

Testimony of
The Honorable Terry Goddard

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Testimony of Terry Goddard
Attorney General
State of Arizona

Senate Judiciary Committee
Subcommittee on Crime and Drugs
and
Senate Caucus on International Narcotics Control

"Law Enforcement Responses to Mexican Drug Cartels"

I. Overview of the Problem

The United States and Mexico share vital interests in preserving the rule of law and the security of their citizens. Those interests are under attack by sophisticated, violent, highly-organized criminals who are smuggling drugs, human beings, guns and money across the border and are using unimaginable violence to protect and grow their criminal enterprises. Law enforcement officers in the State of Arizona have been on the front lines of the efforts to combat one of the most serious organized crime threats of the 21st Century.

An estimated 80 percent of the methamphetamine on the streets in the United States is produced in Mexico. Similarly, over 2.4 million pounds of marijuana smuggled into the U.S. each year is grown in Mexico. Cocaine is not produced in Mexico, but more than 90 percent of the cocaine imported into the U.S. comes through Mexico. In turn, profits from drug sales in the United States generate between \$15 billion and \$25 billion per year, which is smuggled back into Mexico, either in the form of cash or weapons.

Human smuggling has also evolved into a high-dollar crime, controlled by many of the same criminal organizations that smuggle drugs. A 2004 study estimated that 3,000 to 4,000 individuals per day enter the U.S. illegally through Arizona, and approximately \$2 billion per year is paid to coyotes to transport undocumented individuals across the Arizona border. Human smuggling is largely facilitated by illicit wire transfers of money to pay the "coyotes."

Violence from these criminal cartels claimed over 6,000 lives in Mexico last year alone, including a spike in assassinations of police officers, prosecutors, and other government officials and their families. Meanwhile, the high-profit trade in drugs, arms and human smuggling now stretches from coast to coast, fueling crime in cities throughout the United States.

II. Arizona Law Enforcement Efforts to Combat the Problem

Arizona has become the gateway for drug and human smuggling into the U.S. The reasons for this include Arizona's transportation infrastructure, increased enforcement along the California and Texas borders and increased competition among Mexican criminal organizations for control of entry points into the U.S. Phoenix has become a prime distribution point for both drug and human trafficking. In the past two years, the City had more than 700 reported kidnaps for ransom - the most in the Nation - and police believe at least twice that number went unreported.

In the effort to secure our border and protect our communities, we have learned that no single law enforcement agency, federal, state or local, has the manpower or expertise to combat our highly organized and sophisticated antagonists alone. We must work together to go after the head of the monster. This means cutting off the financial resources and dismantling the leadership of the violent criminal cartels operating on both sides of the border.

The most effective method of combating human smuggling is to block the flow of funds to the organized criminal cartels. The Arizona Attorney General's Office has aggressively pursued these "blood wires" sent through Western Union and other money transmitters for over six years. In doing so, we have successfully moved millions of dollars in smuggling proceeds out of Arizona.

A. The Crucial Role of Wire Transfers

Organized, cross-border crime between Mexico and Arizona is concentrated on trafficking in illegal drugs, humans and weapons. Each of these activities involves the movement of money. Human trafficking in particular requires rapid movement of money among people who have no ongoing relationship. Western Union is by far the largest provider of illicit money-movement services, so it is the source of valuable information about illicit money movements and has been the focus of interdiction efforts aimed at criminal proceeds in transit.

Human smuggling organizations, also known as "coyotes," are well-organized and violent. Their human "cargo" are often victimized, held for ransom or worse. In one typical case, 20 undocumented immigrants were taken by six smugglers to a Phoenix drop house. Soon after arriving, the immigrants were informed that the price for bringing them into Arizona would be twice as high as they had been told. When one member of the group objected, the coyotes walked him into another room, shot and killed him.

Human smuggling is not just violent, it is highly profitable. Hundreds of millions of dollars have been wire transferred into Arizona to pay for smuggling human beings. To cut down on coyote activities, the Arizona Attorney General's Office has for several years used "sweeping" warrants to screen the wire transfers of cash that pay coyotes for smuggling people into Arizona and intercept the most suspicious.

