U.S. AND MEXICAN RESPONSES TO MEXICAN DRUG TRAFFICKING ORGANIZATIONS

A REPORT

BY THE

UNITED STATES SENATE CAUCUS
ON
INTERNATIONAL NARCOTICS CONTROL

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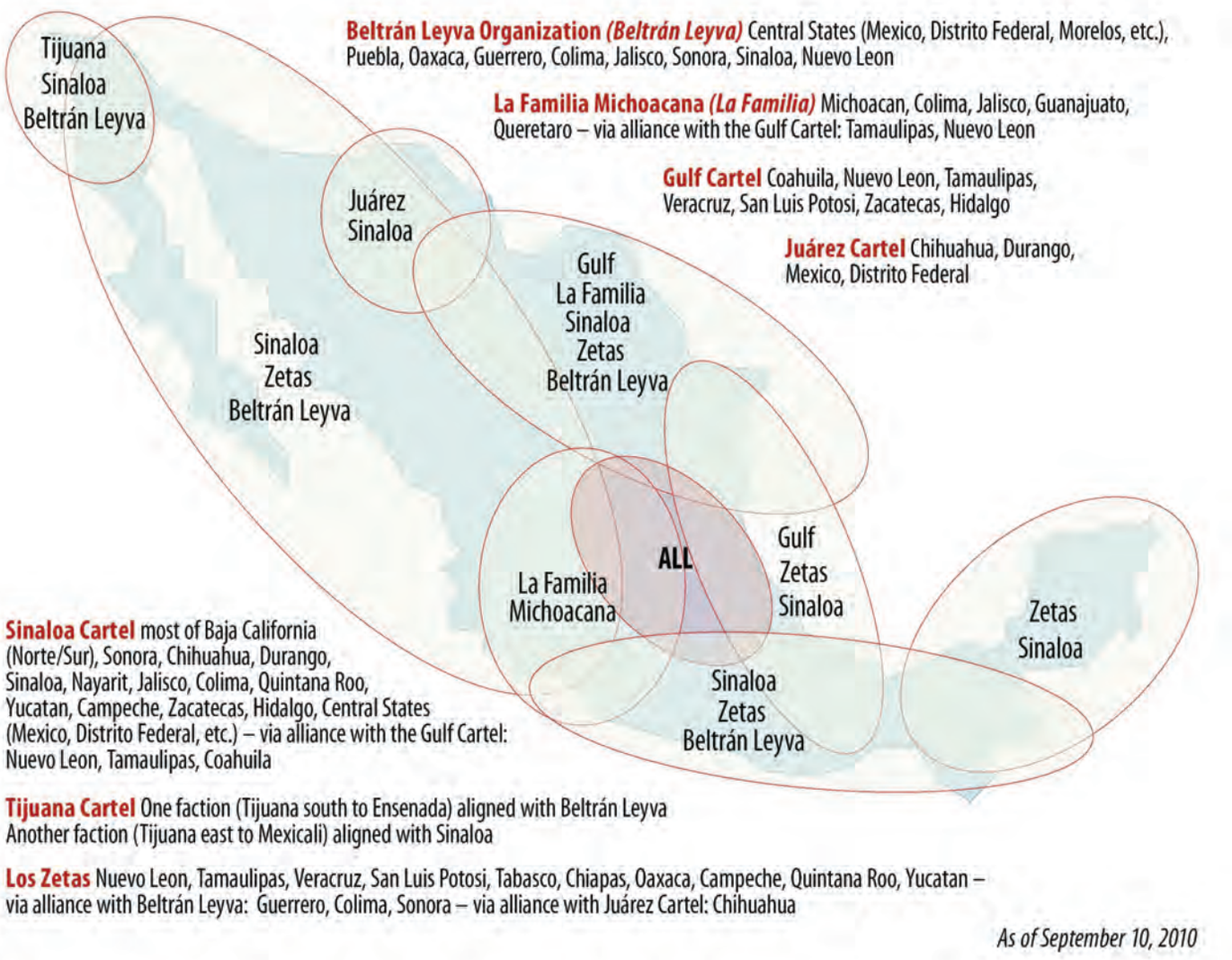

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LETTER OF TRANSMITTAL

UNITED STATES SENATE
CAUCUS ON INTERNATIONAL NARCOTICS CONTROL
Washington, DC

May 2011

Dear Colleague:

Violence in Mexico continues unhindered without any signs of slowing. This report outlines a series of concrete steps the United States can take to support the Mexican government in its fight against drug trafficking organizations and drug-related violence. While our security partnership with Mexico has deepened in recent years, more can be done to help.

The attached report synthesizes information gathered by Caucus staff through a country visit, briefings, interviews, and a review of documents from both government and non-government subject matter experts. The report describes the current strategy and provides important recommendations for policymakers and stakeholders. Being that the Chair and Co-Chair have different views on the causes and sources of illicit firearms in Mexico, that topic will be dealt with in separate reports.

Sincerely,

Senator Dianne Feinstein
Chairman

Senator Charles Grassley
Co-Chairman

Senator Charles Schumer

Senator James E. Risch

Senator Tom Udall

Senator John Cornyn

Senator Sheldon Whitehouse

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EXECUTIVE SUMMARY

Drug-related violence in Mexico has, unfortunately, become a daily phenomenon. When Mexican President Felipe Calderón took office in December 2006, he made it a priority to confront drug trafficking organizations (DTOs) head on. Drug traffickers, who often acted with impunity in the past, were now the target of the Mexican Government.

To date, progress has been made in combating Mexican drug trafficking organizations. According to the Mexican government, of the 37 drug kingpins designated as "most wanted" in March 2009, 20 have been arrested or killed.[1]

To sustain this progress, institutional reform in Mexico will be essential. In particular, the municipal and state police must be better trained and equipped, and judicial reforms must be implemented.

In October 2007, the United States and Mexico entered into an unprecedented security partnership known as the Mérida Initiative.[2] Approximately $1.5 billion in security assistance has been appropriated by the U.S. Congress for Mexico under the Mérida Initiative. But, Mérida is about more than foreign assistance. Through the Mérida Initiative, our two countries have created several mechanisms for enhanced bilateral cooperation. An October 22, 2007, statement from the United States and Mexico announcing the Mérida Initiative demonstrates the extent of this collaboration:

> Mexico will strengthen its operational capabilities to more effectively fight drug-traffickers and organized crime; the U.S. will intensify its efforts to address all aspects of drug trafficking (including demand-related portions) and continue to combat trafficking of weapons and bulk currency to Mexico. Both nations will augment cooperation, coordination, and the exchange of information to fight criminal organizations on both sides of the border.[3]

The United States provides counternarcotics assistance throughout the world. But, our security partnership with Mexico is unique. We share a 1,969 mile border. What happens in Mexico has a deep impact on the United States and the reciprocal is also true. The Mexican government must continue to combat its country's violent drug trafficking organizations and curb the supply of illicit drugs flowing into our country. It also must take action to better secure its northern border as well as its southern border with Central America to prevent illegal narcotics, weapons, and illicit proceeds from entering the country. At the same

time, the U.S. must take action to better counter the southbound traffic of money and firearms that fuel the drug trafficking organizations, while also working to reduce our country's massive demand for illegal narcotics.

In the past, the relationship between the United States and Mexico often was characterized by mistrust. Today, our bilateral cooperation is strong. Given the significant challenges that both our countries face from Mexican drug trafficking organizations and the strength of U.S. – Mexico relations, we urge policymakers to continue to prioritize efforts to address all aspects of drug trafficking.

This report makes several recommendations for the U.S. government. These include:

- Enhancing authorities' and businesses' focus on understanding, mapping, and tracking the financial structures and money transfers of drug trafficking organizations;
- Proactively providing judicial sector assistance to each Mexican state that requests it during the next phase of the Mérida Initiative; and
- Developing fundamental measures of success for the Mérida Initiative.

FINDINGS AND RECOMMENDATIONS

BULK CASH SMUGGLING AND MONEY LAUNDERING

1. ***Finding:*** The southwest border is the primary route for the transfer of illicit drug proceeds fueling Mexico's drug trafficking organizations. According to the National Drug Intelligence Center, Mexican and Colombian drug trafficking organizations "annually generate, remove, and launder between $18 billion and $39 billion in wholesale distribution proceeds", much of it across the Southwest border. Trucks filled with bulk cash literally are being driven across the U.S. – Mexico border to fund the drug trafficking organizations.

   While current data shows that bulk cash smuggling is the main method for expatriating money from the U.S. to Mexico, a large amount of additional money is laundered from the U.S. to Mexico through various electronic means. While continuing to crack down on bulk cash smuggling, the United States must stay ahead of the drug trafficking organizations by also going after these newer methods of money laundering.

   Stored value – money stored on pre-paid gift or credit cards, for example – is one such method of money laundering. Use of stored value to launder money is popular since it is not subject to cross-border reporting requirements.

   Recommendation: The Credit CARD Act of 2009 requires the Secretary of the Treasury, in consultation with the Secretary of Homeland Security, to issue regulations regarding the sale, issuance, redemption, or international transport of stored value cards. Thus far, the Treasury Department has failed to adequately address stored value. A Notice of Proposed Rulemaking was issued in June 2010, but did not include any proposed rules on the international transport of stored value. The Credit Card Act of 2009 required final rules to be issued by February 2010.

   The Secretary of the Treasury should propose and finalize a rule to make stored value devices subject to cross-border reporting requirements.

The Secretary of the Treasury must quickly finalize a proposed rule to make the purchase of stored value subject to Suspicious Activity Reports (SARs). For example, if an individual buys $2,000 worth of pre-paid phone cards, the seller should be required to submit a Suspicious Activity Report to the Treasury Department's Financial Crimes Enforcement Network (FinCEN). Currently, a Suspicious Activity Report must be submitted for the international transport of cash, money orders, or traveler's checks, but not for stored value.

If rulemaking does not expeditiously take place on these items, Congress should act to make stored value, or access devices, subject to cross-border reporting requirements and subject to Suspicious Activity Reports.

2. ***Finding:*** Far too little is known about the financial structures and procedures of Mexican drug trafficking organizations. On both sides of the border, U.S. and Mexican authorities' efforts to understand drug trafficking organization's finances are severely lacking.

   Recommendation: In collaboration with the Calderón Administration, the Obama Administration should enhance authorities' and businesses' focus on understanding, mapping, and tracking drug trafficking organizations' financial structures and money transfers. This should include specific tasking within law enforcement agencies and other relevant government and private sector entities to make financial information regarding drug trafficking organizations a top priority.

3. ***Finding:*** With the growing use of super-secure, unregulated, and unregistered servers on the Internet, it is not necessary for illegal money to pass through the United States' financial structures to the same degree as it has historically been. Mexican drug trafficking organizations are using foreign-based Internet financial service businesses to electronically launder money.

   Recommendation: Regulations must be developed to track and prosecute extraterritorial Internet money laundering. Efforts must be made with our international partners – through Memoranda of Understanding (MOUs) and other means – to combat money laundering through the Internet.

SOUTHBOUND INSPECTIONS

4. ***Finding:*** Ports of entry have inadequate technology, infrastructure, and staffing to carry out southbound inspections and interdict weapons and bulk cash. Drug Caucus staff observed inadequate infrastructure to conduct southbound inspections at ports of entry in El Paso, Texas, Nogales, Arizona, and San Diego, California. Staff observed that law enforcement often must conduct operations in freeway environments without dedicated southbound inspection areas and lanes.

   The United States and Mexico have initiated new programs to screen vehicles entering Mexico. Sufficient port of entry infrastructure and technology must be in place on both sides of the border to efficiently carry out these programs and the cost of this infrastructure and technology should be shared by both countries.

