

**DRUG ENFORCEMENT AND THE RULE OF LAW:
MEXICO AND COLOMBIA**

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SUBCOMMITTEE ON HUMAN RIGHTS AND THE LAW
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WEDNESDAY, MAY 18, 2010

U.S. SENATE,
SUBCOMMITTEE ON HUMAN RIGHTS AND THE LAW,
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The Subcommittee met, pursuant to notice, at 10 a.m., in room SD-226, Dirksen Senate Office Building, Hon. Richard J. Durbin, Chairman of the Subcommittee, presiding.

Present: Senator Durbin.

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

Chairman DURBIN. Good morning. This hearing of the Judiciary Committee's Subcommittee on Human Rights and the Law will come to order, and the title of the hearing today is "Drug Enforcement and the Rule of Law: Mexico and Colombia." After a few opening remarks, we will recognize any Senators in attendance and then turn to our panel of witnesses.

In the Human Rights and the Law Subcommittee, we have learned that effective law enforcement and the rule of law go hand in hand. Contrary to many Hollywood depictions of police violence, human rights violations undermine efforts to combat drug trafficking and other organized crime.

Human rights protections from law enforcement abuses are embedded in our Constitution and Bill of Rights. For years, our Government has sought to export those principles to other countries.

Though hundreds of millions of dollars have been spent on these efforts, there has been precious little Congressional oversight. In fact, this is the first Congressional hearing to focus specifically on U.S. rule of law assistance to foreign drug enforcement efforts.

It is logical to begin our oversight with Mexico and Colombia, which have received the bulk of U.S. rule of law assistance and which are the source of most illegal drugs in the United States.

More than a year ago, in March of 2009, I chaired the first hearing of the Crime and Drugs Subcommittee in the 111th Congress, which focused on the Mexican drug cartels. The situation was so dire at the time that the military was deployed into regions of Mexico, such as Ciudad Juarez, where law enforcement was no longer able to maintain order.

It is understandable that some view this as simply a quantitative problem—too many criminals and too few police—but, as we will learn today, it is more than numbers that drive this move to a mili-

tary alternative. And the military in Mexico in many instances operates with virtual impunity, resulting in limited success stemming from drug violence and human rights abuses that often rival and surpass the corruption of the law enforcement system they were sent to replace.

Over a year after the military deployment, the death toll from drug-related violence in Mexico has grown worse. Despite the military presence, the bloodshed in Ciudad Juarez has surged, with over 2,600 murders just last year, an increase from approximately 1,600 in the year before.

Earlier this year, the military handed over control of the city to the elite Federal police forces. Sadly, these developments come as no surprise. As I said at an earlier hearing, military occupation “is not a long-term fix. Investigating and prosecuting drug-trafficking networks is fundamentally a law enforcement challenge.”

In Colombia, the U.S. Government has partnered with the Colombian Government for over a decade to make significant security gains and disrupt drug-trafficking operations.

Despite these extensive efforts, there are still significant challenges in developing an effective judicial system and preventing human rights abuses in Colombia. The baseless prosecutions of many human rights defenders and the “false positive” cases, where innocent civilians were executed by the military and passed off as rebel fighters killed in combat, are just two examples.

In the absence of an effective and fair criminal justice system in both Mexico and Colombia, we have relied on the extradition of drug traffickers to the United States as a short-term measure to disrupt drug trafficking. Since 2002, Colombia alone has extradited over 900 suspects to the United States.

While extradition can be effective in the short term, it is not a long-term solution to illegal drug trafficking. It can have other negative effects as well. For example, many of the paramilitary leaders extradited to the United States in 2008 were also participating in the justice and peace process in Colombia, in connection with their involvement in serious human rights atrocities. This process has since languished.

Ultimately, prosecutions in the United States are no replacement for the ability to arrest, convict, and detain drug traffickers in Mexico and Colombia. And developing strong judicial systems and respect for human rights requires long-term commitment.

Let us be clear. Combating drug trafficking in Mexico and Colombia is a vital U.S. national security interest. According to the Justice Department, Mexican drug cartels are active in every State and in more than 230 American cities. And while cocaine production fell to an 11-year low in 2009, Colombia remains the world’s largest cocaine producer.

We cannot ignore as well our own responsibility in the United States for the drug trafficking and violence in Mexico and Colombia. As I noted at last year’s hearing, “The insatiable demand for illegal drugs in the United States keeps the drug cartels in business.” And, according to ATF, more than 90 percent of the guns seized after raids or shootings in Mexico have been traced to the United States, not to mention the huge sums of money that are

being sent from this drug trade in the United States down to these countries.

I look forward to hearing from our witnesses about what Congress can do to contribute to collaborative efforts by U.S., Mexican, and Colombian law enforcement to defeat these drug cartels.

We are going to turn to our first panel here, and each of the witnesses will have 5 minutes for opening statements before questions are asked. And I am going to swear them in at this point, which is the custom of this Committee. I would ask Mr. Breuer and Mr. Johnson to please stand.

Do you affirm that the testimony you are about to give before the Committee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. BREUER. I do.

Mr. JOHNSON. I do.

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

Our first witness, Lanny Breuer, is Assistant Attorney General of the Justice Department's Criminal Division. He oversees the Department's efforts to promote the rule of law internationally. Previously, Mr. Breuer was a partner in the law firm of Covington & Burlington.

This is Mr. Breuer's third appearance before us in a little more than a year. I thank you for coming and helping us with these hearings.

Just this month, Mr. Breuer established the Human Rights and Special Prosecutions Section, the first ever office in the Justice Department dedicated to investigating and prosecuting human rights violations. I am proud to say that this new division was a product of efforts by Senator Coburn and myself and this Committee. Thank you for joining us.

We also are going to have David Johnson, Assistant Secretary of the State Department's Bureau of International Narcotics and Law Enforcement Affairs. He oversees the State Department offices responsible for law assistance to Mexico and Colombia. Previously, Mr. Johnson served as Deputy Chief of Mission for the U.S. Embassy in London and Afghan Coordinator for the United States. He received his B.A. from Emory University, and we thank him for being here.

Let us open with Mr. Breuer. Please give us your statement, and, of course, your entire written statement will be made part of the record.

Please proceed.

STATEMENT OF HON. LANNY A. BREUER, ASSISTANT ATTORNEY GENERAL, CRIMINAL DIVISION, U.S. DEPARTMENT OF JUSTICE, WASHINGTON, D.C.

Mr. BREUER. Good morning, Mr. Chairman. First, on a personal note, I do want to thank you and Senator Coburn for your steadfast support for the Human Rights and Special Prosecution Section. Without you, we would not have been able to do this, and so from the bottom of my heart, thank you.

I also thank you, Mr. Chairman, for your invitation to address the Subcommittee on the Department of Justice's work with our

partners in Mexico and Colombia to advance the rule of law and strengthen the criminal justice systems of those countries. The stakes could not be higher—either for Mexico and Colombia, or for the United States. Our national security, no less than that of those countries, depends upon our joint work to advance the rule of law and, by so doing, to defeat the drug-trafficking organizations that threaten the safety of all our citizens.

The role the Department of Justice plays in advancing the rule of law worldwide is perhaps less well known than our criminal investigations and prosecutions. But the two sides of our work form part of a single strategy. Crime and terrorism increasingly know no borders, and without strong, stable, and trustworthy foreign law enforcement partners, we cannot hope to defeat transnational crime.

This message was brought home to me again last week during my visit to Mexico City. There I met with the courageous men and women of the Department of Justice, who, with their colleagues from other U.S. Government agencies, are working with their Mexican counterparts not simply on criminal cases and investigations, but on Mexico's ambitious steps to revise its legal system and to fulfill the promise of the Merida Initiative. In my testimony today, I would like to pay tribute to their work, and that of their colleagues engaged in similar endeavors around the globe.

The Department of Justice has been engaged in rule of law work in Colombia for more than 10 years. During that time, and particularly under Plan Colombia, our Federal prosecutors, agents, and police experts have played a key role in working with Colombia on its ambitious commitment to reform its legal system and to firmly establish the rule of law.

The scope of the work done by the Justice Sector Reform Project in Colombia has been staggering, and the results have been equally impressive. At the highest level, our prosecutors have assisted Colombia as it has transformed its legal system from an inquisitorial one to an adversarial one. This new system has demonstrated its promise by significantly increasing the number of convictions and decreasing the time to resolve the cases. And the Department of Justice also has been intimately involved in the practical implementation of Colombia's new criminal procedure code. With State Department funding over a 10-year period, DOJ has trained over 100,000 police, prosecutors, judges, forensic experts, and protection personnel in areas such as crime scene management, trial techniques, evidence, charging decisions, police/prosecutor cooperation, and the use of forensic evidence. The result is that Colombia has become a true partner in our fight against these crimes.

The Department of Justice is now also deeply involved in the rule of law work that Mexico has undertaken under the Merida Initiative, a multi-year program that aims to improve law enforcement capabilities to identify and disrupt and dismantle transnational drug-trafficking organizations and organized crime. We currently have a number of senior Federal prosecutors stationed in Mexico City to work on rule of law issues with their Mexican counterparts. As in Colombia, our work in Mexico runs the gamut from high-level advice on criminal code reform—as Mexico

moves forward on its own decision to create a more adversarial system—to practical training on investigations and prosecutions.

In 2009, working with U.S. Federal law enforcement agencies and the Department of State, we trained nearly 5,500 individuals at all ranks—at the state and Federal level—and in the executive and judicial branches.

Mexican prosecutors, in turn, are working with our Department of Justice prosecutors on case development, evidence collection, trial advocacy, money laundering, and asset forfeiture. Particularly through the work of vetted units, our goal is to ensure that Mexico is a true partner in this fight.

In sum, working with Mexico and Colombia to build the rule of law—and by so doing to fight the drug cartels and the violence associated with them—is a top priority of the Department of Justice. I am so proud of the men and women who have committed themselves to this work, and I thank you, Mr. Chairman, for the opportunity to discuss their efforts, which make the citizens of all our countries safer.

I will, of course, be happy to answer any questions you may have.

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

Chairman DURBIN. Thank you, Mr. Breuer.

Mr. Johnson.

STATEMENT OF HON. DAVID T. JOHNSON, ASSISTANT SECRETARY, BUREAU OF INTERNATIONAL NARCOTICS AND LAW ENFORCEMENT AFFAIRS, U.S. DEPARTMENT OF STATE, WASHINGTON, D.C.

Mr. JOHNSON. Thank you, Mr. Chairman, and thank you for the opportunity to testify this morning on drug enforcement and the rule of law in Mexico and Colombia.

As you mentioned in your introduction, as the State Department's Assistant Secretary for International Narcotics and Law Enforcement Affairs, I oversee foreign assistance that supports counternarcotics police training and justice support programs around the world, including in the Western Hemisphere.

Anyone looking at the news from south of our border knows that drug-related violence is spiraling out of control, within drug cartels, between drug cartels, and against drug cartels. Drug-trafficking organizations have shown time and again that they have no decency or respect for the law or for human life, and the increasingly depraved acts of violence we are currently seeing in Mexico are emblematic of these cartels' historic disregard for anything but profit.

I cannot overstate the impact that this kind of violence and crime can have. The individual tragedies we hear about on a near daily basis, such as innocent lives lost in cartel cross fire, rip the fabric of families and communities. This undermines public security and weakens governing institutions.

In Colombia and Mexico, however, we have seen great determination to address that downward slide, and this is perhaps one of the most, if not the most, important elements in fighting to restore the rule of law.

In Colombia, former President Pastrana recognized the need to intensify Colombia's efforts to stop the cartels. He provided the political commitment necessary to get Plan Colombia off the ground in close coordination with and with assistance from the United States. His successor, President Uribe, has expanded this effort through democratic security and national consolidation policies that seek to address insecurity, narcotics trafficking, and a lack of economic opportunities.

We have also been fortunate in Mexico to launch the Merida Initiative. We have seen in a relatively short period of time a change in the attitudes of the Mexican body politic that reflect an understanding that this issue must be faced collectively.

One of the natural outgrowths of leadership that we saw in Colombia was ownership. The Colombians were partners during the design of Plan Colombia and have remained so during its implementation. Mexicans are equally engaged in leading Merida's planning and implementation process, and bilateral meetings are held on a monthly basis to discuss progress on each of the 46 Merida projects, which are extensively negotiated each year.

Next week, in Mexico City, we plan formally to open a joint center to administer Merida, a place where Mexicans and Americans work side by side to advance this comprehensive law enforcement reform program. In both Colombia and Mexico, the U.S. Government has played a supporting role, seeking to complement strategies rather than developing ones to compete with the government's there.

As security has begun to be established in Colombia, for example, it became possible to address other societal factors contributing to narco trafficking and lawlessness. That progression allowed the Colombian Government to expand social services to former conflict regions and establish stronger institutions. This same approach is at the heart of our effort in Mexico.

Our experience in Colombia emphasized the importance of adapting to the changing environment, to recognize and to embrace opportunities when they present themselves. Counternarcotics programs must constantly evolve from the point where they start to confront and counter the threat which also adapts constantly.

In Colombia, for example, criminal gangs have emerged to fill a void in the drug-trafficking network left by the demobilization of paramilitary organizations and the weakening of the FARC. Tackling these new criminal organizations requires adjustments in how we investigate and prosecute their criminal behavior while simultaneously maintaining pressure against the FARC.

In Mexico, we were approached almost 2 years ago to support a new type of investigator cadre specially formed to confront new narcotics threats and associated crimes. I can recall sitting in a room with my Justice Department and other interagency colleagues when we were asked about this to produce training materials, to produce officials and trainers within about 90 days for 5,000 new Mexican investigators, and we looked at each other and we said, "This is impossible, and we have to do it." And we did. We were able to recruit U.S. Federal, State, and local law enforcement trainers to address this need in an extremely short amount of time.

These examples represent mutually beneficial opportunities. In both cases, we adjusted our programmatic plans to join specific Colombian and Mexican goals in order to advance our shared one.

For us, these are win-win situations that we need continuously to find and act upon as the environment and our programs, such as Plan Colombia and the Merida Initiative, continue to evolve.

Another important lesson learned in Colombia that we are applying in Mexico is recognition that there is no single silver bullet to the problems created. We must be flexible and maintain a long-term vision focused on working with our partners to strengthen their own institutions.

Colombia's judicial transformation to the accusatorial system took 4 years. Mexico's similar path is likely to take even longer. We must remain mindful that the payoff for our collective investment will only be realized if we take a long view.

The lessons we learned from our experiences in Colombia, the need for public support, the need to establish security that creates space for a comprehensive, coordinated Government effort, the need to demonstrate adaptability, to take a long-term view in creating and entrenching solutions—all of these are reflected in our efforts in Mexico.

We have seen significant positive change in Colombia. Much of that change is attributable to the bilateral plan that we worked on together for 10 years. We have also witnessed Colombia's ascendancy to become a regional leader in counternarcotics as well as police training. Colombia's unique experiences have made it the logical choice to provide advisers and trainers. In fact, Colombia has already trained approximately 5,800 Mexican law enforcement and court officers on a variety of operational and judicial topics. We applaud this kind of regional collaboration.

Mexico's recent high-profile seizures and arrests are clear signs that their effort is moving in a positive direction. Mexico's determination, however, is matched by the drug-trafficking organizations' determination to maintain their territorial control and profits. We will continue in our commitment to the fight against these cartels and to support our partners in their efforts.

Thank you, Mr. Chairman. I look forward to addressing your questions.

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

Chairman DURBIN. Thanks for your testimony. I thought about this hearing this morning with the arrival of President Calderon this week, and just for the record, it is, in fact, coincidental that we are holding the hearing this week. We had hoped to have it earlier but could not because of a scheduling difficulty.

I also wanted to note that I think it is disingenuous of this Committee, and perhaps of Congress, maybe the American people, to stand in critical judgment of the situations in Mexico and Colombia without first conceding that our own failure when it comes to drug laws and establishing cohesive and effective ways to reduce the demand for drugs has created this situation. In fact, it is our U.S. dollars and our U.S. weapons that are fueling this war-like situation in Mexico and instability in many other countries. So let me say at the outset, from my personal point of view, we have a spe-

cial responsibility not just to stand in criticism of what is happening in those countries but to acknowledge our own shortcomings and failures.

I would like to ask the first two witnesses, as I step back and try to look at this, not being as expert as you are, it seems to me that several things are at work here, not only the violence of the drug cartels but also a question as to whether or not the system of justice, for example, in Mexico has failed, is going through a fundamental transition from one form, the Napoleonic form, to the more adversarial form we are familiar with in the United States. Is that a fair analysis of the starting point of this conversation, Mr. Breuer?

Mr. BREUER. Mr. Chairman, I think it is. I think that our friends in Mexico and President Calderon really are showing extraordinary courage and a remarkable commitment, and we cannot say enough about that. But there is absolutely no question that as Mexico confronts this remarkable national threat and challenge, it has to reform its judicial system. It does have to move to an adversarial system. Right now, the inquisitorial system of Mexico is too late in time. It takes too long. The conviction rate is at about 2 or 3 percent. And there has to be a shift to the adversarial system, which is a more nimble system.

That is why it is so critical for us in the United States and for us at the Department of Justice to be working with our partners hand in hand and teaching them as they move forward. To Mexico's credit, they have made the decision to move forward, and they have a few years to do it. We at the Department would like them to move as quickly as possible, and we remain ready and able with our prosecutors and others to be there for them as they make the switch. But they have to make that switch.

Chairman DURBIN. I would ask either one of you, if the conviction rate in Mexico is 1 to 3 percent of those arrested for drug trafficking and the conviction rate in Colombia is closer to 60 percent, is there a lesson here? Has the Colombian nation gone through a transition to more effective law enforcement?

Mr. BREUER. I think that is right. Colombia, when it began, Mr. Chairman, had a conviction rate also at what Mexico's is, 2 or 3 percent. And really, because of Colombia's commitment and their change in process and the work of our people in the United States, our prosecutors, other people from agencies, it happened. To my right is Paul Vaky who, Mr. Chairman, is really in charge of the Department's efforts in Colombia, and he and other heroes like himself have really worked with our counterparts in Colombia to make that transition from a 2- or 3-percent conviction rate to now a conviction rate well in the 60's.

Chairman DURBIN. I recall the only trip I have made to Colombia many years ago with Congressman Jack Reed, and we met with President Pastrana and his cabinet at the equivalent of their White House. And President Pastrana said, "Just for illustration to you as American Senators as to what life and justice are like in Colombia, I would like each member of my cabinet to tell a story that they might have of their own personal kidnapping or the kidnapping of someone in their family." Every single person sitting there had either been kidnapped or someone in their family had been

kidnapped, which is a context I have never forgotten in terms of justice.

Now, when we talk about the adversarial system in the United States, we envision judges presiding over courtrooms and prosecutors standing publicly and making the accusations with defense attorneys there as well. It struck me, having seen that situation in Colombia and having met a number of people who had been terrorized by the drug cartels in Mexico, that this is a dangerous transition from the old Napoleonic inquisitorial approach to the more public adversarial approach, and it is understandable that people do not just stand up and volunteer to be judges in that context.

Can you comment on that aspect of the changes taking place?

Mr. BREUER. Of course, Mr. Chairman. Well, first of all, in the year that I have been the Assistant Attorney General, what has really struck me on a personal note is the number of heroes both here in the United States and in other countries. Next week, for instance, I have the honor of going to Italy where the Italians every year celebrate the life of Giovanni Falcone, the prosecutor who gave his life to combat the Mafia, and, frankly, because of him, he in no small part galvanized the Nation in its successful efforts. So right now there is no question in Colombia and in Mexico there are many, many heroes.

One of the absolute, essential ingredients to the change is not just individual heroism but a commitment by the Government and also, frankly, on a very practical level the specialized investigative units that are vetted. We need to have vetted units of prosecutors, investigators, and, indeed, often even to help with the judges, to ensure, one, that we protect judges but, two, that we have abilities to prevent the pervasive corruption that these drug-trafficking organizations effect. There has to be a comprehensive approach. From the Department of Justice's perspective, it has to be a colleague-to-colleague approach where our prosecutors team up, our investigators team up. We send judges, we send prosecutors, and the like. It is a comprehensive process, but that is our view of how you have to deal with this.

Chairman DURBIN. I would like to ask you, Mr. Johnson, I would like to hear your take on it, if this analysis is accurate. But it would seem that, as I said in my opening statement, moving in military forces in an effort to try to stop the drug cartels is not just a concession, that there are more potential criminals than there are law enforcement officials. But in the case of Mexico, at least, is the suggestion that the basic law enforcement system is not functioning, that the investigation of the crimes, the prosecution of the crimes was not taking place, and that they are trying through martial law to control a situation.

I note that in some areas, like Juarez, they have moved beyond the military to the so-called elite Presidential forces or the Federal forces, and I do not know if that is an indication that the military was not enough.

Can you talk to me about this quantifiable issue as opposed to the underlying question of whether the corruption in law enforcement has led to this progression?

Mr. JOHNSON. I think it is clear that the law enforcement and judicial institutions in Mexico were not sufficient to deal with the

challenge that they face from these well-organized drug cartels, that, as you mentioned in the statement that you made after our opening statements, is fueled significantly by demand in the United States for narcotics.

The President of Mexico made the determination, when he really realized the endemic nature of what he was dealing with, that he had to use the institutions that he had in order to start this process as rapidly as possible. The Mexican military has a place in Mexican society of respect, and it has some capabilities that certainly its law enforcement institutions did not have at the time and are in the process of acquiring. So there was certainly significant value to the presence on the street the military forces can have in order to deter brazen activities as they took place.

On the other hand, just as any military, the Mexican military is not trained law enforcement personnel. They do not have the training for the investigatory techniques, for evidence gathering, and participation in the judicial process, which ultimately leads to conviction and incarceration.

At the same time that the Mexican military was deployed, the Mexican Government accelerated a process that they already had underway to reform their Federal institutions of police, and they have been building that up as rapidly as they could over time. This institution is what—it is not called a Presidential Guard, but the Federal security institution has been deployed now in Juarez after the military has pulled back.

We believe they are beginning to have an impact. They have much better control of where the police authorities are on the ground, the ability to track their vehicles, to deploy them in ways to investigate and deter crime, in ways that they did not have, and using some technologies and techniques that we have jointly helped them develop.

What we still do not have yet in sufficient numbers and we do not have in terms of the change in the judicial process is that we do not have the type of prosecuting and judging contingent there that is ultimately going to be needed as the crimes are detected and need to be prosecuted.

We have an additional challenge in Juarez, and that is that Mexico is a Federal state and the states have been moving toward an accusatorial process individually and in some instances quickly. In particular, the State of Chihuahua, in which Juarez is located, is the only Mexican state that has fully transformed to an adversarial process. So you have an adversarial process and the type of investigation that that calls for and the gathering of evidence going on. At the same time for Federal level crimes, you still have an inquisitorial process and a quite distinct and different process of gathering evidence there.

So that is going to be a challenge for them until they have the fully formed, Federal-level adversarial process developed, and as we all recognize, that is going to take some time.

But I think we do see a commitment of resources and a commitment of political will in Juarez over the course of the last several months that is quite impressive.

Chairman DURBIN. But there is another aspect to this which I would like to ask you about, and it relates to the testimony in the

next panel from Mr. Vivanco of Human Rights Watch, and that is the question of the human rights abuse record of the military. His investigation determined, if I have this correctly, that there were only three charges of human rights abuse by Mexico's military as part of this and only one case qualifies as a conviction for a human rights abuse in which a soldier was sentenced to 9 months in prison for killing a civilian by opening fire at a military checkpoint.

There have been many allegations and evidence collected of torture, raping, and killing by the military in the course of what is happening here. I think similar things occurred in Colombia with the false positive cases and the like.

So I wonder, can you tell me, can either of you comment on this aspect that, as they have found the law enforcement system inadequate to the job and moved in the military, they brought in with them another challenge in terms of whether or not the military can be expected to meet the needs of the society without their own abuses being investigated?

Mr. JOHNSON. Just one comment I would make. We are required by the appropriations statutes to report on this process with the Mexican military and have done so. I am not in a position to comment on the cases that you referred to, but where we do think that progress needs to be made is in the transparency of the system for military justice so that the public can see justice being done more clearly.

We have some engagement in military-to-military channels to provide advice and example about how our own Uniform Code of Military Justice operates and the ability of the public to know that if there are accusations against military personnel, they are investigated and there is a judicial process under which they are properly held to account, or judged not guilty if that is the appropriate case. And it is the transparency that we are really looking to help foster there.

Chairman DURBIN. In Colombia, the Attorney General's office is investigating over 2,000 false positive cases where innocent civilians were allegedly executed by the military and passed off as rebel fighters killed in combat. The U.N. Special Rapporteur on Extrajudicial Executions said, "The sheer number of cases, their geographic spread, and the diversity of military units implicated indicate these killings were carried out in a more or less systematic fashion by significant elements within the military." This is in Colombia.

Given the substantial assistance our Government has provided to the Colombian military, I think we have a special responsibility to ensure perpetrators of human rights violations are brought to justice.

What can you tell me about the efforts that are being made in this area, Mr. Breuer?

Mr. BREUER. Well, Mr. Chairman, as you know, I care deeply about the issue of human rights and the Human Rights Special Prosecution Section is a great representation of that.

With respect to what is happening in Colombia, of course, the Colombians themselves have the justice and peace or the truth and reconciliation process, and for the most part, the country is moving

forward in that process. Obviously, the AUC has been a part of that.

We at the Department of Justice, what we can do and what we have done is work as hard as we can with our friends in Colombia to make this as robust a process as we can, whether it is training our counterparts in these investigations, giving them the tools, helping them understand how investigations and prosecutions could go forward, and making it clear that from the Department of Justice's perspective, the justice and peace process must go forward, is absolutely essential, and something we support dramatically.

Moreover, to an unprecedented degree, to the degree that we have extradited, because of drug cases, individuals who have been a part of that process, we have made them available to this process. We have done that through video link. We have made that through individual meetings. And, indeed, there probably has never been that level of cooperation in such a system before between the United States and another country.

So we are very supportive of this. We understand that these are steps being taken, and we believe that President Uribe and his team very much have adopted this.

Chairman DURBIN. So have there been examples of extraditions from Mexico to the United States for prosecution?

Mr. BREUER. There have. In Mexico, we have an unprecedented level of cooperation with the Mexicans. This past year, 2009, we had over 100 extraditions from Mexico to the United States.

Now, it should be clear, and when I was with my friends in Mexico last week, I made it clear that we want to continue this. We think it is an essential piece of our partnership with Mexico, and we want to, of course, extradite those who are most involved in the drug-trafficking organizations. But under President Calderon, there is just no question that we have had more extraditions and more collaboration than we have ever had before.

Chairman DURBIN. So this is helpful in the short term, but do you agree that ultimately it is much more effective if Mexico and Colombia were to arrest and prosecute these drug cartel leaders themselves?

Mr. BREUER. Absolutely. I do think so, but I think we have to understand that extraditions are a key piece. If we by extradition of high-value individuals are able to take some of the pressure off of our friends, and as Mexico is going through the transition—and Colombia is much, much farther along, of course. If we in our robust system can take these people, try these people, and convict them and put them in jail for long periods of time, it allows our friends in Mexico, for instance, to devote more resources to others. And that is why we think that we at the Department have to play a critical role in helping.

And so, sure, at some point extraditions may be less important, but, of course, as you pointed out, Mr. Chairman, these were the same individuals who are permitting drugs to come into the United States. We have a vital interest ourselves, and working collaboratively with our friends, we think it is an essential piece of a comprehensive plan to challenge and attack the cartels.

Chairman DURBIN. I would like to ask you both to step back for a second, if you can, or if you will, and comment on a statement that is made in the official submission by one of our next witnesses, Mr. Wasden of Idaho. I would like to read it because it struck me this morning as I prepared for this.

He wrote, "Mexican citizens are rightfully proud of their heritage, their history, and their country. Those I have spoken to would prefer to stay in Mexico. But the lack of personal safety and the lack of jobs drives them across our southern border. The U.S. is absolutely entitled to and must have a secure border, and I am not here to discuss the advisability of fences or other border devices. But the forces which drive Mexicans across our southern border are more powerful than technological devices. If you and I faced the problems our southern neighbors face, we would do the same thing they do. We would vote with our feet. We would not stand for such conditions in our country."

I think that is an interesting observation in light of our National debate about immigration, and I would like to ask each of you whether you agree with his conclusions or believe that as we view this border and how to make certain that it is secure, how much needs to be invested in making certain that there is professional law enforcement and a rule of law south of the border as well as in our country.

Mr. BREUER. Mr. Chairman, I think it is absolutely critical that we do have law enforcement in Mexico, that we help our friends in Mexico have the institutions that can protect their people, that their people can live in peace, that with living in peace they can have economic prosperity. And, of course, if we do not do that and if our Mexican friends cannot achieve that, there is no fence large enough to prevent the very forces you are describing. We have to have a comprehensive approach. We obviously have to have law enforcement. We have to secure our borders. But we absolutely have to help our friends in Mexico have vital and effective institutions.

Chairman DURBIN. For the record, the Mexican-U.S. border, almost 2,000 miles long, is the most frequently crossed international border in the world. Two hundred and fifty million people cross annually. One-half million cross illegally. So when there are folks who talk about sealing the border, it is like saying, well, we are going to go out to I-95 and we are going to guarantee that no narcotics and no guns are going to pass illegally on Interstate 95 today. Imagine the challenge that would pose to any governmental unit trying to enforce it.

That is not an excuse for lack of effort or focusing efforts, but I think what you have said, Mr. Breuer, is that we need to look beyond just the technology and the obstacles to the situation south of the border that is creating this force as people move north.

Mr. Johnson, would you like to comment?

Mr. JOHNSON. I have had the privilege in my diplomatic career to live on the Mexican border and on the Canadian border, and I find border communities extraordinarily vibrant because of that opportunity to share each other's culture. I think that is something that enriches our Nation immeasurably.

And so as part of the effort that we have underway, within and beyond Merida, we would aim to create a border which facilitates

the type of exchanges that are lawful, that enrich that culture and provide us with the ability to deter and defeat those which would bring crime into the United States and would undermine the rule of law further in Mexico.

We do need, it is in our own very selfish interest to help Mexico develop the institutions that it needs, both law enforcement and dispute resolution, both criminal and civil, so that it can support the kind of economy that it needs.

There is immigration going on in Mexico now which is within Mexico and away from some of the areas of high crime, which really shows that there is a responsiveness on the part of the public to public safety, and it would be in our interest and in Mexico's interest to work together and we are working together to address this problem.

Chairman DURBIN. Thank you for your testimony, both of you. I know that you have longer statements. They will be made part of the record, and if we have any follow-up questions, we will send them along, if you could answer them in a timely way. I appreciate your being here.

Mr. BREUER. Thank you, Mr. Chairman.

Chairman DURBIN. I would like to invite the second panel. We have four distinguished witnesses here who will share their views. I will introduce them as they are taking their places here.

Our first witness is Lawrence Wasden, the Attorney General of Idaho. Mr. Wasden has over 20 years of experience in the Idaho Attorney General's office. He previously served as chief of staff and deputy chief of staff. He is past Chairman of the Conference of Western Attorneys General, where he helped found the U.S.-Mexico Alliance Partnership to strengthen cooperation between State officials in the United States and Mexico. He holds a bachelor's degree from Brigham Young University and a law degree from the University of Idaho. We thank him for journeying from Boise to be here today.

Our next witness following Mr. Wasden will be Gary King, the Attorney General of New Mexico. He previously served in the New Mexico House of Representatives, and as vice chair of the Conference of Western Attorneys General. Mr. King has participated in the U.S.-Mexico State Alliance Partnership that Attorney General Wasden launched. Mr. King holds a bachelor's degree from New Mexico State University, a doctorate in organic chemistry from the University of Colorado at Boulder, and a law degree from the University of New Mexico. I thank him for coming from his beautiful city of Santa Fe to be with us.

Our next witness, after these two, will be José Miguel Vivanco, director of the Human Rights Watch's Americas Division. He previously worked as an attorney for the Inter-American Commission on Human Rights at the Organization of American States. He has also been an adjunct professor at the well-respected Georgetown University Law Center and the School of Advanced International Studies at Johns Hopkins University. He studied law at the University of Chile and Salamanca Law School in Spain, and holds an LLM degree from Harvard Law School. Mr. Vivanco, thank you for being here.

Our final witness, María Elena Morera, is the director of Causa en Común. She is a prominent civil society advocate in Mexico. Previously, she was the president of Mexico United Against Violence, an anti-crime advocacy organization. Ms. Morera, you joined Mexico United Against Violence following the kidnapping of your husband, so we know the issue of violence is very personal to you. We thank you for joining us today, and I know that you have a friend with you in case some of the translation becomes difficult. But you did very well when we said hello this morning.

So I would ask all four witnesses to please stand and be sworn. Do you affirm the testimony you are about to give before the Committee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. WASDEN. I do.

Mr. KING. I do.

Mr. VIVANCO. I do.

Ms. MORERA. I do.

Chairman DURBIN. Thank you very much. Let the record reflect that the four witnesses answered in the affirmative.

Mr. Wasden, please. We are going to give you 5 minutes for an opening statement. Your written statement, as with all other witnesses, will be made part of the record, and then I will ask some questions after. Proceed.

**STATEMENT OF HON. LAWRENCE G. WASDEN, ATTORNEY
GENERAL, STATE OF IDAHO, BOISE, IDAHO**

Mr. WASDEN. Thank you, Senator Durbin. I genuinely appreciate your willingness to invite me to be here with you today to speak about something that I find very important. One of the most important things I have done as Attorney General in my State involves my association with the Alliance Partnership, and the opportunity to truly make a difference in people's lives.

I wanted to echo something that you said a little earlier and that is, in this country we buy more illegal drugs, and we pay more for those illegal drugs, than any other country on Earth. There is a parade of drugs coming north, and there is a parade of guns and money going south. This is not just a Mexican problem, nor is this just an American problem. This is a problem for both countries and we both have to work together in order to resolve it.

In my written testimony I talk about how I became aware about the need to become involved, and I want to repeat that story. I was asked as the Chairman of CWAG to speak to a delegation from Mexico, so I traveled to California and met with them. I had a really great speech. It was terrific. But, as I sat listening, I realized that my speech was way too theoretical about justice. What I needed to talk about, and what I needed to hear about, were the true boots-on-the-ground kind of issues that my colleagues in Mexico were dealing with.

