

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

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

May 18, 2010

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

The Honorable Richard Durbin:

INTRODUCTION

As the vice-chair of the Conference of Western Attorneys General (“CWAG”), I am pleased to present written testimony about CWAG’s activities to train Mexican state prosecutors in the art of adversarial advocacy; to train Mexican state judges and investigators and to combat crime along our border with Mexico under a grant from USAID. CWAG Attorneys General are involved in the coordinated law enforcement training of Mexican investigators, prosecutors and judges to improve the prosecution of criminals through our United States – Mexico Alliance Partnership described below. It must be noted that in addition to the Mexican government’s push to eliminate drug cartels, the country is implementing an adversarial trial system at the same time. CWAG, with its partners, is leading the program to train those responsible for transitioning to the new judicial system. CWAG has used the Alliance Partnership to hold three joint meetings (September of 2007, March of 2008 and August of 2009) with our Mexican counterparts to discuss what the common priorities are that we, as law enforcement agencies, can work together on. These meetings resulted in a written agreement of cooperation. In addition to the written agreement, Memorandums of Understanding (“MOU”) have been entered into between individual Western Attorneys General and the Attorneys General of individual Mexican states. Those MOUs resulted in a series of training sessions conducted in November of 2008, whereby state law enforcement agencies trained Mexican investigators, prosecutors and judges on the elements of the adversarial trial system. My office conducted similar trainings in 2006 prior to the CWAG MOUs. CWAG is proud to have moved so quickly from the discussion stages of bi-national cooperation in late 2007, into the action stage of training our Mexican counterparts in the arts of crime scene investigation, trial preparation and trial practice one year later.

U.S. – MEXICO STATE ALLIANCE PARTNERSHIP

The U.S. – Mexico State Alliance Partnership is a collaborative, multi-branch alliance comprising the U.S. Agency for International Development (USAID), Council of State Governments (CSG), Conference of Western Attorneys General (CWAG), National

Association of Attorneys General (NAAG), National Association of State Treasurers (NAST), and other officials aimed at strengthening cooperation among state officials and institutions of the United States and Mexico. The Alliance Partnership promotes and convenes bi-national exchanges and workshops among border legislators, attorneys general and treasurers that enhance the role of state officials in addressing shared public policy concerns that transcend international borders. A key element in this bi-national exchange is the training of Mexican law enforcement officials in the proper methods of investigating and prosecuting crimes in an adversarial trial system by CWAG. In addition to the financial support provided by the USAID grant for the Alliance Partnership, significant in-kind and direct financial support is provided by participating partners and their respective member states, as well as financial contributions by private sector stakeholders.

**THE CONFERENCE OF WESTERN ATTORNEYS GENERAL HAS ENGAGED
IN CONSTRUCTIVE DIALOGUE WITH MEXICO'S NATIONAL
CONFERENCE OF ATTORNEYS GENERAL**

On September 21-22, 2007, State Attorneys General and Assistant Attorneys General of the Western states of Arizona, New Mexico, Colorado, Nevada, Idaho, North Dakota, Hawaii, and California participated in the 19th National Conference of Attorneys General of Mexico in Jiutepec, Morelos. State attorneys general from all 31 Mexican states, the Federal District, and Mexico's Attorney General, Eduardo Medina Mora, attended the meeting.

The bi-national exchange during the Conference provided an opportunity for U.S. and Mexico state attorneys general to have an open exchange on critical topics of mutual interest such as human trafficking, smuggling of firearms, efforts to reduce methamphetamines, internet crimes against children, and money laundering. Moreover, Mexico's Attorney General provided a substantive overview of the strategic and collaborative drug interdiction efforts between both countries at the federal level, as well as the implementation of regulatory controls on pseudoephedrine, a key ingredient used in the manufacture of methamphetamines.

Participating U.S. and Mexico attorneys general shared perspectives on the need to work cooperatively to reduce the smuggling of firearms into Mexico, diminish substance abuse, and continue to make effective strides to interrupt and bring to justice money laundering, drug trafficking and human trafficking organizations that operate on both sides of the border. Additionally, the attorneys general shared information of successful extradition efforts of wanted fugitives via the Article Four Prosecution Process and collaborative efforts between Arizona and Sonora to track stolen vehicles.

Information was exchanged about existing collaborative partnerships among U.S. and Mexico state border attorneys general, including New Mexico - Chihuahua; Texas and the Mexican border states of Tamaulipas, Nuevo Leon, Coahuila, and Chihuahua; Arizona - Sonora; and California - Baja California. Participants were briefed about recent state-to-state cooperation, including an agreement of understanding signed

September 19, 2007, between Idaho Attorney General Lawrence Wasden and Morelos Attorney General Juan Jose Francisco Coronato aimed at exchanging information on best practices in the area of criminal investigations, training on criminal procedures and forensic gathering techniques, sharing information of wanted criminals, and prosecution tactics on human trafficking cases.

