

**Confronting the Challenges of Organized Crime in Mexico and Latin America
Report from the U.S.-Mexico Security Cooperation Working Group and
A Conference on International Experiences in Combating Organized Crime**

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On March 13 and 14, 2009, the Mexico Institute and the Latin America Program at the Woodrow Wilson International Center for Scholars held a series of meetings to wrestle with the challenges posed by organized crime and mushrooming violence along the U.S.-Mexico border, and to examine other international experiences in confronting organized crime.

The urgency of this task was heightened by the dramatic growth in drug-related violence in Mexico in 2008 and early 2009, and evidence that drug trafficking organizations were operating with relative ease in both Mexico and the United States.

The challenge for both the Mexico Institute's Security Cooperation working group and the Latin America Program generally is to more fully understand the complexities of organized crime and to think creatively about the most effective approaches to dealing with this phenomenon.

Out of the meetings emerged a number of important common themes that began to hint at a possible strategy for confronting organized crime groups threatening the fabric of societies in Mexico and the United States; as well as, democratic institutions and public security throughout Latin America. On some issues, consensus was possible; on others it was elusive. Working group members, panelists and invited experts disagreed on some key points, suggesting that further discussion and study is needed. Nevertheless, the consensus that emerged around key issues may be of use to policymakers struggling to respond to the threats posed by organized crime.

The following report seeks to highlight where common themes emerged in the discussion about organized crime and U.S.-Mexico security cooperation. We conclude by summarizing a series of central themes that emerged over the two days and that U.S. and Mexican authorities, as well as other regional governments, may wish to consider as the basis for a long-term strategy for reducing violence associated with drug-trafficking, and reversing the coercive effects of organized crime.

I. Areas of Significant Consensus:

A) Increasing the cost of doing business

Completely dismantling organized crime and ending the coercive influence of illegal drugs on the health and wellbeing of society are appealing goals that have led many politicians to call for an all out "war on drugs" and organized crime. Nevertheless, the assembled experts who have examined relatively successful attempts at controlling

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organized crime have found that ultimate victory in such a war is rarely possible, especially where demand for counterfeit and illegal products are high, and they question the appropriateness of such a framework..

A strategy designed to maximize the cost of doing business for organized crime, while simultaneously reducing the demand for the products they provide (whether drugs or contraband items) appears to be a more realistic strategy for limiting the influence of organized crime in society and reducing the violence associated with these.

Several strategies for maximizing the costs of business for organized crime were discussed during the meetings, including:

1) Strategic use of suppression forces: States must make strategic decisions about where to use security forces – police, military and intelligence -- to directly confront organized crime in an attempt to weaken and limit its operational capacity. To confront organized crime in all instances and in every manifestation may result in a scattershot approach that can disrupt cartel operations momentarily but may lead to an overextension of government capacities, and can contribute to a dramatic increase in violence amongst and between cartels and government. Both can, in turn, contribute to a lessening of public support for government policy.

Ironically, as organized crime reacts to an armed offensive from the state, some organizations have been strengthened as they seek to either absorb or destroy weaker competitors. The decline of the Medellín cartels under Pablo Escobar gave rise to Cali's organized crime families, which, in turn, ceded power and control to Mexican syndicates as they declined in the 1990s.

Rather than battling organized crime on all fronts, which represents a high cost to the state, strategic choices should be made that reduce the reach of specific groups and contribute to the atomization and isolation of criminal organizations. Strategic use of force to limit the capacity of organized crime to expand and operate beyond a specific area can elevate the cost of doing business on a larger scale. It also makes it possible for other strategies, such as law enforcement investigations and judicial prosecutions, to be more effective and should, in turn, lessen the risk of dramatic violence currently plaguing Mexico and the region that results from turf battles amongst and within organized crime groups.

2) Demand reduction and prevention: Reducing market size and the profitability of organized crime remain one of the most important and cost-effective ways to weaken its power. Profits from the vast consumer market for illegal drugs in the United States provide the means for protecting the criminal enterprise through the corruption of State institutions and, simultaneously contributing to a distortion of legitimate economies.

After numerous years of significant increases in the U.S. federal budget for supply suppression, the Obama Administration was expected to reverse the trend and significantly increase funding for demand reduction and prevention programs. In fact,

there have been promising statements made by Obama Administration officials including the new Director of the Office of National Drug Control Policy, Gil Kerlikowske.

“Our nation’s demand for drugs fuels drug production and trafficking, as well as violence and corruption, within other nations. Domestic drug use is a significant factor in the terrible drug-related crime currently wracking Mexico and fuels illegal armed groups in Colombia ... While these international supply reduction programs play a vital role in improving security, supporting the rule of law, and denying terrorist and criminal safe havens around the world, the greatest contribution we can make toward stability is to reduce our demand for illicit drugs,” Gil Kerlikowske (Testimony, May 19, 2009). <http://republicans.oversight.house.gov/media/pdfs/20090519Kerlikowske.pdf>

Nevertheless, despite the new policy directions outlined by the Director, the proposed National Drug Control Budget for Fiscal Year 2010 would not appear to significantly change the funding priorities. The President’s budget request includes a reduction of 0.08-percent (\$39.7 million) in demand reduction budgets between 2009 and 2010, and a 2.7-percent increase (\$263.9 million) for supply reduction programs. The ratio between demand reduction (35 percent) and supply suppression (65 percent) remains largely unchanged.

Supporters of the Administration’s budget have pointed out that the current budget request originated with the previous Administration, so it does not yet reflect the current government’s new policy priorities. Furthermore, it is argued, the current Administration decided to discontinue some demand reduction programs that were considered ineffective, further lowering the demand side of the budget.

