by Los Zetas of between $30,000 and $50,000 for the killing of Border Patrol agents and other law enforcement officers. If a Zeta kills an American law enforcement officer and can successfully make it back to Mexico, his stature within the organization will be increased dramatically."

In the *New Criminologist*, Clarence Walker, an investigative crime journalist, reported that "On December 15th 2008, the U.S. government declared that Mexican drug traffickers who join forces with other street-level gangs, the Italian mafia and other crime groups to smuggle drugs across the border have become the biggest organized crime threat to the National Security in America."

Clearly there is a national emergency occasioned by the presence and criminal activities of the Mexican drug cartels throughout America. There is an urgent need for a comprehensive national program including law enforcement partnerships between local and federal agencies, including the Drug Enforcement Agency, Immigration and Customs Enforcement, and local and state police officers.



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Their efforts should be well funded and be a part of a wide-ranging strategy to combat these cartels now, before the streets of our American cities are littered with the headless bodies as we have seen in Mexico.

Very Respectfully,

Dennis Slocumb
International Vice President
International Union of Police Associations



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## TESTIMONY OF THE CONFERENCE OF WESTERN ATTORNEYS GENERAL

**Hearing before the Senate Judiciary Subcommittee on Crime and Drugs and the Senate Caucus on International Narcotics Control**

March 17, 2009

**Senator Richard Durbin**, the Chairman of the Senate Judiciary Subcommittee on Crime and Drugs, and
**Senator Dianne Feinstein**, the Chairman of the Senate Caucus on International Narcotics Control

The Honorable Richard Durbin and the Honorable Dianne Feinstein:

### INTRODUCTION

The Conference of Western Attorneys General ("CWAG") is pleased to present written testimony about its activities to combat crime along our border with Mexico. In live testimony today, you will hear from Attorney General Terry Goddard of Arizona about how his office is on the front lines, working with federal, local and Mexican law enforcement agencies, to stem the tide of illegal activities on our border with Mexico. In addition to Attorney General Goddard's efforts, other CWAG Attorneys General are involved in the coordinated law enforcement training of Mexican investigators, prosecutors and judges to improve the prosecution of criminals through the United States – Mexico Alliance Partnership described below. It must be noted that in addition to the Mexican government's push to eliminate drug cartels, the country is implementing an adversarial trial system at the same time. CWAG, with its partners, is leading the program to train those responsible for transitioning to the new judicial system. CWAG has used the Alliance Partnership to hold two meetings, one in September of 2007 and the other in March of 2008, with our Mexican counterparts to discuss what the common priorities are that we, as law enforcement agencies, can work together on. These meetings resulted in a written agreement of cooperation. In addition to the written agreement, Memorandums of Understanding ("MOU") have been entered into between individual Western Attorneys General and the Attorneys General of individual Mexican states. Those MOU's have now resulted in a series of training sessions, beginning in November of 2008, being conducted whereby state law enforcement agencies are training Mexican investigators, prosecutors and judges on the elements of the adversarial trial system. CWAG is proud to have moved so quickly from the discussion stages of bi-national cooperation in late 2007, into the action stage of training our Mexican counterparts in the arts of crime scene investigation, trial preparation and trial practice one year later.

### U.S. – MEXICO STATE ALLIANCE PARTNERSHIP

The U.S. – Mexico State Alliance Partnership is a collaborative, multi-branch alliance comprising the U.S. Agency for International Development (USAID), Council of State



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Governments (CSG), Conference of Western Attorneys General (CWAG), National Association of Attorneys General (NAAG), National Association of State Treasurers (NAST), and other officials aimed at strengthening cooperation among state officials and institutions of the United States and Mexico. The Alliance Partnership promotes and convenes bi-national exchanges and workshops among border legislators, attorneys general and treasurers that enhance the role of state officials in addressing shared public policy concerns that transcend international borders. A key element in this bi-national exchange is the training of Mexican law enforcement officials in the proper methods of investigating and prosecuting crimes in an adversarial trial system by CWAG and its partners. In addition to the financial support provided by the USAID grant for the Alliance Partnership, significant in-kind and direct financial support is provided by participating partners and their respective member states, as well as financial contributions by private sector stakeholders.