As I finished my speech, there was a woman in the audience who came running up to me in the hallway. She was crying and she was speaking Spanish very rapidly. I do not listen to Spanish very rapidly, and I did not understand what she was saying. Some interpreters came down the hallway and helped translate what she was saying, which was, "We need you. We need you." She told me she

was a reporter for a newspaper and that she had been kidnapped and tortured because she had been reporting on a child sexual abuse ring that was operating in her city. The Governor of her state had directed the police to kidnap her in order to shut her up in terms of reporting on the children who were being sexually abused. The reason the Governor ordered her kidnapping was because his friend was the individual running the child sexual abuse ring.

I will never forget the look on her face, but that was really my introduction to the need for us to be involved here. I was kind of astounded by her story. It seemed outlandish, but as I began to do some research and understand what was happening in Mexico, I realized her story was not all that unusual.

We then traveled to Mexico and I met with a number of individuals from the Mexican Government, the U.S. State Department, and USAID. Every single Mexican national that I spoke to had a personal story of violence. Every single one of them. As you mentioned, maybe it did not involve them individually, but it involved some member of their family. They spoke of something called an "express kidnapping" where you are kidnapped, forced to take out the daily limit on your ATM, held overnight, forced to take out the next day's daily limit, and then you are released. You and I get up in the morning and we do not have the slightest clue what that kind of an environment would be like.

I have tremendous respect for my colleagues in Mexico because they are willing to stand up with great risk to their own lives, to stand up for justice.

I was traveling in Italy with a delegation from Mexico. We were talking about the issues regarding prosecution of organized crime, and we were in a community called Stilo. The Mexican citizens there told us how upset they were with President Calderon's basic war on the drug cartels. It was a very interesting conversation because the Italian magistrates responded with something that I do not think I will ever forget. Italian magistrates are prosecutors, they are not judges. The magistrates said, "Your political will is being tested. What you have to expect is an increase in the frequency of violence and an increase in the level of that violence in order for you to ultimately win. If you capitulate now, you will never win this war."

I wanted to say one additional thing. I have a friend in Mexico whose name is Carlos Pineda. He is not associated with any of the law enforcement. He does have a brother-in-law who is an attorney and I also know him. Carlos said something very important to me. He said, "Lawrence, please do not leave us. Please do not leave us." So, I look at them, and I look across the border, and I see friends. I see people willing to stand up for justice at the risk of their own lives, and I cannot leave them.

I appreciate very much the opportunity to be here today and I look forward to your questions.

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

Chairman DURBIN. Thanks.
Attorney General King.

**STATEMENT OF HON. GARY K. KING, ATTORNEY GENERAL,
STATE OF NEW MEXICO, SANTA FE, NEW MEXICO**

Mr. KING. Thank you, Mr. Chairman, and thank you for the introduction. I had some preliminary comments, but I think that the previous panel examined quite a bit what the situation on the border is, and I will say that I thought that that was a good discussion.

What I would like to discuss today is some experience that we have in New Mexico, and as the previous panel said, the first state in Mexico that made the transition from the inquisitorial-based system to the adversarial-based is Chihuahua, which is the state to the south of New Mexico. And so that change started to occur about 4 years ago, and since that time, the New Mexico's Attorney General's office, the New Mexico Public Safety Department, and since the advent of the program that we have at CWAG, has been training prosecutors and investigators and crime lab personnel in Chihuahua and in other places. So I want to talk just a little bit about my experience with the State of Chihuahua because we have been working with the same Attorney General there in Chihuahua for the last 3½ years, and we have had a lot of her prosecutors who have come to New Mexico for training, a lot of crime scene personnel. And I have had an opportunity to go down and examine the court system and their crime labs and such, and they have done a wonderful job of building new crime labs and building new courthouses, training new judges, and training prosecutors, and I think that they have been very effective in trying to deal with the overall crime problem in Mexico. And, you know, it is not just the drug cartels.

I had an opportunity to watch one of the trials in Chihuahua and was impressed. We were going to go watch a murder trial, and there were so many people there watching the murder trial, we could not get in. So I went down the hall and watched a trial that related to an automobile accident, and very professional judges. I think that the ability of the populace to participate in trials and defendants to have a say on the stand will in the long run indeed have a great effect on bringing the rule of law into Mexico. And I just want to commend those folks in Chihuahua.

When the other states started to make the transition, we had a number of Attorneys General who came to us and requested training, and it was clear that in order to train the number of people that we needed to train, we needed a much larger initiative. And so the Western Attorneys General, I think at the urging of folks in Mexico and with the help of USAID, developed a program that we are very proud of. The program is larger than just our organization. You have heard us talk about the alliance. There are a number of organizations in the alliance. It includes State treasurers, it includes the Council of State Governments, as well as the AGs.

I am speeding through a little bit, Mr. Chairman, because I know that this is a fairly short amount of time, and if you want more, I will give you more information. But my office has been participating in Chihuahua in prosecuting what are called Article IV prosecutions as well. The Mexican Constitution allows us to prosecute crimes that were committed in the U.S. in Mexico under cer-

tain circumstances, and so I have a staff that has been working with Mexican prosecutors to carry out Article IV prosecutions.

But I think that what I want to bring to your attention and hopefully we can talk about more is the fruit of the collaboration of the State governments and the Federal Government in the U.S. with the state governments and the Federal Government in Mexico. We have seen a lot of positive results from getting resources to the state prosecutors. And we are very proud of the Merida Initiative, and I support the Merida Initiative. But I believe that we could get a lot of bang for our buck if we can get some more support to those local governments. And through the initiative that the Western AGs have, we have in this fiscal year been able to train—or by the end of the fiscal year, we will have been able to train about 1,500 prosecutors and investigators to carry out those new trials in Mexico. And we do that through hands-on training.

We had a training in New Mexico 2 weeks ago, and we had all of those folks at a facility where we could develop a crime scene, including—our New Mexico crime scene personnel set up the crime scene. They used real human blood so you get the real kind of splatter. They use trained people who are—they do not like to be called actors, but character players who play the criminals. And so they have to analyze the crime scene, develop their case, and then come and do a mock trial all in the course of a week. And they develop a lot of experience.

In this last training, we had not only investigators from a number—five or six states, I believe, and prosecutors from those states, but we also had two prosecutors from the Federal AG's office in Mexico, too. And to see those folks working together and developing the collaboration, I think that is what it is going to take to successfully attack some of the problems that we have in Mexico.

So we are very proud of our association with those Mexican law enforcement personnel. I think that they are doing the very best that they can.

I have one other story that I would like to point out. We had a training in Colorado where the trainers noted that the investigators from Mexico were talking about the fact that at the end of a shift they have to take off their bulletproof vest and give it to the next person that was coming on for the next shift because they did not have enough bulletproof vests. And so at that training in Colorado, the Colorado folks that did the training made sure that everybody that left the training left with a bulletproof vest so that they would have their own vest. Those are the kinds of resources that I think can be leveraged in that case.

And, finally, I want to mention—and if you would like, we can delve into it more later on. The four border States—Arizona, New Mexico, Texas, and California—through a lawsuit that was initiated by the Attorney General in Arizona against Western Union have developed a settlement where there is about \$90 million that is being allocated so that law enforcement on the border can work on interdiction of funds that are crossing the border and money laundering. And we think that that is going to be a very successful program that we are working on, and if you have questions, Mr. Chairman, I would be happy to address that, too.

We feel like there is a lot of progress being made on the border. We do feel like it is a very long-term solution, that it will take 10 years, maybe 20 years. I do not know. I heard discussion about Colombia. But we, the Western Attorneys General, are very dedicated—I will be the Chairman in July—to pursuing this project because I think that it will bear good fruit.

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

Chairman DURBIN. Thanks a lot, Mr. King. I am trying to wrap my mind around the notion of a bulletproof vest as a going-away gift. But I certainly can understand why it is appropriate.

Mr. Vivanco.

STATEMENT OF JOSÉ MIGUEL VIVANCO, DIRECTOR, AMERICAS DIVISION, HUMAN RIGHTS WATCH, WASHINGTON, DC

Mr. VIVANCO. Thank you, Mr. Chairman.

The need for more effective law enforcement is a top public concern in Colombia, Mexico, and many countries throughout the region. Too often, local leaders respond to public demand to get tough on crime by condoning abusive practices that not only undermine the rule of law by violating basic rights, but also fail to curb crime.

A major reason abuses are widespread in countries like Mexico and Colombia is that the perpetrators are rarely brought to justice. Unfortunately, there is a commonplace perception that holding law enforcement agents accountable for their abuses will only help the violent mafias they must confront. But the opposite is true. Fuller accountability, though the criminal prosecution of abusive practices, forces police and prosecutors to do their jobs more effectively.

One of the countries that has faced the highest levels of violence in the region in recent years is Colombia. In the context of a decades-old armed conflict, Colombia continues to be plagued by widespread abuses committed by irregular armed groups, including left-wing guerrillas and successor groups to right-wing paramilitaries. The Colombia military has also been responsible for serious abuses, including widespread extrajudicial killings of civilians.

A major factor contributing to the ongoing abuses against civilians has been the lack of full accountability of perpetrators. Colombian prosecutors and judges have made determined and sometimes successful efforts to bring perpetrators to justice.

The Colombian Supreme Court, for example, is currently investigating more than 80 members of the Colombian Congress for collaborating with paramilitaries. The Attorney General's Office is investigating illegal phone tapping, e-mail interception, and surveillance carried out by the Colombian intelligence service, which answers directly to the President of Colombia. It is also investigating cases involving extrajudicial executions by the army.

One important step that Colombia has taken to strengthen the rule of law is a sweeping reform of the criminal justice system. This effort has received valuable support from the U.S. Government. The challenge of realizing the reform's full potential in terms of strengthening the criminal justice system and ensure due process rights remains very much a work in progress.

Mexico is another country facing grave challenges in terms of public security and human rights. Since taking office in December

2006, Mexico's President Felipe Calderon has relied heavily on the armed forces to fight serious drug-related violence and organized crime. The need to improve public security in Mexico is absolutely clear. During the Calderon administration, complaints of military abuses have increased dramatically. Mexico's official National Human Rights Commission has issued a comprehensive report of more than 50 cases involving egregious army abuses, including killings, rape, and torture, and the commission has reportedly received complaints of nearly 4,000 additional cases.

Just 2 weeks ago, in a research mission in Tijuana, Human Rights Watch found credible allegations of the systematic use of torture by the military, including more than 100 cases since 2009 of individuals who allege they were arbitrarily detained, transported to military bases, and tortured to extract confessions.

An important reason military abuses persist is that they go unpunished. And they go unpunished in significant part because most cases end up being investigated and prosecuted by the military justice system, which lacks the independence and the impartiality needed to handle these cases. According to the Mexican Government, only three soldiers have been found guilty of human rights crimes committed during the Calderon administration. Yet closer scrutiny reveals that only one of these cases actually qualifies as a conviction for human rights abuse. In that case, a soldier was sentenced to 9 months in prison for killing a civilian at the military checkpoint.

The U.S. Government became Mexico's partner in the struggle against drug-related violence when it announced the Merida Initiative in 2007 and has since directed more than \$1.3 billion to the initiative. The U.S. Government conditioned 15 percent of funds to the fulfillment of four human rights requirements, which include ensuring that military abuses are tried in civilian courts and enforcing the provision on torture.

In August of 2009, the State Department submitted a report to Congress which clearly showed that Mexico was not meeting all four requirements. However, despite these findings, the Merida funds tied to human rights requirements were released following the report.

The U.S. Government has rightly recognized its shared responsibility for confronting Mexico's violent cartels. By failing to uphold Merida's human rights conditions, the U.S. Government is shirking an important part of this responsibility.

The U.S. Government has an opportunity to correct this mistake. In the coming months, the next 15-percent installment of Merida Initiative funds will be up for review. These funds should only be released when Mexico has actually met the four human rights requirements. Meeting these requirements would not only benefit human rights, but will also make Mexico's security forces more effective in their efforts to combat violent drug cartels.

Mr. Chairman, thank you very much for allowing me to appear before you today.

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

Chairman DURBIN. Ms. Morera, thank you very much for being with us today. I invite you now to make your statement.

**STATEMENT OF MARÍA ELENA MORERA, EXECUTIVE
DIRECTOR, CAUSA EN COMÚN, MEXICO CITY, MEXICO**

Ms. MORERA. Thank you. Honorable Chairman, ladies and gentlemen, let me express my gratitude for the invitation and the opportunity to be here in this house of freedom and progress.

I am a Mexican citizen who, like many other hard-working Mexicans who leave their country and all the beautiful things that we have to offer, has been a witness of how in recent years the peace and the freedom that we used to have in Mexico and that we used to enjoy has come to an end. And we are now facing one of the most violent eras of our history as a nation in some cities like Tijuana, Juarez, Reynosa, and some others.

My life as a social activist against crime in Mexico can be traced back to September 2001 when my husband Pedro was kidnapped. For 29 days my children and I lived the most terrible time of our lives in solitude, sorrow, and pain.

On October 19, Pedro was rescued from his captors, and we thought everything was finished. But we were under a big mistake. The judicial process of Pedro's kidnappers taught me about the tortuous ways of justice in Mexico, its complexity, its "injustice," and the terrifying indifference toward the pain of the victims.

Months went by and I began to help other families that have similar experience of kidnapping. By then, Mexico United Against Crime, an organization, invited me to make some programs for big themes, and then we made programs of prevention. So 2 years later, they elected me as president, a position that I held for more than 5 years.

Yet since I was taught forever to keep working, to avoid normal families experience the ordeal me and my family went through, and after all the work that we do, I knew we have to face the problem from another perspective. So a few months ago, with a group of committed Mexicans, we started a new organization named Citizens for a Common Cause with three major lines: rule of law, accountability, and citizenship formation. I still help a lot of victims of organized crime, and I knew our challenge is daunting because the damage created by criminal organizations and drug cartels destroyed the social fabric in our communities.

As you know, Mexican cartels get their enormous wealth from smuggling illegal drugs into the U.S. Obviously, they do not work alone, and they have many associates on the U.S. side. And more than 90 percent of the weapons confiscated today come from this country.

I praise the steadfast determination of Mexican President Calderon to fight all drug cartels in Mexico. This fighting has the highest priority, but there are clearly many other tasks of an equal magnitude and long-lasting impact like revamping completely the police force, reforming institutions, as well reforming cleaning the corruption of the judicial and the jail system, work in prevention, and some more things. These tasks will require a great deal of attention, much larger budgets, and time to implement.

While clearly the biggest share of the responsibility lies within the Mexican Government, my main objective here is to invite you to recognize that both the U.S. and Mexico should work together

as never before to address the violence problem from its root causes.

The Merida Initiative is good, but it is not enough. While there is no doubt that the resources the United States sends to Mexico are highly valuable, the problem is much more complex. Mexico cannot implement the rule of law and success in this effort if the U.S. domestic institutions do not participate by assuming their share of the responsibility and focus on two goals: drastically reducing illegal drug consumption and fighting against cross-border arms trafficking.

We do not intend to question by any means the Bill of Rights and the Second Amendment of the U.S. Constitution.

But I am sure you can find a solution to stop once and for all the lethal weapons from getting into the hands of the drug cartels, where they are used to kidnap, to extort, threaten, and kill Mexican citizens.

Failure to do so will translate into chaos in Mexico, which will result in an unmanageable border problem where thousands of jobless Mexicans would attempt to flee to the United States to save their lives.

So let me conclude by respectfully saying that I would like to leave this House with a commitment, yours and mine, to work more strongly in the rightful common cause of eradicating violence in Mexico. We need your help to reduce illegal drug consumption in the United States and to put legislation and public policies in place to stop weapons from getting into the hands of Mexican drug cartels.

Thank you very much.

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

Chairman DURBIN. Thank you very much, and your testimony, I am glad, was the conclusion of these panels because it returned us to where we started, that before we stand in criticism or in judgment of Mexico, we must accept judgment on ourselves. Our insatiable appetite for drugs and narcotics in this country have created this market and led to this violence. And as you mentioned, the money and guns which we send into Mexico are fueling the drug cartels and the violence taking place there. So, clearly, let us start accepting our responsibility; that is the most important starting point.

I thank you for your courage in being here, and I know that you have been through a lot personally with your family, and also working with so many victims of violence in Mexico.

Can I ask you if you noticed or have heard of any changes, positive or negative, as the Calderon government has sent military forces into some of these areas of drug violence?

Ms. MORERA. Well, I think that we have some progress in Mexico. Surely we have. But the military intervention, I think that the military in Mexico is not prepared to work in a security problem, but now we do not have another thing. So I think we have to prepare them better, and I think they are trying to do their best. But we have to professionalize our police and our army to get better.

They stay for a long time in Ciudad Juarez and in some places in Michoacan. If things do not get better, I think it is going to be

the process maybe as Colombia, that it will go worse before it goes better. But I hope that the process is not so long. I think that we have to find—especially your Government and the Mexican Government have to find another form to attack this problem, because I cannot think that if we still have three pears, we can get apples, and maybe that is what we are trying to do.

Chairman DURBIN. So many of the victims that you have worked with are obviously living in fear, in fear that there will be some retribution against them if they speak up. Have you noticed any change, has there been an improvement in the law enforcement in Mexico or in the justice system that you think gives these victims more confidence to step forward and cooperate?

Ms. MOREIRA. Yes, I think that in—well, I think that not in all parts of Mexico, but in some parts the victims have more confidence, like, for example, if we are talking about kidnapping victims, if they go with the federal police, they have confidence and they think things are going to be—like they are going to be well. But I do not think that this is passing in all the cities, especially in the north part. Like in Chihuahua, I have a lot of victims over there, especially in the area of Levaron, and they are telling me that they do not have confidence. Maybe it is because the perception of the new system, the new justice system, is making that some people have more fear than before. That does not mean that I think there is not good. I think the system is going to be good, but it has to implement well. And we have to work much on that, and the United States has to work in that, too, because the system is going very, very low, and I do not think that we will get to the oral system in 6 years that is the time that we have.

Chairman DURBIN. Attorneys General Wasden and King, thank you for being here today, and thank you for the work that you are doing beyond your responsibilities in your home States to deal with this problem. We have this ongoing issue in the West about whether the Federal Government is doing enough, and in this instance, the State governments are doing a lot more than most people realize in Washington, and thank you for your initiative.

So as I step back and look at this, not having been personally involved as both of you have been, it seems to me that we are dealing with two basic fundamental issues in terms of the law enforcement system in Mexico. The first is the issue of corruption where there are people who are in positions of power, who frankly will not do the right things because they are being paid to do otherwise, bribed to do otherwise. Then we have this whole question of competence and security as they change their system from the Napoleonic inquisitorial system to the adversarial system that we are familiar with. As I mentioned earlier, there is a much higher public profile in what they are doing. There is much more vulnerability in a very violent area.

So as you weigh both of these, do you find one more than the other, or are these valid observations as to what is at the core of the problem with law enforcement prosecution?

Mr. WASDEN. Senator, Mr. Chairman, the answer is both of those are really valid observations. At least from my experience, among Mexican public officials there is a saying from the drug cartels, that is, "Silver or lead: You can either accept our silver, our money,

in bribery, or we will deliver lead.” And that is true among those officials.

So I am very proud of my colleagues in Mexico who are willing to reject the silver and face the lead in order to achieve justice. We have to work on both of those things. What we have to do is bring light into their judicial system. Once they get light in that judicial system, it will begin to operate, and you will see people like Ms. Morera who are willing to stand up and to stand for justice. And that is exactly what we have to have happen, is we have to help them get confidence in their own system, and they are fully capable of handling that. We do have to train them. They have to make this change. And we need to go forward with what we are doing. It is very critical.

And we are able to expand the money that we get from the Merida Initiative by the contributions that States make of time and personnel in training them how to change a system. When you think about how difficult that is, that is a massive project. And it has the greatest potential for ultimately resolving the issues that we face here.

Chairman DURBIN. Attorney General King, address two issues that I think are part of this. When I visited some countries, for example, the nation of Georgia, former Soviet Republic, where there was rampant corruption—before the new government, they said you literally could not drive 1 mile without being pulled over by a traffic policeman who would say to you, “I am going to either write up a ticket, or you are going to give me some money.” And so they started by saying, “Well, we just are not paying these traffic police enough. That is part of the problem.” So they increased their salary. It still did not solve the problem. They ended up dismissing the entire traffic police force and starting over.

Can you address that issue in terms of the compensation of legal professionals in Mexico and let me add to that efforts made to protect their security, as you mentioned, the bulletproof vests and so forth?

Mr. KING. Yes, thank you, Mr. Chairman. I will address that to the extent that I can, and I do not know that I am totally conversant with salaries. I am aware that—and I think with the help of USAID—there has been a great recruitment effort to recruit new investigators, new prosecutors, and that there is a vetting process and one that we feel like is an important vetting process. Being somebody who grew up on the border, I will admit that even in a good vetting process there may be ways for people to slip through and such. So I am not sort of guaranteeing the vetting process. But there continue to be, even with the great threat to the investigators and the prosecutors, young people and other people who particularly are willing to take that risk, and I think that they are very dedicated to their country. I think they are very dedicated to creating a just society there, and they are willing to do that.

I had one other story I was going to tell that is sort of indicative of that. The Attorney General in Chihuahua, who I work with, was in New Mexico along with the Attorneys General from four other States, and we were discussing how we could expand the training program. And as I talked to each of the other AGs about what we could do, perhaps having other States even do some training—and

I want to make it very clear that I think all of the States in the West have been participating in the training. I am talking about New Mexico because I know a little bit more about ours. But that they needed training, too. So I was talking about the training, and then my counterpart said, "Well, we need more training as well." And I was being sort of flippant. And my Spanish is not great, but her English is less, so we were speaking in Spanish. So I hope that I translated everything right. But I was being a little flippant, and I said, "Well, we just trained all of your folks 3 years ago." And she said, "Yes, but most of them are dead now."

And certainly, for instance, the head of the crime lab is the last person I know of that was killed in Chihuahua of those folks that we trained, and that was about 6 months ago. And there have not been too many more since then.

I think that things are improving. I have seen quotes from the folks in Juarez that say, you know, this is an interesting measure of improvement, but that the deaths per day in Chihuahua have been reduced from ten to six. And so, you know, that is a measure of improvement, but I think that we need to have a better, stronger program to recruit and vet those folks that will be doing that, and I think that that is important.

And the military, I think, probably has a whole different program from the one that is being used to recruit investigators and such.

Chairman DURBIN. Well, that is where I wanted to go next, because I think Mr. Vivanco's testimony leads me to this question. If either of you—or perhaps Mr. Vivanco can testify. Have you talked to this, what we would view as the basic judicial part of our system, the prosecutorial part of our system in the United States being somewhat separate in its orbit from the military justice system? Now Mr. Vivanco raises the point that once the military comes in and has a presence, they become a force in terms of, we hope, suppressing crime, but also they can be a force in the wrong direction.

Have either of you as Attorneys General worked with these prosecutors and judges and learned the relationship they have with the military once they are involved in trying to suppress drug violence?

Mr. KING. Mr. Chairman, I have had discussions because a lot of the military forces went to Juarez and there was—you know, initially there was some suppression of violence in Juarez, and then there was some increase. And so there was a lot of discussion in Juarez about whether the military presence helped. And so I just had some discussion with my counterparts in Mexico who feel like indeed that they have and are getting the training that is necessary to address that and that they should be able to address that with their police and their prosecutors rather than having the military do it. And so they are very proud of what they think that they can do.

We have not talked at all about—and I thought that the testimony was interesting here today—their ability to prosecute, say, somebody military who was accused of a crime. I do not think they do very much of that. And so I assume that the system isolates them indeed, but I do not know very much about that system.

Chairman DURBIN. Mr. Vivanco, can you testify to that? These prosecutions for human rights abuses of the military—and as you say, three were alleged and only one turned out to be a real human rights abuse. Was it done in the criminal courts of Mexico or through some military tribunal?

Mr. VIVANCO. Military tribunals, and according to the Mexican practice, as well as the military penal code of Mexico, any human rights abuse, any for these purposes common crime, committed by a soldier or an officer on duty should be investigated by the military justice system. And that is not what the Constitution of Mexico established, and that is not what the international human rights obligations that are binding on Mexico as a result of ratification of international treaties, human rights treaties, established.

As a matter of fact, back in December, the Inter-American Court of Human Rights, which is the top human rights tribunal for Latin America, ruled on a case that involved Mexico that they have to reform their military justice systems so in the future any human rights violation, anyone should be prosecuted under civilian jurisdiction, not under military jurisdiction. And you need to keep the military jurisdiction just for disciplinary actions against soldiers or officers that break the rules.

Now, the Mexican Government—and I think it is important to be on the record here—has publicly stated that they will comply in full with the rule of the Inter-American Court on Human Rights. And just recently, the home minister, Mr. Gomez Mont, Fernando Gomez Mont, the home minister of Mexico, the second most important authority in the government, publicly pledged that they will reform the military system, the military justice system, so they will introduce draft legislation by September to shift human rights investigations or human rights prosecutions from military jurisdiction to civilian jurisdiction.

So hopefully in the near future, human rights violations committed by security forces, especially the army, will be investigated by civilian officials in Mexico.

Chairman DURBIN. There were references in my preparation here to the Federal police force as well, and I cannot quite draw an analogy. I do not know if that is like the FBI in the United States or something comparable to it. But would they be subject to the same type of criminal prosecution through the courts of Mexico?

Mr. VIVANCO. Right. I mean, today the most recalcitrant force or institution in Mexico to civilian jurisdiction or even, I would say, to subordinate their actions to civilian authorities is the army. Traditionally, the armed forces of Mexico, and specifically the army, has been quite an enclave in Mexican democracy. You know, for many, many years, the Government of Mexico has had difficulty establishing the rule of law within the army.

The rest of the security forces, specifically to answer your question, the police, for instance, the Federal police, municipal police, state police in Mexico, if they engage in human rights violations, those cases are usually investigated by the civilian officials.

Chairman DURBIN. So, Mr. Wasden, when you were involved in this—Mr. King as well—we have talked here about the use of torture and how ultimately some of these practices that are, in fact, human rights abuses really do not lend themselves to good police

work, good criminal investigation, and prosecution. Has this come up in the course of your discussion with the investigators and prosecutors and judges?

Mr. WASDEN. I guess the most conversation I have had about these sorts of things has really been with individuals who have been the victims of these kinds of crimes, and also in my discussions with Federal officials in Mexico who readily acknowledge that there is rife corruption among their law enforcement ranks as well as some concerns about the military. So I think it is a problem overall that has to be addressed by the general rule of law. This is sort of from a very theoretical approach, but, again, shedding light on that, giving confidence in the system that will protect the rights of the individual is really critical. And that includes abuses that may be imposed by military rule.

Chairman DURBIN. But do they generally concede the point that these things that may look good on some television shows do not ultimately lead to successful prosecutions and establishing the rule of law and order in their society?

Mr. WASDEN. Yes, actually one of the conversations I had was that they told me that they had named a specific police force and said that the entire police force was corrupt. They readily admitted that. I was kind of shocked that they would so objectively make that statement and more shocked that they would make that statement to me, an American citizen. But they were very straightforward in their willingness to acknowledge the level and extent of corruption that existed with regard to this issue.

Chairman DURBIN. Well, I thank this panel for—Mr. King, did you have a comment?

Mr. KING. Can I add, Mr. Chairman, one thing to that, and one thing I did not want to let get away today? Those folks that we are working with, though, the Attorneys General's offices in Mexico, are really striving to be very professional, and we have gotten to where we know a lot of them personally. And I think that they are working to develop good crime labs, to develop good techniques. They are very hungry for the training that we are giving them, to learn that.

And so none of the people that we work with that I am aware of would condone torture, you know, use that as any kind of policy or anything. I mean, they are working really hard to do a good job, and as a matter of fact, one time when I was traveling down there with the head of what we call our Border Violence Unit—I have a unit within my agency called the Border Violence Unit. They took me to talk to me about some policy things, and they told her they had a crime scene that they were scratching their heads over and having some problems with, would she be willing to go to the crime scene with them and give them ideas about what they ought to be looking for and such.

So the alliance and the work that we are doing is really designed to try and drive that professionalism, and I think it is doing a good job. And if I could, another 30 seconds, you have mentioned a couple times, Mr. Chairman, the lack of some Federal resources to do this. I want to credit some Federal resources that we have. One that we have talked about is the USAID grant that we have to do this training, around \$2.5 million. We, the Attorneys General, have

provided in-kind services of around \$600,000 this year, so, you know, it is not big compared even to the amount of the Merida Initiative, but we think that with that we—with that we have trained 1,500 people, and we think that is good.

But we also, for instance, have a Department of Justice grant that helped me increase the size of my Border Violence Unit by a significant amount, and we are using that to fight human trafficking on the border. And there are other Department of Justice grants that are helping us to fight arms trafficking on the border, which I think is a very important thing.

So I guess we want to make a pitch that those grants from the Department of Justice and from USAID have been beneficial, and we would like to continue to see that funding. But it is not that there is not anything that the Federal Government is doing here. I think they are doing some things. But I think that there are programs that could be improved, too.

Chairman DURBIN. Thank you. My thanks to this panel. Ms. Morera especially, thanks to you for your courage to come here and testify. Mr. Vivanco, thank you for the perspective. Attorneys General Wasden and King, thank you as well.

This little Subcommittee has created, I think, some very fascinating and important hearings, including this one today. We have been the authors of at least three new laws that have, I think, substantially improved our ability to prosecute violators of human rights who reside in the United States, and as we heard earlier from Mr. Breuer, have been part of the effort to create a special unit within the Department of Justice relative to human rights.

When I got started with this Subcommittee, I did not know that we would have such an opportunity or such a varied agenda during the course of the 3 years or so that we have been in business. I will say that one of the reasons that we have been this successful is the extraordinary work of my staff, and I want to give particular thanks today to a member of my staff who is departing, Heloisa Griggs, who has been here from the beginning and is an inspiration to all of us. She is returning to her native Brazil, and she is just an extraordinarily talented woman that we have been very blessed to have as part of our effort here. Heloisa, thank you so much for all that you have done.

We may have some questions that we will follow up and send to you along the way in the next day or two, and I hope you can look at them and respond in a timely way. But I appreciate your being here, and this Subcommittee will stand adjourned.

[Whereupon, at 11:33 a.m., the Subcommittee was adjourned.]

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

QUESTIONS AND ANSWERS
Questions for the Record Submitted to
Assistant Secretary David T. Johnson by
Senator Russell Feingold (#1)
Senate Committee on the Judiciary
May 18, 2010

Question:

Despite the important work underway in both Colombia and Mexico, the police forces in both countries are known for pervasive corruption, human rights abuses, and in some cases, as a recent *Washington Post* article noted, collaboration with paramilitary forces. What steps have you taken and will you continue to take to ensure adequate oversight of INL's police assistance programs in both countries, particularly those programs implemented by private contractors, to ensure U.S. taxpayer dollars are not being used by these units? How can we maximize our assistance to ensure U.S.-funded initiatives are working to reverse this disturbing trend?

Answer:

The Department of State, through its embassies in Mexico and Colombia, employs a thorough and responsive vetting system, in accordance with the Leahy Law, that seeks to ensure that no U.S. security assistance is provided to units or individuals within public security forces if there is credible evidence that they have committed gross human rights violations. In Colombia, this system has processed as many as 30,000 vetting requests a year. Since the passage of the Leahy Law, the Colombia vetting system has performed over 171,000 vetting requests on units and individuals.

The Colombian National Police (CNP) is one of the best-trained and professional police forces in Latin America. The CNP has its own extensive

vetting and anti-corruption procedures, developed with U.S. training and assistance. State Department-sponsored training for the CNP includes human rights content as an integral component of all these courses. The Department of Justice's (DOJ) training of CNP personnel includes ethics, anti-corruption and protection of human rights. The CNP has removed and prosecuted CNP officers suspected of corruption or human rights violations. It has also cooperated in the extraditions of corrupt officers to the United States.

The development of the CNP is one of the key achievements of Plan Colombia and continued U.S. aid. Maintaining strong U.S. support for the CNP will be important for Colombia's continued stability as the CNP assumes greater security responsibilities from the Colombian military under the Colombian National Consolidation Plan. With their expertise, Colombia has helped train over 5,700 Mexican police and judicial personnel, and provides training in Colombia or in host-nations for police in Haiti, Panama and many other Latin American nations.

The Department remains concerned about the human rights situation in Colombia and maintains a frank and open dialogue with the Government of Colombia on ways to improve its human rights record. The Department strives to hold Colombian security forces that benefit from our programs accountable to international human rights standards.

In Mexico, INL is funding various initiatives to promote anti-corruption, ethics, and human rights. We are supporting the Government of Mexico in its efforts to establish better “internal control” systems to ensure a more honest and transparent public workforce. INL is funding polygraph and background investigations for the National Intelligence and Security Center (CISEN), Public Security Secretariat (SSP), the Mexican Customs Administration (AGA), and National Immigration Service (INAMI). In addition to replacing officers in leadership positions who are suspected of corruption, each agency wishes to have the means to vet its entire force, through the use of polygraph exams and stringent background checks. These Mexican government agencies seek to use polygraph technology to carry out pre-employment screening for new recruits; perform integrity checks within the existing workforce; and use with witnesses as an investigative tool.

We are working in other ways with our Mexican government counterparts to promote the development and maintenance of trustworthy institutions. INL is partnering with the Secretariat of Public Administration (SFP) to assist the Office of the Inspector General (OIG) at the Attorney General’s Office (PGR), and the Office of Professional Responsibility (OPR) at SSP by providing technical assistance, training, and equipment to develop programs to discourage malfeasance and abuses within the PGR and SSP and other federal and state and local

institutions. We expect that strengthening internal integrity mechanisms in the law enforcement community will increase public confidence in government by helping to reduce corruption and enhancing the effectiveness of Mexican federal institutions. It will also help these institutions merit greater trust by their U.S. government law enforcement counterparts, facilitating information sharing and other forms of cooperation to combat transnational crime.

As with Colombia, Leahy Law vetting procedures are performed in conjunction with all U.S. government-sponsored training courses for Mexican law enforcement personnel. In both countries, the goal of maintaining effective responsiveness and transparency in countering human rights abuses and corruption is aided by our close working relationships with NGOs sharing similar concerns over these important benchmarks.