Intercepting wire transfers of criminal proceeds has proven an effective tool. Between 2003 and 2007, my Office seized more than \$17 million in wire payments and arrested more than 100 smugglers. Every effort has been made to focus the warrants on activity known to be consistent

with human smuggling based on a variety of identifying factors. Any legitimate cash transfers detained in the process were promptly returned, usually within 24 hours. On investigation, less than 10 percent of intercepted transfers over those years turned out to be legitimate.

Our success in seizing smuggling payments sent to Arizona dramatically reduced the volume of wire transfers into Arizona by hundreds of millions of dollars. The coyote organization that committed the Phoenix drop house murder in the example above, like many other such organizations, began to route its wire transfer payments to Sonora in northern Mexico. In response to this change in coyote tactics, we targeted 26 wire transfer locations on the Mexican side of the border. Western Union, the nation's dominant wire transfer company, went to court to stop our efforts. The Arizona Court of Appeals upheld our methods. The matter is still in litigation.

Our seizure warrants are similar to court-ordered wiretaps. Our warrants do temporarily detain some legitimate transfers, in the same way wiretaps sometimes record non-criminal conversations. Courts have authorized both seizure warrants and wiretaps when presented with evidence of reasonable probability of criminal activity and when every effort is made to minimize the impact on innocent people. That is exactly what my Office has done in this program.

With Arizona the Nation's leading gateway for human trafficking, I will continue to use all legal means available to deter and prosecute human smugglers. Seizure warrants have proven to be the most effective weapon in the fight. However, even though wire transfers are the coyotes' payment method of choice, Western Union still refuses to comply with subpoenas for vital data. I plan to use every legal means to force the compliance of money transmitters and stop Western Union and other money transmitters from doing business with these brutal criminals.

B. Multi-Agency Investigations and Prosecutions

My Office has been involved in numerous multi-agency investigations and prosecutions of human smuggling, drug smuggling and arms trafficking. Most include federal, state and local law enforcement working in close collaboration. Below are a few representative cases:

Operation Tumbleweed, 2008: Three months ago, in one of the largest drug trafficking takedowns in Arizona history, we broke up a bi-national drug trafficking organization with the indictment of 59 people and the arrest of 39. Since 2003, the organization is believed to have smuggled close to two million pounds of marijuana from Mexico into the United States with a wholesale value estimated at \$1 billion. Working with a drug cartel in the Mexican state of Sinaloa, the organization is alleged to have used vehicles stolen in the U.S. to transport large quantities of marijuana across the border into Arizona and then on to major cities across the country. Traffickers used sophisticated transportation, communication and surveillance technology to bring the drugs across the border and through the desert to Phoenix. This year-long investigation involved U.S. Immigration and Customs Enforcement, U.S. Border Patrol, U.S. Customs Air and Marine, U.S. Drug Enforcement Administration, Arizona Attorney General's Office, Arizona Department of Public Safety, Pinal County Sheriff's Office and Phoenix Police.

Operation En Fuego, 2008: This seven-month investigation led to the indictment of 35 individuals on felony charges for smuggling more than 10,000 undocumented immigrants in the past two years. The smuggling organization contracted with other criminal groups to transport 40 to 90 undocumented immigrants a week from Phoenix to destinations throughout the United States. This investigation led to the discovery of five drop houses and the detention of 86 undocumented immigrants who were turned over to federal authorities for deportation. The organization made up to \$63,000 per week, using a fleet of vans to transport immigrants from Phoenix to 22 states. The investigation was conducted by the Arizona Financial Crimes Task Force and U.S. Border Patrol.

Phoenix Gun Store, 2008: Last May, an 11-month investigation by federal, state and local law enforcement led to the breakup of a major arms trafficking operation that supplied hundreds of AK-47 type assault rifles, other long guns and handguns to criminal organizations in Mexico. Some 1,300 weapons were seized in raids at a gun store in Phoenix and the home of its owner. My office is currently prosecuting the owner. He is accused of selling more than 700 weapons to straw buyers and showing the buyers how to falsify purchase records. Hundreds of guns found in Mexico have been traced to this store. The Bureau of Alcohol, Tobacco, Firearms and Explosives believes the weapons were among some 7,700 recovered in Mexico last year and traced to American sales.