   Recommendation: The Departments of Justice and Homeland Security should conduct and submit to Congress an assessment of immediate infrastructure and staffing needs at the Southwest border – including important tools like License Plate Readers – considering cost estimates and long-term objectives for southbound vehicle inspections. This assessment should include a review of activities and resources by the Government of Mexico to stand-up southbound inspections on the Mexican side of the border.

BORDER TUNNELS

5. ***Finding:*** Illegal tunneling activity on the U.S. Southwest border by Mexican drug trafficking organizations and their associates represents a significant and persistent threat to border security. Border tunnels are most often used to transport narcotics from Mexico to the United States, but could also be used to transport people and other contraband. Between May 1990 and May 2011, 137 tunnels were discovered, with 125 discovered since September 2001. In the Department of Homeland Security (DHS) Appropriations Act of 2007, language was included to criminalize the financing, construction, and use of border tunnels, which is now known as 18 USC 555.

Recommendation: Legislation is needed to enhance the 2007 law that criminalizes the financing, construction, and use of border tunnels to further deter tunnel activities and increase prosecutorial options. This legislation should include the following components:

- Conspiracy to use, construct, or finance a border tunnel should be criminalized. This would punish actions with the intent to engage in tunnel activity, even in cases where a tunnel was not fully constructed. This can be achieved by amending Section A of 18 USC 555 to include "conspiracy or attempts to construct or finance a border tunnel."

- Illegal tunneling should be included as an offense eligible for Title III wire interception. Providing Title III authority for tunnel investigations without proving the occurrence of a qualifying crime could increase the ability of law enforcement to determine tunnel locations and exit points in the United States, identify those involved in illegal tunnel activity, and provide evidence for prosecution. Currently, tunnel construction, financing, and use alone, without other offenses – such as drug activity – do not qualify for a Title III wiretap.

- In order to allow authorities to seize assets from illegal tunneling, border tunnel activity should be specified as an unlawful activity under the existing money laundering provision. This would permit the U.S. government to seize assets from illegal tunnel activity which it currently cannot do.

To make property owners on whose land illegal tunnels are built accountable, 18 USC 555 should be amended to:

- Examine the viability of requesting that property owners annually report information on the sale or transfer of property as well as a change in current tenants in a designated border tunnel high-risk zone within one mile of the U.S. Southwest border. This would provide the Department of Homeland Security with an up-to-date registry of ownership and current occupancy of each building in border tunnel high-risk zones along the Southwest border.

- Require that DHS annually report to Congress on cross border tunnel construction and update Congress on the needs of the Department to effectively prevent, investigate, and prosecute border tunnel construction.

- Mandate that DHS at least once annually notify property owners one mile north of the Southwest border of laws related to the construction of illegal border tunnels and provide tip hotline information.

- Mandate that DHS maintain a database of all property owners designated within high-risk tunneling areas one mile north of the Southwest border and a database of all renters in the area.

MÉRIDA INITIATIVE

6. ***Finding:*** The initial phase of U.S. security assistance to Mexico under the Mérida Initiative focused on the transfer of equipment, including helicopters and communications devices. In order to have long-term success in combating organized crime, the United States must support Mexican efforts to make much-needed judicial and police reforms during this next phase of the Mérida Initiative.

In 2008, wide-ranging judicial reforms were enacted by Mexican President Felipe Calderón. These reforms – which are intended to be implemented by 2016 – include a change from a written, inquisitorial justice system to an oral, adversarial one. While police work in Mexico is improving, prosecutions are lacking. According to data from the Mexican government, 1.55 percent of suspected crimes in Mexico result in convictions. In comparison, U.S. federal district courts in FY 2008 logged a 90.3 percent conviction rate.

Recommendation: While training is needed throughout the judicial sector, the U.S. can be particularly useful in assisting with training prosecutors, judges, and others in the Mexican justice system on the new court proceedings. This training should be proactively offered by the United

States and provided to each Mexican state that requests it. It should include specific training on oral trial topics such as evidence, opening and closing statements, direct and cross examination, and objections.

Currently, legal professionals in seven states are receiving this training and seven others have pending requests to the United States Agency for International Development (USAID) for such assistance.

7. ***Finding:*** As Mexican law enforcement engages in counternarcotics missions, air assets are necessary to facilitate quick movement on targets and to allow for transport in areas with challenging terrain and security. After long delay, in November 2010, two Bell 412 helicopters and three Blackhawk UH-60 helicopters were formally dedicated and handed over to Mexico for use in the counternarcotics effort. So far, a total of 11 helicopters have been delivered to Mexico – 8 Bell 412s and 3 Blackhawks.

   Recommendation: The pace of delivery of air assets should continue to be expedited. The State Department has developed an equipment delivery schedule for the next two years with air assets being delivered through April 30, 2012. Congress must ensure that air asset deliveries take place on time or are expedited to arrive earlier than scheduled.

8. ***Finding:*** In a July 2010 report on the Mérida Initiative, the Government Accountability Office found that the State Department's performance measures on the program "do not provide measurable targets, and do not measure outcomes." The report further notes that "without targets to strive toward, State cannot determine if it is meeting expectations under the Mérida Initiative."

   Recommendation: The State Department must quickly develop fundamental measures of success for the Mérida Initiative which it must provide to Congress. A multi-year timeline should be developed with targets in several key areas, including equipment delivery, judicial and police reform, and state capacity to respond to drug trafficking organizations. The State Department agrees with this recommendation and informed the Caucus that it is working with the Mexican government to develop performance metrics that measure outcomes.

LAW ENFORCEMENT

9. ***Finding*:** Kidnapping for ransom is a common occurrence in Mexico. Over the past ten years, kidnappings of and violence against U.S. citizens in Mexico has increased. Often, the kidnapping of U.S. citizens in Mexico involves ransom requests made to family members in the United States. The FBI is frequently called upon to assist Mexican law enforcement authorities in the investigation of violent acts against and kidnappings of U.S. citizens in Mexico.

***Recommendation*:** The FBI should develop and sponsor a Sensitive Investigative Unit (SIU) – also known as a vetted unit – with trusted Mexican counterparts who have the expertise to conduct investigations of the kidnapping of U.S. citizens. This FBI-mentored unit would respond to kidnapping cases in Mexico involving U.S. citizens and would foster collaboration between U.S. and Mexican law enforcement officials on these cases.

10. ***Finding:*** In Mexico, the Sensitive Investigative Unit has been very effective in targeting high-level drug traffickers. Over the past nine months, the Sensitive Investigative Unit has assisted Mexican authorities in operations that have led to the capture or death of eight of Mexico's top drug trafficking organization leaders.

In FY 2009, the Drug Enforcement Administration (DEA) received $20,000,000 in supplemental funding to expand its Sensitive Investigative Unit program in Mexico. This was two-year funding that expired on September 30, 2010. The President's FY 2011 budget included a request of $10,800,000 for the DEA to support the expanded Sensitive Investigative Unit program in Mexico.

***Recommendation*:** Congress should prioritize funding for the Mexican Sensitive Investigative Unit.

REGIONAL APPROACH/CENTRAL AMERICA

11. ***Finding:*** As the United States and Mexico collaborate to combat drug-related violence, drug trafficking organizations continue to move deeper into Central America, particularly Guatemala. The DEA reports that the vast majority of drug trafficking routes in and through Guatemala are controlled by Mexican drug trafficking organizations. In the Western Hemisphere, far too often, one subregion is given attention and resources at the expense of another. A more integrated U.S. approach that allows for flexibility is needed as Mexican drug trafficking organizations attempt to challenge the Guatemalan state and other countries in Central America.

Recommendation: To counter the threat of Mexican drug trafficking organizations in Central America, the current Sensitive Investigative Unit programs in Central America – currently in Guatemala and Panama – should be expanded to additional countries.

Police and judicial reform are desperately needed throughout Central America. The United States has provided key support for the United Nations International Commission against Impunity in Guatemala (CICIG) which was created to assist Guatemala in investigating and dismantling violent criminal organizations believed to be responsible for widespread crime and paralysis of the country's justice system. This international commission has led to key convictions of members of the Zetas and other illegal criminal networks. For example, in September 2010, 14 leaders of the Zetas were convicted in Guatemala as a result of a United Nations International Commission against Impunity in Guatemala investigation. The U.S. should support other countries in Central America as they consider replicating the United Nations International Commission against Impunity in Guatemala model.

12. ***Finding:*** The Office of National Drug Control Policy (ONDCP) recently convened an inter-agency team to craft a much-needed Western Hemisphere Counterdrug Strategy. The intention is to reconcile multiple subregional strategies prepared by the inter-agency.

Recommendation: The Office of National Drug Control Policy must provide Congress with a bi-annual report on their Western Hemisphere Counterdrug Strategy – classified to the extent necessary – with a particular

focus on efforts to stay ahead of drug trafficking organizations throughout Latin America and the Caribbean rather than simply being reactive. The strategy must mention areas where more flexibility is needed from Congress to ensure that the executive branch is able to combat the so-called "balloon effect" that results from pressure in one region causing the drug trade to move to another region.

METHAMPHETAMINE

13.*Finding:* It is necessary to increase controls on the availability of pseudoephedrine and ephedrine products used to manufacture methamphetamine in California and throughout the nation. Despite the federal government taking virtually every action available at the time, illegal drug manufacturers continue to find ways to circumvent laws passed.

Investigations indicate that Mexican drug trafficking organizations continue to operate on both sides of the border to manufacture and distribute methamphetamine consumed in the United States. Domestic methamphetamine lab seizures are rising at an alarming rate compared to previous years. According to the DEA, between 2007 and 2009, there was close to a 92 percent increase in the number of methamphetamine labs seized in the U.S.

In September 2006, the Combat Methamphetamine Epidemic Act (CMEA) of 2005 came into effect nationwide, setting restrictions on the retail sale of pseudoephedrine products. In 2010, President Obama signed into law The Combat Methamphetamine Enhancement Act of 2010 that strengthens controls on precursor chemicals by requiring all retailers of these products to submit self-certification of compliance to the Attorney General.

Many states have worked to limit precursor availability. Currently, 44 states have established or enhanced restrictions on over-the-counter sales of pseudoephedrine and ephedrine-based products in addition to those set forth in the Combat Methamphetamine Epidemic Act of 2006. Oregon and Mississippi have passed specific legislation to make all pseudoephedrine and

ephedrine-based products controlled substances, requiring a physician's prescription.

These states have experienced a dramatic decrease in methamphetamine lab seizures. From 2001 to 2005, the number of meth labs seized in Oregon fell by 68 percent, from 587 to 189. After enacting legislation in 2006 that made pseudoephedrine available only by prescription, this decrease continued with 21 lab seizures in Oregon in 2008. In 2009, this number dropped to 13 and did not rise in 2010.

Mississippi has seen similar success. According to the Mississippi Bureau of Narcotics, since a prescription-only law took effect on July 1, 2010, Mississippi experienced a 72 percent decrease from August 1, 2010 to December 31, 2010 compared to the same time period in 2009.

The Office of National Drug Control Policy's 2010 National Drug Control Strategy states that the Department of Justice will review how best to improve the U.S. approach to countering domestic methamphetamine production, including whether federal laws need to be updated.

Recommendation: The United States must strengthen controls on sales of precursor chemicals used to produce methamphetamine. To help Congress determine the next steps, the Government Accountability Office (GAO) should evaluate the success and shortcomings of both national and state laws on methamphetamine and produce concrete recommendations on next steps. Government Accountability Office must provide Congress with:

- Information on the extent to which the retail sales of pseudoephedrine are fueling domestic methamphetamine production versus the illegal import of such products;
- A summary of lab seizures in states with electronic tracking systems for pseudoephedrine purchases and states with prescription only laws for pseudoephedrine;
- An evaluation of the effectiveness of current laws in limiting pseudoephedrine diversion to and from surrounding states for methamphetamine production to identify if methamphetamine production has shifted to states without pseudoephedrine regulations;

- The viability of a national electronic tracking system to stop methamphetamine purchases;
- The viability of a national statute making pseudoephedrine available only by prescription;
- The extent to which prescription only legislation would have on the costs and availability of currently available medical therapies.