**Questions for the Record Submitted to
Assistant Secretary David T. Johnson by
Senator Russell Feingold (#2)
Senate Committee on the Judiciary
May 18, 2010**

Question:

What percentage of police and prosecutor assistance and training is done by government contractors? What is the total sum of all government contracts for this type of assistance? Please provide a breakdown of this information for Mexico, Colombia, and Department-wide. Is there a reason that INL does not rely more on the Department of Justice to provide this assistance?

Answer:

According to embassy records for FY 2008, the percentage of police and prosecutor technical assistance and training conducted by contractors was 18% for Mexico and 43% for Colombia. In Mexico, the Department of State employs nine individuals to coordinate training delivery and logistics management and the Department of Justice employs eight individuals to provide technical assistance and subject matter expertise. In Colombia, the Department of State employs 16 U.S. government individuals and 16 government contractors that provide technical and training assistance.

Currently, the Department relies heavily on Department of Justice, other U.S. government agencies, personnel from U.S. state and local law enforcement, and personal service contractors as needed to provide personnel for technical assistance and training. Department-wide, the percentage of assistance and training by government contractors varies greatly depending on a number of variables such as availability of U.S. government or local law enforcement trainers, scope of effort, logistical needs, and security environment. For example, service contracts in Mexico are primarily used for coordinating the travel, training facilities, and other logistics for training by U.S. state and local law enforcement of thousands of Mexican justice sector personnel. In smaller programs worldwide, DOJ has the capacity to deploy one or two advisors to provide advisory services,

but for large police and prosecutor training programs, they must often contract out for services. Following the Department's "State First" policy for acquisitions, INL is able to acquire contract services directly and realize a cost savings by eliminating the interagency transfer fees (up to 12 percent) from DOJ or other agencies.

Department-wide information on this broader scale cannot yet be extracted from the databases maintained by the Department, we believe the statistics we have put together regarding Mexico and Colombia are illustrative of the situation in other countries.

**Questions for the Record Submitted to
Assistant Secretary David T. Johnson by
Senator Russell Feingold (#3)
Senate Committee on the Judiciary
May 18, 2010**

Question:

How many government contractors (and their staff) that provide police or prosecutor assistance or training are currently being investigated for corruption or other misconduct? Please list any contractors that are currently providing police or prosecutor training or assistance (in Mexico, Colombia, or elsewhere) that have been convicted of a violation of the Foreign Corrupt Practices Act, as well as any contractors that have entered into settlement agreements, deferred prosecution agreements, or other administrative agreements related to allegations of bribery or corruption?

Answer:

With respect to the Foreign Corrupt Practices Act, all contractor personnel involved in INL's police assistance programs are overseen by American, direct-hire Department of State officials, and any reports of corruption are appropriately reported and investigated. In Mexico, Kaseman, LLC provides trainers for police training. Kaseman has not been accused or convicted of corruption. In Colombia, we have no knowledge or evidence of any contractors being accused or convicted of corruption.

**Questions for the Record Submitted to
Assistant Secretary David T. Johnson by
Senator Russell Feingold (#4)
Senate Committee on the Judiciary
May 18, 2010**

Question:

What efforts are being taken to ensure that there is inter-agency communication and collaboration as the Merida Initiative transitions to a more civilian-centered initiative? How are you working to ensure that there is no duplication of efforts by other agencies?

Answer:

The National Security Staff (NSS) has a key policy role in coordinating the Merida Initiative. The NSS leads the interagency group on U.S. government counternarcotics and law enforcement policies in Mexico which addresses both Merida and domestic efforts, such as the Southwest Border Strategy. The NSS holds bimonthly Interagency Policy Committee meetings to coordinate on

international law enforcement issues, such as reducing illicit arms smuggling to Mexico and money laundering.

Under the leadership of the State Department, a wide range of U.S. agencies are responsible for implementing the Merida Initiative. Various State bureaus, Embassy Mexico City, and several other federal agencies play a role in coordinating various aspects of Merida. To facilitate interagency communication and collaboration, there are several coordinating mechanisms in place at various levels of government.

The State Department's Bureau of Western Hemisphere Affairs (WHA) has the policy lead for managing the diverse elements of the Merida Initiative for Mexico. The overall direction of the four pillar strategy, is coordinated by the Deputy Assistant Secretary of State for North American Affairs in the Bureau of Western Hemisphere Affairs. The Deputy Assistant Secretary chairs a weekly meeting on the Merida Initiative which includes five offices at State, USAID, and Embassy Mexico City by conference call. This coordination ensures that implementing entities are part of a unified strategic effort, and that when issues arise, they can be addressed rapidly.

Other departments and agencies also play a significant role in coordinating the Merida Initiative. The Bureau of International Narcotics and Law Enforcement Affairs (INL) coordinates implementation of Merida law enforcement and

counternarcotics programs with Narcotics Affairs Section (NAS) Mexico and other U.S. agencies. USAID coordinates implementation of Merida economic and social development and rule of law programs with the USAID Mission in Mexico, and also supports WHA with interagency coordination.

Within this framework, the State Department has taken various steps to improve coordination and interagency communications. In particular, the Department has worked to increase internal communication to quickly address any problems that arise. In addition to the Department's weekly Merida meetings, INL also has a weekly conference call with counterparts at Embassy Mexico City's Narcotics Affairs Section (NAS). To build closer ties with the Government of Mexico and facilitate Merida implementation, we recently opened a Bilateral Implementation Office – so-called because for the first time ever, both U.S. and Mexican government officials from various agencies share working space. The Embassy's NAS is located in the Bilateral Implementation Office, and Government of Mexico officials will join them on August 23, 2010.

INL has also improved its standard operating procedures for interagency agreements (IAA), through streamlined IAA protocols for smaller programs that will reduce the amount of time-consuming paperwork requirements, and standardized, pre-cleared IAA templates for expedited processing. In addition, all IAAs require quarterly reporting which helps State program managers regularly

review implementation progress and identify possible concerns that can be addressed with our interagency partners.

**Questions for the Record Submitted to
Assistant Secretary David T. Johnson by
Senator Russell Feingold (#5)
Senate Committee on the Judiciary
May 18, 2010**

Question:

In both Mexico and Colombia, how is our police reform assistance paired with U.S. government efforts to reform the criminal justice system, including building more transparent and effective legal and penal systems?

Answer:

U.S. government police assistance in both Mexico and Colombia is integrated into efforts to develop more effective criminal justice systems, including supporting reforms such as the transition from the inquisitorial model of criminal justice to the accusatory system. U.S. government police assistance programs promote effective investigation techniques, proper management of evidence and crime scenes, methods of interviewing witnesses, close interaction with prosecutors in developing cases, proper report writing, and testimony in court. In addition, the programs include professional development, ethics, anticorruption measures and human rights.

In the area of criminal law, assistance programs similarly focus on developing effective investigations, including investigative strategies, investigative techniques such as informants, undercover agents and wire taps, and effective development and use of forensic evidence. U.S. government police assistance focuses on the development of police agencies with integrity, a sense of mission and commitment to justice. U.S. government efforts in developing more effective penal systems have similar objectives: to develop criminal justice systems which are equitable and effective, that uphold the law but investigate and prosecute effectively, which serve justice and the public and in which justice sector officials have a sense of integrity and service.

In Mexico, INL has funded police training programs in which prosecutors train police to testify in trials. Prosecutors are also embedded in Special Investigative Units. These efforts are occurring in the larger context of Mexico making the transition from the inquisitorial to the accusatory justice system. The U.S. interest lies in using our diplomatic and other exchanges and technical assistance to support focused decision making that propels forward this important issue.

**Questions for the Record Submitted to
Assistant Secretary David T. Johnson by
Senator Tom Coburn (#1)
Senate Committee on the Judiciary
May 18, 2010**

Question 1:

1. The Government Accountability Office (GAO) noted in a 2009 report on Plan Colombia that U.S. efforts to transfer program operations and funding responsibilities to Colombia have had mixed results. GAO also states, “from the outset of Plan Colombia, Congress has stated that U.S. assistance efforts should be nationalized over time.” While it appears that some of the military assistance has begun to be nationalized, that is not the case for the programs we are concerned about at this hearing—those focused on overall justice system reform.
 - a. Congress has signaled its desire for nationalization of these programs since 2004. Why have those efforts in Colombia been delayed?
 - b. Do you plan to turn all programs over to Colombia at some point in the future, or do you envision a constant U.S. presence in that country concerning these issues? Why?

Answer:

The transfer of operational and financial responsibilities for certain military, police and justice programs supported by the State Department’s Bureau of International Narcotics and Law Enforcement has made significant progress and continues to move forward in close coordination with the Government of Colombia. Since 2007, Colombia has assumed title to approximately 40 aircraft, began paying for all aviation fuel in late 2008, and most recently took over operational responsibility for the Air Bridge Denial program on January 1, 2010.

The Colombian government is also on schedule to fully assume the

Colombian Army Aviation program by the end of 2012. Nationalization of U.S.-supported police programs has also been successful. In 2009, the Colombian National Police (CNP) began providing helicopter support for both aerial eradication spray packages, and CNP mechanic training for the spray aircraft should be completed in early 2012.

The nationalization of justice training programs is also underway, but is not as apparent as the transfer of aviation assets. The Department of State, through the Department of Justice (DOJ), continues to support the training of Colombian police, prosecutors and judges to strengthen the justice sector and law enforcement capabilities with particular emphasis on solidifying the accusatory system. From the outset of Plan Colombia, effort has been made to develop a permanent Colombian training capability. U.S. justice programs have trained approximately 500 Colombian trainers, and, as a result, at least 90 percent of the training supported by DOJ is now implemented by Colombian trainers. Colombia's judicial capacity has increased to a level where they are now working with the United States to help train Mexican investigators and prosecutors.

To assist in Colombia's efforts to solidify its internal security and support the Colombian Government's National Consolidation Plan, continued U.S. counternarcotics and rule of law assistance is needed, albeit at a reduced level. As capacity continues to develop, U.S. assistance can be further reduced, but it is

important that nationalization continue in a sustainable way to help the Colombian government solidify recent successes and confront new challenges that threaten both Colombia and U.S. national security interests.

**Questions for the Record Submitted to
Assistant Secretary David T. Johnson by
Senator Tom Coburn (#2)
Senate Committee on the Judiciary
May 18, 2010**

Question 2:

1. The GAO also released a 2009 report on the Merida Initiative. In that report, GAO notes that the total amount of appropriations to date is approximately \$1.3 billion, yet only 2/3 (\$830 million) has been obligated and only about 2% (\$26 million) has been expended as of the end of September 2009.
 - a. Why has there been such a long delay in actually applying the funds to the program? Do you continue to request new appropriations each year despite the delays in allocating prior years' appropriations? Why or why not?
 - b. Your testimony is very complimentary of the Merida Initiative and its successes to-date in Mexico. However, with only 2% of funds actually having been expended on this program, how can it have yielded all the results you highlight?
 - c. The GAO report also notes that, while "some equipment and technical assistance have been provided, [] State could not provide us with a schedule of future assistance deliveries." Do you now have a schedule of future assistance deliveries under Merida that you can share with us? Why or why not?

Answer (a):

The Merida Initiative marked the beginning of a new stage in improved U.S.-Mexican cooperation on security and counter-narcotics efforts, and ushered in a ten-fold increase in U.S. assistance. Significant upfront steps needed to be taken to establish the working-level relations with the GOM; to develop program plans,

step-by-step with the Government of Mexico; and to create the management infrastructure to properly oversee this new effort. To date, 92% of funds available for obligation for Mexico under the Merida Initiative have been obligated (\$991 million out of \$1.081 billion), as shown in the chart below. The necessary upfront work is largely complete for effectively and efficiently implementing and overseeing these programs; and the pace of delivery of assistance is accelerating.

Merida Initiative Appropriated and Obligated Funds (millions)

Account	Total Appropriated	Less 15% Withheld	Less CentAm PD&S	Less FY10 funds*	Total Available	Total Obligated
INCLE	\$859.50	\$24.00	\$8.60	\$190.00	\$636.90	\$553.14
FMF	\$420.75	\$5.85		\$5.25	\$409.65	\$415.50
ESF	\$44.00	N/A		\$9.00	\$35.00	\$25.97
Totals	\$1,324.25	\$29.85	\$8.60	\$204.25	\$1,081.55	\$994.11

*FY10 funds are not yet available for obligation.

Prior to obligating most funds, extensive agreements have to be negotiated and signed with the Government of Mexico (GOM) detailing the programs that will be supported with them. Before these negotiations can begin, the State Department had to formally notify Congress of spending intentions; and, for certain funds, meet other reporting requirements (e.g., reports related to human rights and transparency prior to obligating 15% of funds; and, in some cases, an Analyses of Alternatives prior to obligating funds for aircraft). In the case of the first funding appropriated as part of the Merida Initiative (\$400 million on June 30, 2008), the formal notification to Congress was submitted on September 9, 2008

and the Letter of Agreement (LOA) with Mexico for the International Narcotics Control and Law Enforcement funds was signed in December 3, 2008 – one quarter into Fiscal Year 2009. For FY 2009 funds that were appropriated on March 11, 2009, the Amended LOA was signed with the GOM on May 4, 2010 – two quarters into FY 2010. Once the Department submits its spending plan for FY 2010 funds to Congress, we will immediately begin negotiations with the GOM on an Amended LOA, which will obligate most of these funds.

Establishing contact with appropriate GOM interlocutors and helping them understand our appropriations, budgeting, and procurement process has taken a significant upfront investment of time and energy. Under the Merida Initiative, the GOM is involved in every stage of program development and review, which is essential to ensure their support for and ownership of the programs. This close interaction and thorough review of programs has also helped guard against waste. For example, after extensive review of GOM's request for an \$83.5 million fixed wing cargo aircraft, it was determined helicopters were more urgently needed. We expect that from these experiences and new relations, future negotiations and program development will move more efficiently.

Another initial obstacle to moving programs under the Merida Initiative was the need to put in place the requisite management infrastructure to support, manage and oversee a ten-fold increase in foreign assistance to Mexico. For example,

when the Merida Initiative started, Embassy Mexico City's Narcotics Affairs Section (NAS) had 19 staff. By the end of 2010, we expect that this will have increased over 300% to approximately 69 staff. The program management infrastructure in Washington and Mexico City is now largely in place and working relations have been established internally; between the State Department and other U.S. agencies and implementing organizations; and between the U.S. and Mexican governments, in order to properly implement this initiative.

The Department has worked to increase internal communication to quickly address problems that arise. For example, there are weekly working-level meetings chaired by a Deputy Assistant Secretary that include five offices at State as well as Embassy Mexico City by conference call. The Bureau for International Narcotics and Law Enforcement Affairs (INL) also has a weekly conference call with counterparts at Embassy Mexico City's Narcotics Affairs Section.

Communication has also improved with the GOM with the implementation of seven different thematic Bilateral Working Groups that meet regularly and include participation from the GOM, the U.S. Embassy, and other U.S. agency implementers.

Answer (b)

"Expended funds", as a government accounting term, only measures those funds for which the final accounting has taken place. It does not, therefore, capture

progress on programs for which significant activity has taken place, including in some cases delivery of equipment and training, but where the final accounting is not yet complete. The attached delivery charts offer a much clearer picture of what equipment, training, and technical expertise has been provided and will be provided over the coming years, mostly from FY 2008 funds because the Letter of Agreement for FY 2009 funds was only just signed. As bilateral programs and timelines become clearer on FY 2009 supported programs the chart will be updated accordingly.

Answer (c):

See answer to b. above and attached charts.

**Questions for the Record Submitted to
Assistant Secretary David T. Johnson by
Senator Tom Coburn (#3)
Senate Committee on the Judiciary
May 18, 2010**

Question 3:

1. It appears that one requirement under the appropriations bills that provide funding for Merida is that the State Department must submit a report detailing the progress of the Mexican government in the area of human rights. Until such a report is submitted, 15% of funds are not available for obligation.
 - a. Since inception of Merida in 2007, how often has that 15% been temporarily delayed? Please note the year, amount of funds and to which program(s) it applies.
 - b. Has the content of each year's human rights report ever caused some or all of that 15% to be permanently cancelled? Please note the year, amount of funds and to which program(s) it applies.
 - c. Have any violations highlighted in past Merida human rights reports completely ceased?
 - d. It is well-known that Mexican law enforcement, particularly the military, has a reputation for committing human rights violations. Human rights organizations have released reports on abuses committed by the Mexican military as recently as 2008 and 2009. Were any funds appropriated by Congress canceled as a result of these violations? Why or why not?

Answer (a):

To date, the withholding of funds for Mexico pending the submission of the "15% Report" addressing Mexican government performance on four issues related to human rights, has not caused delays in the implementation of programs under the Merida Initiative. So far, one 15% Report was submitted in August 2009

satisfying the requirements of the FY 2008 Supplemental and the FY 2009 Omnibus. In reaction to that 15% Report, Senate staff chose to withhold \$5.85 million in FMF, which is budgeted for a transport helicopter for the Mexican military, pending the submission of further information on steps taken by the Government of Mexico to address some human rights concerns. The Department continues to work to address the concerns and have the hold lifted. The non-availability of that funding could translate into the loss of a helicopter that would otherwise be made available for narcotics-control missions.

Answer (b):

No funds for Mexico have been cancelled due to the 15% report requirement to date.

Answer (c):

We are in the process of gathering information that will be used to write the next 15% report. This next report will provide updated information on issues raised in the first report and the current status of Mexican government efforts in the four areas required by the legislation.

Answer (d.):

Due to the nature of the crisis in Mexico, President Calderon has utilized the

military as a last resort and on a temporary basis where civilian law enforcement agencies were unable to take on violent cartels that are terrorizing communities and are the principal actors in moving illegal drugs into the United States. The initial Merida Initiative assistance included large pieces of equipment, including for the military, in support of these efforts -- none of which has been cancelled. As with all U.S. assistance, the recipients of this assistance are subject to human rights vetting and the equipment undergoes end use monitoring to ensure it is used as agreed. Additional funding has supported training and informational exchange programs with the Mexican military, including programs on human rights issues.

Starting with the FY 2011 budget request, the emphasis of our assistance has shifted sharply away from larger equipment towards helping reform and strengthen Mexico's law enforcement and justice institutions so that they will be more transparent and effective in providing citizen safety. For example, in 2008, Mexico launched a substantial reform of its justice sector, moving from an inquisitorial to an adversarial system with oral trials. We are supporting this reform through many programs, including judicial exchanges and prosecutor training. Mexico is also working to increase the capacity and professionalism of its law enforcement organizations from the local to the national levels. Our support for this effort includes training for the federal police; polygraph machines that are used in conducting employee background investigations; and equipment

and technical assistance to establish a National Police Registry, which will ensure that bad cops who are dismissed from one police force are unable to relocate and be hired by another.

These types of programs are fully consistent with our goals of promoting human rights and responsiveness to the needs of the citizenry. While allegations of human rights violations committed by the armed forces have increased in recent years as the military has assumed a more prominent, temporary role in law enforcement, we are committed to working with the Government of Mexico to address these concerns in our interactions with them, including through cooperation under the Merida Initiative.

MEXICO CITY		Merida Initiative - Significant Activities				WORKING DOCUMENT	
		EQUIPMENT				Previous Delivery Dates as Estimated	
		MERIDA INITIATIVE EQUIPMENT DELIVERED AND PROJECTED DELIVERIES				ALL FUNDS BY 2008 EXCEPT WHERE NOTED	
Item (i)	Value USD	Delivery Date	Fiscal Year Funds - Account	Delivered or Pending	Recipient(s)	Comments (Location, purpose, etc)	
Secure Network Project (Phase 2)	3,000,000	Oct-10	FY 2008 Supp	Pend	CISEN	This project shall provide secure communications between the 18 states and the Federal Government in this phase with a goal of interconnecting 10 systems across Mexico.	
Info Mgt/Forensics Hardware and Software	5,600,000	Aug-10	FY 2008 Supp	Pend	CISEN	This project shall provide augment / enhance CISEN's organic digital forensic capabilities, equipment definition, provision of equipment, installation, integration with existing capabilities, training capacity building for CISEN. The equipment will include laboratory units as well as a mobile forensic unit.	
SIOM Re-Engineering	5,000,000	Mar-11	FY 2008 Supp	Pend	INAMI	This project shall completely re-engineer the central intelligence system (SIOM) for INAMI. Complete reengineering of force code and the addition of intelligence gathering and reporting capabilities shall be addressed under this project.	
Biometric Enrollment Project (Phase 2)	8,000,000	Jul-10	FY 2008 Supp	Pend	INAMI	This project shall provide biometric enrollment and verification equipment to 35 sites across Mexico. The overall goal is to equip 92 sites across Mexico.	
Central Infrastructure Project	3,000,000	Jun-10	FY 2008 Supp	Pend	INAMI	This project shall provide the necessary IT infrastructure to support the addition of this project. The project shall provide biometric enrollment and verification equipment to 40 sites across Mexico. The overall goal is to equip 92 sites across Mexico.	
Biometric Enrollment Project (Phase 3)	15,000,000	Aug-10	FY 2008 Supp	Pend	INAMI	This project shall provide false document lab equipment at 5 regional sites across Mexico. The overall equipment specifies 15 regional labs across Mexico.	
Regional False Document Labs	4,000,000	Nov-10	FY 2008 Supp	Pend	INAMI	Phase 2 - Award of IT contract for the project the winning vendor.	
Cruisers	243,333	4th Quarter 2010	FY 2008 Supp	Pend	SSP	Phase 1 (Equipment Validation and Purchase). Deliveries expected thru Dec 2011.	
Satellite	4,346,744	2nd Quarter 2010	FY 2008 Supp	Pend	SCT	Phase 1 (Equipment definition. Phase 2: High Level and Detailed Design / Architecture definition. Phase 1 is complete.	
National C4 Bulker Phase 2	3,500,000	Jul-10	FY 2008 Supp	Pend	SSP	All dogs going to Ciudad Juarez.	
Cables - 60 total (40 dedicated to narcotics/terrorism and 20 to explosives) to include cargo vans and equipment	1,630,000	Jul, August, and September 2010	FY 2008 Supp	Pend	multi	Phase 2 (Equipment for SIOP / UIF)	
Money Laundering	2,100,000	3rd Quarter 2010	FY 2008 Supp	Pend	SCT	Computer equipment and training to be used for the Simfinterax (border patrol) project. Pending cost is estimated.	
San Frontiera border simulation software	300,000	2nd Quarter 2010	FY 2008 Supp	Pend	SCT	Pending the cost is estimated.	
Correos Project	1,592,000	4th Quarter 2010	FY 2008 Supp	Pend	SCT	Phase 3 (documentation and training). PA is pending, cost is estimate only.	
Money Laundering	100,000	4th Quarter 2010	FY 2008 Supp	Pend	multi	Maritime patrol/CN operations	
CASA Aircraft (1)	50,000,000	9/11-12/11	FY 2008 Supp	Pend	SEMAR	Maritime patrol/CN operations.	
CASA Aircraft (3)	150,000,000	9/11-12/11	FY 2008 Supp	Pend	SEMAR	Support for coastal operations.	
Helicopter (13 UH-60s)	110,000,000	September 2011	FY 2009 Supp	Pend	SEMAR	Additional UH-60s.	
UH-60 Helicopters (Up to 5)	83,500,000	2011	FY 2009 Supp	Pend	SSP	Analysis of alternatives pending in DOS. RFP being drafted. FY 2009 INCLE funding.	
ISAR Aircraft	15,500,000	2011	FY 2009	Pend	SSP		
TOTAL	722,818,418						

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Equipment

NAS Mexico City		Merida Initiative - Significant Activities		EQUIPMENT		WORKING DOCUMENT	
Item ID		Value USD		Delivery Date		Pending Delivery Dates (if any)	
Year		Pending		Delivered		Comments (for office, purpose, etc)	
2008		\$		2,000,000		ALL FUNDS EXCEPT WHERE NOTED	
2009				80,199,051			
2010		216,050,322		37,336,045			
2011 and Beyond		414,000,000					
Total		630,050,322		127,535,096			

Merida Initiative - Significant Activities
NAS CAPACITY BUILDING EVENTS

KEY NAS CAPACITY BUILDING EVENTS							USG Lead	
Item/Course/Event	Location	Start Date	End Date	Status	Recipient	Number of		
INAP Grupo Basal Search & Rescue	Texas	25-Oct-09	20-Nov-09	Complete	INAP	50	NAS	
SAT Canine Training	Texas	18-Jan-10	26-Feb-10	Complete	SAT	2	NAS	
PGR Canine Training	Virginia	2-Oct-09	2-Oct-09	Complete	Multi	6	ATF/NAS	
SSP Corrections Classifications Course	Colorado	6-Apr-09	1-May-09	Complete	SSP	22	NAS	
SSP Corrections Instructor Course	New Mexico	12-Oct-09	20-Nov-09	Complete	SSP	25	NAS	
SSP Corrections Instructor Course	New Mexico	17-Mar-09	24-May-09	Complete	SSP	24	NAS	
SSP Corrections Instructor Course	New Mexico	20-Jul-09	4-Sep-09	Complete	SSP	30	NAS	
SSP Corrections Instructor Course	New Mexico	28-Oct-09	11-Dec-09	Complete	SSP	61	NAS	
SSP Basic Investigator Training	San Luis Potosi	20-Jul-09	23-Jan-10	Complete	SSP	4,392	NAS	
SSP Mid-Level Officers Course	Mexico	15-Oct-09	23-Oct-09	Complete	SSP	250	NAS	
SSP Senior-Level Officers Course	Mexico and US	13-Oct-09	20-Nov-09	Complete	SSP	43	NAS/FBI	
Anti-Kidnapping Course	Miami	1-Nov-09	21-Nov-09	Complete	State Officials	30	NAS	
Anti-Kidnapping Course	Miami	5-Jan-10	25-Jan-10	Complete	State Officials	15	NAS	
SAT Canine	Texas	1-Mar-10	2-Apr-10	Complete	SAT	10	NAS	
PGR Canine Training	Virginia	15-Feb-10	23-Apr-10	Complete	PGR	8	ATF/NAS	
SSP Corrections Classifications Course	Colorado	3-Jan-10	23-Apr-10	Complete	PGR	2	ATF/NAS	
ATF eTrace Train the Trainer	Monterey Mexico	8-Feb-10	5-Mar-10	Complete	SSP	25	NAS	
Immigration Officer Safety Program	DHS El Centro CA	23-Mar-10	25-Mar-10	Complete				
Corrections Instructor Course	Santa Fe, New Mexico	7-Mar-10	12-Mar-10	Complete				
SAT Canine Train-the-Trainer	Texas	19-Apr-10	24-Apr-10	Complete	SSP	30	NAS	
Corrections Instructor Course	Santa Fe, New Mexico	03-May-10	28-May-10	Complete	SAT	4	NAS	
Mid-Level Corrections Seminar	TBD	04-Jun-10	18-Jun-10	Scheduled	SSP	30	NAS	
Anti-Kidnapping Course	Miami	24-May-10	04-Jun-10	Scheduled	SSP	25	NAS	
SAT Canine	Texas	May 2010	May 2010	Scheduled	State Officials	30	NAS	
SAT Canine	Texas	31-May-10	2-Jul-10	Scheduled	SAT	12	NAS	
INAP/Senior State Officers Executive Course	Mexico	12-Jul-10	13-Aug-10	Scheduled	SAT	16	NAS	
SSP Policy & Procedures Manuals	Mexico and US	3rd Quarter 2010	3rd Quarter 2010	Scheduled	INAP/SEDENA/SEMAR	35-70	NAS	
Forensics Training	Mexico	3rd Quarter 2010	3rd Quarter 2010	Scheduled	SSP	N/A	NAS	
Evidence Preservation and Chain of Custody	Mexico	2nd Quarter 2010	2nd Quarter 2010	Scheduled	INACIPE	TBD	DOJ	
Pretrial Case Resolution	Mexico	2nd Quarter 2010	2nd Quarter 2010	Scheduled	PGR / SSP	TBD	DOJ	
Customs Criminal Investigator	Mexico	3rd Quarter 2010	3rd Quarter 2010	Scheduled	PGR / SSP	TBD	DOJ	
SSP Judicial Train the Trainer	FLTCW Artesia New	1st week June	2nd week August	Scheduled	PGR	TBD	DOJ	
	CEJAS Santiago Chile	3-May-10	26-Nov-10	Scheduled				
Trained to Date						5,029		

NAS Mexico City

Merida Initiative - Significant Activities
NAS CAPACITY BUILDING EVENTS

KEY NAS CAPACITY BUILDING EVENTS						
Item/Course/Event	Location	Liquidated through	Start Date	End Date	Status	Recipient
NAS Training Projects						
INAMI						
SAT Canine		\$ 264				
SSP Canine		\$ 247				
Corrections		\$ 167				
Special Units		\$ 917				
SSP and PGR		\$ 552				
Total		\$ 2,912				
		\$ 5,059				

*Reflects delivered programs that have been vouchered. However, some courses
 *Includes minor equipment expenses in support of BCRSTAR training
 *Includes minor equipment expenses in support of canine training
 *Includes minor equipment expenses in support of canine training
 *Includes minor equipment expenses in support of penitentiary training
 *Includes minor equipment expenses in support of anti-kidnapping training
 *Includes minor equipment expenses in support of basic SSP & PGR training

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Merida Initiative - Significant Activities
DOI CAPACITY BUILDING EVENTS

KEY DOI CAPACITY BUILDING EVENTS						
Item/Course/Event	Location	Start Date	End Date	Status	Resident Participants	# of USG Lead
Arms Trafficking Conference	Mexico	3-Apr-09	25-Sep-09	Complete	Multi	75 DOI
Northern Border Firearms Trafficking Conference	Arizona	22-Sep-09	25-Sep-09	Complete	Multi	47 DOI
Victims Assistance and Investigative Interview Techniques to Combat Trafficking in Persons	Wash DC, South Carolina	30-Sep-09	2-Oct-09	Complete	PGA	8 DOI
Advocacy Training / NAC Study Tour	Chihuahua	20-Oct-09	22-Oct-09	Complete	INACIPE	80 DOI
Southern Border Firearms Trafficking Conference	Chihuahua	22-Oct-09	24-Oct-09	Complete	Multi	80 DOI
Internal Affairs Interviewing and Interrogation Techniques	Mexico	1-Nov-09	1-Nov-09	Complete	PGA	20 DOI
Electronic Surveillance	Mexico	7-Dec-09	11-Dec-09	Complete	PGA	40 DOI
Trial Advocacy Course	Mexico	9-Dec-09	10-Dec-09	Complete	PGA	60 DOI
Extradition Training	Mexico	1-Jan-10	1-Jan-10	Complete	PGA	12 DOI
Asset Forfeiture	Mexico	1-Feb-10	1-Feb-10	Complete	PGA	15 DOI
Complex Crimes	Mexico	1-Feb-10	1-Feb-10	Complete	PGA	47 DOI
Victim Witness	Mexico	1-Feb-10	1-Feb-10	Complete	PGA	75 DOI
Trial Advocacy Course	Guatemala	1-Mar-10	1-Mar-10	Complete	PGA	20 DOI
Arms Trafficking Course	Guatemala	1-Mar-10	1-Mar-10	Complete	PGA	20 DOI
Trial Advocacy Course	Guatemala	1-Mar-10	1-Mar-10	Complete	PGA	20 DOI
Internal Affairs Interviewing and Interrogation Techniques	Guatemala	1-Mar-10	1-Mar-10	Complete	PGA	20 DOI
Complex Crimes	Mexico	1-Apr-10	1-Apr-10	Complete	PGA	100 DOI
Victim Witness	Mexico	1-Apr-10	1-Apr-10	Complete	PGA	5 DOI
Forensic Engagement Visit	Colombia	1-Apr-10	1-Apr-10	Complete	PGA	7 DOI/ICITAP
Internal Affairs Interviewing and Interrogation Techniques	Mexico	10-May-10	21-May-10	Scheduled	SSP and PGA	20 DOI
Trial Advocacy Course - INACIPE	Mexico	17-May-10	17-May-10	Scheduled	INACIPE	1,600 DOI
Forensic Training	Mexico	28-May-10	28-May-10	Scheduled	PGA	60 DOI
Criminal Procedure Code Reform	Chihuahua (Tudis Guerrero)	7-Jun-10	7-Jun-10	Scheduled	PGA	120 DOI
Internal Affairs Interviewing and Interrogation Techniques	Mexico	7-Jun-10	7-Jun-10	Scheduled	PGA	50 DOI
Money Laundering Course	Mexico	14-Jun-10	14-Jun-10	Scheduled	PGA	20 DOI
Trial Advocacy Course	Mexico	28-Jun-10	28-Jun-10	Scheduled	PGA	60 DOI
Evidence Preservation and Chain of Custody	Colombia	28-Jun-10	28-Jun-10	Scheduled	PGA/SSP	560 DOI
Internal Affairs Interviewing and Interrogation Techniques	Puerto Rico	9-Jul-10	9-Jul-10	Scheduled	SSP and PGA	20 DOI
Criminal Procedure Code Reform	Puerto Rico	9-Jul-10	9-Jul-10	Scheduled	SSP and PGA	40 DOI
Internal Affairs Interviewing and Interrogation Techniques	Colombia	15-Jul-10	15-Jul-10	Scheduled	SSP and PGA	12 DOI
Internal Affairs Interviewing and Interrogation Techniques	Mexico	15-Jul-10	15-Jul-10	Scheduled	SSP and PGA	20 DOI
Trial Advocacy Course	Mexico	19-Jul-10	19-Jul-10	Scheduled	PGA	60 DOI
Money Laundering Course	Mexico	9-Aug-10	9-Aug-10	Scheduled	PGA	50 DOI
Trial Advocacy Course	Quetzaro	16-Aug-10	16-Aug-10	Scheduled	PGA	60 DOI
Arms Trafficking	Phoenix	10-Sep-10	10-Sep-10	Scheduled	PGA	40 DOI
Trial Advocacy Course	Mexico	27-Sep-10	27-Sep-10	Scheduled	PGA	60 DOI
Money Laundering Course	Mexico	27-Sep-10	27-Sep-10	Scheduled	PGA	50 DOI
Victim Witness	Mexico	27-Sep-10	27-Sep-10	Scheduled	PGA	50 DOI
Arms Trafficking	Tijuana	27-Sep-10	27-Sep-10	Scheduled	PGA	50 DOI
Trial Advocacy Course	Mexico	27-Sep-10	27-Sep-10	Scheduled	PGA	50 DOI
Trial Advocacy Course	Mexico	27-Sep-10	27-Sep-10	Scheduled	PGA	50 DOI

Merida Initiative - Significant Activities
DOJ CAPACITY BUILDING EVENTS

KEY DOJ CAPACITY BUILDING EVENTS									
Item/Course/Event	Location	Start Date	End Date	Status	Request	# of Participants		US\$ Lead	
Arms Trafficking Conference	Mexico	1-Apr-09	3-Apr-09	Complete	Multi	75	DOJ		
Money Laundering Course	Mexico	8-Dec-10	7-Dec-10	Scheduled	POB / LIT / SSP	50	DOJ		
Evidence Preservation and Chain of Custody	Mexico	2nd Quarter 2010		Scheduled	POB / SSP	TBD	DOJ		
					Trained to Date	847			

DOJ Training Projects	Liquidated through Memo 19
Prosecutorial Capacity Building	2010 (\$1,000)*
Asset Forfeiture	\$ 785
Evidence Preservation	\$ 97
Extradition Training	\$ 195
Forensics Laboratory	\$ 181
Pretrial Case Resolution	\$ 134
Total	\$ 97
	\$ 1,490

*Reflects delivered programs that have been vouchered. However, some courses have been delivered, but not yet vouchered.

