

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

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

May 18, 2010

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

The Honorable Richard Durbin:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

In terms of numbers,

28 Mexican States Participating with CWAG

34 US States Participating in the CWAG efforts

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

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

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

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

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

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

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

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

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

Respectfully submitted,

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