The Caucus has asked the Government Accountability Office to prepare a report on national and state methamphetamine laws. A copy of the Caucus request letter can be found in the report appendix.

DRUG DEMAND REDUCTION

14. ***Finding:*** Drug consumption in the United States and increased Mexican drug use fuels drug violence.

According to the National Survey on Drug Use and Health, in 2009, about 21.8 million Americans aged 12 and older were current (in the past month) illegal drug users, representing 8.7 percent of the population. This represents the largest proportion in the past decade of people aged 12 and older being identified as current illegal drug users.

Through the Office of National Drug Control Policy's (ONDCP) 2010 strategy, the Obama Administration has prioritized drug treatment, prevention, and intervention to diminish the market for illicit drugs.

Recommendation: Given the increase in illegal drug users in the United States over the past decade, Congress must continue to prioritize drug prevention and treatment spending.

Specifically, the Drug Free Communities program – a grant program that has been extremely effective in reducing the demand for and use of illegal drugs – must continue to be funded by Congress and the Obama Administration. The Drug Free Communities program provides community coalitions throughout the country with funding to reduce youth substance use and abuse. An independent evaluation of the Drug Free Communities program found that prevalence of 30-day use of marijuana was lower for high school

students in Drug Free Communities-funded communities than among a nationally representative sample of high school students taking the Youth Risk Behavior Survey.

The U.S. should also continue to support Mexican demand reduction efforts, including drug courts and treatment centers for prevention and rehabilitation. Throughout the United States and in 15 other countries, drug courts have reduced recidivism rates and helped citizens recover and return to productive lives. The United States funded initial training for drug courts in the Nuevo León state of Mexico, and new programs in Baja California and Chihuahua.

INTRODUCTION

According to the U.S. Department of Justice's 2010 National Drug Threat Assessment, "Mexican drug trafficking organizations continue to represent the single greatest drug trafficking threat to the United States."[4] Mexican drug trafficking organizations have advanced technology, communication, and transportation routes into the United States. They maintain complex distribution networks that facilitate the transport of illicit narcotics to at least 230 U.S. cities and have extensive ties with gangs in the United States that assist in the distribution of narcotics, collection of profits, and act as enforcers.

In April 2010, Anthony Placido, the former Chief of Intelligence for the Drug Enforcement Administration (DEA) said, "No other country in the world has a greater impact on the drug situation in the United States than does Mexico. The influence of Mexico on the U.S. drug trade is truly unmatched: the result of a shared border; Mexico's strategic location between drug-producing and drug-consuming countries; a long history of cross-border smuggling; and the existence of diversified, poly-drug, profit-minded drug trafficking organizations."[5] The U.S. – Mexico border is one of the busiest in the world and is a transit point for most of the cocaine, foreign-source marijuana and methamphetamine, and Mexican-source heroin available in the United States.[6]

As drugs move north from Mexico to the United States, firearms and bulk cash profits from drug sales are smuggled south, arming and funding drug trafficking organizations. Furthermore, the U.S. demand for illicit drugs provides a profitable market for drug trafficking organizations.

The Mexican government is making unprecedented efforts to improve security in the country. Spending on anti-narcotics efforts has increased each year since President Felipe Calderón took office in December 2006 with the Mexican government spending over $9 billion last year on security. The United States has strongly supported these efforts by appropriating roughly $1.5 billion in security assistance to Mexico through the Mérida Initiative.

As the Mexican military and federal police forces seek to dismantle the country's drug trafficking organizations, there has been a spike in violence attributable to rivalries between drug trafficking organization leaders and

competition over increasingly threatened trafficking routes. Looking ahead, the Mexican government plans to continue making crucial reforms in the police and justice sectors. Long-term success in Mexico relies on implementation of these reforms.

This report will evaluate factors contributing to Mexico's illicit drug trade and increased violence in the country over the past several years. It will also take stock of Mexican and U.S. responses to drug trafficking organizations and drug-related violence and recommend next steps.

MEXICO: OVERVIEW OF THE PROBLEM

Measuring Violence in Mexico

Violence in Mexico has reached dangerous levels. Since the start of the Calderón Administration in December 2006, according to Mexican government estimates, 34,612 people have died in organized crime-related killings in Mexico. The killings reached their highest level in 2010, jumping by almost 60 percent to 15,273 deaths from 9,616 the previous year.

According to Mexico's intelligence agency, the Center for Investigation and National Security (CISEN), there are roughly 1,200 murders in Mexico each month. Drug-related deaths are concentrated in certain geographic areas of the country – many of them in the north near our shared border. The ten states in the chart on the next page accounted for about 85 percent of national narco-homicides in 2010.

The threat to U.S. citizens in Mexico is also of concern to the Caucus. In 2010, there were 111 homicides of U.S. citizens in Mexico. This is a significant increase from past years. 37 Americans were killed in Mexico in 2007, 57 in 2008 and 80 in 2009.[7] The security of U.S. law enforcement personnel in Mexico is also of concern, especially following the death of Immigrations and Customs Enforcement Special Agent Jaime Zapata on February 15, 2011 by gunmen from Los Zetas. As a result of this increased violence, the U.S. Department of State expanded a travel warning advising U.S. citizens to avoid nonessential travel in ten Mexican states, including Tamaulipas and Michoacan.[8]

President Barack Obama and Mexican President Felipe Calderón
Source: White House

Ten Most Violent Mexican States

State	2007	2008	2009	2010	Total Homicides
Chihuahua	148	1649	2082	4427	8306
Sinaloa	346	680	767	1815	3608
Guerrero	253	287	638	1137	2315
Durango	130	268	637	834	1869
Tamaulipas	89	110	49	1209	1457
Nuevo León	107	78	99	620	904
Jalisco	93	145	212	593	1043
Mexico State	111	359	354	623	1447
Baja California	154	604	320	540	1618
Michoacán	238	233	371	520	1362

Source: The Trans-Border Institute

Much of the violence in Mexico has been concentrated among organized criminal groups. The Mexican government estimates that 60 percent of drug-related deaths throughout the country are among organized criminal groups, 27 percent are government officials and 13 percent are innocent bystanders. While most of the victims have historically been males in their 20s and early 30s, statistics show a new trend of women and children under the age of 18 becoming victims of drug violence.[9]

Border regions, particularly Ciudad Juárez, have experienced especially high levels of violence. There is also a new "northeastern triangle" of violence in the northern Mexican cities of Matamoros, Nuevo Laredo, and Monterrey.

Monterrey, Mexico's industrial capital, has been particularly hard hit. The city has experienced a series of narco-blockades where buses are hijacked to hold-up traffic while criminals search for members of opposing drug trafficking organizations. The threat of kidnapping in Monterrey has also grown.[10]

The Evolution of Mexico's Drug Trafficking Organizations

A decade ago, **four** principal drug trafficking organizations controlled the vast majority of the drug trade:

1) Sinaloa Cartel (aka Federation);
2) Tijuana Cartel (aka Arellano-Felix Organization);
3) Juárez Cartel (aka Carillo Fuentes Organization); and the
4) Gulf Cartel.

Today, there are **seven** drug trafficking organizations in the country. The four aforementioned groups have also been joined by:

5) La Familia Michoacana;
6) Los Zetas; and the
7) Beltran Levya Organization.

Of the seven Mexican drug trafficking organizations, five are dominant in the country, and two (the Tijuana and Beltran Levya organizations) are struggling to maintain their structures. According to the Drug Enforcement Administration, all of the drug trafficking organizations operate to some extent along the U.S – Mexico border.[11] Mexican drug trafficking organizations also have expanded their operations south into Central America and have known ties to Colombian drug trafficking organizations.[12] Descriptions of each of the drug trafficking organizations are provided below.

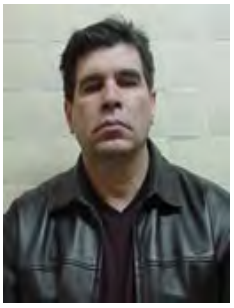
Tijuana Cartel or Arellano-Felix Organization

The Arellano-Felix Organization is based in Baja California, particularly in the Tijuana area. This drug trafficking organization was originally run by the brothers of the Arellano Felix family. The brothers who traditionally led the criminal activities of the organization have been incarcerated or killed, severely weakening the Arellano-Felix Organization. The status of each of the brothers is as follows:

- Ramon Eduardo Arellano-Felix (killed February 2002)
- Eduardo Ramon Arellano-Felix (arrested October 2008)
- Benjamin Arellano-Felix (arrested March 2002 and extradited to United States in April 2011)
- Francisco Javier Arellano-Felix (arrested August 2006)
- Francisco Rafael Arellano-Felix (incarcerated in both Mexico and the U.S. until his release in March 2008)

The most active, current member of the Arellano-Felix family is Fernando Sanchez Arellano, the nephew of the original founding brothers. According to the *Congressional Research Service*, the Arellano-Felix Organization structure began to dissolve after several of its leaders were arrested.[13] Law enforcement indicates that many former Arellano-Felix Organization members are now loyal to the Sinaloa drug trafficking organization.

Eduardo Ramon Arellano Felix


Ramon Eduardo Arellano-Felix

Benjamin Arellano-Felix

Francisco Javier Arellano-Felix

Francisco Rafael Arellano-Felix

Beltran Leyva Organization

The Beltran Leyva Organization also has also been severely weakened. If the Mexican government succeeds in arresting Hector Beltran, it could represent the first full dismantling of a drug trafficking organization. Formerly aligned with the Sinaloa Cartel, the Beltran Leyva organization splintered into two separate factions following the death of its leader, Arturo Beltran Leyva, in December 2009. One faction retained the organization's alliance with Los Zetas, while the other operated more or less independently. Some evidence indicates that remnants of the Beltran Leyva Organization continue to collaborate with Los Zetas to traffic drugs into the U.S. through Texas.[14] The Beltran Leyva Organization has been known for its extreme violence in recent years.[15] For example, in December 2008, the bodies of seven decapitated soldiers and five other victims were found in southern Guerrero state, a region in which the Beltran Leyva Organization had been battling for control. The bodies were accompanied by a sign that warned: "For every one of mine that you kill, I will kill ten." A bag of their heads, some still gagged with tape, was found nearby.[16] The Beltran Leyva Organization also reportedly maintains a presence in Colombia.[17]

Arturo Beltran Levya

Alfredo Beltran Levya

Carlos Beltran Levya

In December 2009, the Mexican Navy killed Arturo Beltran Leyva and six of his associates. Beltran Leyva was the leader of the Beltran Leyva Organization and one of Mexico's principal drug lords. In January 2010, Carlos Beltran Leyva, Arturo's brother, who also held leadership roles in the drug trafficking organization, was arrested in Mexico. On August 30, 2010, another leader in the Beltran Leyva organization, Edgar "La Barbie" Valdez was arrested by an elite squad of the Mexican Navy. According to Mexican authorities, Valdez is said to have trafficked a ton of cocaine each month and was responsible for "several dozen" murders. He was known to be extremely brutal, often videotaping

beheadings and torture. It is expected that he will be extradited to the United States for trial.[18] The strength of the Beltran Leyva Organization following recent arrests and deaths is unclear.

Edgar "La Barbie" Valdez pictured upon arrest

Los Zetas

Los Zetas were originally created by a group of 30 members of the Mexican military's Special Mobile Force Group who deserted to join the Gulf Cartel in the late 1990s.[19] Los Zetas traditionally acted as the paramilitary enforcement arm of the Gulf Cartel, but in recent years, has shifted to become a standalone, fully-functioning drug trafficking organization. Los Zetas are viewed as the most brutal of Mexico's drug trafficking organizations.[20] They became the first trafficking organization to publicly display their beheaded rivals.[21] The leader of Los Zetas is Heriberto "El Lazca" Lazcano Lazcano.