This agreement was forged during the inauguration of a new state forensic investigations laboratory in Jojutla, Morelos. At the same event, I signed an Agreement of Understanding with the states of Morelos, Zacatecas, Coahuila, Oaxaca and Chihuahua committing to the future cross-training and information sharing on the development of forensic laboratories.

During the National Conference of Attorneys General, participating U.S. and Mexico attorneys general agreed on the importance of convening frequent exchanges to strengthen state-to-state efforts and to develop effective collaborative strategies to combat mutual challenges. As a result, Arizona Attorney General Terry Goddard offered to host the next forum in the Spring of 2008, to follow-up and provide specific focus on the topics discussed.

Six months later in Phoenix, building on the groundwork laid at the previous meeting, the participants announced "a new era of bi-national cooperation to fight organized crime in both countries." Those lofty words were no exaggeration. The Attorneys General in the two countries reached agreement to work more closely together in four primary areas:

Human Trafficking and Smuggling: An agreement was reached for a bi-national exchange of information on smuggling networks, information provided by witnesses, operational modes, money transmitters, routes and other information. The attendees also agreed to work together to plan and execute enforcement operations.

Drug Trafficking: The attendees agreed to develop pilot projects to improve the investigation of drug trafficking occurring on both sides of the border. It was further agreed to send drug traffickers caught with amounts under current U.S. federal thresholds to Mexico for prosecution.

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

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

Additionally, the Attorneys General agreed to work together to establish databases similar to Arizona's THEFTAZ Web site in order to provide timely information about stolen vehicles to law enforcement on both sides of the border.

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

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

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

CWAG believes that the new partnership we have established with Mexico's federal and state Attorneys General promises to invigorate crime-fighting efforts on both sides of the border between the United States and Mexico.

BI-NATIONAL TRAINING

On November 17 to 22, 2008, Attorney General John Suthers of Colorado hosted a training session for criminal investigators from the State of Baja California, Mexico. Assisting in the training were the Adams County Sheriff's Department, the Adams County District Attorney's Office and the Colorado Bureau of Investigations. The training focused on providing Mexican investigators with the skills to investigate crimes, document and preserve evidence, chain of custody, computer forensics, ballistic trajectories, polygraph testing, report writing and trial testimony. The trainees visited a crime lab, a police station and participated in a mock crime scene investigation. As a side note, the host authorities learned that their Mexican counterparts shared their bullet proof vests with other officers. When they left their duty stations, they would hand over the vest to the next person coming on duty. Members of the Colorado Attorney General's

Office, the Colorado Investigation Division and the Adams County Sheriff's Department made sure that each trainee returned to Mexico with their own bullet proof vest, donated by the respective Colorado authorities.

I held a two day meeting in January of 2009, with the Attorneys General from the Mexican states of Baja California, Chihuahua, Hidalgo and Oaxaca and representatives from the Las Cruces Police Department, New Mexico State Police and the New Mexico Attorney General's Office to train in best practices in the fields of investigative police training and courtroom practices. The gathering was intended to strengthen ties between United States and Mexico law enforcement agencies to assist in combating crimes such as drug trafficking and organized crime.

On February 9 to 13, 2009, Attorney General John Suthers of Colorado hosted a training session on courtroom advocacy for Mexican investigators and prosecutors. The training included communication between investigators and prosecutors, case preparation techniques, motion practice, opening statements, oral argument, direct examination and cross examination of witnesses and investigators, principles of laying the foundation for the admission of evidence and closing statements. Discussions were held on alternative case resolutions, victim's rights and the rights of defendants. Mock trials were held where participants could practice the techniques that were discussed.

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

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

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

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

A training session is in the planning stages for Mexican judges on how to conduct adversarial criminal trials under Mexico's new trial system. It is anticipated that this training will be held at the national judicial college in Reno, Nevada.

THE FRUITS OF COLLABORATION

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

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

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

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

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

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

CONCLUSION

I, as the Attorney General of New Mexico and vice-chair of the Conference of Western Attorneys General, respectfully request that Congress continues to recognize the urgent need to supply the resources necessary to support law enforcement efforts along our border with Mexico and to support Mexico's efforts to combat the drug cartels and to reform its judicial system. If I or CWAG can supply any additional information needed by this Committee, please do not hesitate to contact me.

Respectfully submitted,

Gary K. King
Attorney General
State of New Mexico
Vive Chair
Conference of Western Attorneys General
P.O. Drawer 1508
Santa Fe, New Mexico 87504
505-827-6000