

Testimony of
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Senate Judiciary Committee, Subcommittee on Crime and Drugs and Senate Caucus on International Narcotics Control Law Enforcement Responses to Mexican Drug Cartels March 17th, 2009

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

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

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

After Mexico's electoral transition to democracy in 2000, when members of the National Action Party (PAN) came into power, they discovered a precarious state of affairs, but did little to confront a festering problem. Years of government inaction under former President Vicente Fox left key institutions infiltrated, hundreds of policemen dead, scores of judges assassinated,

dozens of journalists missing. During the Fox administration, Mexico turned into a more violent country than Colombia; his successor's task has been to recover lost ground and clean it up. As President Calderón stated in a recent interview: "we decided to operate on the body politic and discovered that it had cancer."

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

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

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

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

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

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

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

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

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

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

President Calderón has told the United States that the heightened level of violence is a result of government inefficiency in combating drug cartels; that the rise in executions is evidence of a firm hand and not an ineffectual one. But Calderón's stance - and one he is forced to maintain due to

political and electoral imperatives at home - side-steps structural problems that cannot be solved with more weapons, more bullets, more members of the military policing key cities, more blood on the streets, more simplistic solutions to complex dilemmas.

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

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

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

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

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

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

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