*Includes overhead expenses
*Includes overhead expenses
*Includes overhead expenses
*Includes overhead expenses
*Includes overhead expenses

MMS Mexico City

Merida Initiative - Significant Activities
USAID CAPACITY BUILDING EVENTS

KEY USAID CAPACITY BUILDING EVENTS (as of April 31, 2010)							Number of Participants	USAID Lead
Event/Course/Workshop	Location	Start Date	End Date	Status	Resident			
Citizen Participation Councils	DF	1-Aug-09	31-Oct-09	Complete	OPC / ANKPC		N/A	USAID
Citizen Participation Councils	DF	1-Aug-09	31-Nov-09	Complete	OPC / ANKPC		N/A	USAID
Citizen Participation Councils	DF	1-Aug-09	31-Nov-09	Complete	OPC / ANKPC		N/A	USAID
Judicial Exchanges	Burbank, CA	3-Aug-09	7-Aug-09	Complete	Public Security National AGO's IDEA, SOS, Funder, Estudios de Opinión y Participación Social, Cohesión Comunitaria e Innovación Social		N/A	USAID
Victim Protection & Restoration	DF	9-Aug-09	22-Aug-09	Complete	SSP and DF NGOs		34	USAID
Victim Protection & Restoration	DF	19-Aug-09	19-Aug-09	Complete	SSP Offices of the AG's from Baja California, Oaxaca, Morelos and Zacatecas		29	USAID
Victim Protection & Restoration	Baja California	24-Aug-09	24-Aug-09	Complete	Fundación Camino a Casa		25	USAID
Pre-Trial & Case Resolution Alternatives	Washington DC and Pennsylvania	31-Aug-09	4-Sep-09	Complete	Attorney General's Office and NGOs		28	USAID
Citizen Participation Councils	Baja California	1-Sep-09	30-Nov-09	Complete	Open Society Institute, representatives from Morelos, Hidalgo and the Federal level		20	USAID
Pre-Trial & Case Resolution Alternatives	Baja California	1-Sep-09	30-Nov-09	Complete	Open Society Institute / NGO's / NGO's		30	USAID
Inauguration of National Observatory for Trafficking in Persons	Mexico City	7-Sep-09	7-Sep-09	Complete	SCJ Court of Justice and other justice sector institutions		3	USAID
Pre-Trial & Case Resolution Alternatives	Baja California	7-Sep-09	7-Sep-09	Complete	Officials from the OJDA, Senator and Federal Deputies		146	USAID
Human Rights/Citizen Participation Councils Book Presentation & Seminar	Mexico City	9-Sep-09	9-Sep-09	Complete	Judicial power, public defense, Office of the Attorney General, members of civil society and NGOs, academics and policy makers concerned		15	USAID
Victim Protection & Restoration	Mexico City	12-Sep-09	12-Sep-09	Complete	Adolescent Victims of TIP Fundación Camino a Casa		56	USAID
Citizen Participation Councils	Mexico City	15-Sep-09	30-Sep-09	Complete	CAST		27	USAID
Pre-Trial & Case Resolution Alternatives	Baja California	17-Sep-09	23-Sep-09	Complete	NGO		2	USAID
National Days to Combat Trafficking in Persons	Oaxaca	24-Sep-09	25-Sep-09	Complete	Office of the Attorney General of the State of Baja California		189	USAID
Pre-Trial & Case Resolution Alternatives	Mexico City	24-Sep-09	24-Sep-09	Complete	Officials from the State Human Rights Commission and residents of the municipality of Toluca		235	USAID
Citizen Participation Councils	Baja California	28-Sep-09	28-Sep-09	Complete	Federal attorney for the implementation of the Criminal Justice Reforms in Mexico		5	USAID
Pre-Trial Services and Case Resolution Alternatives	Mexico City	28-Sep-09	28-Sep-09	Complete	OPC		5	USAID
Pre-Trial Services and Case Resolution Alternatives	Tijuana Baja California	28-Sep-09	2-Oct-09	Complete	Specialized course in preparing operators of the system to implement the new criminal procedure code		113	USAID
Judicial Exchanges	Cuernavaca Mexico	28-Sep-09	28-Sep-09	Complete	Training an Alternative Justice Seminar		30	USAID
Rehabilitating Victims Forum: Now is the time to listen	Guadalupe Jalisco	28-Sep-09	28-Sep-09	Complete	Justice system and stakeholders by Colombian National Police		91	USAID
Victims Assistance and Investigative Interview Techniques to Combat Trafficking in Persons	Mexico City	28-Sep-09	28-Sep-09	Complete	Mediation Conference		700	USAID
Citizen Participation Councils	Mexico City	30-Sep-09	30-Sep-09	Complete	Scholarship recipients and their families, civil society organization, local and federal government officials		981	USAID
Victim Protection & Restoration	Oaxaca	30-Sep-09	30-Sep-09	Complete	PGA		47	USAID
Citizen Participation Councils	Oaxaca	1-Oct-09	30-Oct-09	Complete	NGO / NGO's / Academia		2	USAID
Citizen Participation Councils	Mexico City	1-Oct-09	30-Oct-09	Complete	ANKPC, DFA, SOS, Funder, Estudios de Opinión y Participación Social, Cohesión Comunitaria e Innovación Social		N/A	USAID
Citizen Participation Councils	Mexico City	1-Oct-09	30-Nov-09	Complete	OPC / ANKPC		N/A	USAID
Victim Protection & Restoration	Mexico City	1-Oct-09	30-Nov-09	Complete	Adolescent Victims of TIP Fundación Camino a Casa		13	USAID
Judicial Exchanges	Mexico City	6-Oct-09	8-Nov-09	Complete	Interdisciplinary Course on Baja California's New Criminal Justice System		84	USAID
Victim Protection & Restoration	Mexico City	8-Oct-09	8-Oct-09	Complete	Oral litigation skills Workshop		51	USAID
Victim Protection & Restoration	Mexico City	10-Oct-09	10-Oct-09	Complete	Adolescent leadership program participants		17	USAID

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NAS Mexico City		Merida Initiative - Significant Activities USAID CAPACITY BUILDING EVENTS							Updated 19 May 2010	
KEY USAID CAPACITY BUILDING EVENTS (as of April 21, 2010)										
Item/Course/Event	Location	Start Date	End Date	Status	Multi	Recipient	Number of Participants	USG/Lead		
Citizen Participation Councils	Baja California	12-Oct-09	13-Oct-09	Complete			43	USAID		
Victim Protection & Restitution	Mexico City	12-Oct-09	16-Oct-09	Complete		STAR Youth Seminar	18	USAID		
Judicial Exchanges	Mexicali	12-Oct-09	16-Oct-09	Complete		Feedback for Public Defenders of Mexicali and logistics support for NITAs training	5	USAID		
Victim Protection & Restitution	Oaxaca	12-Oct-09	6-Nov-09	Complete		Course on Restorative Justice awareness for indigenous women attorneys	21	USAID		
Judicial Exchanges	Mexicali	13-Oct-09	16-Oct-09	Complete		Training course on the new code of criminal procedure for forensic experts	49	USAID		
Pre-Trial Services and Case Resolution Alternatives	Mexicali	13-Oct-09	16-Oct-09	Complete		Alternative Justice training for judges, prosecutors and defense attorneys	117	USAID		
Citizen Participation Councils	Veracruz	14-Oct-09	14-Oct-09	Complete		State Representatives	3	USAID		
Citizen Participation Councils	Baja California, Veracruz	14-Oct-09	14-Oct-09	Complete		Meeting with State Reps and CPCRE National Event	3	USAID		
Victim Protection & Restitution	Chihuahua	14-Oct-09	17-Oct-09	Complete		Shadowing mediation conference simulations	49	USAID		
Victim Protection & Restitution	Mexico City	17-Oct-09	17-Oct-09	Complete		Advanced leadership program participants	7	USAID		
Victim Protection & Restitution	Mexicali	18-Oct-09	18-Oct-09	Complete		Presentation of the video meeting with a title and discussion of Restorative Justice principles and practices as it relates to criminal justice staff of the Center of Alternative Justice	11	USAID		
Continuing Education for Police, Prosecutors and Other Officials	U.S.	18-Oct-09	24-Oct-09	Complete		Alliance Partnership Investigator Training Las Vegas Oct-09	47	USAID		
Judicial Exchanges	Chihuahua	19-Oct-09	23-Oct-09	Complete		Follow-up and evaluation of Judges and Public Defenders and the Office of the Attorney General of Chihuahua	19	USAID		
Judicial Exchanges	Mexicali	19-Oct-09	23-Oct-09	Complete		Training program on oral litigation skills by the National Institute of Trial Advocacy NITA	45	USAID		
Victim Protection & Restitution	Mexico City	20-Oct-09	24-Oct-09	Complete		Advocacy NITA	662	USAID		
Judicial Exchanges	Mexico City	22-Oct-09	23-Oct-09	Complete		Development of the curricula of the training that will be conducted in Mexico in November 2009	2	USAID		
Victim Protection & Restitution	Aguascalientes	22-Oct-09	23-Oct-09	Complete		General conference on Migration Trafficking in persons and attainment of justice	208	USAID		
Citizen Participation Councils	Mexico City	23-Oct-09	24-Oct-09	Complete		CETRAV Center for Study of Trauma and Violence Mexico	662	USAID		
Victim Protection & Restitution	State of Mexico	24-Oct-09	24-Oct-09	Complete		Adolescent Victims of TIR Fundación Camino a Casa	24	USAID		
Victim Protection & Restitution	Chihuahua	26-Oct-09	30-Oct-09	Complete		Attorney General's Office and NGOs	23	USAID		
Judicial Exchanges	Quintana Roo	26-Oct-09	30-Oct-09	Complete		Training course on basic criminal investigation under the oral adversarial system	22	USAID		
Judicial Exchanges	Mexicali	26-Oct-09	30-Oct-09	Complete		2nd training program on oral litigation skills by the National Institute of Trial Advocacy NITA	45	USAID		
Judicial Exchanges	Zacatecas	26-Oct-09	30-Oct-09	Complete		Follow-up and evaluation of Judges and Public Defenders and the Office of the Attorney General of Zacatecas	60	USAID		
Judicial Exchanges	Mexicali	26-Oct-09	30-Oct-09	Complete		Introductory course on the new criminal justice system to the personnel of the Direction of victim attention of the office of the Attorney General of Baja California	10	USAID		
Judicial Exchanges	Tijuana	28-Oct-09	30-Oct-09	Complete		Technical support for development and accreditation of forensic training course for judges and public defenders	8	USAID		
Judicial Exchanges	Zacatecas	28-Oct-09	28-Oct-09	Complete		Meeting with the President of the State Court of Justice, the Attorney General and the Public Defender of Zacatecas to follow-up the implementation of the new code of criminal procedure	3	USAID		
Judicial Exchanges	Istanbul, Turkey	2-Nov-09	4-Nov-09	Complete		IACA Fourth International Conference Istanbul Turkey	1	USAID		
Judicial Exchanges	Mexicali	2-Nov-09	6-Nov-09	Complete		Course on oral litigation to public defenders of Mexicali	34	USAID		
Judicial Exchanges	Mexicali	2-Nov-09	6-Nov-09	Complete		Technical Assistance to the Office of the AG of Baja California on the administrative structure of the investigative police	8	USAID		

NAS Mexico City

Merida Initiative - Significant Activities
 USAID CAPACITY BUILDING EVENTS

KEY USAID CAPACITY BUILDING EVENTS (as of April 31, 2010)							Number of Participants	USG Lead
Activity/Event	Location	Start Date	End Date	Status	Resistant			
Victim Protection & Restitution	Mexico	2-Nov-09	4-Nov-09	Complete	Introduction course on the new system to the personnel of the Unit on Attention to Victims of the Attorney General of Baja California		15	USAID
Victim Protection & Restitution	Oaxaca	2-Nov-09	2-Nov-09	Complete	Interview discussing the themes of Restorative Justice and Domestic Violence		4	USAID
Victim Protection & Restitution	Mexico	3-Nov-09	4-Nov-09	Complete	Adolescent Victims Leadership program: Conflict Transformation Workshop		15	USAID
Victim Protection & Restitution	Mexico	5-Nov-09	6-Nov-09	Complete	Training on Restorative Justice Processes and best practices for Centers for Alternative Justice		23	USAID
Diploma course: Trafficking in Persons	Mexico City	6-Nov-09	13-Feb-10	Complete	Procuraduría General de la República (PGR), Fiscalía Especializada para los Delitos de Violencia contra las Mujeres y Fases de Prevención (FEPREV) and the Instituto Mexicano de Derechos Legales (IMDL)		50	USAID
Trafficking in Persons	Mexico City	6-Nov-09	7-Nov-09	Complete	Diploma "Tratado de Prevención de Justicia" D.F. Módulo 1: La Ética del siglo XXI como pilar de la sociedad		46	USAID
Citizen Participation Councils	Baja del Rio Veracruz	8-Nov-09	10-Nov-09	Complete	Second National Forum on Citizen Participation Councils, Public Security and Justice		500	USAID
Continuing Education for Police, Prosecutors and Other Officials	U.S.	8-Nov-09	14-Nov-09	Complete	Alliance Partnership Prosecutor Training Portland OR		18	USAID
Judicial Exchanges	Zacatecas	9-Nov-09	20-Nov-09	Complete	Training course in criminal investigation under the restorative justice system		19	USAID
Pre-Trial Services and Case Resolution Alternatives	Chihuahua	9-Nov-09	13-Nov-09	Complete	Monitor Alternative Justice Facilitators and Mediators from Center for Restorative Justice of the University of Chihuahua and Superior Court for Justice		13	USAID
Judicial Exchanges	Mexico BC	9-Nov-09	13-Nov-09	Complete	Intensive training course advanced level multidisciplinary justice. Part 1		38	USAID
Pre-Trial Services and Case Resolution Alternatives	Chihuahua	9-Nov-09	13-Nov-09	Complete	Monitor Alternative Justice Facilitators and Mediators from Center for Restorative Justice of the University of Chihuahua and Superior Court for Justice		13	USAID
Victim Protection & Restitution	Oaxaca	10-Nov-09	11-Nov-09	Complete	Course on conflict transformation for indigenous women attorneys		16	USAID
Trafficking in Persons	Mexico City	13-Nov-09	14-Nov-09	Complete	Diplomado "Tratado de Prevención y Procuración de Justicia" O.F. Módulo 2: Aproximaciones conceptuales, aspectos básicos de la Trea de Personas		47	USAID
Victim Protection & Restitution	Zacatecas	16-Nov-09	20-Nov-09	Complete	STAF Seminar		16	USAID
Judicial Exchanges	Mexico	16-Nov-09	16-Nov-09	Complete	New system of Criminal Justice Awareness Meeting for Personnel of the restorative justice system of the Municipality of Mexico		9	USAID
Judicial Exchanges	Mexico	16-Nov-09	20-Nov-09	Complete	Development of the curriculum and the case studies for the training that will be conducted in Mexico on November		4	USAID
Judicial Exchanges	Mexico BC	17-Nov-09	17-Nov-09	Complete	Training on the New System of Justice for the Baja California Congress		35	USAID
Citizen Participation Councils	Mexico City	18-Nov-09	18-Nov-09	Complete	NGO 4 local and federal institutions human rights organizations, academic institution		50	USAID
Citizen Participation Councils	Mexico	18-Nov-09	18-Nov-09	Complete	Training on coalition and community building to combat organized crime		54	USAID
Judicial Exchanges	Mexico	18-Nov-09	18-Nov-09	Complete	Technical Support for the PGRBC New Internal Structure Presentation and Implementation		10	USAID
Victim Protection & Restitution	Chihuahua	20-Nov-09	22-Nov-09	Complete	Conference on Gender and Quality		200	USAID
Victim Protection & Restitution	Chihuahua	20-Nov-09	22-Nov-09	Complete	Conference on Gender and Quality		400	USAID
Trafficking in Persons	Mexico City	20-Nov-09	21-Nov-09	Complete	Diplomado "Tratado de Prevención y Procuración de Justicia" D.F. Módulo 3: Los Derechos Humanos en el Sistema Judicial Internacional Nacional		46	USAID
Citizen Participation Councils	Baja California	21-Nov-09	21-Nov-09	Complete	NGI - Yerey González		20	USAID

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Merida Initiative - Significant Activities
USAID CAPACITY BUILDING EVENTS

KEY USAD CAPACITY BUILDING EVENTS (as of April 21, 2010)							Number of Participants	USG Lead
Judicial Exchange	Activity/Case/Forum	Organization	Start Date	End Date	Location	Topic(s)		
Judicial Exchange		Mexico	23-Nov-09	27-Nov-09	Mexico	Intensive updating course delivered by Mexican judges, Part I	91	USAD
Judicial Exchange		Mexico	25-Nov-09	27-Nov-09	Complete	Technical Assistance to the Office of the AG of Baja California on the administrative structure of the investigative police	8	USAD
Client Participation Councils		Mexico City	26-Nov-09	28-Nov-09	Complete	Atención Mexicana de Seguridad Ciudadana, Centro Antonio Montemayor, SEMAR, Udelo de opinión, REINTEGRA	35	USAD
Client Participation Councils	Introduction to the Penal Procedural Reform in the State of Hidalgo for Public Defenders	Baja California Sur	26-Nov-09	27-Nov-09	Complete	NGO representatives of the State of BC	10	USAD
Judicial Exchange		Hidalgo	26-Nov-09	27-Nov-09	Complete	PGR	28	USAD
Judicial Exchange		Mexico City	26-Nov-09	27-Nov-09	Complete	Curso introductorio a la Reforma Procesal Penal del Estado de Hidalgo para Defensores de Oficio	28	USAD
Trafficking in Persons		Oaxaca	27-Nov-09	13-Mar-10	Complete	Comisión	60	USAD
Trafficking in Persons		Mexico City	27-Nov-09	28-Nov-09	Complete	Diplomado "Trata de Personas y Procuración de Justicia Oaxaca Módulo 1: La Etica del siglo XXI como Pilar de la sociedad"	62	USAD
Trafficking in Persons		Mexico City	27-Nov-09	28-Nov-09	Complete	Diplomado "Trata de Personas y Procuración de Justicia" O.F. Módulo 4: Aproximaciones consensuales y conflictivas a la explicación del fenómeno	45	USAD
Victim Protection & Investigation		Mexico City	28-Nov-09	28-Nov-09	Complete	Adolescent Victims of TIP (Industria Camilo, C. de Casa	27	USAD
Client Participation Councils		Colombia	29-Nov-09	5-Dec-09	Complete	NGO's, OPC, OIT and Justice Sector Actors from Oaxaca, Chihuahua, BC, and Zacatecas	40	USAD
Judicial Exchange		Colombia	29-Nov-09	5-Dec-09	Complete	Study Tour Colombia	22	USAD
Judicial Exchange		Mexico	30-Nov-09	6-Dec-09	Complete	Simulation of the Mediation Process	15	USAD
Pre-Trial Services and Case Resolution Alternatives		Chihuahua	30-Nov-09	4-Dec-09	Complete	Training program on oral litigation skills by the National Institute of Trial Advocacy (NITA)	21	USAD
Judicial Exchange		Mexico	1-Dec-09	27-Feb-10	Complete	Course on the role of the Attorney General in the National Institute of Trial Advocacy (NITA)	21	USAD
Pre-Trial Services and Case Resolution Alternatives		Mexico	2-Dec-09	4-Dec-09	Complete	Chihuahua participations (Justice and Criminal Participation)	28	USAD
Judicial Exchange		Mexico	2-Dec-09	4-Dec-09	Complete	Chihuahua participations (Justice and Criminal Participation)	28	USAD
Judicial Exchange		Mexico	2-Dec-09	4-Dec-09	Complete	International Forum on Criminal Justice Reforms in Mexico	170	USAD
Support to Human Rights NGOs		Mexico City	2-Dec-09	4-Dec-09	Complete	Curso "Donaciones para Organismos No Gubernamentales", D.F	62	USAD
Judicial Exchange		Mexico	4-Dec-09	9-Dec-09	Complete	Course on criminal investigation and the theory of the case for prosecutors	50	USAD
Trafficking in Persons		Mexico City	4-Dec-09	5-Dec-09	Complete	Diplomado "Trata de Personas y Procuración de Justicia" Oaxaca Módulo 2: Aproximaciones consensuales y conflictivas a la explicación del fenómeno	63	USAD
Trafficking in Persons		Mexico City	4-Dec-09	5-Dec-09	Complete	Diplomado "Trata de Personas y Procuración de Justicia" O.F. Módulo 5: Procuración, administración de justicia y el nuevo sistema de justicia penal en México	42	USAD
Trafficking in Persons	The New Penal Justice System	Durango	5-Dec-09	12-Dec-09	Complete	Procuraduría General de Justicia	57	USAD
Client Participation Councils		Mexico	5-Dec-09	5-Dec-09	Complete	Introductory course on the criminal justice reforms for media representatives	11	USAD
Judicial Exchange		Washington	6-Dec-09	12-Dec-09	Complete	Study Tour Washington and Pittsburgh	80	USAD
Judicial Exchange		Mexico	7-Dec-09	12-Dec-09	Complete	Course on the appeal system	20	USAD
Judicial Exchange		Mexico	7-Dec-09	10-Dec-09	Complete	Study Tour Washington and Pittsburgh	5	USAD
Pre-Trial Services and Case Resolution Alternatives		Mexico	7-Dec-09	7-Dec-09	Complete	Training for Alternative Justice personnel of the office of the Attorney General of the State of BC	21	USAD
Pre-Trial Services and Case Resolution Alternatives		Mexico	7-Dec-09	7-Dec-09	Complete	Training for Alternative Justice personnel of the office of the Attorney General in Tijuana and Mexicali	21	USAD
Judicial Exchange		Mexico City	7-Dec-09	11-Dec-09	Complete	Capacitación práctica impartida a operadores del Nuevo Sistema Judicial Penal de Durango	67	USAD
Pre-Trial Services and Case Resolution Alternatives		Ensenada	8-Dec-09	8-Dec-09	Complete	Training for Alternative Justice personnel of the office of the Attorney General in Tijuana and Mexicali	10	USAD
Pre-Trial Services and Case Resolution Alternatives		Ensenada	9-Dec-09	9-Dec-09	Complete	Training for Alternative Justice personnel of the office of the Attorney General in Tijuana and Mexicali	10	USAD

EXHIBIT CAPACITY-BUILDING EVENTS (as of April 21, 2010)

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Merida Initiative - Significant Activities
USAID CAPACITY BUILDING EVENTS

HAS Mexico City

KEY USAID CAPACITY BUILDING EVENTS (as of April 21, 2010)						
Activity/Course/Event	Location	Start Date	End Date	Status	Recipient	Number of Participants (USG Local)
Judicial Exchanges	Mexico	27-Jan-10	29-Jan-10	Complete	Workshop case theory for prosecutors, judges and defense attorneys	80
Trafficking in Persons	Mexico City	29-Jan-10	30-Jan-10	Complete	Diplomado "Trata de Personas y Procuración de Justicia" D.F. Módulo 9: Experiencia exitosa y la cooperación internacional en la persecución del delito de trata de personas	62
Trafficking in Persons	Mexico City	12-Feb-10	13-Feb-10	Complete	Diplomado "Trata de Personas y Procuración de Justicia" D.F. Módulo 10: Acciones del Estado y la Sociedad Civil en contra de la Trata de Personas	120
Judicial Exchanges	Mexico	14-Feb-10	15-Feb-10	Complete	Anti kidnapping and anti extortion courses Bogota Colombia	13
Continuing Education for Police, Prosecutors and Other Officials	U.S.	14-Feb-10	19-Feb-10	Complete	Alliance Partnership Lab Directors Training Napa Feb 10	31
Trafficking in Persons	Mexico City	19-Feb-10	20-Feb-10	Complete	Diplomado "Trata de Personas y Procuración de Justicia" Ocasca Módulo 8: Experiencia exitosa y la cooperación internacional en la persecución del delito de trata de personas	62
Continuing Education for Police, Prosecutors and Other Officials	U.S.	21-Feb-10	24-Feb-10	Complete	Alliance Partnership Investigator Training Phoenix Feb 10	29
Continuing Education for Police, Prosecutors and Other Officials	U.S.	21-Feb-10	25-Feb-10	Complete	Diplomado "Trata de Personas y Procuración de Justicia" Ocasca Módulo 9: Procuración, Administración de Justicia y el Nuevo Sistema de Justicia Penal en México	25
Trafficking in Persons	Mexico City	26-Feb-10	27-Feb-10	Complete	Curso de Habilitación para agentes de Seguridad Estatal de Hidalgo - La Aplicación del Marco Jurídico Internacional, Nacional y Estatal frente a la Trata de Personas	62
Continuing Education for Police, Prosecutors and Other Officials	Mexico City	1-Mar-10	5-Mar-10	Complete	Intercambio de Experiencias y Aprendizaje	44
Judicial Exchanges	U.S.	2-Mar-10	4-Mar-10	Complete	Diplomado "Trata de Personas y Procuración de Justicia" Ocasca Módulo 10: La Aplicación del Marco Jurídico Internacional, Nacional y Estatal frente a la Trata de Personas	5
Trafficking in Persons	Mexico City	5-Mar-10	6-Mar-10	Complete	Conferencia "Explotación Sexual Infantil"	25
Continuing Education for Police, Prosecutors and Other Officials	Mexico City	08-Mar-10	09-Mar-10	Complete	Diplomado "Trata de Personas y Procuración de Justicia" Ocasca Módulo 11: Trat de Personas, Redes Electorales y Ambiente	21
Trafficking in Persons	Mexico City	12-Mar-10	13-Mar-10	Complete	Intercambio de Experiencias y Aprendizaje	37
Judicial Exchanges	U.S.	17-Apr-10	17-Apr-10	Complete	Alliance Partnership Most Court - Phoenix April 10	26
Judicial Exchanges	U.S.	21-Apr-10	24-Apr-10	Complete	One week intensive immersion in Restorative Practices - Bethlehem Pennsylvania	18
Judicial Exchanges	U.S.	25-Apr-10	1-May-10	Complete	Alliance Partnership Forensic Training Phoenix May	0
Judicial Exchanges	U.S.	1-May-10	8-May-10	Complete	Alliance Partnership Prosecutor Training Los Angeles May	26
Judicial Exchanges	U.S.	9-May-10	14-May-10	Complete	Alliance Partnership Investigator Training Rapid City May	33
Judicial Exchanges	U.S.	9-May-10	14-May-10	Complete	Alliance Partnership Investigator Training Rapid City May	33
TOTAL						10,281

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NAS Mexico City	Merida Initiative Significant Activities	Acronym List
Acronym	Organization	ACRONYM LIST
ANCPC	National Association of Citizen Participation Councils	
BC	Mexican State of Baja California	
CAST	Coalition to Abolish Slavery and Trafficking in Persons	
CETRAV	Center for Study of Trauma and Violence Mexico	
CISEN	National Security and Investigations Center	
CNDH	National Human Rights Commission	
CPC	Civilian Participation Council	
CPCBC	Baja California Civilian Participation Council	
DF	Federal District of Mexico City	
DIF	Family Development Service	
FEVIMTRA	Special Prosecutor's Office for Violence against Women and Human Trafficking	
IDEA	Foundation for the Implementation, Design, Evaluation, and Analysis of Public Policy	
INACIPE	Corrections Agency	
INAMI	National Migration Institute	
INAP	National Institute of Public Administration	
Mulbi	Multiple Government of Mexico Agencies	
NDI	National Democratic Institute	
NGO	Non-Governmental Organization	
PGJ	Procuraduría General de Justicia	
PGR	Attorney General's Office	
REINTEGRA	Mexican Foundation for Social Reintegration	
SAT	Secretariat of Customs and Taxes (Customs)	
SCT	Secretariat of Communications	
SEDENA	Secretariat of National Defense (Mexican Army and Air Force)	
SEMAR	Secretariat of the Navy (Mexican Navy and Marine Corps)	
SERAPAZ	Peace NGO	
SIGM	Integrated System for Immigration Operations	
SQS	System for the Observation of Citizen Security	
SSP	Secretariat of Public Security - Federal Police	

Attorney General of New Mexico

GARY K. KING
J. LAMA
Attorney General
Attorney General

ALBERT
Chief Deputy

June 8, 2010

The Honorable Patrick Leahy
Chairman, Senate Committee on the Judiciary
Attn: Julia Gagne, Hearing Clerk
Senate Judiciary Committee
224 Dirksen Senate Office Building
Washington, D.C. 20510

June 8, 2010

Re: Subcommittee on Human Rights and the Law
Drug Enforcement and the Rule of Law: Mexico and Colombia

Dear Chairman Leahy:

This is in response to the follow-up questions posed by Senator Tom Coburn, M.D. after my testimony before the above Subcommittee on May 18, 2010.

1. While you note in your testimony that several states have given in-kind contributions such as facilities to conduct training, equipment or personnel, does the State of New Mexico directly provide any direct funding for the Alliance Partnership or other CWAG activities with the Mexican states?
 - a. Do you ever directly ask the state for funding for these programs? Why or why not?

ANSWER: The State of New Mexico does not provide any direct funding to the Alliance Partnership. My budget is set by the New Mexico Legislature each year and I have not requested direct funding for the Alliance Partnership in my budget requests. The vast majority of my budget is for personnel with the remainder primarily for support of personnel, such as office space, utilities, supplies, benefits, travel, etc. I have supported CWAG's participation in the Alliance Partnership by volunteering my staff to participate in training sessions throughout the country. I do not request direct funding from the New Mexico Legislature for the Alliance Partnership because I have never been asked to do so and I have understood the purpose of our participation is to assist the federal rule of law

Attorney General of New Mexico

GARY K. KING
J. LAMA
Attorney General
Attorney General

ALBERT
Chief Deputy

The Honorable Patrick Leahy
June 8, 2010
Subcommittee on Human Rights and the Law
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mission in Mexico. Also, considering the state of New Mexico's budget, I have not, nor would I be, in a position to request such funds. That does not mean that the States do not use other cash resources to assist in this project. I refer you to the Western Union settlement you ask about below. This case was an effort by the Attorneys General of Arizona, California, Texas and New Mexico to stem the flow of drug money into Mexico from the United States. We have insured that these funds, although not considered direct funding by state tax dollars, are used to assist law enforcement in both the United States and Mexico.

2. During the hearing, you noted the settlement that was reached between Western Union and the State of Arizona for \$94 million. From my understanding, more than half of that settlement will be available to law enforcement agencies in any Mexican border state for a variety of programs, including law enforcement training efforts in the U.S. and Mexico.
 - a. Do you anticipate the State of New Mexico receiving any of those funds? If so, do you know how much will be available to your state?
 - b. Do you plan to use any of those funds for expanding the training you currently provide to your Mexican counterparts? Why or why not?

ANSWER: The New Mexico Attorney General's Office will participate with our sister states in determining which agencies will be awarded funds under this settlement, most of which will be used for law enforcement efforts along our border with Mexico. The exact amounts will not be determined until requests for funding are received and reviewed by the four states. I anticipate that New Mexico will be receiving funding under this settlement and I do plan to use these funds to expand training we currently provide to Mexican state attorneys general if such use is approved. Beyond our participation in the Alliance Partnership, I have a division within my office that deals with border issues. I have a Border Violence Division that, among its tasks, educates law enforcement in New Mexico and the Mexican State of Chihuahua on issues dealing with human trafficking. This division operates separately from the Alliance Partnership but does on occasion work cooperatively with the Project on special training programs.

Attorney General of New Mexico

GARY K. KING
J. LAMA
Attorney General
Attorney General

ALBERT
Chief Deputy

3. In the hearing, you mentioned that CWAG provides training and education to Mexican state attorneys general via the Alliance Partnership. How much of this training focuses on human rights issues, such as human trafficking or military abuses, and/or how to develop victims' assistance programs as part of Mexican criminal justice system reforms?

The Honorable Patrick Leahy
June 8, 2010
Subcommittee on Human Rights and the Law
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ANSWER: I am in agreement with Attorney General Wasden's answer to this question that all of our training incorporates elements of human rights because our judicial system is based on that concept. In addition, my Border Violence Division has sponsored, in conjunction with the Alliance Partnership, several training sessions on human trafficking which have included law enforcement authorities on both sides of the border.

I am not aware of training being provided in the area of military abuses or victims' assistance programs through the Alliance Partnership, nor am I aware that we have been asked to do so. If that becomes part of what our federal funding sources request of us, we are pleased to assist in providing such training. I do not feel we would be of much assistance in the area of military abuses. Our experience is exclusively related to investigation of allegations of abuse by police officers. Employing a military force in place of a civilian police force is very different and I do not know if we would have the necessary expertise. Most state attorneys general are very familiar with victims' assistance programs and could contribute significantly to such an effort. Through my Human Trafficking Task Force, my office has expended significant efforts to develop a support program for victims of human trafficking.