**THE CONFERENCE OF WESTERN ATTORNEYS GENERAL HAS ENGAGED IN CONSTRUCTIVE DIALOGUE WITH MEXICO'S NATIONAL CONFERENCE OF ATTORNEYS GENERAL**

On September 21-22, 2007, State Attorneys General and Assistant Attorneys General of the Western states of Arizona, New Mexico, Colorado, Nevada, Idaho, North Dakota, Hawaii, and California participated in the 19th National Conference of Attorneys General of Mexico in Jiutepec, Morelos. State attorneys general from all 31 Mexican states, the Federal District, and Mexico's Attorney General, Eduardo Medina Mora, attended the meeting.

The bi-national exchange during the Conference provided an opportunity for U.S. and Mexico state attorneys general to have an open exchange on critical topics of mutual interest such as human trafficking, smuggling of firearms, efforts to reduce methamphetamines, internet crimes against children, and money laundering. Moreover, Mexico's Attorney General provided a substantive overview of the strategic and collaborative drug interdiction efforts between both countries at the federal level, as well as the implementation of regulatory controls on pseudoephedrine, a key ingredient used in the manufacture of methamphetamines.

Participating U.S. and Mexico attorneys general shared perspectives on the need to work cooperatively to reduce the smuggling of firearms into Mexico, diminish substance abuse, and continue to make effective strides to interrupt and bring to justice money laundering, drug trafficking and human trafficking criminal organizations the operate on both sides of the border. Additionally, the attorneys generals shared information of successful extradition efforts of wanted fugitives via the Article Four Prosecution Process and collaborative efforts between Arizona and Sonora to track stolen vehicles.

Information was exchanged about existing collaborative partnerships among U.S. and Mexico state border attorneys general, including New Mexico - Chihuahua; Texas and the Mexican border states of Tamaulipas, Nuevo Leon, Coahuila, and Chihuahua; Arizona – Sonora; and California – Baja California. Participants were briefed about



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recent state-to-state cooperation, including an agreement of understanding signed September 19, 2007, between Idaho Attorney General Lawrence Wasden and Morelos Attorney General Juan Jose Francisco Coronato aimed at exchanging information on best practices in the area of criminal investigations, training on criminal procedures and forensic gathering techniques, sharing information of wanted criminals, and prosecution tactics on human trafficking cases.

This agreement was forged during the inauguration of a new state forensic investigations laboratory in Jojutla, Morelos. At the same event, New Mexico Attorney General Gary King signed an Agreement of Understanding with states of Morelos, Zacatecas, Coahuila, Oaxaca and Chihuahua committing to the future cross-training and information sharing on the development of forensic laboratories.

During the National Conference of Attorneys General, participating U.S. and Mexico attorneys general agreed on the importance of convening frequent exchanges to strengthen state-to-state efforts and to develop effective collaborative strategies to combat mutual challenges. As a result, Arizona Attorney General Terry Goddard, Chair of CWAG, offered to host the next forum in the Spring of 2008, to follow-up and provide specific focus on the topics discussed.

Six months later in Phoenix, building on the groundwork laid at the previous meeting, the participants announced "a new era of bi-national cooperation to fight organized crime in both countries." Those lofty words were no exaggeration. The Attorneys General in the two countries reached agreement to work more closely together in four primary areas:

**Human Trafficking and Smuggling**: A bi-national exchange of information on smuggling networks, information provided by witnesses, operational modes, money transmitters, routes and other information was agreed to. The attendees also agreed to work together to plan and execute enforcement operations.

**Drug Trafficking**: The attendees agreed to develop pilot projects to improve the investigation of drug trafficking occurring on both sides of the border. It was further agreed to send drug traffickers caught with amounts under current U.S. federal thresholds to Mexico for prosecution.

**Money Laundering**: It was agreed to use investigative techniques pioneered in Arizona to aid in the prosecution of human traffickers in Mexico and to disrupt their flow of funds. It was also agreed to assist Mexico with analysis of selected money transmissions from the U.S. to Mexico and other evidence related to money laundering.

**Arms Trafficking**: It was agreed to expand joint U.S. - Mexican undercover operations aimed at illegal arms sales, to prosecute those who sell arms illegally for transport to Mexico and to pursue an expansion of the registration requirement for multiple gun sales of weapons such as AK-47s.



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Additionally, the Attorneys General agreed to work together to establish databases similar to Arizona's THEFTAZ Web site in order to provide timely information about stolen vehicles to law enforcement on both sides of the border.

Another significant step affirmed at the Phoenix meeting was broadening a provision in the Mexican Constitution which treats crimes committed in other countries as if they were crimes in Mexico. This provision, called "Article 4," previously had been limited to criminal prosecutions but now will be used as the basis for joint investigations. This change has exciting long-term possibilities to keep criminals from using the international border as protection.