U.S. law enforcement tragically learned of the violent nature of Los Zetas on February 15, 2011 when Immigration and Customs Enforcement Special Agents Jaime Zapata and Victor Avila were ambushed on a highway in San Luis Potosi, Mexico.[22] Agent Zapata was shot and killed by Los Zetas gunmen and Agent Avila was seriously wounded in the ambush. It has been reported that the gunmen targeted the ICE agents "due to confusion over the description of the vehicle carrying (the agents), since they thought it belonged to a criminal from a rival group."[23] Agent Zapata was laid to rest in Brownsville, Texas and Agent Avila continues to recover. As a result of follow-up operations directly undertaken following the shooting, over 500 people have been arrested in Mexico and the U.S. on drug charges.[24]

The organization's main operational strongholds are in Nuevo León, along the U.S. – Mexico border, in the southern Mexican states of Oaxaca and Chiapas, along the southeastern coast of Mexico and in the Yucatan Peninsula. A recent article by the *Associated Press* noted that "in Chiapas state, on the Guatemala border, more than 240 local and state police officers have been fired or arrested since 2008 for having links to the Zetas, according to the state Public Safety Department."[25]

Los Zetas also maintain a strong presence in Guatemala and may be seeking to expand into other areas of Central America. In Guatemala's Alta Verapaz region, President Alvaro Colóm declared a state of siege in December 2010 – whereby police are able to conduct searches without warrants – to deal with escalating violence from Los Zetas.

Sinaloa Cartel (the Federation)

Joaquin "El Chapo," Guzman

The Sinaloa Cartel, led by Joaquin "El Chapo" Guzman, is one of the most powerful and violent drug trafficking organizations in Mexico.[26] Guzman is reportedly obsessed with establishing himself as the most dominant drug lord in Mexico.[27]

While the Sinaloa organization has a broad presence throughout Mexico, it is particularly dominant on the western coast of Mexico, from Hermosillo to Acapulco. The Sinaloa Cartel is said to smuggle drugs along the United States border from Imperial County, California, across Arizona and New Mexico, and into parts of Texas. Because the organization's territory overlaps with that of many other drug trafficking organizations, the opportunities for violent conflict are rampant. An extremely violent battle for control of the Juárez trafficking routes has been waged between the Sinaloa and Juárez Cartels since 2008.[28]

Sinaloa also has a growing presence outside of Mexico. The organization is present in most of the Central American countries, as well as Cuba and the Dominican Republic. Sinaloa's expansion into Central America is thought to be a response to increased government pressure within Mexico and increased

Eduardo "El Teo"Garcia Simental associated with the Tijuana and Sinaloa Cartels pictured upon arrest

interdiction activities along the Mexican coasts. The Sinaloa Cartel also operates in South America, with a presence in Peru, Colombia, Ecuador, Venezuela, Chile, and Argentina.[29]

Juárez Cartel (Vicente Carrillo Fuentes Organization)

Throughout the 1980s and 1990s, the Juárez Cartel – led at the time by the now-deceased Amada Carillo Fuentes – operated under the Sinaloa Cartel, and was one of the powerhouse drug trafficking organizations in Mexico.[30] In the late 1990s, following the death of Amado, and a falling-out between heir-apparent Vicente Carillo Fuentes and Chapo Guzman, the Juárez Cartel decreased in stature and influence, and separated from the Sinaloa Cartel. Under the leadership of Vicente Carrillo Fuentes, the Juárez drug trafficking organization – as its name implies – is based in Ciudad Juárez, the most violent city in Mexico, and one of the most violent in Latin America.

One of three primary smuggling routes along the U.S. – Mexico border, the Juárez-El Paso corridor, has been controlled by the Juárez Cartel since the 1980s.[31] The Juárez Cartel has focused most of its resources in recent years on fighting with the Sinaloa Cartel for control of this corridor. Resources expended on intra-cartel violence have forced the Juárez Cartel, like the Tijuana Cartel, to resort to alternate income sources such as extortion, kidnapping, prostitution, and the sale of drugs within Mexico.

Gulf Cartel

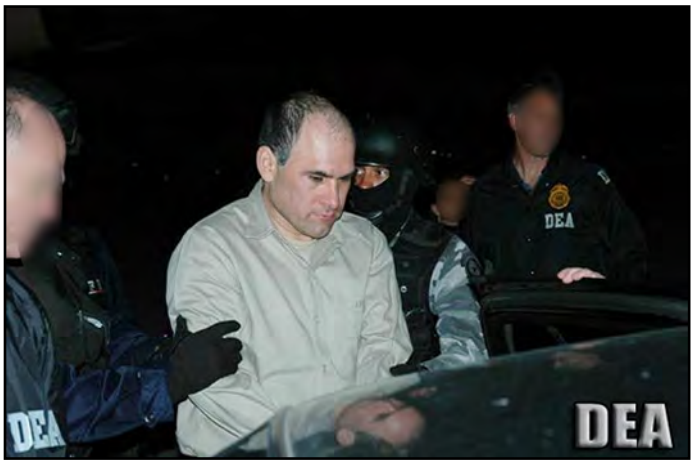
Perhaps the oldest drug trafficking organization in Mexico, the Gulf Cartel is currently led by Jorge "El Coss" Costilla Sanchez. Until recently, the Gulf Cartel was co-led by "El Coss" and Antonio "Tony Tormenta" Ezekiel Cardenas Guillen, the brother of former kingpin Osiel Cardenas Guillen. Tony Tormenta was killed by Mexican security forces during an operation in November 2010. Osiel Cardenas Guillen, who had been in Mexican custody since 2003, was extradited to the U.S. in 2007 and is currently serving a 25-year sentence.[32]

When President Calderón began his offensive against Mexico's drug kingpins, the Gulf Cartel was one of the most powerful organizations in the country. It has since lost this status, due to both the Zetas breaking from their role as the enforcement arm of the Gulf Cartel to form an independent organization, and aggressive government action against it.[33]

La Familia Michoacana

La Familia Michoacana is an extremely violent drug trafficking organization based in President Calderón's home state of Michoacán.[34] La Familia is led by Jesus Mendez Vargas. It distinguishes itself from other organized crime groups in Mexico by its strong religious background and violent statements against fellow traffickers and government forces.[35] In May 2009, then-Mexican Attorney General Eduardo Medina Mora called La Familia "Mexico's most dangerous cartel."[36]

Much like infamous Colombian drug lord Pablo Escobar did in Medellin, Colombia in the 1980s, La Familia is known to use drug proceeds to distribute Bibles and money to the poor, schools, and local officials.[37] In the spring of 2009, 27 public officials, including ten mayors, were arrested for their affiliation with La Familia.[38]



Osiel Cardenas-Guillen, the kingpin of the Gulf Cartel as he was extradited to the United States.

Despite preaching a strong doctrine against drug use, La Familia is heavily involved in methamphetamine production, most of which is exported to the United States. It is also a broker for cocaine shipments from Colombia into the United States.[39]

La Familia has developed a highly organized training regime for its members consisting of a three to six month training program led by former members of the Colombian or Mexican Special Forces. Though formerly associated with the Gulf Cartel as that organization's "cell" in Michoacán, La Familia separated from the Gulf Cartel around 2005, presumably to assert its independence and to avoid being involved in the violent conflict then raging between the Gulf and Sinaloa drug trafficking organizations. In early 2010, La Familia re-established ties with both organizations in a joint fight against Los Zetas. While the alliance is not formal, La Familia does traffic drugs through Gulf Cartel territory in northeastern Mexico. As of March 2008, La Familia was reported to be operating in 77 of Michoacán's 133 cities.[40]

La Familia has a significant reach into the U.S., particularly in the methamphetamine market.[41] The Drug Enforcement Administration reports that it has distribution cells in a number of U.S. cities including Houston, Dallas, Atlanta, and several cities in California and North Carolina.[42] In October 2009, a two-day U.S. multi-agency law enforcement operation, as part of Project Coronado, focused on dismantling La Familia and resulted in the arrests of 306 individuals in 19 states and the seizure of large quantities of drugs and firearms.

Notable Arrests

On January 13, 2011, the Mexican government released data showing that since the start of the Calderón Administration in December 2006, there had been 89,444 arrests of members of the country's principal drug trafficking organizations. Mexican government statistics suggest that over half of the arrests are from the Gulf and Sinaloa Cartels. According to the Mexican government, of the 37 drug trafficking organization leaders designated as "most wanted" in March 2009, 20 have been arrested or killed.[43]

In Mexico, the Sensitive Investigative Unit (SIU) – also known as a vetted unit[44] – has been very effective in targeting high-level drug traffickers. Over the

past nine months, the Drug Enforcement Administration-sponsored Sensitive Investigative Unit has assisted Mexican authorities in operations that have led to the capture or death of eight of Mexico's top drug trafficking organization leaders.[45] The Caucus believes that the Sensitive Investigation Unit should continue to be supported by the U.S. Congress.

The U.S. Department of Justice works with its Mexican counterparts on intelligence-based investigations to identify key targets and their associated organizations. Through these operations, the Department of Justice arrests high-level drug trafficking organization members and seizes their assets to disrupt their domestic transportation and distribution cells.

The previously mentioned Project Coronado was one such operation against La Familia. When the operation closed in April 2010, it had led to the arrest of 1,253 individuals and the seizure of over $42 million, 2,236 kilograms of cocaine, 19,612 pounds of marijuana, 81.4 pounds of heroin, 3,814 pounds of methamphetamine, and 389 weapons.[46]

According to Attorney General Eric Holder, "[Project Coronado] has dealt a significant blow to La Familia's supply chain of illegal drugs, weapons, and cash flowing between Mexico and the United States," said Attorney General Holder.[47]

Extraditions

In addition to high level arrests, extraditions of drug trafficking organizations' leaders from Mexico have reached record levels in recent years. Extraditions have increased dramatically with 94 in 2010, compared to 63 in 2006 when President Calderón took office, and a mere 12 in 2000.[48]

Pictured Above: Methamphetamine and bulk cash seized during Project Coronado
Source: Drua Enforcement Administration

Year	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Number of Extraditions from Mexico to the United States	12	17	25	31	34	41	63	83	95	107	94

Source: *U.S. Department of Justice*

Defendants who have been extradited to the U.S. often receive significant sentences. For example, three defendants from the Arellano Felix Organization were sentenced in San Diego, California on April 5, 2010. All three defendants were extradited from Mexico to the United States in December 2008. Jesus Labra-Aviles and Armando Martinez-Duarte were sentenced to 40 years in prison and over 18 years, respectively. In addition, on March 29, 2010, Jorge Arellano Felix was sentenced to 30 years in prison. Labra and Felix were also ordered to forfeit $1 million each.[49] On April 29, 2011, Benjamin Arellano Felix – who led the Arellano Felix Organization from its beginnings in the 1980s – was extradited to the United States to face drug trafficking charges.

Extradition is a critical tool in combating Mexican drug trafficking organizations because it offers the opportunity for the U.S. and Mexican governments to cooperate on investigations and prosecutions, including in areas where a trial and incarceration in local communities would not be possible due to corruption or lack of resources.[50] It is also in U.S. interests to extradite Mexican kingpins to ensure that they receive significant sentences in U.S. prisons. Extradition offers both the U.S. and Mexico an invaluable option for addressing the escalating violence and criminality of Mexican drug trafficking organizations, while ensuring that corruption and security concerns do not impact trial or incarceration. The Caucus fully supports and endorses the use of extradition to combat Mexican drug trafficking organizations.

MEXICO'S SECURITY STRATEGY

Overview

When President Felipe Calderón took office in December 2006, he courageously challenged the once-immune criminal organizations in his country.[51] The Mexican government views drug trafficking organizations as not only a law enforcement threat, but also as a threat to the country's national security.