It has been an honor to participate in the Alliance Partnership and to provide testimony to this Subcommittee in support of America's efforts to assist Mexico in making its transition to an adversarial judicial system. If I can be of any assistance in the future regarding this matter, please feel free to contact me at your convenience.

Respectfully,

Attorney General of New Mexico

GARY K. KING
J. LAMA
Attorney General
Attorney General
Gary K. King
Attorney General
State of New Mexico

ALBERT
Chief Deputy



STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
LAWRENCE G. WASDEN

June 8, 2010

Via e-mail to: Julia_Gagne@judiciary-dem.senate.gov and FedEx #868459967440

The Honorable Patrick Leahy
Chairman, Senate Committee on the Judiciary
Attn: Julia Gagne, Hearing Clerk
Senate Judiciary Committee
224 Dirksen Senate Office Building
Washington, D.C. 20510

Re: Subcommittee on Human Rights and the Law
Drug Enforcement and the Rule of Law: Mexico and Colombia

Dear Chairman Leahy:

This letter is in response to follow-up questions posed by Senator Tom Coburn, M.D., following my May 18, 2010, testimony before the above-referenced Subcommittee.

QUESTION 1:

While you note in your testimony that several states have given in-kind contributions such as facilities to conduct training, equipment or personnel, does the State of Idaho directly provide any direct funding for the Alliance Partnership or other CWAG activities with the Mexican states?

- a. Do you ever directly ask the state for funding for these programs? Why or why not?

ANSWER:

My answer is similar to that provided by Attorney General King. I do not ask for, nor do I receive, money from my State Legislature to distribute to non-state entities, nor have I been asked to do so as a participant in the Alliance Partnership. My budget consists mainly of personnel costs for the support of the employees of my office. My staff and I, along with other Idaho state agencies, have devoted many hours to the Alliance Partnership. For instance, my office hosted a joint meeting of Mexican state attorneys general and U.S. attorneys

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general in Idaho in 2009. The Idaho State Police also provided security during that meeting at no charge to the Alliance Partnership. The same is true of our State Crime Lab staff who trained Mexican investigators and our State judges and district attorneys who took the time to visit with Mexican prosecutors and investigators to answer their questions.

QUESTION 2:

Critics of the Merida Initiative note that advances in federal police reform are being undermined by the slow pace of judicial reform in Mexico. Do you see a connection between the success of law enforcement training and the progress of judicial reform? Why or why not?

ANSWER:

I do see a connection between training law enforcement and progress in Mexico's judicial system. That is why the Conference of Western Attorneys General (CWAG) hosts joint training sessions, whenever possible, with both prosecutors and investigators. We have incorporated mock trials in our training program, which allows investigators to work with prosecutors in preparing for and conducting a trial. The two go hand-in-hand.

I want to emphasize an important point: the slow pace of judicial reform is not on the state level. The Mexican states are taking the lead in making the change to an adversarial judicial system with the Mexican federal government to follow. The State of Chihuahua is the first state to make the change and it is doing so under great stress. The Alliance Partnership trains state personnel, not federal personnel, and we are doing so at a rapid pace.

QUESTION 3:

In the hearing, you mentioned that CWAG provides training and education to Mexican state attorneys general via the Alliance Partnership. How much of this training focuses on human rights issues, such as human trafficking or military abuses, and/or how to develop victims' assistance programs as part of Mexican criminal justice system reforms?

ANSWER:

All of our training for prosecutors and investigators incorporates elements of human rights. The American judicial system is founded upon the concept of equal justice for all, and our court procedures help to ensure that defendants receive justice. Not only do we instruct Mexican state attorney general prosecutors and investigators in the mechanics of an adversarial judicial system, we explain why we use the procedures we use. For example, we teach (1) that an open and public system inspires confidence in the judicial system and that is why a defendant has the right to confront adversarial witnesses and why we have public trials; (2) that a prosecutor has a duty to find the truth, not a conviction,

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and that investigators should collect evidence and preserve the evidence in a manner so that it cannot be attacked as fraudulent; and (3) that a person is entitled to an assumption of innocence until proven guilty.

I agree with Attorney General King's response that we have not been asked to provide training in military abuses or victims' assistance programs and that, if asked to do so, we could assist specifically with the victims' assistance programs.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'L. Wasden', with a stylized flourish at the end.

LAWRENCE G. WASDEN
Attorney General
State of Idaho

LGW

Follow-up Questions of Senator Tom Coburn, M.D.
“Drug Enforcement and the Rule of Law: Mexico and Colombia”
 United States Senate Committee on the Judiciary
 Subcommittee on Human Rights and the Law
 May 18, 2010

Questions for Lanny Breuer, Department of Justice

1. The Government Accountability Office (GAO) and the Congressional Research Service (CRS), as well as other sources, note that the Calderon Administration seems to be more focused on making changes in its law enforcement sector rather than on judicial reform. Has the Justice Department received any resistance to implementing judicial reforms in Mexico? Have the Justice Department’s judicial reform efforts been implemented more slowly than law enforcement reforms given the focus of President Calderon?
2. Within its programs operating in both Mexico and Colombia, does the Justice Department provide training on victims services? Is there currently a strong victims’ services presence in either country from government and/or non-profit sources?
3. It appears that two components within the Criminal Division, OPDAT and ICITAP, are the primary providers of assistance to Colombia and Mexico in the area of criminal justice reform. Is that correct? If not, please also list any other DOJ components that are involved in criminal justice reform in these countries.
 - a. If so, it appears these components have been in operation for many years—ICITAP for almost 25 years and OPDAT for almost 10 years. For how long has either or both of these components operated in Mexico and/or Colombia?
 - b. In how many of those years did DOJ either on its own or via the State Department submit reports to Congress on the use of federal taxpayer dollars on the operations of OPDAT or ICITAP? If none were submitted, why was there no accountability?
4. The Government Accountability Office (GAO) noted in a 2009 report on Plan Colombia that U.S. efforts to transfer program operations and funding responsibilities to Colombia have had mixed results. GAO also states, “from the outset of Plan Colombia, Congress has stated that U.S. assistance efforts should be nationalized over time.” While it appears that some of the military assistance has begun to be nationalized, that is not the case for the programs we are concerned about at this hearing—those focused on overall justice system reform.
 - a. Congress has signaled its desire for nationalization of these programs since 2004. Why have those efforts in Colombia been delayed?
 - b. Do you plan to turn all programs over to Colombia at some point in the future, or do you envision a constant U.S. presence in that country concerning these issues? Why or why not?

5. Similarly, since the Merida Initiative only recently began in 2007, does the Justice Department have an implementation schedule or report that notes when it will begin to reduce its presence in Mexico and eventually turn the programs completely over to the Mexican government? Why or why not?
6. With respect to funding for Mexico, several studies have criticized the Merida Initiative for focusing too much on technology transfer and not enough on existing rule of law, human rights, and anti-corruption programs. In fact, as of the end of 2009, approximately \$350 million of the \$400 million in Merida funds appropriated in 2008 were "in process" and much of it went toward equipment purchases rather than training. Is the Justice Department satisfied with the allocation of Merida funds? Why or why not?
7. Appropriations legislation requires 15% of Merida funds to be withheld if there are documented human rights abuses in Mexico. Both international and Mexican national human rights organizations note the terrible cases of human rights abuses committed by the Mexican military as recently as last year.
 - a. Since its inception, have any Merida funds allocated to the Justice Department been delayed and/or cancelled due to unfavorable human rights reports submitted by the Department of State? If so, please note the year, the violation, and amount delayed.
 - b. Has the Justice Department, as a result of its own evaluation of Mexican law enforcement and/or military, ever refused to carry out any of its programs due to continued human rights violations? Why or why not?
 - c. Do you believe that continued operation of U.S. programs is appropriate in the face of human rights abuses that directly contradict funding requirements?
 - d. Before Merida was established, during any of the years in which ICITAP and OPDAT have had programs in Mexico and/or Columbia, were any federal funds for those programs contingent on the Justice Department or any other agency submitting favorable human rights reports for either or both countries? Why or why not?
 - i. In how many of those years were funds delayed and/or cancelled due to unfavorable human rights reports? Please note the year, amount of funds and to which program(s) it applies.
 - ii. If no reports were submitted or required, was the Justice Department aware of any human rights abuses occurring in Mexico or Columbia during the period of operation before Merida was established? If so, did the Justice Department, on its own, elect to eliminate any operations in Mexico or Columbia on the basis of those abuses? Why or why not?
8. On October 19, 2009, the Deputy Attorney General, David Ogden, issued a memorandum to U.S. Attorneys in states that have laws authorizing the use of medical marijuana directing prosecutors not to "focus federal resources" on individuals whose actions are in "clear and unambiguous compliance" with state law.

This is a dramatic break with Bush administration policy, which demanded the prosecution of marijuana distributors, even those acting in accordance with state law. Marijuana use is prohibited for any purpose at the federal level, meaning that no matter the state's laws, it is still a federal crime to use marijuana. The Obama Administration is saying that it will simply not enforce federal laws, as long as you are legal in your state.

- a. Do you agree with this Justice Department policy? Why or why not?
 - b. What potential complications, if any, do you see that could arise from this policy as it relates to Justice Department efforts to assist Mexico and Columbia in criminal justice reform?
 - c. Do you agree that weakening federal drug enforcement efforts with regard to medical marijuana will result in more people abusing marijuana?
 - i. If that is true, will that not create a higher demand for marijuana in the United States?
 - ii. If the demand in the United States for marijuana increases, how will that contribute to reducing the United States' alleged insatiable demand for drugs—what some at the hearing referred to as one of the primary reasons for extensive U.S. involvement in law enforcement and judicial reform in Mexico?
 - iii. The National Drug Intelligence Center (NDIC) notes that while domestic marijuana production has been increasing, marijuana production in Mexico and Canada supplies much of the demand in the United States. In light of that, will the Justice Department's marijuana policy not further the operations of Mexican DTOs along the border in direct contradiction to the efforts of the Calderon Administration to dismantle those organizations?
 - d. The policy also directs prosecutors not to investigate caregivers if they appear to be complying with state law. Distributor centers for medical marijuana and their staffs could be considered caregivers under this directive could they not?
 - i. Do you agree that including caregivers in this policy could cause serious problems for prosecutors and law enforcement trying to discern the difference between illicit dealers and distributors?
9. Former Clinton White House Director of Public Affairs, White House Office of National Drug Policy Bob Weiner was recently quoted as warning the Obama Administration to “be careful about the new lax enforcement policy for medical marijuana [because] you may get way more than you bargained for. Prescription marijuana use may explode for healthy people.” Do you agree with Mr. Weiner's concerns? Why or why not?

**Senate Judiciary Committee
Subcommittee on Human Rights and the Law
Hearing on "Drug Enforcement and the Rule of Law: Mexico and Colombia"
Tuesday, May 18, 2010**

**Questions for the Record from Senator Russell D. Feingold
for Assistant Attorney General Lanny A. Breuer**

1. For nearly a year, Colombia has been unable to agree on the nomination of a new Prosecutor General. Meanwhile, the results of an aptitude test administered in late 2007 have forced the firing of nearly half of Colombia's prosecutors. Is it fair to say that Colombia's judicial system is in a state of chaos right now? Is there a likelihood that this situation will lead to important cases (human rights, narco-trafficking, narco-corruption) being dropped? How is this affecting U.S. judicial assistance programs?
2. How would you evaluate the Colombian judicial system's ability to guarantee the physical security of judges, prosecutors, investigators, and witnesses? Is Colombia's witness protection program credible?
3. Has Colombia made strides to hire additional prosecutors and judges to reduce crippling caseloads? How many additional staff do you estimate are needed to bring caseloads down to more reasonable levels?
4. What technological improvements has Colombia made to its judicial system and what improvements do you think are needed to improve Colombia's crime labs, use of DNA evidence, and reliance on databases to track crime trends and perpetrators?
5. It has now been five years since Colombia passed a "Justice and Peace Law" to deal with demobilizing paramilitaries. Over 4,000 of the paramilitaries entered a process where they received reduced jail terms in exchange for full confessions of their crimes and cooperation in determining the paramilitary structure. The United States has generously funded a Justice and Peace Unit in the Prosecutor General's office. Five years later, while many crimes have been confessed to, it is not clear whether Colombia's justice system is able to follow up on these confessions or produce convictions. Do you think the U.S. should continue to support the Justice and Peace Unit?
6. What efforts are being taken to ensure that there is inter-agency communication and collaboration as the Merida Initiative transitions to a more civilian-centered

initiative? How are you working to ensure that there is no duplication of efforts by other agencies?

7. In both Mexico and Colombia, how is our police reform assistance paired with U.S. government efforts to reform the criminal justice system, including building more transparent and effective legal and penal systems?

SUBMISSIONS FOR THE RECORD

Department of Justice



STATEMENT OF

LANNY A. BREUER
ASSISTANT ATTORNEY GENERAL
DEPARTMENT OF JUSTICE

BEFORE THE

SUBCOMMITTEE ON HUMAN RIGHTS AND THE LAW
COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

ENTITLED

“DRUG ENFORCEMENT AND THE RULE OF LAW:
MEXICO AND COLOMBIA”

PRESENTED

MAY 18, 2010

**Statement of
Lanny A. Breuer
Assistant Attorney General
Department of Justice**

**Before the
Subcommittee on Human Rights and the Law
United States Senate**

**Entitled
“Drug Enforcement and the Rule of Law:
Mexico and Colombia”**

**Presented
May 18, 2010**

INTRODUCTION

Good afternoon, Mr. Chairman, Senator Coburn, and distinguished Members of the Subcommittee. Thank you for your invitation to address the Subcommittee and for the opportunity to discuss the Department of Justice’s work with our partners in Mexico and Colombia to advance the rule of law and strengthen the criminal justice systems of those countries. The stakes could not be higher – either for Mexico and Colombia, or for the United States. Our national security, and the national security of these countries, depends on our joint work to advance the rule of law – and, by so doing, to defeat the drug trafficking organizations that threaten the safety of all our citizens.

The role the Department of Justice plays in advancing the rule of law worldwide is perhaps less well known than our criminal investigations and prosecutions. But the two sides of our work form part of a single strategy. Crime and terrorism increasingly know no borders – and

without strong, stable and trustworthy foreign law enforcement partners, we cannot hope to defeat transnational crime.

Thus, with support from the Department of State, the Department of Justice places its prosecutorial and police experts in countries around the world to foster the rule of law. Our goal is identical with that of the Department of State: to work with other countries to ensure their legal systems are fair, efficient, and protective of human rights. As former UN-Secretary General Kofi Annan put it so well: “we will not enjoy development without security, we will not enjoy security without development, and we will not enjoy either without respect for human rights. Unless all causes are advanced, none will succeed.”

This message was brought home to me again last week, during my second visit to Mexico City. I met with the courageous men and women of the Department of Justice, who, along with their colleagues from the Department of Homeland Security, the Department of State, and other U.S. Government agencies, are working with their Mexican counterparts not simply on criminal cases and investigations, but on Mexico’s ambitious steps to revise its legal system and to fulfill the goals of the Merida Initiative. In my testimony today, I would like to pay tribute to their work, and that of their colleagues engaged in similar endeavors around the globe.

I will begin by giving a brief overview of the Department of Justice’s worldwide work on the rule of law, and then turn to a more detailed description of our work in Colombia and Mexico, focusing on its critical importance to the security both of those countries, and of the United States.

**THE DEPARTMENT OF JUSTICE'S WORLDWIDE
COMMITMENT TO THE RULE OF LAW**

Two weeks ago, I had the opportunity to speak at the Council on Foreign Relations on the Department of Justice's international rule of law efforts. As I noted there, our commitment to the rule of law underlies all of our international work. It begins with our Office of International Affairs, which together with the Department of State, has helped create a series of multilateral conventions that establish a universally-agreed upon framework of critical criminal laws and procedures that all countries should have – including the UN Transnational Organized Crime Convention, the UN Convention Against Corruption, the Vienna Convention on Narcotics, the Council of Europe Cybercrime Convention and the UN's legal instruments against terrorism.

That commitment to the rule of law is then carried forward in the Department of Justice's prosecutions of transnational crime, whether it is of bribes by U.S. companies intended to corrupt foreign officials, or of organizations that traffic in humans, or – the subject of today's hearings – drug trafficking organizations that threaten the safety of citizens of multiple countries.

Finally, the Department of Justice places Federal prosecutors and police experts in countries around the world for the sole purpose of working with foreign partners in their efforts to build justice systems that comport with the rule of law. The Department of Justice receives no independent funding for rule of law work and instead relies upon the Department of State, USAID, and other interagency partners for funding. We are grateful for their support.

As Assistant Attorney General for the Criminal Division, I could not be more proud of the work done by the two sections charged with this international rule of law work: the Office of Overseas Prosecutorial Development, Assistance and Training (known as "OPDAT"), which

focuses on prosecutorial and justice sector development; and the International Criminal Investigative Training and Assistance Program (known as "ICITAP"), which focuses on police and prison sector development and which celebrates its 25th anniversary next year. OPDAT and ICITAP have advisors in more than 35 countries around the world, from Afghanistan, to Iraq, to Kenya, to Indonesia – to Mexico and Colombia, which I will turn to in a minute. But before doing that, I would like to say that the men and women who serve with OPDAT and ICITAP, as partners with our other law enforcement partners, are true heroes: they are all highly experienced prosecutors and law enforcement experts, who could easily find more lucrative and easier employment elsewhere. Instead, they choose to frequently face not only physical danger and hardship, but separation from family for extended periods -- and they do so for a single reason, because they are committed to building the rule of law internationally. Let me turn now to their work in Colombia and Mexico in particular.

THE IMPORTANCE OF MEXICO AND COLOMBIA

This Committee needs no reminding of the critical importance of Mexico and Colombia to the national security of the United States. The National Drug Intelligence Center's 2009 National Drug Threat Assessment indicates that Mexican Drug Trafficking Organizations represent the "greatest organized crime threat to the United States." And as you noted, Mr. Chairman, in hearings last year, "Mexican 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." [Opening Statement of Sen. Durbin, Hearing on "Law Enforcement Responses to Mexican Drug Cartels," (Mar. 17, 2009)]. Together, Mexican and Colombian DTOs generate, remove, and launder between \$18 billion and \$39 billion in wholesale drug proceeds in the United States annually. There is

increasing evidence that due to U.S. and Colombian law enforcement's success in dismantling Colombian DTOs, Mexican DTOs are now becoming more active in Colombia and elsewhere in South America. What is certain is that the national security and law enforcement interests of Mexico, Colombia, and the United States are intertwined.

I can assure you that this Administration is focused on this issue. As head of the Criminal Division, a major part of my time is spent on operations designed to attack these Mexican and Colombian DTOs through investigations and prosecutions. This is truly a whole-of-government operation. To target these DTOs, the prosecutors of the Criminal Division and the U.S. Attorneys' Offices work with all the law enforcement agencies of the United States, including the Department of Justice's DEA, FBI, USMS, and ATF, and the Department of Homeland Security's ICE and CBP. And we have achieved a number of remarkable successes, including the multi-agency Project Coronado -- which resulted in the arrest of 1,186 alleged members of the DTO La Familia Michoacana in October 2009 -- the February 2009, multi-national Operation Xcellerator, which targeted the Sinaloa cartel, and resulted in the arrest of more than 750 individuals on narcotics-related charges, as well as the seizure of \$59 million, hundreds of firearms, over 12,000 kilos of cocaine, and 5,500 kilos of methamphetamine. Likewise, our Office of International Affairs, working with our Embassies and foreign counterparts, has secured the extradition of major Mexican and Colombian traffickers to face justice in the United States. In 2009, our extraditions from Mexico of drug traffickers and violent criminals exceeded 100, a new record for that country. The tempo of these criminal investigations and prosecutions will only increase in coming months.

But both we and our Mexican and Colombian counterparts recognize that we cannot rely on criminal investigations and prosecutions in the United States alone, if we are to defeat the DTOs. Instead, we must ensure that Colombia and Mexico likewise have the capacity to investigate and prosecute these and other criminals in legal systems that are fair and efficient, and that are seen to be so by their populations. Both Colombia and Mexico have committed themselves to significant legal reforms to accomplish this. I would like to turn now to a description of how we have worked with both countries to advance this common objective.

THE DEPARTMENT OF JUSTICE'S RULE OF LAW WORK IN COLOMBIA

The Department of Justice has been engaged in rule of law work in Colombia for more than ten years, with funding from the State Department. During that time, under Plan Colombia and its successor programs, our Federal prosecutors, agents, and police experts have played a key role in working with Colombia on its ambitious commitment to reform its legal system, and to firmly establish the rule of law. DOJ placed its first police/investigator advisor in Colombia in 1994 and followed in 1995, with a senior Department of Justice prosecutor advisor. As part of Plan Colombia, more than 42 prosecutors have served either full-time or temporarily as Justice Sector Reform ("JSRP") advisors in Colombia along with numerous Federal and State investigators and forensic experts under ICITAP. More than 40 full time or temporary duty USMS personnel have also assisted with training and technical assistance. We currently have 8 U.S. DOJ personnel in Colombia working fulltime at the JSRP.

To give you some idea of the extraordinary quality of the Department's personnel involved, let me give you the background of Paul Vaky, who heads the JSRP, and Gary

Sheridan, who is the senior police advisor. Paul, who has served in Colombia for 6 years, has been with the Department of Justice for more than 20 years as both an Assistant U.S. Attorney and as OPDAT's Regional Director for Latin America and the Caribbean. Gary, retired Deputy Chief of International Operations for DEA, has managed the ICITAP program since 2003. He came to Colombia with 27 years of experience managing police programs, and conducting and supervising complex Federal criminal investigation.

Our work in Colombia typifies the rule of law approach we seek to implement around the world, when funding from State Department is available. Where appropriate, and with support of the host country, we always strive to address the whole criminal justice process – from investigatory practices, to prosecution, to imprisonment – to ensure that it meets international standards. And we do so, whenever possible, by placing our Federal experts as resident advisors in the host country, to create long-term, sustainable partnerships with their counterparts. As a matter of practice, we provide direct colleague to colleague assistance – prosecutor to prosecutor, investigator to investigator, forensic expert to forensic expert. In our experience, no other form of rule of law assistance has such a direct impact, or the potential to develop partnerships that will prove critical in subsequent cooperation between our countries.

The scope of the work done by the Justice Sector Reform Project in Colombia has been staggering – and the results have been equally impressive. Our prosecutors have worked with their counterparts at both the highest conceptual levels, and the most practical. At the highest level, our prosecutors have assisted Colombia as it has transformed its legal system from an inquisitorial one – a written, time consuming and non-transparent system – to a more rapid oral adversary system, in which evidence is presented and debated in oral public proceedings. We

have worked synergistically with USAID's "Justice Reform and Modernization Program" - which focuses on strengthening the Public Defender's Office, training public defenders in the new oral accusatorial system, and increasing access to justice for marginalized populations. This new system has demonstrated its promise by: a significant decrease in time to resolve criminal cases; a significant increase in convictions, including the broad use of pleas and plea bargains; and a transparency and ability of the public to observe justice which did not exist previously.

And the Department of Justice also has been intimately involved in the practical implementation of Colombia's new criminal procedure code. Over a ten year period, DOJ has trained over 100,000 police, prosecutors, judges, forensic experts, and protection personnel. DOJ's program in Colombia has involved intensive practical training in areas such as crime scene management, trial techniques, evidence, charging decisions, interview techniques, police/prosecutor cooperation, use of forensic evidence and testimony, case evaluation and investigation and prosecution strategy. The program also involves training and technical assistance in complex areas of criminal law such as organized crime, drug trafficking, asset forfeiture, money laundering and financial crimes, public corruption, sex crimes, homicides, and kidnapping.

The Department also has a comprehensive program to provide training and technical assistance to the Human Rights Unit of the Colombian Prosecutor General's Office, which is tasked with the investigation and prosecution of major human rights offenses – massacres, kidnappings, sexual violence, and homicides of members of particular groups. In addition, DOJ is providing extensive assistance to the Prosecutor General's Justice and Peace Unit, which investigates and prosecutes demobilized members of paramilitary groups, including leaders who

are not only major drug traffickers but also perpetrators of some of the most heinous human rights offenses in Colombia's history. DOJ is also providing significant training in the area of forensics – DNA, ballistics, fingerprints, false documents, and more recently forensic anthropology and exhumation of grave sites. And DOJ has a broad protection program implemented by the U.S. Marshal Service focusing on witness protection, court security, and protection for prosecutors, judges and other officials.

None of this could have been accomplished without the commitment and courage of our Colombian partners. But the result has been a Colombia that is measurably safer, with increased protection of human rights and the establishment of the rule of law. It also has meant a safer United States, for the work of the JSRP has also helped create a Colombia that cannot only cooperate more effectively with our law enforcement and prosecutorial agencies, but that can tackle transnational crime itself, through its own legal system.

THE DEPARTMENT OF JUSTICE'S RULE OF LAW WORK IN MEXICO

The Department of Justice is now also deeply involved in the rule of law work that Mexico has undertaken under the Merida Initiative, a multi-year program that aims to improve law enforcement capabilities to identify, disrupt, and dismantle transnational drug trafficking organizations and organized crime. With funding from the State Department and USAID, we currently have three senior Federal prosecutors stationed in Mexico City under the auspices of OPDAT to work on rule of law issues with their Mexican counterparts. And here again, let me pause to note the spectacular expertise these Federal prosecutors bring to bear. The current Resident Legal Advisor, Kevin Sundwall, is an experienced Federal prosecutor who spent three years working in

Paraguay and worked extensively with the JSRP program in Colombia. His team includes experienced attorneys with prior capacity building experience in Iraq and Brazil. This is truly unmatched experience, and the partnerships our prosecutors are building could not otherwise exist.

As in Colombia, our rule of law work in Mexico runs the gamut from high-level advice on criminal code reform – as Mexico moves forward on its own decision to create a more adversarial system – to practical training on investigations and prosecutions. To assist the Mexican transition to the accusatory system, expert-to-expert exchanges, seminars, and workshops and trainings are underway. To date, working with U.S. Federal law enforcement agencies and the Department of State, the Justice Department has trained 5,462 individuals at all ranks – at the state and federal level – and in the executive and judicial branches. Within the Public Security Secretariat, for example, 4,400 students have graduated from a course on basic investigation skills, 250 from a mid-level police officer course, and 43 from a senior leadership course. These personnel are now in the Mexican Federal Police force, bringing new techniques and ideas to bear.

Mexican prosecutors, in turn, are working with our Department of Justice prosecutors on case development, evidence collection, trial advocacy, money laundering, and asset forfeiture. The Department of Justice and the U.S. Agency for International Development are training judges, prosecutors, and law schools on oral trials. We also have engaged in specialized training, such as offering a symposium on prosecuting complex crimes, training Mexican prosecutors and investigators on how to meet extradition challenges in the United States, and facilitating meetings between U.S. and Mexican prosecutors to more efficiently and effectively prosecute

sex trafficking cases involving both countries. We are also partnering with law enforcement and prosecutors in Colombia and have sent Mexican prosecutors and law enforcement officers to train in tandem with their Colombian counterparts on code reform, strengthening internal affairs and corruption investigations, and creating effective witness protection programs.

CONCLUSION

In sum, working with Mexico and Colombia to build the rule of law – and by so doing to fight the drug cartels and the violence associated with them – is a top priority of the Department of Justice. I am so proud of the men and women of the Department of Justice who have committed themselves to this work in Mexico and Colombia – and around the world – and I thank you for the opportunity to discuss their efforts, which make the citizens of all our countries safer.

I will be happy to answer any questions you may have.

Statement of Senator Tom Coburn, M.D.

"Drug Enforcement and the Rule of Law: Mexico and Colombia"

Subcommittee on Human Rights and the Law

United States Senate Committee on the Judiciary

May 18, 2010

Thank you, Chairman Durbin, for convening this hearing. I regret that I was unable to attend the hearing today, but I will be submitting questions for the record to explore this issue further.

It is clear that the United States has made significant investments in both human and financial capital to develop the rule of law in Mexico and Colombia, and I believe we are long overdue for oversight of these efforts. Our country has spent billions of dollars over the past decade to promote the rule of law and help in these countries' transitions to an adversarial justice system. As a result, it is important that Congress understands whether these programs are working, when and how the U.S. should transfer these programs to full control of the host country and, importantly, whether our efforts and funding also have the effect of protecting of human rights.

I would like to welcome the excellent witnesses who have appeared today to help us shed light on these efforts to strengthen the rule of law in Mexico and Columbia. I have reviewed the written statements you submitted and am truly impressed by each of your experiences and the insight you have to offer. It is particularly encouraging to see our western state attorneys general take the time to educate, train and empower their Mexican counterparts to embrace the adversarial system of justice. As Mr. Wasden noted in his written testimony, while it is the responsibility of the foreign government to change their criminal justice systems, he could "be their friend and let them learn from my successes and my failures...and together we could make a difference."

To all of the witnesses, I am particularly interested in hearing more about the effectiveness of current programs, funding and, especially to the government witnesses, what the specific future plans are to withdraw the significant financial and human investment in these countries and transition these programs to the full control of the Colombian and Mexican governments, respectively. While it is important to continue dialogue between the U.S., Colombia and Mexico on these issues, particularly at the state-to-state level, as Mr. Wasden stated in his testimony, true reform can only be successful when it is embraced and operated by these countries on their own. As is the case within our own country when dealing with federal programs aimed at reforming our individual state criminal justice systems, until our states take sole financial responsibility and authority over their own law enforcement and criminal justice systems, continued federal funding will only cripple true reform.

In this case, especially in light of the mounting debt in the United States, as Columbia and Mexico take on more financial and operational responsibility, they will be more secure and more likely to remain truly committed to developing new and innovative strategies to maintain and improve their adversarial justice systems. Greater host country investment will yield greater success in strengthening the rule of law and in partnering with the United States on matters of mutual concern to both countries.

Thank you again for being here today. I look forward to the testimony.

Statement of

The Honorable Richard J. Durbin

United States Senator
Illinois
May 18, 2010

Opening Statement of Senator Richard J. Durbin

Hearing on "Drug Enforcement and the Rule of Law: Mexico and Colombia"

May 18, 2010

This hearing of the Judiciary Committee's Subcommittee on Human Rights and the Law will come to order. The title of today's hearing is "Drug Enforcement and the Rule of Law: Mexico and Colombia."

In the Human Rights and the Law Subcommittee, we have learned that effective law enforcement and the rule of law go hand-in-hand. Contrary to Hollywood's glamorized portrayal of police violence, human rights violations undermine efforts to combat drug trafficking and other organized crime.

Human rights protections from law enforcement abuses are embedded in our Constitution and Bill of Rights. For years, our government has sought to export these principles to other countries.

Though hundreds of millions of dollars have been spent on these efforts, there has been precious little Congressional oversight. In fact, this is the first Congressional hearing to focus specifically on U.S. rule of law assistance to foreign drug enforcement efforts.

It is logical to begin our oversight in Mexico and Colombia, which have received the bulk of U.S. rule of law assistance and which are the source of most illegal drugs in the United States.

More than a year ago, in March 2009, I chaired the first hearing of the Crime and Drugs Subcommittee in the 111th Congress, which focused on Mexican drug cartels. The situation was so dire at the time that the military was deployed into regions of Mexico, such as Ciudad Juárez, where law enforcement was no longer able to maintain order.

It is understandable that some view this as simply a quantitative problem — too many criminals and too few police — but, as we will learn, it is more than numbers that drive this move to military alternatives. And the military in Mexico operates with virtual impunity — resulting in limited success in stemming drug violence and human rights abuses that rival and surpass the corruption of the law enforcement system they were tasked to replace.

Over a year after the military deployment, the death toll from drug-related violence in Mexico has grown worse. Despite the military presence, the bloodshed in Ciudad Juárez has surged, with over 2,600 murders just last year, an increase from approximately 1600 killings in 2008.

Earlier this year, the military handed over control of the city to elite federal police forces. Sadly, these developments come as no surprise. As I said at our hearing last March, military occupation, "is not a long-term fix. Investigating and prosecuting drug trafficking networks is fundamentally a law enforcement challenge."

In Colombia, the U.S. government has partnered with the Colombian government for over a decade to make significant security gains and disrupt drug trafficking operations.

Despite these extensive efforts, there are still significant challenges to developing an effective judicial system and preventing human rights abuses in Colombia. The baseless prosecutions of human rights defenders, and the "false positives" cases, where innocent civilians were executed by the military and passed off as rebel fighters killed in combat, are just two examples of remaining obstacles.

In Mexico and Colombia, we have relied on the extradition of drug traffickers to the United States as a short-term measure to disrupt drug trafficking organizations. Since 2002, Colombia alone has extradited over 900 suspects to the United States.

While extradition can be effective in the short-term, it is not a long-term solution to illegal drug trafficking. And it can have other negative effects. For example, many of the paramilitary leaders extradited to the United States in 2008 were also participating in the justice and peace process in Colombia, in connection with their involvement in serious human rights atrocities. This process has since languished.

Ultimately, prosecutions in the United States are no replacement for the ability to arrest, convict and detain drug traffickers in Mexico and Colombia. And developing strong judicial systems and respect for human rights requires long-term commitment.

Let's be clear. This isn't charity work. Combating drug trafficking in Mexico and Colombia is a vital U.S. national security interest. According to the Justice Department, Mexican drug cartels are active in every state and more than 230 American cities. And while cocaine production fell to an 11-year low in 2009, Colombia remains the world's largest cocaine producer.

We also can't ignore our own responsibility in fueling drug-trafficking and violence in Mexico and Colombia. As I noted at last year's hearing on Mexican drug cartels, "The insatiable demand for illegal drugs in the United States keeps the drug cartels in business." And, according to ATF, more than 90% of guns seized after raids or shootings in Mexico have been traced to the United States.

The people of Mexico and Colombia are engaged in a life and death struggle that is partly of our own making. We owe them our full and unflinching support.

I look forward to hearing from our witnesses about what Congress can do to contribute to collaborative efforts by U.S., Mexican and Colombian law enforcement to defeat drug cartels.

Extradition and the Rule of Law in Colombia

Submission of the International Center for Transitional Justice



Senate Committee on the Judiciary
Subcommittee on Human Rights and the Law
Hearing on “Drug Enforcement and the Rule of Law: Mexico and Colombia”

Tuesday, May 18, 2010

The International Center for Transitional Justice (ICTJ) is a non-governmental organization that assists countries in pursuing accountability for past mass atrocities or human rights abuse. ICTJ has been working in Colombia since 2006 to contribute to national efforts to reveal the truth of systematic violations, prosecute past crimes, and guarantee the rights of victims. Such pursuits are vital steps for building the rule of law in a country seeking to emerge from decades of multi-actor, multi-faceted armed conflict.