CWAG believes that the new partnership we have established with Mexico's federal and state Attorneys General promises to invigorate crime-fighting efforts on both sides of the border between the United States and Mexico.

**BI-NATIONAL TRAINING**

On November 17 to 22, 2008, Attorney General John Suthers of Colorado hosted a training session for criminal investigators from the State of Baja California, Mexico. Assisting in the training were the Adams County Sheriff's Department, the Adams County District Attorney's Office and the Colorado Bureau of Investigations. The training focused on providing Mexican investigators with the skills to investigate crimes, document and preserve evidence, chain of custody, computer forensics, ballistic trajectories, polygraph testing, report writing and trial testimony. The trainees visited a crime lab, a police station and participated in a mock crime scene investigation. As a side note, the host authorities learned that their Mexican counterparts shared their bullet proof vests with other officers. When they left their duty stations, they would hand over the vest to the next person coming on duty. Members of the Colorado Attorney General's Office, the Colorado Investigation Division and the Adams County Sheriff's Department made sure that each trainee returned to Mexico with their own bullet proof vest, donated by the respective Colorado authorities.

New Mexico Attorney General Gary King held a two day meeting in January of 2009, with the Attorneys General from the Mexican states of Baja California, Chihuahua, Hidalgo and Oaxaca and representatives from the Las Cruces Police Department, New Mexico State Police and the New Mexico Attorney General's Office to train in best practices in the fields of investigative police training and courtroom practices. The gathering was intended to strengthen ties between United States and Mexico law enforcement agencies to assist in combating crimes such as drug trafficking and organized crime.

On February 9 to 13, 2009, Attorney General John Suthers hosted a training session on courtroom advocacy for Mexican investigators and prosecutors. The training included communication between investigators and prosecutors, case preparation techniques, motion practice, opening statements, oral argument, direct examination and cross examination of witnesses and investigators, principles of laying the foundation for the



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admission of evidence and closing statements, Discussions were held on alternative case resolutions, victim's rights and the rights of defendants. Mock trials were held where participants could practice the techniques that were discussed.

Additional training for Mexican prosecutors is scheduled in Austin, Texas, on March 30 to April 3, 2009. This training is being conducted by the training arm of the National Association of Attorneys General and is focused on giving prosecutors the skills necessary to be effective in the adversarial trial system.

A training session is in the planning stages for later this year for Mexican judges on how to conduct adversarial criminal trials under Mexico's new trial system. It is anticipated that this training will be held at the national judicial college in Reno, Nevada.

**CONCLUSION**

The Conference of Western Attorneys General respectfully requests that Congress continues to recognize the urgent need to supply the resources necessary to support law enforcement efforts along our border with Mexico and to support Mexico's efforts to combat the drug cartels and to reform its judicial system. If CWAG can supply any additional information needed by this Committee and Caucus, please do not hesitate to contact us.

Respectfully submitted,

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Statement for the Record Submitted by Western Union Financial Services, Inc. to the Senate Judiciary Subcommittee on Crime and Drugs in Response to the Hearing on "Law Enforcement Response to Mexican Drug Cartels" on March 17, 2009

At the invitation of Chairman Durbin and Ranking Member Graham, Western Union Financial Services, Inc. ("Western Union") is pleased to submit a written statement to the Subcommittee in response to testimony presented by Arizona Attorney General Terry Goddard at the March 17, 2009 hearing on "Law Enforcement Response to Mexican Drug Cartels." We appreciate the opportunity to submit this response.

Western Union is a U.S. company based in Colorado that offers money transfer and related financial services in over 200 countries around the world. With over 350,000 independent Agent locations worldwide, Western Union is a vital link in the global economy. In 2008, Western Union handled over 188 million consumer-to-consumer money transfer transactions, many of which were remittances sent by migrant workers to their families back home.

It is well recognized that these remittances are a crucial part of the world economy. As Dr. Manuel Orozco of the Inter-American Dialogue has said, "Today, the impact of remittances is recognized in all developing regions of the world, constituting an important flow of foreign currency to most countries and directly reaching millions of households - approximately 10 per cent of the world's population. For millions of families around the world, remittances are the lifeline that lifts them out of poverty. The vast majority of these flows are spent on basic needs of recipient families such as food, clothing and shelter." ("Sending Money Home: Worldwide Remittance Flows to Developing and Transition Countries," Dr. Manuel Orozco, December 2007).