President Calderón has employed a multi-faceted strategy against drug trafficking organizations by deploying military and federal police to target problem areas throughout Mexico, seeking increased foreign assistance and beginning to implement comprehensive institutional reforms. Arturo Sarukhan, the Mexican Ambassador to the United States, explained, "The strategy is aimed at weakening criminal organizations by dismantling their command, control, communications and intelligence capabilities."[52]

In an address to a joint session of the U.S. Congress on May 19, 2010, President Calderón detailed his strategy against Mexican drug trafficking organizations. His five part plan includes:

- Using the full power of the state, including federal police and armed forces, to support local governments threatened by organized crime;
- Weakening the financial and operational capacities of criminal gangs through seizures of unprecedented amounts of drugs, money, and weapons;
- Rebuilding institutions and security forces, particularly at the federal level;
- Transforming the justice system to provide more transparency and efficiency; and
- Implementing social programs to prevent Mexican youth drug use, addiction, and membership in criminal gangs.

The Government of Mexico has invested heavily in its security forces with increased security expenditures each year since President Calderón took office. In 2007, Mexico spent $2.5 billion and in 2008, the country spent almost $4 billion.[53] In President Calderón's draft 2011 budget to the Mexican Congress, he requested a 78 percent increase for the Secretariat of Government, a ten percent increase for

the Defense Ministry and Navy and a six percent increase for the Secretariat of Public Security. In 2010, the Mexican Government dedicated $9.2 billion of total government spending to security.[54]

The Mexican government has used both federal police and military personnel to combat the country's drug trafficking organizations while rebuilding civilian law enforcement institutions.[55] There are almost 50,000 military personnel deployed against drug trafficking organizations in Mexico, a tenfold increase from 5,000 troops three years ago.[56]

Ciudad Juárez: A Closer Look

Just across the border from El Paso, Texas, Ciudad Juárez is the most violent city in Mexico. There were 3,111 reported murders in 2010, up from 2,763 in 2009 and 1,623 in 2008.[57]

Violence in Ciudad Juárez hit close to home for Americans in 2010. An American consulate employee and her husband were shot to death in Ciudad Juárez in March 2010. On the same day, the husband of another consular employee was killed and his two children were wounded.

Homicide rates in the city jumped in 2008 when turf battles broke out between gangs representing the Juárez and Sinaloa Cartels.[58] To address this violence, President Calderón sent approximately 2,500 military troops and federal police officers into the city. At the high point, there may have been as many as 8,000 military troops and up to 2,500 federal police officers in Juárez. In April 2010, the Mexican military's presence in Ciudad Juárez was scaled down. Roughly 5,000 Mexican federal police officers were deployed to take control of public safety while the Army retains control of checkpoints and access routes leading in and out of the city.

In January 2010, there were 220 murders in Ciudad Juárez, including a group of teenagers with no known criminal ties who were killed at a party. President Calderón has visited the city several times since this tragic event emphasizing that police and military action alone are not enough and must be coupled with socioeconomic development. A new program called *Todos Somos Juárez* or "We Are All Juárez" is being implemented which provides $50 million for

socioeconomic programs. This includes investments in sports centers for adolescents, more schools and daycare centers, and financial assistance for 25,000 families living in poverty. These programs are greatly needed as it is estimated that 80,000 young adults in Ciudad Juárez neither work nor attend school, providing recruitment pools for organized criminal groups.

The "Beyond Mérida" strategy which is the next phase of the Mérida Initiative is divided into four pillars, the fourth of which is "building strong and resilient communities." According to the *Congressional Research Service*, "The Mexican government began its efforts under pillar four in Ciudad Juárez, Chihuahua, but has started to expand some social programs to other cities."[59]

A new federal police strategy for Ciudad Juárez will focus on an augmented police presence; increased surveillance to secure main roads and commercial areas; increased inspections of bars, night clubs, and commercial areas for illicit drug activity and other crimes; use of specialized units for crisis management, tactical analysis and field investigations; improved management of the city's Center for Emergency and Rapid Response; law enforcement intelligence gathering; and enhanced security for certain education and rehabilitation centers.

Finally, it is commendable that high-level arrests have increased in Ciudad Juárez and throughout Mexico. However, without enough trained prosecutors, adequate prisons, and a reliable judicial system, Ciudad Juárez's cycle of impunity continues. Moving forward, justice reform should remain a priority in Ciudad Juárez and throughout the country.

Law Enforcement Challenges and Reform

Mexico has approximately 450,000 law enforcement personnel at the municipal, state, and federal levels.[60] While major reforms are being implemented, the police remain undertrained and underequipped. Corruption runs rampant among municipal and state police. Georgetown University's Daniel Sabet writes, "While law enforcement should be the primary tool to advance the country's crime problems, the police are viewed as part of the problem rather than part of the solution."[61] Significant police reform is needed throughout Mexico – particularly at the state and municipal levels.[62]

The Mexican government is working hard to enhance the capacity of its federal police force. To that end, law enforcement agencies have begun to purge corrupt officers by improving vetting processes. When President Calderón took office, he proposed one unified federal police force under the Secretariat of Public Security. This did not occur. Instead, two laws were passed in 2009 to create a Federal Police force under the Secretariat of Public Security (SSP) and a separate Federal Ministerial Police force under the Office of the General Prosecutor (PGR).

Inter-agency coordination and information sharing are improving among Mexican law enforcement, but more work remains. Law enforcement agencies are beginning to create fusion centers where inter-agency information exchanges can occur in order to produce more actionable intelligence against organized crime.[63] For example, on November 24, 2009, the Secretariat of Public Security – which oversees the federal police – opened an impressive intelligence center.[64] As part of this effort, the Secretariat of Public Security hired and trained over 4,000 new investigators in 2010, and it now has plans to augment the force by another 6,000 in 2011.[65]

Additionally, the Secretariat of Public Security's forensics labs and command centers are now outfitted with modern technology. Prior to implementation of the Mérida Initiative, the Office of the Attorney General was the only federal agency with forensic capability. However, their crime labs lacked proper equipment and adequately trained staff. The Mexican government has since provided the Secretariat of Public Security and the Office of the General Prosecutor with labs containing advanced equipment for forensic activity.

Police reform at the federal level has been the focus of the Calderón Administration since it took office in December 2006. Looking forward, the Mexican government plans to concentrate on police reform at the municipal and state levels.

By 2012, the Calderón Administration seeks to have all 375,000 municipal and state police officers go through vetting processes, including polygraph tests.[66] Former Assistant Secretary of State for International Narcotics and Law Enforcement Affairs (INL) David Johnson stated in May 2010 testimony to the Senate Caucus on International Narcotics Control that many new police recruits are now going through background checks, drug testing, and polygraph tests.[67] Additionally, the Mexican government is working to establish a vetting center for police and has developed a National Police Registry so that corrupt police from one state will not be hired in another jurisdiction.[68]

These reforms are essential since municipal and state police (a) represent the overwhelming majority of Mexican police; and (b) are most in need of training. The Caucus encourages the Mexican government to continue to focus on municipal and state police capacity building in the coming months.

Justice Reform

According to data from the Mexican government, 1.55 percent of suspected crimes in Mexico result in convictions.[69] By comparison, the U.S federal courts logged a 90.3 percent conviction rate in FY 2008.[70] The *Congressional Research Service* reports that the Mexican justice system is "plagued by long case backlogs, a high pre-trial detention rate, and an inability to secure convictions."[71] Long-term improvements in Mexican security will be difficult to achieve without well-implemented justice reform.

Legislation was passed in Mexico in 2008 to shift from a written, inquisitorial justice system to an oral, adversarial one. Essentially, this involves moving from a closed system with entirely written proceedings to one with oral, transparent trials and the opportunity for plea bargains. Justice reform in Mexico also allows for the use of alternative dispute resolutions and a greater focus on the rights of the accused, including the presumption of innocence. Implementation of justice reform throughout the country is mandated by 2016.[72]

States that have implemented judicial reform have seen clear signs of success. Nuevo León, Chihuahua, and Zacatecas now have a lower percentage of people in jail awaiting sentencing than the national average.[73] According to the Mexican government, across the nation, there is only a two percent chance that a guilty person will be charged. In Chihuahua – according to 2008 data – the probability that a guilty person will be charged is slightly better at ten percent.[74]

By the end of 2010, Mérida Initiative funding had contributed to the training of 3,000 prosecutors and justice sector operators.[75] Six states had already begun using oral trials by March 2010, one of which was Chihuahua, the state in which Ciudad Juárez is located. This training by the U.S. Agency for International Development (USAID) should continue to be prioritized.

The Caucus commends those Mexican states that have already initiated justice reform and encourages the Mexican federal government and individual states to continue implementing such reforms as quickly as possible. The Caucus would caution that systematic reforms do not occur overnight and that while positive elements of reforms outweigh the current system, concerns remain that Mexico continues to have a low national conviction rate of only two to three percent. Despite these concerns, the United States government can be particularly useful in assisting with training prosecutors, judges, and others in the Mexican justice system on the new court proceedings to continue to lower high rates of impunity. The Caucus believes that this training should be available to each Mexican state that requests it.

THE MÉRIDA INITIATIVE

Background

On October 22, 2007, Presidents George W. Bush and Felipe Calderón announced a new bilateral security partnership known as the Mérida Initiative. $1.4 billion in U.S. security assistance for Mexico was pledged over a multi-year period, with a first installment of $400 million.[76]

Between FY 2008 and FY 2010, Congress appropriated $1.5 billion in Merida Initiative assistance for Mexico.[77] This represents a dramatic increase from average assistance to Mexico of $57 million per year between 2000 and 2006.[78]

Mérida Initiative Funding (millions)

Account	2008 Supp (& 2009 Bridge)	2009 Omnibus	2009 Supp	2010 Omnibus	2010 Supp	Total	FY 2011 Request	FY2012 Request
INCLE	$263.5	$246	$160	$190	$175	$1,034.5	$292	$248.5
FMF	$116.5	$39	$260	$5.3	$0	$420.8	$8	Not applicable
ESF	$20	$15	$0	$15	$0	$50	$10	$33.3
TOTAL	$400	$300	$420	$210.3	$175	$1,505.3	$310	$281.8

***Source**: Department of State, Office of Congressional Affairs. Note that country allocations for FY 2011 have not yet been determined by the Department of State*

Initially, the Mérida Initiative predominantly focused on technology transfer and law enforcement-related activities. Three out of four of the initial goals of the Mérida Initiative were purely law enforcement-focused, including curtailing gang activity, breaking the power of criminal organizations, and strengthening border, air, and maritime controls.

The Merida Initiative was originally slated to last from FY 2008 to FY 2010. However, the Obama Administration has indicated a commitment to continuing Merida assistance beyond 2012. A new bilateral strategy which has been called "Beyond Merida" and "Merida 2.0" is focused more on institution building than

military and police hardware. The Obama Administration, together with the Mexican government, laid out four pillars for the next phase of the Mérida Initiative. They are:

1) Disrupting the operational capacity of organized crime;
2) Institutionalizing the rule of law in Mexico;
3) Creating a 21st century border; and
4) Building strong and resilient communities.

The Mexican Government has made significant progress in combating drug trafficking organizations. To sustain this progress, Mérida Initiative assistance should continue to support Mexican efforts to improve the police, the judiciary, and other institutions on the municipal, state, and federal levels.

Implementing the Mérida Initiative

Members of Congress have raised concerns about the pace of delivery of air assets and other equipment under the Mérida Initiative. In December 2009, the Government Accountability Office (GAO) reported on major delays in delivering these assets to the Mexican government.[79] However, in a July 2010 report, the Government Accountability Office noted that the pace of delivery had increased.[80] To date, 11 helicopters have been delivered to Mexico – 8 Bell 412 helicopters were provided to the Mexican military and 3 Blackhawk helicopters were provided to the Mexican federal police. The State Department has developed an equipment delivery schedule for the next two years with air assets being delivered through April 30, 2012.