ICTJ respectfully submits to the record that the extradition of senior paramilitary commanders to the United States pursuant to the U.S. counternarcotics policy has been detrimental to rule-of-law promotion in Colombia because it has not been accompanied by a clear policy to support the extraditees’ cooperation with Colombian judicial proceedings related to systematic human rights violations committed as part of the organized criminal apparatus.

I. Pursuant to U.S. counternarcotics policies, the bulk of the leadership of the *Autodefensas Unidas de Colombia* (AUC)—a paramilitary organization responsible for grave crimes against the Colombian population—is now in U.S. federal custody.

The shifting boundaries between drug trafficking and political crime in the Colombian armed conflict pose particular challenges for those seeking accountability for past and ongoing crimes, vindication of victims’ rights, and respect for human rights through rule-of-law promotion. The organized crime in question with the AUC leaders goes far beyond drug trafficking. The AUC paramilitary organization is classified by the United States as a foreign terrorist organization and is responsible for grave and systematic human rights violations and war crimes against the civilian population. Massacres, forced disappearances, social cleansing, forced recruitment of minors, sexual violations, and massive forced displacement by the AUC have been widely documented and, more recently, confessed to in judicial proceedings.

In May 2008 and March 2009, the Colombian government extradited to the United States the majority of the senior leadership of the AUC. Extradition is a vital tool for international criminal justice, and countries have successfully used extradition to combat impunity in many important

cases. In the case of AUC leaders, however, extradition and prosecution exclusively for drug-trafficking generates a series rule of law issue: graver crimes in impunity.

II. The extradition of top AUC leaders has impeded investigations into systematic human rights violations and complicity of state actors with paramilitaries.

A. The extraditees are part of a demobilization legal framework that guarantees *de jure* victims' rights to truth, justice, and reparations.

The paramilitary commanders—prior to extradition—were under investigation and being held in Colombian prisons for human rights violations and war crimes committed in the context of the armed conflict. They had submitted to an incentive-driven confessional criminal process, called Justice and Peace. The stated objective of this process is to: “facilitate peace processes and the individual or collective reincorporation of members of illegal armed groups into civilian life, guaranteeing the victims’ rights to truth, justice, and reparation.” (Law 975 of 2005, art. 1.)

According to Law 975 of 2005, which regulates this process, defendants that fulfill certain requirements will receive alternative sentences (5 to 8 years imprisonment). An essential requirement is to provide “full and truthful” testimony in voluntary depositions (*versiones libres*) regarding crimes and criminal structures. The voluntary depositions are intended to allow prosecutors to investigate the criminal apparatus and the true nature of the crimes and to permit victims to learn the truth about missing family or the crimes committed against them directly. Information revealed in depositions has implicated important political and military players. In numerous cases, processes of investigation, prosecutions, and already several convictions, have started from references made through the Justice and Peace depositions.

B. The AUC commanders’ participation in Justice and Peace and other Colombian judicial proceedings since extradition has been limited.

To date, 30 individuals from the Justice and Peace process have been extradited to the United States on drug-trafficking charges. Only five individuals have given a few voluntary depositions for the Colombia judicial system from the United States,¹ and several have renounced their willingness to offer further deposition. The bulk of procedural activity registered after extradition to the US consists of indictment or arraignment hearings related to facts confessed prior to extradition. There is no longer an established incentive to cooperate with Colombian investigations and proceedings, and there is a preoccupation with resolving pending U.S. charges and sentences, in which the only cooperation to be considered is with U.S. narcotics investigations.²

ICTJ is especially concerned with 11 of the extradited paramilitaries in terms of contributing to the investigation and prosecution of systematic human rights violations.³ In light of their positions at the highest level of the AUC hierarchy, they have the most valuable information regarding the systematic perpetration of atrocity. They are strategic objects in the effort to identify and dismantle the criminal apparatus—an organized criminality that involves transgression that go far beyond drug-trafficking.

The United States is deeply invested, both in terms of financing and human resources, in the success of the Justice and Peace process in reaching meaningful convictions and making lasting contributions to the rule of law in Colombia through combating impunity and training the legal

community. The Justice and Peace process has numerous obstacles to successfully fulfilling its stated objectives,⁴ of which the extradition of the most valuable potential confessors and witnesses is but one. However, through a clear policy of coordination and initiative, the United States Department of Justice could focus efforts so that counternarcotics initiatives and strategic prosecutions simultaneously support investments in strengthening the rule of law in Colombia.

III. To date, the failure to ensure ongoing cooperation with the objectives of the Colombian judiciary in terms of rule of law has hindered the U.S. counternarcotics policy.

The Colombian Supreme Court of Justice has halted the extraditions of individuals involved in the Justice and Peace process who are wanted for charges related to drug trafficking in the United States. The Court reasoned that the experience to date reveals that extradition: (1) frustrates the purpose of the Justice and Peace Law; (2) fails to guarantee the rights of the victims; (3) hinders the functioning of the administration of the Colombian justice system; and (4) is illogical to the extent that the gravity of the crimes for which extradition is sought is less than that of the crimes addressed in Colombian proceedings.⁵ The Supreme Court has stated that it would revisit its position if clear results are shown in relation to effective bilateral mechanisms that protect victims' rights.

Conclusion

Prosecution abroad, and exclusively for drug-trafficking crimes, is not sufficient to dismantle the structures that have supported organized crime in Colombia for decades and continue to threaten the rule of law today. This approach has left victims of grave and systematic human-rights violations with no recourse and accomplices or masterminds of such crimes in impunity. These accomplices have benefitted from the extradition and the resulting silence, and many continue to wield political, social, and economic power in Colombia.

Extradition is a highly valuable tool for combating impunity. However the extraditions of senior paramilitary commanders have not been accompanied with an effective strategy to simultaneously address these individuals' role in decades of systematic human rights violations and war crimes in Colombia. Efforts to combat organized crime related to drug trafficking are fundamental, especially in the context of the ongoing armed conflict in Colombia, but such efforts must not have the effect of trumping criminal investigations and prosecutions of human rights related crimes.

Endnotes

¹ See the table in annex compiled from information reported by the Colombian Office of the Attorney General.

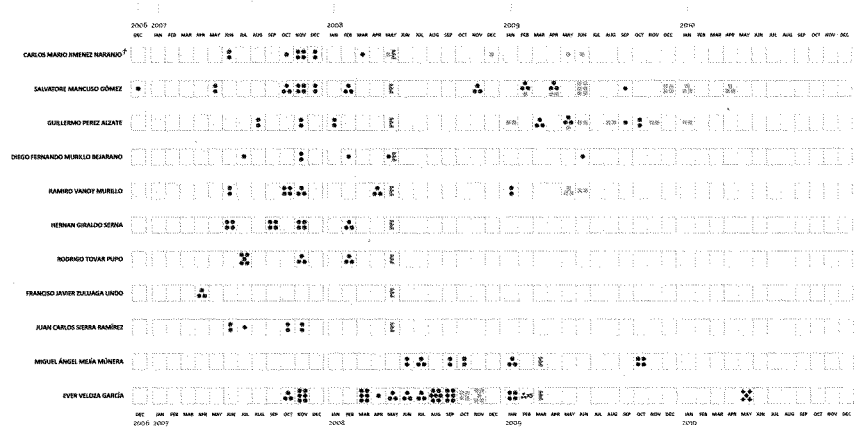
² The plea agreements that have been made public explicitly declare that cooperation with Colombian proceedings will not be considered a factor for downward departure. *Justice and Peace*: para 11. The United States and the defendant agree that nothing in this Agreement precludes the defendant from continuing to meet his obligations under *La Ley de Justicia y Paz* (the Justice & Peace Law) a provision of Colombian law. The defendant acknowledges and agrees, however, that any information he provides to the Colombian government in this regard shall not provide a basis for a downward departure or reduction of the defendant's sentence under U.S.S.G. sec. 5K1.1, Federal Rule of Criminal Procedure 35, or Title 18, United States Codes Section 3553(a)."

³ The complete history of cooperation by these 11 individuals is represented in the Annex to this submission.

⁴ See ICTJ, *DIAGNOSIS OF THE JUSTICE AND PEACE PROCESS* (2010), available at <http://www.ictj.org>.

⁵ Criminal Cassation Chamber, Supreme Court of Justice, ruling of Aug. 19, 2009, No. 30451, Speaker Magistrate Yesid Ramírez Bastidas, at 23.

**JUSTICE AND PEACE PROCEEDINGS WITH PARAMILITARY LEADERS BEFORE AND AFTER EXTRADITION
WITH COLOMBIAN PARAMILITARY LEADERS***



^f Diligencias correspondientes a medidas cautelares sobre bienes

* Table compiled based on the proceedings reported by the Office of the Attorney General (Fiscalía General de la Nación), see <http://www.fiscalia.gov.co/justiciapaz/index.htm>

DATE OF EXTRADITION
VOLUNTARY DEPOSITION SESSIONS
INDICTMENT HEARINGS
ARRAIGNMENT HEARINGS

Written Testimony of
Ambassador David T. Johnson, Assistant Secretary of State
for International Narcotics and Law Enforcement Affairs
Before the Senate Judiciary Subcommittee on Human Rights and the Law
Hearing on “Drug Enforcement and the Rule of Law: Mexico and Colombia”
May 18, 2010

Chairman Durbin, Ranking Member Coburn and other distinguished Senators, thank you for the opportunity to appear before you today to discuss the role U.S. foreign assistance has played in helping the Governments of Colombia and Mexico develop and strengthen the rule of law.

Progress by both nations in developing a transparent and efficient criminal justice sector is an important U.S. foreign policy goal. Colombia is an invaluable partner in our efforts to keep drugs out of the United States and develop strong police and judicial institutions throughout the Western Hemisphere. The transformation in Colombia during the last decade is remarkable and is a testament to the strong Colombian leadership, effectiveness of our support to Colombia and the strength of our bilateral relationship. While challenges in Colombia remain, Colombia in less than a decade has gone from a state under challenge to a significant source of assistance in security reform for partners in the region and much further abroad, including Afghanistan.

That said, another of our Latin American allies is facing a serious challenge to its security. Drug traffickers in Mexico have demonstrated their brutality through heinous acts that undermine safety and security in Mexico and heighten concerns throughout the region. Our commitment to assisting Mexico in strengthening the rule of law is unwavering and important to our own long-term national security.

Under strong Colombian political leadership and backed by assistance from the United States, Colombia and its people have improved security throughout their country, extended the government's presence to areas that were once ungovernable, disrupted the drug trade, and are more effectively administering justice since the inception of Plan Colombia a decade ago.

Colombia is today working to solidify the successes made under Colombia's National Consolidation Plan and Democratic Security policies. These policies apply a broad spectrum approach combining counternarcotics, rule of law and economic development programs, with a particular focus on rural and former conflict areas where democracy and adherence to the law have not fully taken hold. This means that as soon as possible, security responsibilities are being transferred from the military to the police, and illicit crop eradication is being closely followed by alternative development and efforts to establish permanent government institutions. The United States has tailored its comprehensive assistance programs to complement the Colombian Government's policies. There are five key geographic areas of Colombia where the State Department is focusing our programs in a coordinated fashion with the interagency to achieve even more permanent results.

Colombia's transition from a written, inquisitorial justice system to an oral, accusatory model is another significant achievement reached with support from the

State Department's foreign assistance programs. Beginning in 2005, the Colombian Government started the phased implementation of an oral accusatory system, a process completed in 2008. The State Department was closely involved in supporting this transition, having provided more than \$90 million since 2003 for justice sector reform. Supporting and alongside our partners in the Department of Justice, the State Department continues to provide training, equipment and capacity building for Colombian institutions.

With these justice sector reforms, Colombian cases are being resolved in a matter of months instead of years, and conviction rates have risen from around three percent to approximately 60 percent. More than 100,000 investigators, prosecutors, judges and forensic personnel have been trained in the new criminal procedure codes, and access to justice in rural and former conflict regions is expanding.

Despite these achievements, we must continue to work with the Colombian Government to enhance its capacity to hold accountable those who violate human and labor rights, solidify a comprehensive strategy to address the emergence of organized criminal gangs, and establish permanent justice sector institutions in all parts of the country. As you can see, Mr. Chairman, the job is not yet complete in Colombia, and the State Department is committed to continuing this important

work with the next Colombian Administration to provide the support it will need to continue to tackle these challenges.

As we maintain our strong bilateral relationship, Colombia is working closely with the United States to help share its experiences with other countries in the Western Hemisphere. Colombia and Mexico have a Police Cooperation Program aimed at helping Mexico train Public Security Secretariat officers in counternarcotics and criminal investigation techniques. Since 2007, Colombia has trained approximately 5,800 Mexican police and justice officials, through INL-supported programs underway in Mexico and Colombia. Colombia is also working with the U.S. and Mexico to help Mexico transition to its own new accusatory criminal justice system.

We aim to build a strong relationship with our Mexican partners on the broad national security challenges we face together. That relationship has grown and deepened since the Merida Initiative began in 2007. Congress has committed over \$1.33 billion to date to assist the Government of Mexico to fight drug trafficking organizations, arrest and prosecute criminals, and stem the tide of corruption. Our commitment to this fight is framed by the Government of Mexico's resolve: Since President Calderon took office in December 2006, Mexico has spent between \$3 and \$6 billion each year on security, including the justice sector. The Government of Mexico has arrested scores of criminals, including

some of the top members of the most notorious criminal organizations, such as Carlos Beltran Leyva and Eduardo Teodoro Garcia Simental, aka El Teo. Mexican forces have confiscated more weapons, drugs and cash than ever before but more -- much more -- remains to be done. Reforming the Mexican justice system and creating effective and sustainable institutions is a challenging, long-term endeavor.

In order to build the institutions effectively to tackle corruption, the Government of Mexico began systematically removing from duty thousands of suspect law enforcement officials, customs officials, and prosecutors, including those in key positions. In re-building these institutions, the Government of Mexico is developing extensive internal controls which should mitigate systemic corruption. They are developing career tracks, with increased salaries, enhancing management skills and integrating offices of professional responsibility and/or internal affairs, into every security and justice institution. To prevent corrupt police from being hired in multiple states or municipalities, the government has developed a National Police Registry with INL support, which will include sophisticated biometric technology, to maintain records of all law enforcement officers. In the Attorney General's office, or PGR, INL has helped the Government of Mexico develop a modern, computerized case management system with sophisticated checks and balances to make it much more difficult for prosecutors to lose case files, or improperly influence a case. The system is to be

online and operational across most parts of the country in 2011, with country-wide operability in 2012.

In 2000, the Mexican government established the Public Security Secretariat (SSP) and the Federal Police were placed under its authority. The Calderon administration set enhanced standards for recruitment and professional integrity. This new approach is yielding results. For the first time, the government attracted a new caliber of police professionals. The new recruits are college graduates, some with advanced degrees, who went through background checks, drug testing and who passed polygraph tests. They were given months of training on a wide range of topics and skills, and once deployed to the field, were provided with mentors to continue their education. The SSP now has sophisticated equipment – both forensics labs and command centers that are outfitted with modern technology. The United States Government is contributing to continuing education for police, as well as specialized training to improve their operational efficacy. The SSP is also developing an extensive internal controls system. One group of new recruits, during their first month on the job after training, rooted out their corrupt supervisors by reporting suspicious behavior to a trusted mentor, a positive sign. The SSP has hired and trained over 4,000 new investigators in the past year, and has plans to augment the force by another 6,000 in the coming year. Multiple

agencies within the USG are contributing to the SSP's continued growth and development.

Mexican Customs is also in the process of reforming its structure, adding an enforcement arm, somewhat like our own Immigration and Customs Enforcement (ICE). To support this effort, in August 2010 ICE will provide a ten-week investigative training course to a team of Mexican Customs officials, modeled after ICE Special Agent training. Like the SSP, Mexican Customs is restructuring its career paths, instituting more effective internal controls, getting rid of corrupt contract workers and recruiting and training a higher caliber of officer. They are also building a new academy to train and maintain high quality Customs officials.

Mexico has a federal system of government with 31 states, a federal district, and thousands of municipalities. There are over 400,000 police officials in Mexico – of whom only about 40,000 are Federal police (SSP). Bills proposing the consolidation of 2,000 or more municipal police departments and forming larger police forces to work more closely with the Federal police are currently pending in the Mexican Congress. Key decisions on these complex structural issues are pending, but significant police reform is underway.

The strategy that the U.S. Government is pursuing with the Government of Mexico is an effective long-term program, not a temporary “quick fix”. Since the

advent of the Merida Initiative in 2007, the U.S.-Mexican relationship has developed, matured and evolved. The Merida Initiative has moved beyond its early focus on deliveries of equipment toward a greater emphasis on institution and capacity building. Building institutional respect for human rights is a key part of Merida and our broader relationship with Mexico. We have established a bilateral dialogue on human rights and training, and advice on human rights topics is included in almost every Merida program. As partners we have developed a framework for our cooperation that has four key objectives.

Our first is deterring drug trafficking organizations. The Government of Mexico is now targeting the business operational chain of drug trafficking and other criminal organizations. The joint U.S./Government of Mexico High Value Target List is an important element, but is not the only focus. U.S. assistance is providing critical air capabilities to enable the rapid deployment of police and military forces to sites and locations where they are needed for tactical operations against drug trafficking organizations. The United States is supporting Mexico's specialized police units with training, equipment, and technical advice. We are working with our Mexican counterparts to support complex money laundering investigations, developing asset forfeiture procedures, and working to combat weapons trafficking. We are building mechanisms to share information vital to the investigation, arrest, and prosecution of Mexican criminals. Finally, the record

number of extraditions from Mexico to the United States during the last three years has demonstrated Mexico's efforts to allow us to bring serious violent offenders against U.S. law to justice here at home.

Our second objective is to build strong, effective institutions to sustain the rule of law and protect human rights. The United States strongly supports Mexico's reform of its criminal justice sector – from the police, to prosecutors, customs, corrections and the judiciary. For example, U.S. Federal, State, and local law enforcement officers and prosecutors were instrumental in training over 4,300 new Federal Police investigators in investigative techniques, including securing a crime scene, interviewing suspects and witnesses, surveillance, evidence collection, and testifying in oral trials. USAID is providing comprehensive technical assistance to ten states, as well as federal justice institutions, to support implementation of the criminal justice reforms. In that regard, with Merida Initiative funds, USAID is building on their successful bilateral rule of law program that commenced in 2004. USAID is also providing human rights training for police, prosecutors, and other officials, as well as support for NGO participation in justice sector reforms, so that NGOs are better able to perform oversight and educate citizens on their roles and responsibilities within the new system.

Through the Merida Initiative, we are providing expertise and funding for prosecutorial training in all 31 Mexican states and the federal district this year, focusing on the new oral-adversarial justice systems. Colombian prosecutors have played a key role in training their Mexican counterparts. We are currently working with Mexican Customs to provide assistance for their new academy, and we have provided training for law enforcement canine programs and their handlers. In one of our more innovative programs, we are working with the states of Colorado and New Mexico to provide training and technical assistance for corrections officers, not only from Mexico, but also from Central America. We are working with the Government of Mexico now to determine how most effectively to support reform of their state and local rule-of-law institutions. We know that State and local entities are key to the long-term effectiveness and sustainability of our cooperative justice sector reform efforts in Mexico.

The Department of State is also helping Mexico develop its border security capabilities and its inspection efforts, even as we improve our own. We are also expanding collaboration between U.S. and Mexican border agencies. The U.S. and Mexican governments are launching an initiative that challenges the traditional view of border security and provides a new vision of 21st century border management that enhances both economic competitiveness and security. In the short term, U.S. assistance will provide non-intrusive inspection equipment and

canine programs to detect drugs and other contraband moving north, and guns and cash moving south. We are working to build new capabilities within Mexico's border forces, improve information sharing, and better coordinate our operations on the U.S. side of the border with our Mexican colleagues in the South.

Finally, we are working to build strong, resilient communities in Mexico. We know that communities are key to deterring the influence of criminal organizations, through anonymous tips, socio-economic alternatives, and educational opportunities. State Department assistance in this area will help build a culture of lawfulness through continued engagement and education with schools, the media, law enforcement officials and civil society. Our assistance will also be expanded to devote resources to the prevention and treatment of substance abuse and its consequences. The State Department is also working closely with the Government of Mexico to enhance tip lines and emergency call centers so that the police will be more accountable and responsive to the communities they serve and foster greater public confidence.

Professional integrity projects are a key component of every Merida Initiative institution-building project. These projects are a critical piece of the strategy, and the foundation for strong, effective, transparent institutions which will detect corruption and deter it over the long term. The programs vary with each institution, but generally consist of vetting at the recruitment phase, with

background checks, financial disclosures, drug testing, and polygraphs. The programs also build systems within each organization to continue to vet personnel throughout their careers, provide a secure system and transparent procedures for reporting corruption, and develop operations to deter personnel from engaging in corrupt activities. These programs are not quick fixes: they take sustained effort, commitment, refinement, resources and persistence. But they are a very solid start towards further developing a Mexican criminal justice sector committed to the rule of law and professional integrity.

It is also important to discuss the actions that this Administration is taking along the southwest border and within the United States to fight drug trafficking and cartels operating in Mexico. These actions reflect the operational importance of addressing cartel activities in the U.S. and this Administration's conviction that the U.S. and Mexico are in the fight together. This fight requires action on both sides of the border. For example, the U.S. Government has launched several operational initiatives to disrupt the bulk cash smuggling that cartels use to bring the proceeds of drug sales in the United States back to Mexico. ICE led a U.S.-Mexico working group to produce the 2010 Bi-National Criminal Proceeds Study that provides a strategic overview of the bulk cash supply chain. The study represents the first project of this magnitude undertaken by both governments, and the findings and recommendations of the study will form the basis of a money

laundering conference co-hosted by ICE in Mexico City next month. U.S. and Mexican government participants will design a bi-national plan to target bulk cash smuggling that feeds the violent cartels. Additionally, the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) has deployed “Spanish” eTrace, a web-based system which allows Mexican investigators to trace cartel-related weapons that may originate in the United States. U.S. domestic law enforcement authorities have also directly targeted Mexican cartel operations in the United States, arresting hundreds of suspected Mexican cartel members who were in the U.S. in 2009 alone.

Finally, the Administration is putting a renewed emphasis on reducing demand for drugs here in the United States, which is the largest driver of the cartel activity that threatens Mexico. These efforts, led by the White House Office of National Drug Control Policy, will, over the long term, reduce the market that brought those cartels into business in the first place.

Mr. Chairman and Ranking Member Coburn, I am often asked if the State Department’s experiences working with Colombia provide any lessons for our current programs in Mexico. The answer is yes, and I am pleased to report that many of them are already being shared and incorporated into our development efforts. For example, strong political will and leadership in Colombia were

fundamental to achieving the results we have witnessed in that country. President Calderon has demonstrated a similar commitment to addressing Mexico's problems, and I believe the desire to strengthen the rule of law throughout Mexico is shared across its political spectrum.

Establishing security across the entire country is another tenet we are using in Colombia and has been a fundamental principle of the Merida Initiative in Mexico since its inception. In both Colombia and Mexico we utilize many facets of U.S. foreign assistance and expertise. Operating under a coordinated foreign policy framework provided by the Secretary of State, the State Department is committed to working with our inter-agency partners to complete the job in Colombia and achieve lasting success in Mexico.

**TESTIMONY OF ATTORNEY GENERAL GARY K. KING
STATE OF NEW MEXICO**

**Hearing before the United States Senate Committee on the Judiciary
Subcommittee on Human Rights and the Law**

May 18, 2010

Senator Richard Durbin, the Chairman of the Senate Judiciary
Subcommittee on Human Rights and the Law

The Honorable Richard Durbin:

INTRODUCTION

As the vice-chair of the Conference of Western Attorneys General ("CWAG"), I am pleased to present written testimony about CWAG's activities to train Mexican state prosecutors in the art of adversarial advocacy; to train Mexican state judges and investigators and to combat crime along our border with Mexico under a grant from USAID. CWAG Attorneys General are involved in the coordinated law enforcement training of Mexican investigators, prosecutors and judges to improve the prosecution of criminals through our 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 three joint meetings (September of 2007, March of 2008 and August of 2009) 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 MOUs resulted in a series of training sessions conducted in November of 2008, whereby state law enforcement agencies trained Mexican investigators, prosecutors and judges on the elements of the adversarial trial system. My office conducted similar trainings in 2006 prior to the CWAG MOUs. 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 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. 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 organizations that operate on both sides of the border. Additionally, the attorneys general 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 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, I signed an Agreement of Understanding with the 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 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: An agreement was reached for a bi-national exchange of information on smuggling networks, information provided by witnesses, operational modes, money transmitters, routes and other information. 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.

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 sponsored another joint meeting in Idaho in August of 2009. Our members met with the Mexican federal Attorney General and 24 Mexican state Attorneys General to continue the discussion on law enforcement issues affecting our respective states, the United States and Mexico.

Several CWAG Attorneys General were guest speakers at the Baja California International Conference on Criminal Justice in Mexicali, Mexico, where I talked about the benefits and drawbacks of an adversarial criminal justice system like the one used in New Mexico and the rest of our country. The Conference was convened in anticipation of Baja California's impending implementation of phased judicial reforms in several of the state's major cities. These reforms include the transition from a written, inquisitorial system of justice to an adversarial process that will incorporate, among other things, oral trials to a three-judge panel and alternative means of conflict resolution in criminal proceedings. I was part of a panel discussion entitled, "Perspectives for the Future of Justice in Mexico: An International Vision."

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.

I 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 of Colorado 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 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.

Similar training for Mexican prosecutors and investigators has been held in Austin, Texas; Denver, Colorado; Boise, Idaho; Seattle, Washington; Las Vegas, Nevada; Portland, Oregon; Napa, California; Phoenix, Arizona; Providence, Rhode Island; Mexico City; Playas, New Mexico; Rapid City, South Dakota and Los Angeles, California. CWAG estimates it will train 1,500 prosecutors, investigators, forensic scientists and judges this fiscal year. The training program depends heavily upon state attorneys general from throughout the country, not just the West, to donate talent and time. It is estimated that individual states have donated to date approximately \$600,000 in in-kind services to support this effort. Many more training programs have been scheduled through the end of this calendar year.

Earlier this month, I hosted a week-long training session for Mexican law enforcement at a facility in southwestern New Mexico under tight security measures. Various crime experts, police and prosecutors from Mexico were given training in crime scene investigation and courtroom prosecution. Staff from my office, the New Mexico State Police Crime Scene Team, CWAG and the New Mexico Tech Playas training facility coordinated the training which involved CSI techniques in mock crime scenes, and mock trial prosecutorial procedures. Prior to this training session, my office and New Mexico State Police trained more than 300 other Mexican law enforcement personnel in the state of Chihuahua. Chihuahua is the first Mexican state to implement wide-ranging judicial reforms intended to transform their judicial system into one similar to that of the United States.

I hosted two days of "best practices" sessions in Las Cruces, New Mexico, with Mexican prosecutors and other New Mexico law enforcement personnel. Attorneys General from

the Mexican states of Baja California, Chihuahua, Hidalgo and Oaxaca joined representatives from the Las Cruces Police Department, NM State Police and my office in order to observe best practices in the fields of investigative police training, domestic violence court hearings, court administration and other areas. The gathering was intended to strengthen ties between the United States and Mexico to assist in combating crimes such as drug trafficking and organized crime. As a group, we discussed the current drug trafficking-related violence that is happening in the northern Chihuahua area that borders New Mexico.

A training session is in the planning stages 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.

THE FRUITS OF COLLABORATION

My experience informs me that our efforts at cooperative border law enforcement pay off. I will provide you with several examples of our successes, but many more examples can be found throughout the CWAG states.

I, along with three the attorneys general of Texas, California and Arizona, have been actively engaged in fighting illegal money laundering. We recently entered into an unprecedented \$94 million settlement agreement with Western Union to resolve allegations that the company allowed illegal money transactions between the United States and Mexico. The settlement will provide substantial new resources for law enforcement authorities in the four Southwest border states to combat illegal activity along the entire U.S.-Mexico border. Under the agreement, Western Union will pay \$21 million to the State of Arizona and contribute \$50 million to the Center for State Enforcement of Antitrust and Consumer Protection Laws, Inc., a not-for-profit organization whose mission is to enhance effective law enforcement through state Attorneys General. The company also will commit \$19 million over the next several years to strengthen its own anti-money laundering effort and will provide \$4 million to support an independent monitoring program.

Mexican laws allow for Mexico to prosecute Mexican citizens for crimes committed in the United States prior to fleeing to Mexico (Article 4). A Mexican national named Carlos Luis Valerio murdered a person in New Mexico in 1995 and fled to Mexico. My office presented the case to Mexican authorities under Article 4 and this person was convicted of the murder by Mexican authorities and is now serving a 30 year sentence in a Mexican prison. His conviction and sentence were recently upheld by Mexico's Court of Appeals.

My office continues to pursue several Article 4 cases in cooperation with Mexican authorities to bring fugitives to justice and to eliminate the border as a barrier to law enforcement in both the United States and Mexico.

Through the cooperation of New Mexico law enforcement, the U.S. Office of International Affairs and Mexican authorities, Ernesto Gutierrez was arrested in Hanos, Chihuahua, Mexico for the stabbing death of a man in Deming, New Mexico in 1983. Gutierrez escaped custody in New Mexico in 1984. After 24 years, the former fugitive is serving out his sentence back in New Mexico.

Manuel De Jesus Noriega Ruvalcaba, a suspect in a March 18, 2006, sex crime in Santa Fe, New Mexico, was taken into custody in Trancoso, Zacatecas, Mexico on a Provisional Arrest Warrant requested by the New Mexico Attorney General's Office. Ruvalcaba was indicted on five counts of criminal sexual penetration, kidnapping, aggravated battery with a deadly weapon and aggravated battery in September of 2006 but fled to Mexico before Santa Fe police could arrest him. The former fugitive is now serving his time in New Mexico.

CONCLUSION

I, as the Attorney General of New Mexico and vice-chair of the Conference of Western Attorneys General, respectfully request 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 I or CWAG can supply any additional information needed by this Committee, please do not hesitate to contact me.

Respectfully submitted,

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LATIN AMERICA WORKING GROUP
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May 17, 2010

*To: Honorable Senator Richard Durbin, Chair, and Honorable Senator Tom Coburn, Ranking Member,
Senate Judiciary Committee, Subcommittee on Human Rights and the Rule of Law
From: Jennifer Johnson, Latin America Working Group Education Fund
Maureen Meyer, Washington Office on Latin America*

We are pleased to see this hearing on the important subject of "Drug Enforcement and the Rule of Law: Mexico and Colombia." We would like to submit the following statement (below) for the record regarding the importance of the robust implementation of the human rights requirements provided within the Merida Initiative as an integral component of efforts to strengthen the rule of law in Mexico.

In providing security assistance to Mexico under the Merida Initiative, the U.S. Congress recognized the Mexican government's pressing need to make concrete progress in its respect for human rights within the framework of its security operations when it specified that 15 percent of funds within the Merida Initiative could not be released until the U.S. Department of State reported that the Mexican government was meeting critical human rights requirements – including improved transparency and accountability over military and police forces and prohibition of the use of testimony obtained through torture.¹

However, the corresponding U.S. Department of State report issued in August 2009 that triggered the release of the conditioned funds from the 2008 Supplemental Appropriations Act and the 2009 Department of State, Foreign Operations, and Related Programs Appropriations Act failed to demonstrate that the Mexican government met the human rights requirements outlined in the Merida Initiative. Most glaring was the Mexican government's failure to advance in the investigation, prosecution and sanction of human rights violations, including the growing number of abuses committed by members of the Mexican military against civilians.

Current and past human rights violations committed by the Mexican military against civilians remain in impunity because such cases are transferred over to the notoriously opaque military justice system. The ineffectiveness of military jurisdiction to investigate and prosecute soldiers responsible for human rights violations is demonstrated by the fact that during the Calderón Administration only a single human rights violation perpetrated by a member of the military has incurred punishment and no government agency asserts that any of the multiple human rights abuses by the military committed during the past three years has been tried by civilian prosecutors and judicial authorities although it is what international law requires.

We further wish to note that the August 2009 State Department report inaccurately takes as a given that Mexican law grants the military jurisdiction to prosecute in cases in which a member of the armed forces is accused of committing a human rights abuse. In fact, Article 13 of the Mexican Constitution states, ".... The power of court martial for crimes and actions against military discipline exists, but in no case will military tribunals extend their jurisdiction to persons who do not belong to the armed forces. When a crime or action against military discipline has affected a civilian, the corresponding civil

authority will be notified.”ⁱⁱ Nonetheless, article 57 of Mexico’s Code of Military Justiceⁱⁱⁱ regarding crimes against military discipline has been broadly interpreted to justify the application of military jurisdiction in cases of human rights abuses against civilians.^{iv} The November 2009 sentence in the case of Rosendo Radilla Pacheco vs. Mexico, by the Inter-American Court of Human Rights confirmed Mexico’s treaty obligations to ensure that military abuses are investigated and tried in civil courts, ordering Mexico to reform article 57 of its Code of Military Justice to guarantee this occurs.^v Despite official assurances that the sentence issued by the Court will be fully implemented, it is evident that any legislative initiatives to reform the Code of Military Justice will not occur until the next Congressional sessions that begin in September 2010.

Given the Mexican government’s failure to hold accountable soldiers implicated in grave human rights violations such as extrajudicial executions, rape and torture, we were gravely troubled by the Obama Administration’s decision to release the portion of Merida Initiative funds that are, by law, contingent on the Mexican government’s demonstrated progress in addressing key human rights concerns.

The challenges posed by organized crime, arms trafficking and illicit drug use in Mexico and the United States are great. **However, the rule of law cannot be effectively strengthened while ignoring human rights abuses.** Now is the time for the United States to be a responsible neighbor and support building strong foundations that will lead to greater accountability, transparency and public security. We are not doing Mexico— or the United States— any favors by overlooking these grave abuses.