Operation River Walker, 2008: My Office indicted 48 people in 2008 in the breakup of a major human smuggling organization operating in Phoenix and Naco, Arizona. The defendants were accused of smuggling 8,000 undocumented immigrants per year across the Mexican border to Phoenix drop houses. The organization, which made as much as \$130,000 a week transporting up to 60 immigrants per day, had been active for years. Thirteen drop houses were closed. The organization used "sub-contractors" to transport undocumented persons through Arizona, including "walkers" to take immigrants along the San Pedro River, drop house operators, bank account holders, load drivers and even cooks. The indictments followed a seven-month investigation by the Arizona Financial Crimes Task Force, a federal, state and local law enforcement effort.

Operation Fly-By-Night, 2007: In 2006, investigators with the Arizona Financial Crimes Task Force noted an unusual level of travel activity associated with a travel agency booking flights in and out of Las Vegas, Nevada. Working closely with major airline carriers and the Airlines Reporting Corporation (ARC), the Task Force identified individual travel agencies participating. Undercover detectives posed as "coyotes" and became customers of travel agency personnel who were providing guidance, direction and passage for undocumented immigrants. In March 2007, I announced indictments involving six Phoenix-area travel agencies that provided one-way airline tickets to more than 6,800 undocumented immigrants since August 2005 (the date when Arizona's human smuggling statute took effect). All of the tickets, worth a total of nearly \$2 million, were for travel from McCarran International Airport in Las Vegas, where immigration security was known to be less rigorous than at Sky Harbor Airport in Phoenix. This case won the top award given by International Association of Chiefs of Police in 2007.

Used Car Lot Seizures, Ongoing: One prominent case in metro Phoenix involved cutting off important transportation methods used by coyotes. Twenty-one defendants were indicted on felony conspiracy and trafficking charges. Eleven used car lots and 400 vehicles --worth \$1.5 million -- were seized. The cars were used to move humans and drugs from the border. This sophisticated operation provided phony car titles to avoid detection. Cars apprehended by the U.S. Border Patrol were returned to the "lien holder" car lots and continued in service to the criminal organization.

C. Merida Initiative, Attorneys General Partnership

In October 2007, the United States and Mexico announced the Mérida Initiative, a multi-year program to provide assistance to Mexico and Central America, aimed at combating drug trafficking, gangs and other forms of organized crime.

Congress initially authorized \$1.4 billion for the first three years of the Mérida Initiative. Much of the funding will go toward the purchase of helicopters, airplanes, surveillance software and other goods and services produced by U.S. private defense contractors for delivery to Mexico. According to the U.S. Department of State, 59 percent of the proposed assistance will go to civilian law enforcement agencies and 41 percent to operational costs for the Mexican Army and Mexican Navy.

The Mérida Initiative will also provide vital funding for technical advice and training to strengthen the institutions of justice, case management software to track investigations, new offices of citizen complaints and professional responsibility and witness protection programs in Mexico. In August 2008, Mexico announced that two states, Chihuahua and Nuevo León, are pioneering public trials, in which the state must prove its case. Before, the accused bore the burden of proof, and trials were secret. The new procedures are hoped to bring transparency and accountability to the legal process and to significantly reduce corruption, shoddy investigations, coerced testimony and an extremely low conviction rate.

I agree wholeheartedly with the underlying principle of the Mérida Initiative: The organized criminal cartels that smuggle drugs, people, guns and money must be confronted with all of the strength of the governments of both the United States and Mexico. Toward that end, serving as chair of the Conference of Western Attorneys General, I have helped forge a stronger partnership among state Attorneys General in the U.S. and Mexico. Following meetings in Cuernavaca and Phoenix, we announced last year "a new era of bi-national cooperation to fight organized crime in both countries." Those lofty words have had practical consequences. The Attorneys General in the two countries have been working more closely together in four primary areas:

Human Trafficking and Smuggling: Bi-national exchange of information about smuggling networks, information provided by witnesses, operational modes, money transmitters, routes and other information. We also agreed to work together to plan and execute enforcement operations.

Drug Trafficking: Pilot projects to better investigate drug trafficking on both sides of the border. We further agreed to send drug traffickers caught with amounts under current U.S. federal thresholds to Mexico for prosecution.