The Government Accountability Office's July 2010 report also found that the State Department's performance measures for the Mérida Initiative "do not provide measurable targets and do not measure outcomes."[81] The report notes that "without targets to strive toward, State cannot determine if it is meeting expectations under the Mérida Initiative."[82] The State Department agrees with the Government Accountability Office's assessment and informed the Caucus that it is working with the Mexican government to develop performance metrics that measure outcomes.

The Mérida Initiative represents a major expansion of duties for a number of U.S. government agencies and has required increased staffing levels. At the onset of the program, the State Department needed to hire project managers for close to 50 Mérida programs. From 2008 to the end of 2010, staffing dedicated to Mérida in the Narcotics Affairs Section of the U.S. Embassy in Mexico increased from 19 to 105.[83] In order for the Mérida Initiative to be successful, it is imperative that all positions be promptly filled.

During July 2010 testimony to the House Foreign Affairs Subcommittee on the Western Hemisphere, Jess Ford, Director of the International Affairs and Trade Team at the Government Accountability Office, argued that at the beginning of Plan Colombia, there were many similar problems, including a slow pace for equipment delivery. He said, "If Plan Colombia was measured in first two to three years, the same problems would have been noted."[84]

Mérida Aviation Breakdown and Delivery Estimate[1]

	Account	Amount	Number	Asset Type	Recipient	Mission	Procurement Status	Delivery Date (est.)
FY 2008 Supp.	Foreign Military Financing (FMF)	$50 million	1	CASA 235	Secretariat of the Navy (SEMAR)	Maritime Patrol Aircraft	Contract awarded 10/1/10	December 2011
	Foreign Military Financing (FMF)	$66 million	5	Bell 412	Secretariat of National Defense (SEDENA)	Mobility support/ Interdiction	Contract signed 6/1/09	12/8/2009
FY 2009 Omnibus	Foreign Military Financing (FMF)	$39 million	3	Bell 412	Secretariat of National Defense (SEDENA)	Mobility support/ Interdiction	Contract awarded 2 Bells on 4/30/10; contract modified 9/8/10 for 1 Bell	Deliveries completed 12/10 (2 on 11/8/10 and 1 on 12/17/10)
	International Narcotics Control and Law Enforcement (INCLE)	$15.5 million	1	Dornier 328 Jet	Secretariat of Public Security (SSP)	Intelligence, Surveillance and Reconnaissance (ISR)	Platform & ISR configuration under review	Target completion date 12/31/11
FY 2009 Supp.	International Narcotics Control and Law Enforcement (INCLE)	$76.5 million	3	UH-60M	Secretariat of Public Security (SSP)	Mobility support	Helicopters were manufactured by 1/2010	Delivered 11/12/10
	Foreign Military Financing (FMF)	$150 million	3	CASA 235	Secretariat of the Navy (SEMAR)	Maritime Patrol Aircraft	Contract awarded 10/1/10	February – April 2012
	International Narcotics Control and Law Enforcement (INCLE)	$83.5 million	3	UH-60M	Secretariat of Public Security (SSP)	Mobility Support	Helicopters on manufacture contract with AMCOM	Expect delivery (fully modified to GOM specs) (1) Nov 2011 (2) Feb 2012
	Foreign Military Financing (FMF)	$110 million	3	UH-60M	Secretariat of the Navy (SEMAR)	Support Maritime Interdiction and Security Operations	Contract awarded 9/7/10	September 2011
Total: $590.5 million								

Source: *U.S. Department of State*

[1] Cannot give an estimate for purchase and delivery until the Letter of Agreement (LOA) is signed and contract negotiations begin. Until procurement contracts are signed, all costs are estimates

U.S. GOVERNMENT EFFORTS

Background

When the Mérida Initiative was announced, it was intended not simply to be a foreign assistance package, but a multi-faceted security partnership between our two countries. The U.S. – Mexico joint statement on Mérida in October 2007 states that "the U.S. will intensify its efforts to address all aspects of drug trafficking (including demand-related portions) and continue to combat trafficking of weapons and bulk currency to Mexico. Both nations will augment cooperation, coordination, and the exchange of information to fight criminal organizations on both sides of the border."[85]

To that end, the Caucus believes there are several areas in which actions in the United States can help to reduce drug-related violence in Mexico. These include curbing bulk cash smuggling and money laundering, reducing illegal firearms moving into Mexico, enhancing Southbound inspections, increasing prosecutions of those involved in illegal tunneling, and reducing the U.S. demand for illegal drugs, including methamphetamine.

The June 2009 *National Southwest Border Counternarcotics Strategy* released by Office of National Drug Control Policy (ONDCP) Director Gil Kerlikowske set out goals in many of these areas. The strategy "directs federal agencies to increase coordination and information sharing with state and local law enforcement agencies, intensifies national efforts to interdict the southbound flow of weapons and bulk currency, and calls for continued close collaboration with the Government of Mexico in their efforts against the drug cartels."[86]

Chasing the Money: Bulk Cash Smuggling and Money Laundering

The U.S. – Mexico border is the primary route for the transfer of illicit drug proceeds fueling Mexico's drug trafficking organizations. The National Drug Intelligence Center reports that "Mexican and Colombian drug trafficking organizations annually generate, remove, and launder between $18 and $39 billion in wholesale distribution proceeds, a large portion of which is believed to be smuggled in bulk out of the United States through the Southwest border."[87]

The June 2009 *National Southwest Border Counternarcotics Strategy* sets several goals for the inter-agency community in curbing the flow of bulk cash from the U.S. to Mexico. These include rapidly sharing bulk currency seizure information across all U.S. agencies, improving coordination among the several U.S. agencies working to stem the flow of cash across the border and enhancing bulk currency interdiction capabilities.[88]

Current data shows that bulk cash smuggling is the main method for expatriating money from the U.S. to Mexico. At the same time, a large amount of additional money is laundered from the U.S. to Mexico through various electronic means. While continuing to crack-down on bulk cash smuggling, the United States should stay ahead of the drug trafficking organizations by also going after these newer methods of money laundering.

The use of stored value – money stored on pre-paid cards, for example – is an increasingly popular method of illegally transferring money. In an October 2010 report, the Government Accountability Office provides the following explanation of stored value:

> Stored value cards are a growing alterative to cash transactions and they offer individuals without bank accounts an alternative to cash and money orders. They have many legitimate uses that help consumers in a variety of ways. For example, retail establishments sell gift cards to customers as an easy and convenient way to purchase goods or services. Employers may issue cards in lieu of checks when paying salaries to employees. Consumers can also purchase cards and use them to purchase goods or services at retail stores across the country or to, in some cases, withdraw cash at automated teller machines overseas. For example, rather than paying for groceries using cash, a consumer could use a prepaid card. Also, the federal government uses prepaid cards in conjunction with its food stamp program.[89]

Remarkably, stored value is not subject to **any** cross-border reporting requirements. This means that an individual crossing the border from the United States to Mexico with thousands of dollars stored on prepaid cards would not be required to report this information. The Caucus believes that the Secretary of the

Treasury should immediately propose and finalize a rule to make stored value cards, or pre-paid access devices, subject to cross-border reporting requirements.

In June 2010, the Secretary of the Treasury proposed a rule to make the purchase of stored value cards subject to Suspicious Activity Reports (SARs). This means, for example, a Suspicious Activity Report would have to be filed if an individual purchased $2,000 on pre-paid cards at one single store. Unfortunately, this rule has not been finalized even though the issuance of a final rule on this matter was required by February 2010.

On March 9, 2011, the Caucus held a hearing on money laundering and bulk cash smuggling across the Southwest Border. At the hearing, Senators Feinstein and Grassley raised concerns about the failure of the Treasury Department, despite legislation requiring them to do so, to finalize the proposed rulemaking on pre-paid access devices. As a follow-up to the hearing, Senators Feinstein, Grassley, and Whitehouse wrote to Treasury Secretary Timothy Geithner seeking a renewed effort from the Department to "propose and finalize a cross-border reporting requirement for pre-paid access programs, including stored value."[90]

The Treasury Department replied on March 16, 2011, in a letter from Acting Under Secretary for Terrorism and Financial Intelligence David S. Cohen, to Senators Feinstein, Grassley, and Whitehouse.[91] In that letter, Under Secretary Cohen stated "The Department of the Treasury also understands and appreciates the importance of establishing a border reporting regime for the international transport of pre-paid instruments. To that end, we are expediting the process of preparing a Notice of Proposed Rulemaking on cross-border declaration, and have begun consulting with DHS on the issue."[92] While the Caucus appreciates the quick response from the Treasury Department, we continue to believe that any delay in implementing a regulation requiring cross-border reporting of pre-paid access devices allows the further exploitation of our laws against us by the drug trafficking organizations. Accordingly, if there is any further delay in implementing this rule, the Caucus believes that Congress should act to legislate a cross-border reporting requirement for pre-paid access devices, including stored value.

Pre-paid access is just one of many new forms of money laundering. With the growing use of super-secure, unregulated, and unregistered servers on the

Internet, it is not necessary for illicit assets to pass through the United States financial system to the same degree as it historically has been. Mexican drug trafficking organizations can easily use foreign-based Internet financial service businesses to electronically launder money. In a recent article, Douglas Farah – an expert on money laundering – wrote that "there is no need for any of the activity in the cyber world to pass through the United States."[93]

Finally, far too little is known about the financial structures and procedures of Mexican drug trafficking organizations. On both sides of the border, U.S. and Mexican authorities' efforts to understand drug trafficking organizations' finances are severely lacking. In collaboration with the Calderón Administration, the Obama Administration should enhance authorities' and businesses' focus on understanding, mapping, and tracking drug trafficking organizations' financial structures and money transfers. This should include specific tasking within law enforcement agencies and other relevant government and private sector entities to make financial information regarding drug traffickers a priority.

Southbound Inspections

Enhanced security cooperation between the United States and Mexico has allowed for a renewed focus on southbound inspections at our shared border.

Mexican customs officials have increased their enforcement capability at the U.S. – Mexico border by shifting their customs mission at the border away from solely revenue collection duties and towards increased inspection activities. In 2009, the government increased vetting of new inspectors by mandating background checks and drug testing. 800 new inspectors were hired and an additional 700 inspectors were replaced.[94] However, as the Government Accountability Office noted, "Efforts to increase southbound [inspections]…are limited by several factors, including resource and infrastructure limitations, drug traffickers' surveillance capabilities, and the limitations of Mexican government efforts."[95]

U.S. ports of entry have inadequate technology, infrastructure and staffing to carry out southbound inspections and interdict weapons and bulk cash. Drug Caucus staff observed inadequate infrastructure to conduct southbound inspections at ports of entry in El Paso, Texas, Nogales, Arizona, and San Diego, California.

Staff observed that law enforcement often must conduct operations in freeway environments without dedicated southbound inspection areas and lanes.

The United States and Mexico have initiated new programs to screen vehicles entering Mexico. Sufficient port of entry infrastructure and technology must be in place to efficiently carry-out these programs. The Caucus believes that the Departments of Justice and Homeland Security should conduct and submit to Congress an assessment of immediate infrastructure needs at the Southwest border – including important tools, like License Plate Readers – considering cost estimates and long-term objectives for southbound vehicle inspections. Effective southbound inspections have the potential to help starve the Mexican drug trafficking organizations of the money and arms that fuel their operations. However, Mexican southbound inspections are a necessary part of a coordinated effort on both sides of the border to limit the transshipment of illicit proceeds and firearms. In a 2009 report, the GAO noted that while Mexican customs aims to inspect 10 percent of vehicles entering Mexico on the Mexican side of the border, they had generally inspected much less than 10 percent.[96] Following the release of the GAO assessment, starting at the end of 2010, Mexico implemented a southbound screening and detection system across the U.S. - Mexico border at each of the 193 southbound lanes into Mexico. A continued effort on both sides of the border is necessary to increase the screening of vehicles and the interdiction of contraband.