ⁱ The text of the FY08 Supplemental states: “b) ALLOCATION OF FUNDS. —Fifteen percent of the funds made available in this chapter for assistance for Mexico under the headings “International Narcotics Control and Law Enforcement” and “Foreign Military Financing Program” may not be obligated until the Secretary of State reports in writing to the Committees on Appropriations that the Government of Mexico is: (1) Improving the transparency and accountability of federal police forces and working with state and municipal authorities to improve the transparency and accountability of state and municipal police forces through mechanisms including establishing police complaints commissions with authority and independence to receive complaints and carry out effective investigations; 2) Establishing a mechanism for regular consultations among relevant Mexican Government authorities, Mexican human rights organizations and other relevant Mexican civil society organizations, to make recommendations concerning implementation of the Merida Initiative in accordance with Mexican and international law; (3) Ensuring that civilian prosecutors and judicial authorities are investigating and prosecuting, in accordance with Mexican and international law, members of the federal police and military forces who have been credibly alleged to have committed violations of human rights, and the federal police and military forces are fully cooperating with the investigations; (4) Enforcing the prohibition, in accordance with Mexican and international law, on the use of testimony obtained through torture or other ill-treatment.”

ⁱⁱ <http://historicaltextarchive.com/sections.php?op=viewarticle&artid=93#T1C1>

ⁱⁱⁱ The Code of Military Justice is a secondary norm that has never been approved by a legislative body.

^{iv} Crimes against military discipline are crimes that can be committed only by soldiers, such as desertion, insubordination, and similar acts that affect uniquely military rules; at no time would acts of torture, arbitrary execution, or rape be acts of service or crimes uniquely against military discipline.

^v Radilla Pacheco vs. México, (ser. C) No. 209 (Nov. 23, 2009). This case was defended by the Mexican Commission for the Defense and Promotion of Human Rights and the Association of Family Members of the Disappeared and Victims of Human Rights Violations in Mexico.



May 17, 2010

To: The Dear Honorable Senator Richard Durbin, Chair, and Honorable Senator Tom Coburn, Ranking Member, Senate Judiciary Committee, Subcommittee on Human Rights and the Rule of Law
From: Lisa Haugaard, Executive Director, Latin America Working Group Education Fund

We are pleased to see this hearing on the important subject of “Drug Enforcement and the Rule of Law: Mexico and Colombia.” We would like to submit as a statement for the record the following memo regarding some lessons we have observed regarding counternarcotics assistance in Colombia that may be useful for U.S. policymakers both in adapting U.S. assistance to Colombia and in shaping the U.S. approach and aid package for Mexico.

**Lessons for U.S. Policy towards Mexico
from the Plan Colombia Experience:**

U.S. Counternarcotics Assistance & Its Impact on Human Rights and the Rule of Law

- With U.S. aid and training, human rights abuses may escalate. Human rights training for militaries may be valuable, but it's no guarantee against escalating human rights abuses.
- One of the potentially best investments—the justice sector—requires not just money, but political will.
- Country-specific human rights conditions, even if they have limits, are one of the few valuable tools available to ensure human rights concerns are raised.
- Human rights and development activities are affected by the largely military goals of these kinds of aid packages.
- It's difficult, but the U.S. government can fund independent human rights programs.
- U.S. intelligence equipment, support and training for counternarcotics and other legitimate purposes may be used for criminal ends.

Lesson One: With U.S. aid and training, human rights abuses may escalate. Human rights training for militaries may be valuable, but it's no guarantee against escalating human rights abuses.

At the start of Plan Colombia, U.S.-based human rights groups cautioned U.S. policymakers that U.S. military aid and training would escalate or fail to curb human rights abuses. From the State Department's human rights and Western Hemisphere bureaus, the U.S. military Southern Command and many congressional offices, we were met with one answer. Don't worry, U.S. training will include a strong human rights component, and you'll see, the human rights performance of the Colombian military will improve with U.S. aid and training. We were proudly presented with examples of human rights curricula, train-the-human rights trainer programs, and little cards with human rights rules on them that every Colombian soldier was to carry.

And yet at least during 2005-2008, after five and more years of sustained U.S. investment in Colombia's armed forces, deliberate killings of civilians by the Colombian army escalated dramatically.¹ ***What went wrong?***

Starting in 2005, Colombian human rights groups began to blow the whistle, at first without much impact, on a pattern of deliberate killings by the army. These extrajudicial executions, which became known as “false positives,” typically involved groups of soldiers detaining a civilian, who is seen by witnesses, and who later turns up dead, dressed in guerrilla clothing and claimed by the army as killed in combat. In October 2008, the Colombian government was forced to acknowledge this growing practice when the Soacha killings were exposed in which paramilitary or criminal gangs lured young men from Soacha, on the outskirts of Bogotá, with the promise of jobs and then delivered them to other parts of the country where they were found dead, dressed as guerrillas or paramilitaries and claimed by the army as killed in combat. As of May 2009, the Attorney General’s office was investigating 1,056 cases involving 1,708 victims.¹ In a June 2009 mission to Colombia, the UN Special Rapporteur on extrajudicial executions determined that, “I have found no evidence to suggest that these killings were carried out as a matter of official Government policy... On the other hand, the explanation favoured by many in Government—that the killings were carried out on a small scale by a few bad apples—is equally unsustainable. The sheer number of cases, their geographic spread, and the diversity of military units implicated, indicate that these killings were carried out in a more or less systematic fashion by significant elements within the military.”²

Two major factors contributed to these killings. The first was a system of incentives that was leading army officials and soldiers to carry out these crimes. Soldiers were under pressure, coming from the very top—the President, Defense Minister and military brass, and, to be honest, U.S. policymakers—to show results in the war, and were offered incentives such as cash bonuses, vacations and promotions for body counts. The second factor was that these crimes remained in impunity. The vast majority of abuses, even when reported, went to military courts, where cases were routinely dismissed.³

Human rights training for soldiers no doubt can make a valuable contribution in creating a culture of respect for human rights. ***The lesson from the Colombia experience, however, is that no amount of standardized human rights training can prevent human rights violations from occurring if the overall climate fosters abuse, such as structures of incentives and promotions that generate abuses and systematic lack of accountability for severe human rights crimes.***

Lesson Two: One of the potentially best investments—the justice sector—requires not just money, but political will.

¹ There are currently cases involving over 2,000 victims wending their way through the civilian justice system, and Colombian human rights groups have documented some 3,000 extrajudicial executions by Colombian security forces. Even as of May 2009, the State Department documented in its Colombia human rights certification memo to Congress: “As of May 15, 2009, the Extrajudicial Killings Sub-Unit of the Prosecutor General’s Office had been assigned 1,056 cases (involving 1,708 victims), all of them extrajudicial killings allegedly committed by members of the Armed Forces between 1985 and 2009. Of these, 1,019 cases remained under investigation, 21 were in the trial phase, and convictions had been reached in the remaining 16 (83 people convicted).” U.S. State Department, “Memorandum of Justification Concerning Human Rights Conditions with Respect to Assistance for the Colombian Armed Forces,” September 8, 2009, p. 20.

² Statement by Professor Philip Alston, UN Special Rapporteur on extrajudicial executions, Mission to Colombia 8-18 June 2009,

<http://www.unhcr.ch/hurricane/hurricane.nsf/view01/C6390E2F247BF1A7C12575D9007732FD?opendocument>

³ A third factor may have been the common perception held by soldiers, and encouraged by public comments by high-level civilian officials, that community leaders in guerrilla-held areas were guerrillas, for many of the victims of these crimes were local community leaders.

Department of Justice and USAID programs channeled millions of dollars in training and equipment into the justice sector, from training for prosecutors in the Attorney General's office, to disciplinary investigations and oversight activities in the Inspector General's office, to human rights reporting and protection programs in the Ombudsman's office. Such funding has the potential to have the greatest payoff in long-term structural reforms that will help to protect human rights while strengthening counternarcotics efforts. However, well-designed aid must be paired with tough diplomacy to produce the desired results.

The funding for Colombia included the standard assistance that the United States has provided to transition Latin American judicial systems from a written, Napoleonic Code method to an oral, accusatory system. But it also included programs targeted to Colombia's specific challenges, such as assistance for units investigating assassinations of trade union leaders or extrajudicial executions, and programs to uncover mass graves and investigate paramilitary leaders in relation to the demobilization agreement's Justice and Peace program.

Yet the problem of justice is not just a technical problem, but a question of political will. Despite substantial initial U.S. investment in the justice sector, the Colombian justice system's commitment to address impunity took a sharp turn for the worse under Attorney General Luis Camilo Osorio's term (2001-2005), before showing modest improvement with Attorney General Mario Iguarán's leadership and a Supreme Court determined to investigate politicians' paramilitary ties. In 2009, these gains were again imperilled in the uncertainty following the end of Iguarán's term, as the executive branch appears unwilling to appoint a qualified attorney general and challenges the Supreme Court's parapolitics investigations. Similarly, the Inspector General's office, which administers disciplinary reviews and sanctions of public officials and is also heavily funded by the U.S. government, has recently appeared uninterested in pursuing human rights cases involving public officials after having made advances under previous leadership. The United States has poured money into the transition to the accusatorial system, yet in 2010 it is clear that there are serious problems in the new system, and extrajudicial execution cases are faring particularly badly.

U.S. justice sector aid could be improved if the U.S. government more explicitly recognized the element of political will. DOJ must work with USAID and State to ensure assistance is delivered with a consistent message and tied more directly to benchmarks in reducing impunity, developing such benchmarks for each judicial agency. The embassy and State Department could more vigorously use all diplomatic tools at their disposal, including the leverage of the human rights conditions, to achieve the vital goal of reducing impunity. Changes should also be made in the kinds of assistance. DOJ assistance, while technically proficient, tends to be a standardized package, and can be slow to arrive. DOJ-directed aid could be improved if DOJ personnel in the embassy and Washington were more open to exchanging ideas with local nongovernmental human rights experts, who often have recommendations about the obstacles to reducing impunity and ways to improve investigations, exhumations and prosecutions in human rights-related cases. USAID should play a role in developing judicial assistance that is more geared to the specific human rights problems in country.

Finally, the question of what to do about the military justice system is important and relevant to the Mexico case. At the start of Plan Colombia, human rights groups urged the United States to press for shifting human rights cases from military to civilian courts as required by a Colombian Constitutional Court decision. At first, U.S. policymakers argued, Wouldn't it be good enough if we just made the military justice system work better? Doesn't our own JAG system work fine, and shouldn't our partner

military be able to be judged by its own? But with the insistence of Congress and human rights groups, the U.S. government adopted the goal of encouraging the Colombian government to move human rights cases to civilian courts. Given the continued reluctance of the military justice system to punish abusers, this shift may prove to be one of the most important positive human rights impacts of U.S. policy in Colombia—and it could be so in Mexico, too.

Lesson Three: Country-specific human rights conditions, even if they have limits, are one of the few valuable tools available to ensure human rights concerns are raised.

At the start of Plan Colombia, members of Congress concerned about human rights, particularly Senator Patrick Leahy and Senator Edward Kennedy, insisted upon including human rights conditions on the large aid package. They did this over the objections of the Clinton Administration, which like most administrations saw this congressional oversight tool as limiting administration flexibility.

The conditions included in annual appropriations bills governing aid to Colombia were well-designed to address two of Colombia's major human rights problems: lack of accountability for human rights violations by the military, and collaboration between security forces and illegal paramilitary groups committing gross abuses. They included an important mechanism, a required consultation at regular intervals between human rights groups and the State Department. This was interpreted as two consultations, one at the State Department with U.S. human rights groups, and another between Colombian human rights groups and the U.S. Embassy in Bogotá. These specific "country conditions" operate in addition to the standard so-called Leahy Law provision barring U.S. aid and training to abusive units of security forces.

As skeptics of conditions expected, the State Department—under Bill Clinton, George W. Bush, and Barack Obama—has routinely certified that Colombia meets the conditions. It has done so no matter what was occurring on the ground, from systematic collaboration with paramilitaries engaged in escalating massacres and massive displacement from 2000-2005; to the 2005 San José de Apartadó massacre of men, women and children by soldiers; to the deliberate killing of over 2,000 civilians, culminating in the sickening murder-for-profit Soacha scheme in 2008 in which soldiers paid crime rings to round up young men that the soldiers then killed to rack up body counts. The State Department certified despite the passionate appeals accompanied by stacks and stacks of documentation placed in front of high-level State Department officials four times a year by U.S. and Colombian human rights groups.

And yet, over time the conditions have had an impact. When the February 2005 San José de Apartadó massacre took place and the State Department subsequently certified, Senator Leahy decided to place a hold upon some of the military aid attached to the human rights conditions. The massacre happened to take place in an area where U.S. citizens were working as companions of a "peace community" of displaced people, and therefore there was an unusual degree of information available and interest around this particular case. Since that time, the Senate has temporarily held up a portion of assistance at strategic moments, at first regarding the San José de Apartadó case, and then regarding the "false positives" and Soacha scandal.

Congressional demand that the State Department use the conditions, particularly when backed by the Senate hold on a portion of aid, has led the State Department to try to leverage changes from the Colombian government. State has delayed certifying for months until it can document progress in at least some cases, often waiting until the last possible date it can certify without losing funds

permanently. This dialogue between the State Department and U.S. Embassy and Colombian counterparts, including the attorney general, defense minister, military justice officials, and inspector general, has been one important factor leading to the limited human rights progress that has taken place.

U.S. pressure, triggered by the conditions, has contributed to progress in some emblematic cases of violations by soldiers, including the murder of three trade unionists in Arauca and the San José de Apartadó massacre; the transfer of hundreds of extrajudicial execution cases from military to civilian courts;⁴ a restructuring of army leadership in the wake of the Soacha scandal; issuance of new directives by the Defense Minister intended to minimize the practice of extrajudicial executions; and, most importantly, a sharp reduction in new cases of extrajudicial executions.

This progress, however, is still partial. Even in the most high-profile cases such as Arauca and San José de Apartadó, for example, the intellectual authors of the crimes have never been indicted, much less prosecuted and convicted. With extrajudicial executions, the incentives that drove them have not been fully dismantled, and the vast majority of cases remain in impunity.⁵ Recently, there has been backsliding on prosecuting these cases, with the military justice system contesting the transfer of cases and obstacles to progress in the civilian justice system even in the most notorious Soacha case.

Human rights conditions only became a useful lever in extreme circumstances and when certain organizational standards were reached. In the Colombian case, well-documented patterns of systematic, gross human rights violations emerged. U.S. and in-country human rights organizations, collaborating closely, made a sustained effort, over years, willing not only to do their jobs documenting abuses, but to continuously engage with U.S. embassy and State Department personnel on the conditions despite the frustrating nature of the certification process. Some State Department personnel at different levels demonstrated a real commitment to exposing and acting to help correct abuses. To date, this appears to have had less to do with which administration was in power and more to do with individual career officials who chose to demonstrate genuine interest in human rights problems and a willingness to act, within the scope of their positions, to do something to address them.

In the Colombian case, human rights conditions did not prevent security force abuses from escalating as U.S. military aid and training flowed. However, the conditions did give human rights groups in the United States and Colombia a mechanism and forum with which to raise these issues with the State Department and U.S. Embassy, in ways that ultimately forced the U.S. government to convince its Colombian partner to act to curb and prosecute these abuses—at least to a limited degree. ***We firmly believe that our views would not have been taken sufficiently seriously without the edge provided by the conditions and the Senate's willingness to place a hold on the military aid attached to the conditions.***

⁴ The International Crisis Group cited 31 cases transferred from the military to the civilian courts in 2005 increasing to 167 in 2008. International Crisis Group, "The Virtuous Twins: Protecting Human Rights and Improving Security in Colombia," Latin America Briefing No. 21, 25 May 2009, p. 10.

⁵ The U.S. State Department observed in September 2009 that "investigations into cases of extrajudicial executions are proceeding slowly," acknowledging that of 1,056 cases of alleged extrajudicial executions (involving 1,708 victims) assigned to the Extrajudicial Execution sub-unit within the Attorney General's office, convictions have been reached in only 16 cases (involving 83 victims). U.S. State Department, "Memorandum of Justification Concerning Human Rights Conditions with Respect to Assistance for the Colombian Armed Forces," September 8, 2009, p. 41.

Implementing the human rights conditions for Mexico may prove even more difficult. The Mexican government lobbied hard against human rights conditions, claiming it affected their sovereignty. Members of Congress softened the provisions in reaction to Mexican “sensitivities,” calling them “requirements” rather than conditions and only permitting the State Department to issue a report rather than “certify.” Leftwing Mexican civil society activists and journalists denounced the conditions as hypocritical and impinging on Mexican sovereignty. But the provisions are still one of the few recourses available to human rights groups to call policymakers’ attention in both countries to abuses.

Lesson Four: While the Leahy Law may be useful in limited cases, it’s no guarantee that U.S. aid and training won’t flow to abusers.

At the start of Plan Colombia we were assured that the Leahy Law, a globally-applicable provision which requires vetting of units of foreign security forces that will receive U.S. aid and training, would exclude security forces with records of abuse.

The Leahy Law can be useful in very specific circumstances but provides no realistic guarantee that U.S. training will not go to abusers. Indeed, in Colombia, some of the areas of the country where the largest number of soldiers have been vetted to receive U.S. training were those in which the largest number of extrajudicial executions occurred, according to an Amnesty International/Fellowship of Reconciliation study. The Leahy Law was invoked to some effect in banning assistance to certain particularly egregious units, including the 24th and 17th Brigades and the air force unit responsible for the civilians killed in the Santo Domingo bombing case.

The Leahy Law’s limited usefulness in Colombia is particularly notable because it is one of the few countries in the world where human rights groups have actively tried to make it apply. It requires identifying specific security force units responsible for abuses, and documenting that those specific units received U.S. aid or training, requirements that are difficult to meet. It is particularly difficult to meet these requirements in a timely way, since human rights groups only obtain access to information regarding which units receive U.S. training several years after the fact. U.S. embassies are supposed to maintain Leahy Law databases of abuses, but these databases are poorly researched and updated and even in best-case Colombia result in relatively few units excluded. Nonetheless, it is worth encouraging the U.S. embassy to develop a serious Leahy Law compliance plan and database, since it can trigger cutoffs of aid and training to egregiously abusive units.

Lesson Five: The impact of U.S. funding on the overall human rights climate is difficult to measure, but policymakers must anticipate human rights violations when the United States funds an abusive security force.

The Colombian and U.S. governments maintain that Colombia’s human rights picture dramatically improved under the plan, citing drops in kidnappings and overall national homicide rates. Certainly, security gains that reduced kidnapping by the guerrillas improved the human rights situation for many Colombians, particularly the urban middle class. One could also argue that by strengthening the military, U.S. funding contributed to the 2005 demobilization of paramilitary forces, which led to a reduction in massacres and was one reason for the drop in the national statistics on homicides.

However, the period of major U.S. funding overlapped much of the apex of paramilitary killings, a paroxysm of violence from 1998-2004 in which the Colombian army’s collaboration with paramilitaries was rampant. Some 20,000 civilians lost their lives and more than 2 million people were displaced

during ten years of U.S. funding. The escalation of direct violations by the army itself during the period of maximum U.S. funding must be acknowledged. And some of the human rights gains achieved by the paramilitary demobilization may be transitory. In the absence of an adequate process for achieving truth and justice, and lacking sufficient commitment by the government and security forces to end the paramilitary scourge, rearmed, never demobilized and new groups continue to threaten, displace and kill civilians.

The impact of U.S. funding on the overall human rights picture is difficult to evaluate, given the counterfactual—what if?—arguments that cannot be answered. Did U.S. funding contribute to the climate that created at least a partial paramilitary demobilization, thus saving lives? Did U.S. funding contribute to delaying a peace process with the guerrillas, when that could have saved more lives? But what is certain is this: human rights violations will occur when the U.S. provides major aid and training to abusive security forces, and at the absolute minimum U.S. policymakers must anticipate and address this.

Lesson Six: Even positive human rights and development activities are affected by the largely military goals of these kinds of aid packages.

In Plan Colombia, and indeed to date in Plan Merida, two agencies play the dominant role in the U.S. interagency process in terms of aid design and delivery. One is the State Department's International Narcotics and Law Enforcement Bureau, and the second is the Defense Department. USAID, which carries out the "softer" side of U.S. policy—in Colombia, alternative development programs, human rights, aid to displaced persons and Afro-Colombian and indigenous communities—is often overshadowed by these big brothers in inter-agency debates and public perception.

Within the U.S. embassy, the NAS director, responsible to INL, tends to play a strong coordinating and dominating role. Yet INL is focused narrowly on the hard side of drug policy: interdiction, destruction of laboratories and drug crops, and in the case of Colombia, the aerial spraying program. When Plan Colombia funding was initially largely channelled through INL, INL would direct resources towards fumigation or interdiction, rather than towards alternative development. INL and USAID goals could also come into direct contradiction, the most blatant example of which were the many times when INL-funded aerial spraying destroyed USAID-funded alternative development projects. Congress attempted to bolster USAID's authority by channeling funding directly to USAID rather than through INL, and by specifying that USAID should make policy decisions over its funding. Congressional oversight to ensure aid flows through appropriate channels, and to ensure USAID has adequate authority, can help. But USAID must, as too often it fails to do in interagency debates, stand up for the development, humanitarian and human rights goals that should guide its programming.

Starting in 2008, a new strategy for U.S. aid was launched that could cede the U.S. and Colombian militaries more control over USAID programs. In an effort to back the Defense Ministry's initiative to "bring the state back in" to areas of the country long abandoned, often to guerrilla control, USAID and the Southern Command is funding so-called "Fusion Centers" and their activities to expand government services in rural areas. While the plan has a certain logic, some Colombian civil society groups fear that this creates a military-led development model that will fail to strengthen local civilian government, will endanger civilian partners by linking them to the army, and will fail to incorporate civil society input.

Lesson Seven: It's difficult, but the U.S. government can fund an independent human rights program.

USAID's human rights program in Colombia provides an interesting example of the perils and possibilities of U.S. funding of human rights activities while simultaneously funding a major military aid build up. Many Colombian human rights groups initially declared that they would not apply for U.S. funding because they viewed "Plan Colombia" as a largely military project which they rejected. This perception of USAID funding, including of its human rights program, was further solidified when Colombian press revealed in 2004 a USAID policy to prohibit funding activities viewed as critical of the Colombian government or Plan Colombia, a prohibition that would make funding independent human rights activities impossible.

When U.S. human rights groups and congressional oversight staff objected to this litmus test, USAID launched an innovative, extensive consultation process with U.S. and Colombian civil society organizations and reconfigured the program. Hiring U.S. and Colombian experts with serious background in human rights, and engaging in a consultative process lasting over several years, they made major improvements in the program, developing a thoughtful, strategic portfolio of programs. The U.S. government would do well to learn from the mistakes and successes of this program as it develops programs in Mexico and elsewhere.

Lesson Eight: U.S. intelligence equipment, support and training for counternarcotics and other legitimate purposes may be used for criminal ends.

The Colombian presidential intelligence agency, the Departamento Administrativo de Seguridad (DAS), was revealed in 2009 to have been illegally spying on many of the varied forces of Colombian democracy: opposition politicians, including presidential candidates, human rights groups, journalists, clergy, unions, and Supreme Court justices. The DAS investigated subjects' homes, daily routines, travels and finances. Not only did DAS personnel spy on their targets, they spied on their families, taking photos of their children, investigating where they went to school, and tapping the phones of parents, siblings and children. The operation, worse than Watergate, went deeper than surveillance, employing a variety of dirty tricks to "neutralize and restrict" the normal activities of human rights groups and other voices critical of the Uribe administration.

And it may have done this with U.S. money. U.S. Ambassador William Brownfield admitted that the United States supplied surveillance equipment to the DAS, although he claimed that the equipment was not used in illegal surveillance.⁶ However, the Attorney General's investigation suggests that the G-3 unit most involved in illegal surveillance did not have its own wiretapping equipment but rather relied upon the common interception rooms, IT teams and mobile wiretapping units shared by the DAS office. Moreover, the DAS may not have been the only agency receiving U.S. equipment and training that was engaged in illegal wiretapping. The Attorney General units placed with the military's U.S.-trained Fourth Brigade also were involved, for example.

The U.S. Congress instituted a ban on funding for the DAS via foreign operations channels, and Ambassador Brownfield has recognized the seriousness of the DAS's activities. However, it is not clear that all U.S. funding, including via the intelligence bills, has been ended. Colombia has yet to turn the leaf on this Stasi-like episode: new revelations including links to top presidential advisors continue to be revealed in the media; the Attorney General's office is still in the middle of a serious investigation of the DAS's illegal activities, and legislation to replace the DAS remains mired in the Colombian Congress.

⁶ Noticias Uno, "No hubo equipo americano involucrado," <http://www.noticiasuno.com/noticias/embajador-ecu.html>

While improving intelligence is clearly an important element in controlling drug trafficking, it is particularly susceptible to misuse and corruption—and even, as in the Colombian case, a creeping authoritarianism that causes major damage to the fabric of democracy. ***And given the secrecy in which U.S. intelligence aid is budgeted, appropriated, delivered and implemented, there's virtually no reliable oversight until the scandal blows sky high.***

Conclusion

In sum, the Colombia experience offers major cautionary as well as positive lessons. It demonstrates how U.S. counternarcotics assistance can undercut the rule of law in a recipient country, aggravating existing human rights problems. The right kind of assistance to strengthen civilian institutions delivered with the right messages, however, can also be applied in ways that help to address those very problems. Assistance and diplomacy must be directed with full knowledge of these perils and pitfalls, and with a flexible, continuous reexamination of the human rights obstacles on the ground. It must be designed and implemented with a specific acknowledgment of the element of political will, not just technical solutions. It must have built-in mechanisms for consultation with human rights groups on the ground. In short, U.S. assistance will support the rule of law only if there is an explicit, carefully, continuous intention by policymakers of all levels to ensure that it does so.



Ciudadanos por una Causa en Común A. C.

MA ELENA MORERA DE GALINDO
May 18, 2010

Honorable Members of the U.S. Senate Judiciary Subcommittee on Human Rights and the Law,

Let me express my gratitude for the invitation and the opportunity to testify before the Subcommittee on Human Rights and the Law, and to speak to the highest council of representatives of the American People.

I am a Mexican citizen who like many other hardworking Mexican men and women loves her country and all the beautiful things it has to offer, but has been a witness to how the peace and freedom we used to enjoy has come to an end in recent years. We are now facing one of the most violent eras of our history as a nation.

My life as an activist against crime in Mexico can be traced back to September 2001 when my husband Pedro was abducted.

In those days, I experienced the difficulty of finding reliable people to make the best decisions about how to rescue my husband. A key positive decision was to let the police know about the abduction. I was not sure at first about the degree of professionalism (or lack of it) of the policemen that were supposed to help us. I was loaded with the prejudices - all well based - in our society dictating that if you see a Mexican policeman in the street you are better off crossing to the opposite sidewalk.

Provided with information that allowed us to calm down those initial prejudices and fears, we decided to maintain the police team and have them lead and carry out the negotiations, although this and each subsequent action resulted in difficulties in the interaction inside our family.

Months after my husband's return, while chatting with my father-in-law, I understood that the greatest difficulty in taking decisions came from something that we never told ourselves: my father-in-law felt that he was negotiating for a dead son, while I was striving to recover a living husband.

In the 29 long days of captivity my children and I were always accompanied and supported by our families, but we lived under great solitude, sorrow and pain.

Each one tried to do their best and maintain courage, but we knew, even without talking about it, of the profound pain and uncertainty we experienced.

In the process, a great friend of the family who had endured a similar event came and handed me two blank notebooks. He suggested using one to make a punctual registration of the daily decisions because he said that it was the best way to leave the blame behind when the process was over. The second handbook was to write Pedro my thoughts and feelings during his absence. I am happy to have taken the advice; while the ordeal lasted I wrote in these two notebooks.

It was October 19, 2001 when Pedro was rescued from his raptors. I could hardly recognize him: he had lost so much weight and his beard had grown all white.

After some weeks I believed that the nightmare had finished, but soon a new challenge began: taking the criminals out of our lives. While we weren't under the pressure of making correct decisions by the minute, this was yet another new situation for which we were not prepared. The sorrow and pain translated into anger and frustration.

Months went by, and I began to receive calls from families requesting our help as they were facing similar kidnapping experiences. By then, the nongovernmental organization Mexico United Against Crime was already a solid organization and presided over by Josefina Ricaño, who contacted me and invited me to participate in supporting the victims of kidnappings.

The judicial process in connection with Pedro's kidnapping taught me about the tortuous ways of justice in Mexico. I ignored its complexity, its "injustice" and the terrifying indifference towards the pain of the victims and of their families. While the letter and spirit of the law could be "perfect," its application was made imperfect and worthless by those responsible for administering justice.

However, again I was lucky to find knowledgeable people who wanted to teach me about security and justice, and law and practice, themes that now have become the passion in my life.

Two years after Pedro's return, in December 2003, the assembly of United Mexico Against Crime elected me as President. I invited valuable people with new ideas for this unusual challenge to join the organization's board. But I never imagined that we would be mobilizing so extensively the heartfelt demands for Security and Justice of so many Mexicans.

It is important for nongovernmental organizations to renew themselves, so I left Mexico United against Crime two years ago. Yet I was touched forever to keep on working to have a

better Mexico. This is why, with other committed Mexicans, I started a new nongovernmental organization a few months ago called: Citizens for a Common Cause.

Civil society in Mexico is taking root and many Mexicans, normal citizens without police uniforms or government positions, work every day for a better judicial system, for social justice, to develop Mexico socially and economically, and to strengthen and improve our political systems, our democracy and the education of our children and the younger generations.

Our challenge is daunting because law enforcement in Mexico needs to improve significantly. Yet, the biggest challenge of all is to stop the damage caused by criminal organizations and drug cartels that are threatening to destroy the social fabric of our communities.

Make no mistake: in Mexico, we are fighting a real battle against drug cartels that have enormous wealth and powerful weapons to corrupt or kill whoever stands in their way.

Mexican drug cartels generate their enormous wealth by smuggling illegal drugs into the United States. Obviously, they don't work alone and have many associates in the United States. In addition, over 90% of the weapons confiscated from drug cartel members in Mexico came from the United States.

I praise the steadfast determination of Mexican President Calderon in fighting drug cartels in Mexico. He raised the bar and is setting a new standard for future Mexican Presidents to follow.

But the U.S. and Mexican Governments must do much more than has been done so far.

In Mexico, a complete reform of the Public Security, Border Administration and Legal and Judicial institutions is needed.

This requires the support, resources and appropriate laws from the Mexican Congress. This also requires commitment from civil society organizations, like the one I am honored to preside over and represent, "Ciudadanos por una Causa en Común" ("Citizens for a Common Cause").

My main objective in being here with you is to invite you to recognize that this is as much a Mexican as well as a U.S. battle and that Mexico cannot just fight alone.

The Merida Initiative is good but insufficient. While there is no doubt that the resources the United States sends to Mexico are highly valuable, Mexico cannot succeed in this effort if the U.S. domestic institutions do not participate by assuming their share of the responsibility by focusing on drastically reducing illegal drug consumption and fighting cross-border arm trafficking.

We do not intend to question, by any means, the Bill of Rights and, in particular, the Second Amendment of the U.S. Constitution. But we want to make sure that the rule of Law prevails and to stop once and for all lethal weapons from getting into the hands of drug cartels, where they are used to abduct, extort, threaten and kill Mexican citizens.

Both the United States and Mexico should work together as never before to address the root causes of this problem. The Merida Initiative is not yet fully implemented but is already coming up short due to the escalation of violence seen in Mexico.

Reducing illegal drug consumption and stopping arms from getting into the hands of drug cartels must be the highest priority in the U.S. – Mexico relations.

Failure to do so will translate into chaos in Mexico, which would lead to an unmanageable border problem where thousands of jobless Mexicans would attempt to flee to the United States to save their lives.

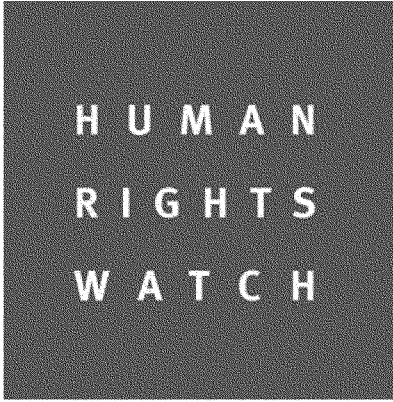
But if the U.S. Government embraces this effort wholeheartedly with Mexico, violence will be significantly reduced and Mexico will enjoy prosperity and peace, which will bring back investments and job creation and ultimately contain illegal immigration as well.

Today, I can say with confidence that if we work hard, with courage and strength, we will live again with peace and freedom.

So let me conclude by respectfully saying that I would like to leave this House with a commitment, yours and mine, to engage more strongly in the rightful common cause of eradicating violence in Mexico. We need your help to reduce illegal drug consumption in the United States and to put legislation and public policies in place to stop weapons from getting into the hands of Mexican drug cartels.

With all due respect, these policies will serve the national security interests of both the United States and Mexico.

Thank you very much.



Written Testimony of José Miguel Vivanco,
Executive Director of the Americas Division,
Human Rights Watch:

United States Senate
Subcommittee on Human Rights and the Law
May 18, 2010

**“US Foreign Policy, Human Rights and
Public Security in Colombia and Mexico”**



Mr. Chairman, Committee members:

Thank you for the invitation to appear before the Subcommittee on Human Rights today to share Human Rights Watch's views regarding the human rights and public security challenges facing Colombia and Mexico. It is an honor to be here.

I will focus my remarks primarily on Mexico, but will also briefly address the situation in Colombia, as well as the fundamental challenge that both these countries—as well as others throughout the region—face today: how to reconcile the need for improved public security with the need for improving human rights practices. It is our view that these two objectives—public security and human rights—are fully complementary. Indeed, improving human rights practices is essential for improving law enforcement and strengthening public security.

I. HUMAN RIGHTS AND PUBLIC SECURITY

One of the most pressing threats to the rule of law in Latin America today is law enforcement—or the lack thereof—in countries plagued by violent crime.

The need for more effective policing is a top public concern in much of the region. And with good reason. People have a right, well-established in international human rights law, to be protected from violent crime, as well as a right to justice when they are its victims. Yet in many countries, law enforcement agencies find themselves outgunned, literally and figuratively, by criminal organizations that are powerful, well-funded and extremely violent.