Although some federal anti-money laundering and related requirements apply to money transmitters, the industry is licensed, regulated and examined at the state level. Western Union currently does business in all 50 states and several U.S. territories;

Western Union is subject to examination by each state in which it is licensed, including examination for anti-money laundering compliance. In 2008, Western Union was examined by over 20 state banking departments.

Like other financial institutions, money transmitters like Western Union are subject to the Bank Secrecy Act, as amended by the USA PATRIOT Act (the "BSA"), and other relevant federal laws such as the sanctions programs administered by the U.S. Treasury Department's Office of Foreign Assets Control. With respect to its anti-money laundering and anti-terrorist financing obligations under the BSA, Western Union is subject to regulatory oversight by the U.S. Treasury Department's Financial Crimes Enforcement Network ("FinCEN") and examination by the Internal Revenue Service ("IRS"). Both FinCEN and the IRS have enforcement authority over Western Union with respect to any violations of its BSA obligations.

Like banks and all other financial service providers, money transmitters are vulnerable to abuse by money launderers and others who seek to use the world's financial systems to support illicit activities. Accordingly, one of Western Union's top priorities is preventing its services from being used for illegal purposes. To that end, Western Union spends over $35 million per year on its anti-money laundering compliance program, and employs approximately 325 people on anti-money laundering compliance. Western Union is justly proud of its anti-money laundering program and believes it rivals any in the industry.

Western Union is also proud of its record of working with regulatory and law enforcement authorities around the world to assist them in detecting and prosecuting illegal activity. In the U.S., Western Union has a strong and cooperative relationship with agencies such as FinCEN, the Secret Service, the IRS, the Federal Bureau of Investigation, and Immigration and Customs Enforcement ("ICE"). Over the years, Western Union has received numerous letters and other expressions of appreciation from these agencies regarding its assistance and cooperation in their efforts. In



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addition, Western Union strives to maintain open and cooperative working relationships with the state regulatory agencies that oversee its activities.

Western Union fully appreciates the seriousness of the security and safety issues along the US / Mexico border. We have taken a variety of steps designed to mitigate the risk of our services being used in connection with illegal activity along the border, such as limiting transaction values, restricting frequency of use and imposing other rules. We have worked with authorities on both the state and federal level to address these issues. Most recently, beginning in 2008, Western Union reached out to law enforcement authorities in Mexico and is part of a joint effort with the United States Department of Homeland Security and the Mexican Attorney General's office to combat kidnapping and other illegal activities. Through this work, we are building the partnerships necessary to assist both governments to address those issues.

On the fundamental issue of policy, Western Union agrees that there is a need for a stronger federal role in the fight against border violence. The violence created by the drug cartels, while perhaps impacting some states more than others, is a national issue that demands the attention and resources of the federal government. Indeed, approaches that focus only on the needs of a particular state rather than the overall policies and goals of the United States Government may actually be counterproductive to the overall effort on behalf of the Nation as a whole.

This is particularly true when it comes to issues such as Mexican drug cartels and human smuggling, which not only impact relations between the states but also have implications on international relations between the United States and Mexico. In fact, the primary issue at the heart of the legal disputes between Western Union and Arizona that were referenced in General Goddard's testimony is whether Arizona -- or any other state -- has jurisdiction or authority over activities that occur outside its borders and that impact commerce in other states and relationships between the United States and a foreign country. While Western Union supports the law enforcement goals of states such as Arizona, it believes that it is more appropriate for the federal government, rather



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than a state or local law enforcement entity, to direct and control an effort that by definition impacts the Nation as a whole and has international implications. A more robust federal role in coordinating efforts to combat cross-border violence and criminal activity would certainly obviate the need for any individual state to consider extending its law enforcement powers beyond its borders, even across the U.S. border.

Further to General Goddard's statements about the need for a stronger federal law enforcement role, we note that some believe that the time has come for a federal regulator and federal license for money transmitters such as Western Union. In our opinion, the licensing and functional regulation of money transmitters at the federal level is a meaningful step that Congress should consider to ensure a more effective federal role in addressing these issues.

Finally, while Western Union welcomes robust debate on the issue of how best to address the problems on the Southwest border, it is disappointed that General Goddard chose to interject recriminations against Western Union into his testimony. Western Union does not believe this is the proper forum for airing or debating our good faith legal disputes with the State of Arizona. Those matters are before the courts and will be decided there. Suffice it to say that Western Union disagrees with General Goddard's characterizations of our company.

Again, Western Union appreciates the opportunity to submit this statement and stands ready to assist the Subcommittee as it continues to examine responses to these serious problems.



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