Money Laundering: Use of investigative techniques pioneered in Arizona to aid in the prosecution of human traffickers in Mexico and to disrupt their flow of funds. We 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: Expand joint U.S. -- Mexican undercover operations aimed at illegal arms sales to prosecute those who sell arms illegally for transport to Mexico. We agreed to pursue an expansion of the registration requirement for multiple gun sales of weapons such as AK-47s.

Additionally, the Attorneys General are working together to establish databases similar to Arizona's THEFTAZ Web site to provide timely information about stolen vehicles and other equipment to law enforcement on both sides of the border.

Another significant step affirmed at the Phoenix meeting was broadening the use of a provision in the Mexican Penal Code that treats crimes committed in other countries as if they were crimes committed in Mexico. This provision, known as "Article 4," was previously limited to criminal prosecutions but will now 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.

Taken together, the Mérida Initiative and our new partnership among Attorneys General promise to invigorate crime-fighting efforts on both sides of the border and significantly reduce the threats from organized criminal operations.

III. Additional Steps Need to be Taken

President Obama asserted last week that our Country needs a comprehensive approach, including a closer partnership with Mexico, to combat violent criminal organizations. I agree. Our experience in Arizona has shown that cooperation and intelligence sharing on both sides of the border are necessary if we are to prevail against the sophisticated, well-organized criminals smuggling drugs, people, guns and money across our southern border. For example:

The goals of the Mérida Initiative are essential, and Congress should appropriate the funds to continue the vital work of assisting Mexican law enforcement and military efforts against the drug cartels.

All levels of United States law enforcement must help our Mexican counterparts by collaborating on bi-national investigations, cooperating in intelligence gathering and analysis, sharing techniques in science and forensics and investing in compatible technologies and equipment for communication and data storage.

We must assist Mexico's nascent program to reform its state and federal courts and criminal procedures, including training and technology sharing.

We must assist Mexico's ambitious program to modernize its police agencies, including establishing mechanisms to ensure transparency and accountability, developing professionalism programs and training officers and technicians in crime scene investigation and maintenance of the chain of custody of physical evidence.

The departments of the Treasury, Justice and Homeland Security must continue to provide support, people and resources to the various federal-state-local task forces that have proven so successful. They must also expand them where it makes sense, such as broadening the High Intensity Drug Trafficking Area (HIDTA) mission to include the crimes of human trafficking and weapons trafficking in addition to drug trafficking.

Gun trafficking and tracing laws need to be updated to recognize the realities of today's sophisticated weapons trade.

Law enforcement agencies on both sides of the border need to target corrupt money transmitters. To do this effectively, we need additional tools, such as coordinated regulation of money transmitters and currency exchange businesses on both sides of the border, cross-border cooperation to seize criminal assets, streamlined extradition procedures, a lower threshold for mandatory reporting of single-transaction money transfers and cash importation into Mexico, which is currently \$10,000, and better procedures for identifying the corrupt actors and their methods by tracing all money going to at least the known trouble spots in Mexico.

Today's "money transmitter" procedures and infrastructure are becoming obsolete as new alternatives emerge, such as the "prepaid stored value cards" that already are being used for money laundering purposes. Law enforcement agencies must anticipate and deal with tomorrow's cash transfer methods. We need legal and investigative tools specifically addressing such new developments as stored value cards. Such devices should be included in the definition of "monetary instruments" for purposes of Currency and Monetary Instrument Reports (CMIRs). Law enforcement agencies must be able to identify suspicious cards and reporting requirements should allow law enforcement agencies to access cardholders' identities, track transactions and identify patterns of suspicious activity. Stored value cards and devices should be readable by law enforcement to determine the amounts stored on them.

Winning the fight against the criminal organizations that operate on both sides of the border demands increased commitment by law enforcement agencies in both the United States and Mexico. The explosion of violence we have seen in Mexico will not be contained there unless the Mexican government's courageous effort to confront and destroy the drug cartels is successful. It is in the interest of the United States to assist Mexico in that effort and to step up our own law enforcement activities to dismantle the criminal organizations operating across the border. To this end, we are working hard in Arizona through federal, state and local partnerships, to strengthen

relationships with our counterparts in Mexico. The challenge we face is critical and requires assistance from the federal government.