Politicians routinely respond to the legitimate demand for better policing by promising to “get tough” on crime. But it is one thing to be tough, and quite another to be effective. Too often, getting tough means condoning abusive police practices that not only undermine the rule of law by violating basic rights, but also fail to curb crime.

Take for example the use of torture by the police in Mexico. Despite countless reports from national and international human rights monitors over the years documenting the problem, many Mexican police continue to torture for a simple reason: they find it easier to beat confessions out of people than to conduct the serious investigations that could solve crimes. Mexican judges routinely accept the coerced confessions as proof of guilt, even when the victims retract them later at trial. The outcome is disastrous for both human rights and public security: innocent people are convicted of crimes they didn't commit, while the criminals remain at large.

Such abusive practices are hardly unique to Mexico. Police and other security forces regularly commit serious abuses in other Latin American countries, especially those where there is strong public demand to contain violent crime.

A major reason these abuses are so widespread is that law enforcement agents who commit them are rarely brought to justice. In some countries, this is because the justice system relies on the police to investigate themselves, an arrangement that virtually guarantees that allegations of abuse will be ignored. While many countries have established ombudsman's offices and other mechanisms to receive complaints of abuse, these have proven no substitute for the criminal investigations and prosecutions that are necessary to curb abusive practices.

Another crucial factor is the misperception—common throughout much of the region—that protecting human rights and promoting public security are conflicting aims. Many believe that holding police accountable for their abuses would weaken the hand of law enforcement and thereby strengthen the violent mafias and gangs they must confront.

But the opposite is true. Fuller accountability, though the criminal prosecution of abusive practices, does not undermine law enforcement. Rather, it forces police and prosecutors to do their jobs more effectively. The result is fewer abuses and a higher number of genuine criminals behind bars.

II. COLOMBIA

One of the countries that has faced the highest levels of violence in recent years is Colombia. In the context of a decades-old internal armed conflict, Colombia has been plagued by widespread and serious abuses by irregular armed groups, including guerrillas and successor groups to paramilitaries, who are involved in illegal drug trafficking.

The Revolutionary Armed Forces of Colombia (FARC) and the National Liberation Army (ELN) routinely use antipersonnel landmines. And the FARC, in particular, is frequently involved in massacres, killings, threats, and recruitment of child combatants.

Trade unionists, human rights defenders, journalists, community leaders, indigenous and Afro-Colombian leaders, displaced persons' leaders, and paramilitaries' victims seeking land restitution or justice are frequently the targets of threats and violence by successor groups to paramilitaries.

The Colombian military is also responsible for serious abuses, including extrajudicial killings of civilians who are then falsely reported as guerrillas killed in combat.

A major factor contributing to the ongoing abuses against civilians has been the lack of full accountability of perpetrators. Colombian prosecutors and judges have made determined and

sometimes successful efforts to bring perpetrators to justice. Yet they continue to face considerable obstacles, including (when suspects are state actors) resistance from the executive branch.

Criminal Justice Reform

One important step that Colombia has taken to strengthen the rule of law is a sweeping reform of the criminal justice system. In 2004, the Colombian Congress approved new rules of criminal procedure that sought to increase the fairness, impartiality, and transparency of criminal trials, and reduce case backlogs by reducing the time required to resolve criminal cases. The legislation also codified fundamental due process rights, such as the presumption of innocence and the right to legal defense.

This new system has been phased in gradually, with substantial support from the US Department of Justice and USAID, in the form of training for prosecutors, judges, and defense attorneys, and the setting up of new oral trial courtrooms.

The impact of the reform has so far been most evident in cases involving criminal suspects allegedly caught *in flagrante*, which are generally resolved far more expeditiously now than in the past. However, the challenge of realizing the reform's full potential—in terms of strengthening the criminal justice system and ensuring due process rights—remains very much a work in progress.

Paramilitaries and Their Successors

The administration of President Álvaro Uribe claims that paramilitaries no longer exist. But while more than 30,000 individuals participated in a paramilitary demobilization process, there is substantial evidence that many were not paramilitaries. Others never demobilized, and some returned to crime after demobilizing. Law enforcement authorities never investigated most of them.

Successor groups to the paramilitaries, often led by mid-level paramilitary commanders, are rapidly growing. The Colombian National Police reported that as of July 2009 the groups had more than 4,000 members and were swiftly expanding their areas of operation. Non-governmental estimates run as high as 10,200.

Like the paramilitaries, the groups are engaging in drug trafficking, actively recruiting, and committing widespread abuses, including massacres, killings, rape, threats and forced displacement.

In Medellín, after a steady decline in official indicators of violence, there has been a dramatic surge in homicides since 2008, apparently committed by these groups. In 2009, there were 2,186 homicides, more than twice as many as in 2008. In the first three months of 2010, there were 503, a 55% increase from the number during the same period in 2009.

The implementation of the Justice and Peace Law, which offers dramatically reduced sentences to demobilized paramilitaries who confess their atrocities, has been slow and uneven. Four years after the law was approved, there are still no convictions. Most paramilitaries are not even participating in the process. Prosecutors have made little progress in recovering illegal assets and land that paramilitaries took by force.

President Uribe's extradition, in May 2008, of most of the paramilitary leadership to the United States interrupted the leaders' confessions in the Justice and Peace process. It remains unclear to what extent US prosecutors are questioning the paramilitary leaders about their accomplices in Colombia, or their human rights crimes.

In recent years the Colombian Supreme Court has made unprecedented progress in investigating accusations against members of the Colombian Congress of collaborating with the paramilitaries. In what is known as the "parapolitics" scandal, more than 80 members—nearly all from President Uribe's coalition—have come under investigation. But the Uribe administration has repeatedly taken actions that could sabotage the investigations, including issuing public and personal attacks against Supreme Court justices. Meanwhile, investigations by the Attorney General's Office into senior military officers and businesspersons who allegedly collaborated with paramilitaries have moved forward slowly.

Illegal Surveillance

In February 2009 Colombia's leading news magazine, *Semana*, reported that the Colombian intelligence service, DAS, which answers directly to President Uribe, has for years been engaging in extensive illegal phone tapping, email interception, and surveillance of a wide array of persons viewed as critics of the Uribe administration. These include trade unionists, human rights defenders, independent journalists, opposition politicians, and Supreme Court justices.

The Attorney General's Office opened an investigation into the surveillance, but *Semana* reported that prosecutors inexplicably focused almost exclusively on surveillance carried out in 2002-2005 (during the tenure of former DAS chief Jorge Noguera, who is on trial for homicide and links to paramilitaries), despite evidence that the DAS has engaged in systematic surveillance for years afterwards. Two of the prosecutors conducting the investigation resigned, but the investigations have continued moving forward slowly.

Meanwhile, according to *Semana*, the illegal surveillance continued. For example, *Semana* revealed that numerous calls of Supreme Court Assistant Justice Iván Velásquez, the lead investigator of the "parapolitics" scandal, had been illegally intercepted through the end of August 2009.

Military Abuses

In recent years there has been a substantial rise in the number of extrajudicial killings of civilians attributed to the Colombian Army. Army members, under pressure to show results, kill civilians and then report them as combatants killed in action. The alleged executions have occurred throughout the country and involve multiple army brigades. Initial information indicates that the rate of killings may have dropped in 2009, possibly as a result of international attention and the opening of criminal investigations.

The Attorney General's Office is investigating cases involving more than 2,000 victims, though prosecutions are moving forward slowly. In preliminary findings after a June 2009 visit to Colombia, United Nations Special Rapporteur on Extrajudicial Executions Philip Alston noted, "The sheer number of cases, their geographic spread, and the diversity of military units implicated, indicate that these killings were carried out in a more or less systematic fashion by significant elements within the military." He said that the Colombian military justice system contributes to the problem by obstructing the transfer of human rights cases to the ordinary justice system.

President Uribe for years publicly denied the problem existed, and accused human rights groups reporting these killings of helping the guerrillas in a campaign to discredit the military. After a major media scandal in 2008 over the executions of several young men from Soacha, a low-income Bogotá neighborhood, Uribe dismissed 27 members of the military. There were several more dismissals in 2009. But President Uribe has continued to claim that the executions are only isolated cases.

III. MEXICO

The Use of the Military in Public Security Operations and Increasing Human Rights Abuses

Since taking office in December 2006, Mexico's President Felipe Calderón has relied heavily on the armed forces to fight serious drug-related violence and organized crime. The need to improve public security is clear. Mexico is facing powerful drug cartels that are engaged in violent turf battles, an influx of sophisticated weapons, a large number of kidnappings and executions in several Mexican states, and shocking forms of violence including beheadings. The competition and fighting among powerful cartels, as well as shootouts between cartel members and law enforcement agents, have resulted in the deaths of thousands of civilians, police, and members of the military.

The number of deaths in the confrontation between security forces and drug cartels has risen significantly since President Calderón initiated this new strategy. In 2007, 2,837 people died in violence related to drug trafficking and organized crime. In 2009, that number had risen to 9,635. In total, such confrontations have claimed more than 22,700 lives in Mexico from 2007 to March 2010.

These deaths have mainly been concentrated in the cities and states used for the cultivation of drugs and their transport across the border to the United States.

Mexico has used its armed forces in counternarcotics and counterinsurgency operations for decades. But the participation and visibility of the armed forces in law enforcement operations has increased dramatically during the Calderón administration, which has portrayed the deployment of the army as one of its key strategies to combat drug trafficking and increase public security. Thousands of members of the military have been incorporated into the federal police force, and more than 50,000 military and police officers have been deployed throughout the country. In some violent cities, such as Tijuana, local governments have appointed high ranking military officers to head the police force. In others, such as Ciudad Juárez, the armed forces have all but replaced the police in public security operations for sustained periods of time. The Calderón administration has stated that the use of the armed forces is temporary, but the government has yet to approve a plan for withdrawal of the troops.

While engaging in law enforcement activities, Mexico's armed forces have historically committed serious human rights violations. Human Rights Watch has documented a wide range of abuses by the military, including cases of torture, rape, killings, and arbitrary detentions of dozens of people during public security operations in various Mexican states during the Calderón administration. Many of these abuses are documented in detail in a recent report by Human Rights Watch, "[Uniform Impunity: Mexico's Misuse of Military Justice to Prosecute Abuses in Counternarcotics and Public Security Operations](http://www.hrw.org/en/reports/2009/04/28/uniform-impunity)" (<http://www.hrw.org/en/reports/2009/04/28/uniform-impunity>).

In April 2010, Human Rights Watch conducted a brief fact-finding mission to Tijuana to investigate abuses by security forces. President Calderón has repeatedly held Tijuana up as a place where the military's deployment has produced significant gains in public security. In a November 2009 speech, Calderón said, "in Tijuana, in contrast with other cities, we have significantly lowered the rates and indices of criminality, and we have taken the initiative in the fight against the criminals."

In the course of our visit, we found credible allegations of the systematic use of torture by the army, including more than 100 cases since 2009 of individuals who alleged they were arbitrarily detained, transported to military bases, and tortured to obtain false confessions. The torture tactics they described fit a pattern: according to victims and their family members, their interrogators blindfolded them, beat them, applied electric shocks to their genitals, threatened to kill them and their families, and asphyxiated them by holding plastic bags over their heads. During their arbitrary detentions and interrogations, authorities did not inform the families of victims that they were being held. In several cases, victims alleged the collaboration of civilian authorities in abuses, such as police assisting the military in arbitrary arrests, or members of the state prosecutor's office being present when victims were forced to sign confessions.

Human Rights Watch is not alone in documenting such abuses. Mexico's own National Human Rights Commission has issued comprehensive reports on more than 50 cases involving egregious

army abuses, including killings, rape and torture, since President Calderón took office. During that same period, the Commission has received nearly 4,000 complaints of abuses by the army. What's more, the numbers of both complaints and comprehensive reports have increased significantly with each passing year of the military's deployment. In 2006, the CNDH did not issue a single comprehensive report on abuses by the military; in 2009, it issued 30. And from 2006 to 2009 the number of complaints of military abuse registered with the CNDH grew ten-fold. The UN Human Rights Committee, as well as local and international nongovernmental organizations, have all documented widespread abuses by Mexico's security forces under President Calderón.

Such horrific abuses directly undermine the goal of stopping drug-related violence and improving public security. The army is currently deployed in the areas of the country most torn apart by drug-related violence. It would be in the military's best interest to act and be seen to act in a manner that is professional and respectful of civilians and human rights. When soldiers commit serious human rights crimes, they damage that image, alienating civilians and generating distrust and fear of the army in populations that otherwise are best placed to assist law enforcement efforts. The abuses also run counter to one of the main purposes that the armed forces are charged with serving in public security operations: enforcing the law and protecting members of the public—not harming them.

The Military Justice System and Impunity for Abuses

An important reason military abuses persist is that they go unpunished. And they go unpunished in significant part because most cases end up being investigated and prosecuted by the military itself. By allowing the military to investigate itself through a system that lacks basic safeguards to ensure independence and impartiality, Mexico is, in practice, allowing military officers involved in law enforcement activities to commit egregious human rights violations with impunity.

The near-total impunity for military abuses is rooted in the fact that the Mexican military justice system is not structured to address alleged violations of the rights of civilians independently and impartially. The secretary of defense wields both executive and judicial power over the armed forces. Military judges have little job security and may fear that the secretary will remove them or otherwise sideline their careers for issuing decisions that he dislikes. Civilian review of military court decisions is very limited. To make matters worse, there is virtually no public scrutiny of, or access to information about, what actually happens during military investigations, prosecutions, and trials, which can take years.

These structural flaws are borne out in practice. The Mexican Ministry of Defense limits excessively and without reasonable justification information the public's access to basic information on the status of army abuse cases still pending before the military justice system, making it extremely difficult to know with certainty to what extent members of the armed forces are, in fact, being held accountable. In many cases, witnesses and victims are reluctant to testify or participate, afraid of the future consequences of speaking about military abuses in front of military officials. Military

prosecutors routinely close investigations for lack of evidence in reliance on soldiers' testimony, ignoring independent, credible evidence that abuses have in fact occurred. As a result, the likelihood of obtaining justice in such cases in the military justice system is very slim.

Although Mexico argues that it is possible to challenge decisions adopted by military courts before the civilian justice system through an injunction (*amparo*), this recourse exists, essentially, to protect the due process rights of the member of the military accused of committing a crime. Victims and their families are unable to challenge the basic question of which justice system should have jurisdiction to investigate human rights abuses. In August 2009, Mexico's Supreme Court ruled that a victim did not have legal standing to challenge the jurisdiction of military tribunals to investigate military abuses. The case was brought by the wife of a victim of an extrajudicial execution by the military. The ruling effectively closes all legal recourse for victims and their families to challenge military jurisdiction in cases of human rights abuses.

The failure of Mexico's military justice system to hold soldiers accountable for human rights abuses is borne out by the numbers. According to information provided the Mexican government—which was only made available after Human Rights Watch repeatedly requested evidence that the military justice system was in fact prosecuting army abuses—only three soldiers have been found guilty of human rights crimes committed during the Calderón administration. However, one of those convictions resulted from an automobile accident, which does not constitute a human rights violation, and another was overturned on appeal. Therefore, only one case qualifies as a conviction for a human rights abuse, in which a soldier was sentenced to 9 months in prison for killing one civilian by opening fire at a military checkpoint.

Human Rights Watch's recent fact-finding mission to Tijuana provides a clear example of how this system has led to impunity. In spite of victims' statements before judges in criminal courts that they were forced to sign confessions under torture; scores of complaints of torture made to the state and national human rights commissions, as well as the state and federal attorneys general offices; and the presentation of several cases of alleged torture from Tijuana in a November 2009 hearing before the Inter-American Commission on Human Rights, not a single soldier has been adequately prosecuted for such abuse. While the Mexican government claims it is investigating several of these incidents, the opaqueness of the military justice system makes it impossible to know what steps, if any, have been taken to look into these alleged abuses.

A Missed Opportunity: The Merida Initiative, Human Rights Requirements, and US Certification

The United States became a partner in Mexico's efforts to confront its powerful drug cartels in October 2007, when it launched the Merida Initiative to confront organized crime in Mexico and Central America. In the time since, it has appropriated more than \$1.3 billion in support for Mexico in this effort. And ranking officials in the US government and military have suggested this collaboration will continue for years to come.

In view of the fact that Mexico decided to involve its armed forces—with their own imperfect track record on human rights—in a much more active role in drug enforcement, as well as the lack of police accountability and the widespread practice of torture in the country, the Merida legislation conditioned 15% of select funds on the fulfillment of four human rights requirements:

- improving police transparency and accountability;
- establishing a consultation mechanism with Mexican human rights organizations and civil society to improve the Merida Initiative;
- ensuring that civilian prosecutors and courts are investigating and prosecuting military forces who have been credibly alleged to have committed human rights violations; and
- enforcing the prohibition on the use of testimony obtained through torture or other ill-treatment.

By law, the 15% of funds are to be withheld until the State Department reports in writing to the House and Senate Committees on Appropriations that Mexico is meeting all four human rights requirements included in the package.

In August 2009, the State Department submitted a report to Congress on the Merida Initiative, which did not show that Mexico was meeting the four requirements. For example, on the prohibition on the use of testimony obtained through torture or other ill-treatment, the report said: “Since 2007, we are not aware that any official has ever been convicted of torture, giving rise to concern about impunity. Despite the law’s provisions to the contrary, police and prosecutors have attempted to justify an arrest by forcibly securing a confession to a crime.”

The State Department also reported that it is “uncommon” that civil authorities prosecute violations committed by soldiers, because such cases are usually handled by military prosecutors and courts. The report went on to recognize serious structural flaws in the military justice system that took on these cases, stating, “the opaqueness of the [Mexican] military court system, makes it difficult to analyze the nature and type of complaints filed, the status of cases against members of the military alleged to have violated human rights, or the results of the military prosecution.” Finally, the report noted that the scope of civilian review of military decisions is virtually nonexistent, stating: “victims and their relatives have no legal recourse to request prosecution or appeal the outcome of a military court.”

These findings on torture and the ongoing use of military of jurisdiction clearly show that Mexico did not meet at least two of the human rights requirements set out by the Merida Initiative. However, despite these findings, the 15% of Merida funds tied to human rights requirements was released by Congress following the State Department report.

The US government has rightly recognized the United States’ shared responsibility for, and strategic interest in, confronting Mexico’s violent cartels. Both the demand for the cartel’s drugs and the supply of the powerful arms they use come from north of the border. But by failing to uphold

Merida's human rights conditions, the United States is shirking an important part of this responsibility. As a result, Mexico has received not only the additional funds, but also a powerful signal that the US will not hold it accountable for making the human rights improvements required under the Merida Initiative.

The United States has an opportunity to correct this mistake. In the coming months, the next 15% installment of Merida Initiative funds will be up for review, contingent upon compliance with the same four human rights requirements. In determining whether these funds should be released, the State Department should thoroughly and objectively evaluate whether Mexico has met each of the four human rights requirements. The State Department should only issue a report if Mexico has met all four of the requirements, in which case the report should explicitly state that all conditions are being met. Otherwise, the 15% of select Merida funds should be withheld.

The US government created the human rights requirements in the Merida Initiative to help Mexico wage a more effective campaign against its violent drug gangs. It is in the interest of both countries that the State Department and Congress fulfill their obligations to uphold these requirements, and abide by the process through which they are evaluated.

Shifting Merida Aid from Military Funding to Strengthening the Rule of Law

Given the human rights record of the military in public security operations, Human Rights Watch welcomes the shift in Merida funding reflected in the 2011 budget proposal submitted by President Obama. The proposed budget would redirect a significant portion of Merida funding from foreign military funding to building the rule of law and reform to the judicial system.

In March 2008, Mexico approved a comprehensive justice reform that, in many respects, represented a historic step forward. The reform lays the foundation for an oral and adversarial justice system, and contains measures that are critical for promoting greater respect for fundamental rights. Human Rights Watch supported the passage of the reform, and commended, for example, the prohibition on the use of evidence obtained through torture. (Human Rights Watch has, however, expressed deep concern about specific provisions within the reform, such as a revision to the Constitution that allows prosecutors, with judicial authorization, to detain individuals suspected of participating in organized crime before they are charged with a crime.)

In spite of the largely positive changes contained in the justice reform, Mexico has been extremely slow to implement it. That is in a large part because the legislation creating the reform gave Mexico eight years to implement it. Thusfar, only a handful of Mexico's 32 states have even started to implement the reforms. US assistance for the justice reform through the Merida Initiative could have a significant impact in making this process both more efficient and more effective.

**TESTIMONY OF ATTORNEY GENERAL LAWRENCE G. WARDEN
STATE OF IDAHO**

**Hearing before the United States Senate Committee on the Judiciary
Subcommittee on Human Rights and the Law**

May 18, 2010

Senator Richard Durbin, the Chairman of the Senate Judiciary
Subcommittee on Human Rights and the Law

The Honorable Richard Durbin:

I would like to thank Senator Durbin and his fellow committee members for inviting me here today. I am pleased to speak to you as the Attorney General of Idaho and as a former Chair of the Conference of Western Attorneys General (CWAG). I've been asked to spend some time discussing the evolution of CWAG's involvement with our Mexican counterparts and the interest our organization has developed in assisting with the changes occurring within the Mexican Justice System.

I served as Chair of the Conference of Western Attorneys General (CWAG) in 2006 to 2007 and President of the National Association of Attorneys General (NAAG) in 2007 to 2008. While I was Chair, the United States Agency for International Development (USAID) contacted CWAG and asked if I would meet with a delegation of Mexican law enforcement officials who were meeting in California to discuss issues of common concern. I went to that meeting prepared to talk about justice. As I sat there listening, I realized that my speech was way too theoretical for the occasion. My colleagues from Mexico were interested in the "boots on the ground" kind of issues of public corruption, not the ethereal and theoretical issues I came prepared to discuss. So, I revamped my presentation to discuss the realities of law enforcement, prosecution, justice and public corruption. At the conclusion of my presentation, I was approached by a woman in the audience whom I believe to be Lydia Cacho, although I cannot recall her name specifically. She was crying and rapidly speaking Spanish. I was somewhat overwhelmed but soon learned that she was saying, "We need you. We need you." She said that she was not a prosecutor or a law enforcement officer, but was a reporter for a local newspaper in Mexico, and that she had discovered a child sexual abuse ring operating in her city. She began to report on the criminal participants as a way to provide some measure of protection for the victimized children. She said that upon the order of the Governor of her state, the local police chief kidnapped her and tortured her for 48 hours to "shut her up." The governor had ordered the kidnapping because the governor's friend was the one running the child sexual abuse ring. This story seemed startling and outlandish to me at first, however, the more I learned about what was then happening in Mexico, and I read the internationally reported story of Lydia Cacho, the more I understood that such corruption is not unusual in Mexico.

I went to Mexico and met with Roger Garner, the USAID Director in Mexico City, and with Tony Garza, the then US Ambassador to Mexico. I also met with the representatives of the Procurador General Republica (PGR) which is the Office of the Federal Attorney General of

Mexico and representatives of the Procurador General Justicia (PGJ) which is the association of the Mexico State Attorneys General and with representatives of the Foreign Ministry of Mexico. My colleagues in Mexico were very frank, open and honest and told me that many of their law enforcement and judicial officers were corrupt. I found it amazing that they had the courage to admit that openly and that they would tell me, a US citizen. That gave me confidence that my colleagues in Mexico were as interested in justice as I was.

The vision of USAID, and one that I fully adopted, was to create connection and cooperation among the Mexican States, the Council of State Governments (CSG) and the U.S. State Attorneys General.

At the time, several individual Mexican States passed legislation, which resulted in a new direction for their judicial systems. This change is from a Napoleonic system to an adversarial system similar to that in the US. Under the Napoleonic system, prosecution occurs by written affidavit, rather than by producing witnesses, oral testimony and evidence at trial and there is a presumption of guilt rather than innocence. That system is subject to significant corruption and some members of the Mexican judiciary opposed the change to an oral advocacy system because the judges themselves would actually have to be present in court during trials. Understanding the dramatic legal shifts which were about to take place, USAID asked CWAG Attorneys General if they could provide moral support for the change and exposure for our Mexican colleagues to our adversarial oral advocacy system. After some introductory rounds of forums and exchanges among the Mexican and CWAG Attorneys General, CWAG, CSG, USAID, the federal Mexican Attorney General's Office (PGR) and the individual Mexican State Attorneys General (PGJ), made a series of written commitments of collegiality and support. The formalization of that supportive relationship is our project called the Alliance Partnership. The project members initially connected over a mutual interest in justice. That shared vision of improving the everyday lives of the citizens in both countries evolved into a commitment to provide technical training, access to materials and personnel. The initial personal contacts and relationships encouraged by USAID allowed natural connections and personal relationships to develop which have resulted in benefits to law enforcement on both sides of the border.

Mexican nationals cross the border, commit serious crimes in the US, run back to Mexico and use the international border as a shield against prosecution. US nationals cross the border, commit serious crimes in Mexico, run back to the US and use the international border as a shield against prosecution. We can overcome that criminal element only by creating relationships of trust on both sides of the border. My support for this project is not completely altruistic. I and my fellow Idahoans get something very significant in return. There are at home, on the ground, in the state of Idaho positive impacts because of this project. We have a significant Hispanic population in Idaho. It is important that we understand that population and properly prosecute crimes against that community as well as the community at large. The Drug Enforcement Agency recently issued a report that indicated that every state in the union except one has Mexican drug cartel connections. That is true in my state as well. My colleagues in Mexico and I must work together to combat the crime associated with those cartels.

While in Mexico, I met a number of state Attorneys General and learned some interesting things. Nearly every person to whom I talked in Mexico had a personal story of violent crime. Though

some had not personally been the victim of violent crime, their mother, father, siblings or children had been. They were never more than one step away from being the victim of violent crime. Furthermore, they could not count on the judicial system in Mexico to bring justice. For example, kidnapping is a fairly rare crime in the US but it is a frequent crime in Mexico. They speak of an ‘express kidnapping’ wherein the victim is kidnapped forced to remove the daily limit from their ATM, held overnight, forced to remove the next days limit from their ATM and then the victim is released. Mexican officials told me that they believed that about 60% of the kidnappings that occur in Mexico occur with police involvement amounting to millions of dollars a year in ransom going to law enforcement officers. Among Mexican citizens there is no sense of personal security.

After my return from Mexico, I was speaking to a business acquaintance. She said that the business for whom she worked owned a business in Mexico but did not invest heavily there because they could not protect their investment. In any legal dispute the party that bribed the judge was the party that would win. They chose not to participate in such a system and, therefore, economic development in Mexico is inhibited because of the lack of a reliable judicial system. That lack of economic development deprives Mexican citizens of jobs in their own country.

While I was the President of NAAG, I hosted a tri-national discussion of border issues. The three participating countries were Canada, Mexico and the US. I have often asked myself, what is the difference between our two borders? Do we have problems along our Canadian border? The answer is yes, but those problems pale in comparison to the problems we have along our Mexican border. What is the difference? The difference is what is going on inside Mexico. We will not be able to resolve the border issues until Mexico solves its internal problems of personal security and economic development. They have asked for, need and deserve our help.

Mexican citizens are rightfully proud of their heritage, their history and their country. Those I have spoken to would prefer to stay in Mexico but the lack of personal safety and the lack of jobs drives them across our southern border. The US is absolutely entitled to and must have a secure border and I am not here to discuss the advisability of fences or other border devices. But the forces which drive Mexicans across our southern border are more powerful than technological devices. If you and I faced the problems our southern neighbors face, we would do the same thing they do. We would vote with our feet. We would not stand for such conditions in our country.

We have to address the on the ground issues in Mexico. We have to solve the problem by solving the problem. The Mexican media once asked me what I was going to do to change their system. I told them that I could do nothing to change their system. They had to do that. But, what I could do was to be their friend and to let them learn from my successes and my failures and I could learn from theirs and together we could make a difference.

USAID’s financial support of the CWAG/Alliance Project Partnership initially facilitated exchanges at the State Attorney General level. The development of those relationships and the Alliance Partnership proves the adage “Personal contact changes perception.” As our member Attorneys General met with our Mexican counterparts, USAID, and US Embassy staff in

Mexico, big issues and problems were addressed head on. Exposure to the issues facing Mexican authorities lead to discussions relating to major Mexican cartel activities including the trafficking of drugs, arms, weapons and people. In response to this information and with the encouragement and funding from USAID through the Merida initiative, CWAG set out to provide technical assistance and legal training to our Mexican allies. This capacity training effort by CWAG includes components for police investigators, lawyers, judges and forensic scientists. The trainings are provided in Mexico and in the United States with bilingual materials available onsite and online. Using all the resources available to us, we expect to reach over five thousand Mexican law enforcement personnel within five years.

Individual CWAG Member States have volunteered their offices, law enforcement academies, contacts, and personnel for monthly trainings of our Mexican counterparts. The trainings occurring within the United States have attracted the cooperation of individual District Attorneys, Sheriffs and local Crime Labs as well as a variety of Judges at the city, state and federal levels. The cadre of entities, which come together to provide these trainings deliver consistent feedback regarding the value of the trainings to all the entities involved. As a host to several groups of Mexican legal professionals and law enforcement personnel I am consistently reminded that those of us in the United States receive as much inspiration and invigoration from the trainings as our guests. The dedication and bravery of the professionals in Mexico consistently astounds me. Officials from all levels of government are eagerly absorbing information on our system and readily evaluate and consider options for improvements in their own system. Providing technical assistance at their request seems the easiest way Americans can support the transformation and improvement of Mexico's justice system.

I cannot speak for everyone involved in this training, but I can address some of my personal experiences. I hosted the then federal Attorney General of the country of Mexico, Eduardo Medina-Mora and 28 State attorneys General at a bi-national Alliance Partnership conference in Sun Valley, Idaho in July and August 2009. For three days we discussed issues regarding drug trafficking, arms trafficking, human trafficking, and other related topics. I attached a copy of the agenda from that meeting to my testimony. (See Attachment A, Alliance Partnership Agenda July 31-August 2, 2009.) Unfortunately, we were not able to obtain the participation of the United States Attorney General or the U.S. Secretary of Homeland Security but they did send representatives.

Immediately thereafter, I hosted 24 Mexican law enforcement officers from the state of Northern Baja California. The Procurador of that state is my friend Rommel Moreno Manjarrez. We trained the officers to properly process a crime scene, prepare appropriate reports and then, using a number of local Idaho prosecutors including the Idaho US Attorney's office, we subjected the Mexican law enforcement officers to direct and cross examination. We video taped and critiqued their performance. During that time I hosted the officers at my home for dinner. In January of 2010 I went to the state of Northern Baja at the request of Rommel Moreno to participate in the kick off of that state's change to an adversarial oral advocacy justice system. I was introduced by the Police Commandant of Mexicali, Emilio Aguilar Rodriguez. He introduced me by telling the audience that he had been to my home for dinner with my family and that when he looked across the border he did not see me as a distant American, instead what he saw was friend who was as interested in and committed to justice as he was. Every day my

friend Rommel Moreno gets up the same as I do, for little pay and takes on the drug cartels. He does so at the risk of his own life. He has my undying admiration and friendship. He is as committed to justice as I am.

The relationships formed between the two countries law enforcement agencies are fertile breeding grounds for connections of understanding and trust. These bonds are returning immediate dividends. Just last week the Chihuahua Attorney General Patricia Gonzalez reached out directly to Colorado Attorney General John Suthers. She had information a Mexican national wanted on a murder charge had fled Ciudad Juarez and was in Colorado. Within 24 hours and due to the relationship amongst the staffs in both offices and their connections to federal law enforcement, ICE was able to apprehend the fugitive, get him off the streets of Denver and start proceedings to return him to Chihuahua to face the murder charges. (See Attachment B, Colorado Attorney General Press Release.)

The significance of CWAG's efforts through the Alliance Partnership is clearly quantifiable.

In terms of numbers,

28 Mexican States Participating with CWAG

34 US States Participating in the CWAG efforts

600 Investigators will be trained in the program during 2009 – 2010

600 Prosecutors will be trained in the program during 2009 – 2010

300 Forensic Scientists will participate in the program during 2009 – 2010

The per pupil training cost in our program is \$1600 per person per year.

In addition to the direct funding of \$2.4 million of federal dollars via Merida funds CWAG and member states participating in the program are donating in-kind services of over \$600,000 a year. We are able to leverage US Federal dollars for this program by the amount of state dollars to enhance the training. State Attorney General Offices, local police, sheriff, city, state and county labs are all volunteering staff talents and facilities in order to collaborate in this effort.

I have spent the past four years participating in exchanges and program development with my Mexican State Attorney General counterparts. The Conference of Western Attorneys General have developed the relationships and curriculum which support capacity training for law enforcement at the state and federal level in Mexico and within the United States. It is important to the future of both of our countries that we continue to enhance the ability of law enforcement to connect, communicate and collaborate. I thank the committee for bringing this subject up for discussion and I look forward to coordinating efforts with any entity interested in supporting the very positive transformation of the judicial system in Mexico. I have often asked myself, what is the difference between me and my colleagues in Mexico? The answer is nothing. I was simply blessed to be born on the north side of the Rio Grande, for that I am thankful. But my colleagues

want the same things. We want to get up in the morning, go to work, come home in the evening, have dinner with our family, watch a ballgame and live life. We are the same. We walk the same dirt, we share the same land and we are committed to justice. They do have an advantage over me, however, most of them are bilingual.

I close my comments by telling you this story. During my first visit to Mexico, I met a woman whose first name is Lucy, but I do not recall her last name and I do not have any way to verify her story. I can only relay what she said and note that she had no reason to lie. She told me that her work to enhance the rule of law in Mexico occurred because a number of years earlier she and two of her friends were driving down the road. They were forced off the road by two men in a car. The men removed the women from their car, beat all three women, raped her two friends and then beat her again mercilessly. She reported these crimes to the police and sometime later was taken to a police lineup. She identified the two men who had committed these crimes and was told by the Attorney General that these two men were his staff members and they did that sort of thing. He said that the men could be prosecuted but the men would simply kill Lucy and her friends. He suggested a different solution and said that he could give her the name of someone who would kill the men first. She told me that she didn't want to participate in someone's murder. She just wanted justice and knew there had to be a better way.

That is the essence of the Alliance Partnership, with our colleagues in Mexico we are finding a better way.

Respectfully submitted,

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