Border Tunnels

As the U.S. – Mexico border becomes more secure, drug trafficking organizations and human smuggling operations have intensified their efforts to enter the United States. The result has been an increase in tunnels and other subterranean passages running between Mexico and the United States. Border tunnels are most often used to transport narcotics from Mexico to the United States, but could also be used to transport people and other contraband.

Between May 1990 and May 2011, 137 tunnels were discovered, with 125 discovered since September 2001. In California, there were only two tunnels discovered between 1990 and 2001, but this number increased dramatically after 2001.[97]

The Department of Homeland Security (DHS) is working with other U.S. and Mexican law enforcement agencies to investigate and discover cross-border tunnels and bring those associated with their construction and operations to justice. The construction of these tunnels can be very complex. In December 2009, the multi-agency San Diego Tunnel Task Force, led by U.S. Immigration and Customs Enforcement (ICE), discovered a partially constructed passageway originating in Tijuana that extended more than 860 feet into the United States. The tunnel had lighting and ventilation systems, and was equipped with an elevator.

Tunnels Discovered by Law Enforcement

	FY 90	FY 93	FY 95	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04	FY 05	FY 06	FY 07	FY 08	FY 09	FY 10	FY 11	TOTAL
Brown Field, CA	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	1
El Centro, CA	0	0	0	0	0	0	0	0	1	1	1	1	0	1	1	0	1	7
El Paso, TX	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	1
San Diego County, CA	0	1	0	1	0	0	0	2	3	3	0	13	5	1	4	5	2	40
Tucson, AZ	1	0	1	0	3	4	2	3	3	1	3	4	10	14	20	6	10	85
Yuma, AZ	0	0	0	0	0	0	0	0	0	0	0	0	1	0	1	0	1	3
TOTAL	1	1	1	1	3	4	2	5	7	5	5	18	16	16	26	12	14	137

Source: Department of Homeland Security

Also in December 2009, the Department of Homeland Security searched a warehouse in Calexico, California and discovered a partially-built tunnel from Mexicali to Calexico. The tunnel was a small hole that ran horizontally between the borders. An ongoing investigation resulted in the arrest of Daniel Bernable Alvarez-Peralta, a United States citizen. Alvarez explained that he planned to insert a twelve-inch hard plastic pipe through the hole and, utilizing a pulley system, would use the tunnel to pull narcotics into the United States. Alvarez

eventually pled guilty to criminal violations put into place by the Border Tunnel Prevention Act.

The Border Tunnel Prevention Act, which became law in 2006, criminalized the construction or financing of an unauthorized tunnel or subterranean passage across an international border into the United States. It also outlawed recklessly permitting others to construct or use an unauthorized tunnel or subterranean passage on their land. Additionally, any person who uses a tunnel or subterranean passage to smuggle aliens, weapons, drugs, terrorists, or illegal goods is now punished with a doubled sentence for the underlying offense, if convicted. In June, 2010, the El Paso Border Enforcement Security Task Force (BEST), led by ICE, discovered a man-made cross-border tunnel in El Paso, Texas, near the Bridge of Americas Port of Entry. The tunnel connected to El Paso's storm drainage system, running underneath the concrete-lined Rio Grande River from Mexico to the United States. Further investigation of the tunnel led agents to a 17-year-old unauthorized alien with more than 200 pounds of marijuana, who is now in federal custody.

The discovery of border tunnels along the U.S. – Mexico border in the San Diego area is increasing. In November 2010, the San Diego Tunnel Task Force discovered two border tunnels connecting Tijuana, Mexico to a warehouse area in Otay Mesa, California. The first tunnel was equipped with rail, lighting, and ventilations systems. The tunnel's discovery led to the seizure of about 30 tons of marijuana. The second tunnel discovered that month was even more sophisticated than the first. The half-mile long tunnel had two U.S. entrances located in warehouses about 800 feet apart that emerged inside a Tijuana private residence. The tunnel's walls were fortified with wood and cinderblock supports and the passageway contained advanced rail, ventilation, and electrical systems. This tunnel discovery led to the seizure of over 20 tons of marijuana by U.S. and Mexican officials.

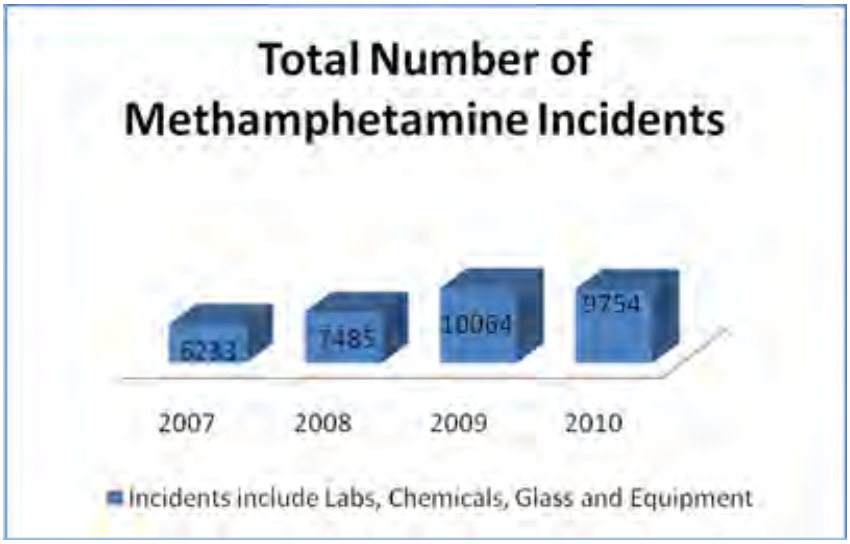
Methamphetamine

Although a significant number of domestic labs produce methamphetamine, Mexico is still the primary source of methamphetamine consumed in the United States.[98] In 2008, the Mexican government banned all products that contained or

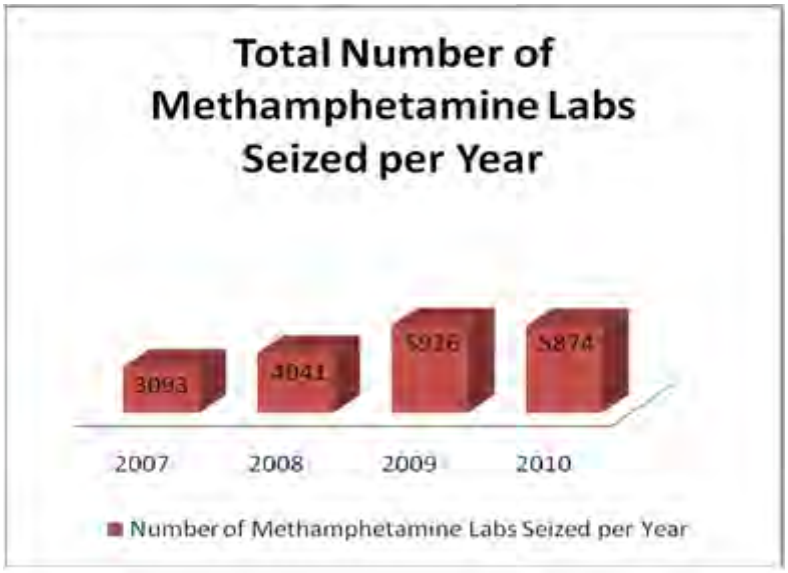
used pseudoephedrine and ephedrine, which led to an initial decrease in methamphetamine production in Mexico.

In response to Mexico's decreased production of methamphetamine in 2007 and 2008, the U.S. saw a corresponding increase in methamphetamine incidents and labs. DEA noted in recent Congressional testimony that "law enforcement agencies across the country are reporting a disturbing trend – meth lab seizures are rising, and rising fast."[99] Even as production of methamphetamine began to increase in Mexico in 2009, domestic incidents and labs in the U.S. showed no corresponding decline. In fact, domestic methamphetamine lab seizures are rising at an alarming rate compared to previous years. According to the DEA, between 2007 and 2009, there was close to a 92 percent increase in the number of methamphetamine labs seized in the U.S. This increase follows a period of significant declines in the number of clandestine methamphetamine labs following the passage of the Combat Methamphetamine Epidemic Act of 2005 (CMEA).

In 2005, in response to a growing methamphetamine epidemic nationwide, Congress passed the Combat Methamphetamine Epidemic Act (CMEA), which limited access to precursor chemicals by establishing a system to monitor and regulate the importation, production, and retail sales of non-prescription ephedrine and pseudoephedrine products, commonly found in over-the-counter cough, cold, and allergy products. The law mandated that these over-the-counter medications be placed behind the counter, and placed limits on purchases made over a 30 day period to nine grams. Clandestine methamphetamine labs reached a national high of over 18,000 in 2004. However, following the passage of the CMEA, the number of labs continued to decline annually, most significantly in September 2006, when the CMEA came into effect nationwide, setting restrictions on the retail sale of pseudoephedrine products. Despite the dramatic decrease in the number of labs following the CMEA, when there were over 18,000 labs across the country[100], recent developments such as the development of methamphetamine precursor smurfing and the one pot method[101] of manufacturing personal use quantities of meth, have led to an increase in the number of methamphetamine labs found across the country to the point where over 10,000 labs were discovered in 2009. This increase is concerning and one that should be examined to determine what more needs to be done.



Source: 2010 National Drug Threat Assessment



Source: 2010 National Drug Threat Assessment

Unfortunately, illegal drug manufacturers continue to find ways to circumvent laws passed by the federal government. One of the ways in which these laws are circumvented are by using "smurfers", individuals who "are paid to go from store to store to make purchases of products containing pseudoephedrine or ephedrine under the threshold requirements set forth by the CMEA."[102] It is imperative that controls are once again increased on the availability of pseudoephedrine and ephedrine products used to manufacture methamphetamine.

In 2010, President Obama signed into law the Combat Methamphetamine Enhancement Act of 2010 that builds upon the CMEA and strengthens controls on precursor chemicals by requiring all retailers of these products to submit self-certification of compliance to the Attorney General. This is an important step in combating the illicit manufacture and distribution of methamphetamine. However, meth lab data appears to indicate that illegal drug manufacturers continue to find ways to circumvent laws passed.

Individual states have also taken action against the increase in domestic methamphetamine labs. States have generally addressed this problem responding in one of two ways when trying to limit precursor availability: (1) by implementing electronic tracking systems and (2) by passing legislation making products containing pseudoephedrine prescription only. For example, nine states have integrated electronic tracking systems to provide real-time tracking of sales of over-the-counter products containing pseudoephedrine (PSE) to cut down illicit smurfing of methamphetamine precursors. Other states, such as Oregon and Mississippi, have passed specific legislation to make all PSE and ephedrine-based products controlled substances, requiring a physician's prescription.

Reducing domestic methamphetamine production by strengthening controls of precursor chemicals used to produce the drug should be a top priority.

