



Department of Justice

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BEFORE THE

**UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY
SUBCOMMITTEE 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

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

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

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,

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;

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’

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

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 Xcelerator began in May 2007 from an investigation in Imperial County, California and targeted the Sinaloa

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”-

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

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

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

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

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

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

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.