The 2010 Office of National Drug Control Policy's *National Drug Control Strategy* notes the limitations of current laws in stopping domestic methamphetamine production, particularly the "super labs" run by drug trafficking organizations in California. A "super lab" is a lab capable of producing 10 or more pounds of finished product per batch. According to data submitted to the El Paso Intelligence Center, as of January 12, 2011, there were fifteen "super labs"

reported in California in 2009 and seven reported in 2010. The seven "super labs" reported in 2010 were in the following locations:

1. Dos Palos, California (Fresno County)
2. Sanger, California (Fresno County)
3. Bakersfield, California (Kern County)
4. Raymond, California (Madera County)
5. Livingston, California (Merced County)
6. Palm Desert, California (Riverside County)
7. Bonny Doon, California (Santa Cruz County)

The Office of National Drug Control Policy's *National Drug Control Strategy* also states that Department of Justice and DEA will review how best to enhance the U.S. approach to countering domestic meth production, including whether federal laws should place pseudoephedrine, ephedrine, and their analogues in Schedule V, as prescription only substances. Under federal law, DEA can schedule a controlled substance administratively but pseudoephedrine, ephedrine, and phenylpropanolamine are exempt from DEA's scheduling authority as part of the Controlled Substance Act.[103]

U.S. Demand for Drugs

The Obama Administration has been clear in acknowledging the U.S. role in creating a demand for illegal drugs from Mexican drug trafficking organizations. In an April 2009 visit to Mexico, President Obama said, "I will not pretend that this is Mexico's responsibility alone. The demand for these drugs inside the United States is keeping these cartels in business."[104]

According to the National Survey on Drug Use and Health, in 2009, about 21.8 million Americans aged 12 and older were current (in the past month) illegal drug users, representing 8.7 percent of the population. This represents the largest proportion in the past decade of people aged 12 and older identified as current illegal drug users.[105]

The Obama Administration has prioritized drug treatment, prevention, and intervention to diminish the market for illicit drugs. The federal substance abuse

prevention component of President Obama's FY 2012 National Drug Control budget totals $1.7 billion – a 7.9 percent increase over FY 2010 enacted levels.

The Administration's *2010 National Drug Control Strategy* outlines specific ways in which drug demand can be reduced in the U.S. - by strengthening efforts to prevent drug use in communities, seeking early intervention opportunities in health care, and integrating treatment for substance use disorders into health care, and expanding support for recovery.[106]

Congress should continue to prioritize drug prevention and treatment spending. Specifically, the Drug Free Communities program – a grant program that has been extremely effective in reducing the demand for and use of illegal drugs – should remain a funding priority for Congress and the Obama Administration. The Drug Free Communities program provides community coalitions throughout the country with funding to reduce youth substance use and abuse. An independent evaluation of the Drug Free Communities program found that prevalence of 30-day use of marijuana was lower for high school students in Drug Free Communities-funded areas than among a nationally representative sample of high school students taking the Youth Risk Behavior Survey. The Office of National Drug Control Policy notes that "even though drug use is increasing in the U.S., drug use is decreasing in communities with Drug Free Communities and other proven prevention mechanisms."[107]

According to the December 2010 Monitoring the Future survey, the proportion of 8th graders who reported using at least one illicit drug in the prior 12 months rose from 13 percent in 2007 to 16 percent in 2010. This was largely due to marijuana use – the most widely used drug of all the illicit drugs. Still, while the amount of students reporting use of any illicit drug other than marijuana has been gradually declining for some years, that trend halted in 2010.[108]

The 2009 Substance Abuse and Mental Health Services Administration's National Survey of Drug Use and Health (released in September 2010) shows that youth who have seen or heard prevention messages outside of school were less likely to have used any illicit drug or marijuana in the past month than youth who had not been exposed to such messages.[109]

With increasing illegal drug use in Mexico, the U.S. should continue to support Mexican demand reduction efforts, including drug courts and treatment centers for prevention and rehabilitation. Drug courts divert non-violent, substance abuse offenders from prison and jail into treatment. Throughout the U.S. and in 15 other countries, drug courts have reduced recidivism rates and helped citizens recover and return to productive lives. The United States funded initial training for drug courts in the Nuevo León state of Mexico, and new programs in Baja California and Chihuahua.

CENTRAL AMERICA

As the United States and Mexico collaborate to combat drug-related violence, drug trafficking organizations continue to move deeper into Central America, particularly Guatemala. The DEA reports that the vast majority of drug trafficking routes in and through Guatemala are controlled by Mexican drug trafficking organizations. Steven Dudley writes in *Foreign Policy* that "as Mexico and Colombia cracked down on their own drug trafficking problems, the criminals sought new refuge and Guatemala fit the bill: a weak government, a strategic location and a bureaucracy whose allegiance came cheap."[110]

On December 19, 2010, Guatemalan President Alvaro Colóm declared a month-long state of siege in the northern province of Alta Verapaz to combat the Zeta-controlled drug trade. A state of siege gives the government the ability to conduct searches without warrants. Los Zetas are active in Guatemala and increasingly able to challenge state authorities. On January 19, 2011, the state of siege was extended for another month. On May 17, 2011, President Colóm declared a state of siege in the province of Peten in response to the massacre of 27 farmworkers.

To counter the threat of Mexican drug trafficking organizations in Central America, the Sensitive Investigative Unit (SIU) programs in Central America – currently in Guatemala and Panama – should be expanded to additional countries.

Police and judicial reform are needed throughout Central America. The United States has provided key support for the United Nations International Commission against Impunity in Guatemala (CICIG) which was created to assist Guatemala in investigating and dismantling violent criminal organizations believed to be responsible for widespread crime and paralysis of the country's justice system. The International Commission has led to key convictions of members of Los Zetas and other illegal criminal networks. For example, in September 2010, 14 leaders of Los Zetas were convicted in Guatemala as a result of an International Commission against Impunity investigation.[111] The U.S. should support other countries in Central America as they consider replicating the United Nations International Commission against Impunity in Guatemala model. Salvadoran President Mauricio Funes has publicly discussed the creation of a similar mechanism in El Salvador.

A more integrated U.S. approach to counternarcotics that allows for flexibility is needed as Mexican drug trafficking organizations attempt to challenge the Guatemalan state and other countries in Central America.

CONCLUSION

The Mexican government is aggressively working to purge its country of the drug trafficking organizations that have operated with virtual impunity for decades. As the country attempts to make sweeping institutional reforms and build the necessary infrastructure to deter criminal activity, it has confronted violent drug trafficking organizations head-on.

The Senate Caucus on International Narcotics Control commends the brave men and women in both Mexico and the United States working to curb drug trafficking and drug-related violence.

U.S. – Mexico relations are stronger than ever. The Caucus believes that the United States must take advantage of this historic moment by continuing to deepen our security partnership. Foreign assistance alone will not be enough. Programs across the inter-agency must be strengthened, particularly those that counter the southbound traffic of money and firearms fueling Mexican violent drug trafficking organizations. Improved security in Mexico will be a win-win for our two countries.

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APPENDIX

Additional Comments from Senator John Cornyn

I share the Caucus's finding that border tunneling represents a significant threat to border security and believe all appropriate steps must be employed to detect border tunnels and prosecute those responsible. However, I disagree with the report's recommendation with respect to border tunnels, that DHS maintain a database on property owners and renters in designated high-risk tunneling areas. I am committed to protecting and preserving the rights of property owners and am concerned about the creation of a database where there is no articulable suspicion that the landowner or tenants are involved in illegal activity. Landowners and managers along our Southwest border confront drug smuggling, human trafficking, property damage, and trespassing on a daily basis and are valuable partners with the federal government in the effort to secure our border. As such, I believe that the collection of names and sales transactions should only occur in the context of a criminal investigation or where law enforcement can establish cause sufficient to override the need to get warrant.

John Cornyn

Senator John Cornyn

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United States Senate

SENATE CAUCUS ON
INTERNATIONAL NARCOTICS CONTROL
HART SENATE OFFICE BUILDING, ROOM 818–C
WASHINGTON, DC 20510

April 29, 2011

Mr. Gene L. Dodaro
Comptroller General
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Dear Mr. Dodaro:

Domestic methamphetamine lab seizures are once again rising at an alarming rate in the United States. According to the Drug Enforcement Administration, between 2007 and 2009, there was close to a 92 percent increase in the number of methamphetamine labs seized in the U.S. This increase follows a period of significant declines in the number of clandestine methamphetamine labs following the passage of the Combat Methamphetamine Epidemic Act of 2005 (CMEA).

Clandestine methamphetamine labs reached a national high of over 18,000 in 2004. However, following the passage of the CMEA the number of labs continued to decline annually, most significantly in September 2006, when the CMEA came into effect nationwide, setting restrictions on the retail sale of pseudoephedrine products. Despite the dramatic decrease in the number of labs following the CMEA, recent developments such as methamphetamine precursor smurfing and the one pot method of manufacturing personal use quantities of methamphetamine, have led to an increase in the number of methamphetamine labs found across the country. This increase is concerning and one that should be examined to determine what more needs to be done.

In 2010, President Obama signed into law the Combat Methamphetamine Enhancement Act of 2010 that builds upon the CMEA and strengthens controls on precursor chemicals by requiring all retailers of these products to submit self-certification of compliance to the Attorney General. This is an important step in combating the illicit manufacture and distribution of methamphetamine, but

methamphetamine lab data appears to indicate that illegal drug manufacturers continue to find ways to circumvent laws passed.

Individual states have also taken action against the increase in domestic methamphetamine labs. States have generally addressed this problem responding in one of two ways when trying to limit precursor availability: (1) by implementing electronic tracking systems and (2) by passing legislation making products containing pseudoephedrine prescription only. For example, nine states have integrated electronic tracking systems to provide real-time tracking of sales of over-the-counter products containing pseudoephedrine (PSE) to cut down illicit smurfing of methamphetamine precursors. Other states, such as Oregon and Mississippi, have passed specific legislation to make all PSE and ephedrine-based products controlled substances, requiring a physician's prescription.

Reducing domestic methamphetamine production by strengthening controls of precursor chemicals used to produce the drug should be a top priority. To help Congress determine the next steps to take, we request that the Government Accountability Office (GAO) evaluate the various national and state laws designed to reduce the manufacture, production, and distribution of methamphetamine. We request that GAO examine this important topic and produce recommendations to Congress taking into account the following:

- The factors contributing to the increase or decrease of methamphetamine labs across the country;

- The scope of illicit sales of pseudoephedrine in each state;

- To what extent the retail sales of pseudoephedrine are fueling domestic methamphetamine production versus the illegal import of such products;

- Lab seizures in states with electronic tracking systems for pseudoephedrine purchases versus seizures in states with prescription only laws for pseudoephedrine;

- A quantitative evaluation of the number of labs discovered in each state that were one pot methamphetamine labs versus traditional labs, for the last 10 years;

- The extent to which states that pass prescription only have seen any decrease in methamphetamine usage (including arrests, increases in substance abuse treatment, and emergency room visits). Similarly, what has been the impact on methamphetamine usage for those states that have implemented statewide electronic tracking systems?

- The production capabilities of labs to determine which states most pseudoephedrine is being diverted to and also where methamphetamine is being made in the United States;

- The extent to which states that have passed prescription only laws have seen an increase in new, more volatile methamphetamine labs such as the P2P method;

- The extent to which P2P method methamphetamine labs have expanded across the country, including both prescription only states and electronic tracking states. Has the increase in this method been unique to states that have passed prescription only laws?

- The effectiveness of current laws in limiting pseudoephedrine diversion to and from surrounding states for methamphetamine production to identify if methamphetamine production has shifted to states without pseudoephedrine regulations;

- The potential effectiveness of a national electronic tracking system in curbing illicit pseudoephedrine purchases;

- The viability of a national statute making pseudoephedrine available only by prescription; and

- Cost/ benefit analysis of both approaches including:

    - Healthcare costs and savings, including the potential increases in costs to Medicare and Medicaid, private insurance companies, and costs passed along to consumers (insurance premium increases, drug costs increases, costs of doctor visits, etc.). Public expenditures, including law enforcement resources and personnel costs, incarceration, land remediation at methamphetamine lab sites, methamphetamine

treatment and costs related to social services including drug-endangered children.

- The extent to which prescription only has reduced the number of legitimate and illegitimate purchases of products containing PSE and the impact on availability of products that contain PSE to consumers.

- The extent to which physicians see an increase in patients making appointments for the purpose of obtaining prescriptions for PSE.

- An assessment and analysis of scientific and consumer studies regarding whether other chemical compound alternatives to PSE, such as phenylephrine (PE), are viable replacement therapies with the same effect as pseudoephedrine (PSE).

We appreciate your attention to this request.

Sincerely,

Dianne Feinstein
Chairman

Charles Grassley
Co-Chairman