In any case, it’s too early in the Administration to draw any specific conclusions about the direction of the government’s anti-drug policy. Secretary of State Hillary Clinton’s assertion in Mexico that “Our (U.S.) insatiable demand for illegal drugs fuels the drug trade” would hint at a possible new direction in policy, but evidence of any potential change was scarce at the time of the Wilson Center meetings. .

3) Money laundering: The flow of money back to Mexico and Colombia is the lifeblood of the cartels. The U.S. Department of Justice now estimates that between \$18 and \$38 billion are laundered and returned to drug trafficking organizations in both countries annually. While federal banking regulations have increased and new enforcement mechanisms been established, organized crime has proven to be agile in overcoming or simply bypassing new regulations.

Two significant problems have emerged as governments attempt to slow money laundering activities by requiring financial reporting on ever-smaller transfer amounts. The first is the slowing of legitimate transactions within the financial system even when money laundering is the primary target. Coming at a time when the global economy is struggling with recession worries, increased reporting requirements that slow legitimate financial transactions are often very unpopular. Second, for increased reporting requirements to be useful, they must be accompanied by an increased capacity to digest

and react quickly to the information generated. To date, the U.S. and international regulatory agencies have been unable to respond effectively to the volumes of information that result from increased reporting and, thus, limiting the likelihood that useful information, if generated, will be put to good use.

Another troubling phenomenon in the specific case of the United States and Mexico is that approximately half of all illegal money transfers between both countries take place in the form of bulk cash transfers. The extensive border and the desire to ensure and strengthen commercial and economic ties between both countries have meant that efforts to increase border inspections, especially of southbound vehicles, have met with understandable resistance. One alternative, then, is to move inspections inland and at central gathering points for commerce, while simultaneously increasing the intelligence capacity of law enforcement agencies to track the flow of bulk cash to major transfer points along the border. (I thought the money launderers also used inland consolidation points for bulk cash, that they rely on multiple and recurring transfers of small amounts that are consolidated at particular locations in the interior and along the border.) To date, such intelligence capacity is limited and far outstripped by the capacity of organized crime to bundle cash and move it across the border furtively.

Finally, the illegal or informal economy is easily penetrated by organized crime and becomes yet another way to move money quickly while at the same time weakening the formal economy. Organized crime in Mexico and Colombia has used the black market peso exchange as a way to move large sums of money quickly between the United States and the organized crime syndicates.

Nevertheless, despite limited success, these measures have contributed to raising the cost of doing business for organized crime, forcing them to develop new mechanisms and capacities to transfer money that imply new risks and costs. Attempts to slow the illegal transfer of proceeds from drug sales may never be completely successful, but efforts to complicate and limit illegal transfers can be important factors in governmental strategies to reduce the power of organized crime.

4) Weapons:

With thousands of small arms and light weapons estimated to pass illegally from the United States to Mexico each month, weapons have become a critical element of the growing power and violence of organized crime groups in Mexico. Illegally obtained and smuggled weapons have become vehicles for laundering money while enabling drug trafficking organizations to engage in violent and deadly turf wars and skirmishes with Mexican authorities.

In this context Mexican authorities have urged the United States to do more to curb the flow of high-powered weapons preferred by the drug cartels. According to the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), 90 percent of guns seized at crime scenes in Mexico that are later traced have entered Mexico illegally from the United States.

Strategies employed by U.S. authorities to stem the flow of arms have included an expansion of eTrace capabilities within Mexico, and increased inspections at manufacturing and sales points, and especially along the southwest border. Deployment of new and redeployment of existing inspectors to critical areas have reflected the data gathered by eTraces in Mexico.

Critical to this strategy has been expanding the availability and use of the eTrace system, which is an online database of registered firearms. The program is now available for use in numerous U.S. consulates throughout Mexico, and a Spanish-language version of the program is expected to be online soon, expanding its availability and usefulness to Mexican law enforcement agencies.

The importance of expanding trace and inspection capabilities in the United States and Mexico notwithstanding, working group members and invited experts also pointed to several other steps that should be considered by U.S. policymakers.

One suggested measure that could help stem the flow of assault rifles and high-powered weapons from the United States to Mexico would be to strengthen U.S. enforcement of the 1968 Gun Control Act. This law prohibits the importation of non-sporting firearms under what is commonly referred to as the “sporting purposes” test. However, this test has been subjectively interpreted in ways that various expand or restrict what can be considered weapons for “sporting purposes.” At times, the understanding of weapons appropriate for hunting has been broadened to include such weapons as AK-47 variants and other assault rifles that are made in Eastern Europe and in Asia, predominantly. In fact, some of the guns imported under the Act are marketed as anti-terrorist and self-defense weapons, expressly not for hunting.

Conversely, narrowing the definition of “sporting purpose” and strengthening the enforcement of the 1968 Gun Control Act could help to reduce the trafficking of such guns to Mexico since it is these kinds of weapons that are prized by Mexican traffickers and other criminals. Additionally, by reducing the availability of such weapons, stricter enforcement could lead to generally higher prices for new and used assault rifles in the United States, squeezing the supply of such weapons and raising the cost of doing business for organized crime.

A second factor of concern is the limitations placed on information sharing amongst law enforcement agencies by the so-called Tiahrt amendment. This provision of law effectively prevents ATF from disseminating results of tracing investigations to local law enforcement. The result, according to critics and some local police departments, is that local law enforcement does not have access to potentially valuable information that could support their investigations into violent crime and the illegal sale of weapons.

Finally, the working group considered some of the political and legal factors that have hampered a full public discussion about reforming laws and regulations restricting the availability of certain weapons in the United States. A recent Supreme Court decision

upholding the individual constitutional right to possess a weapon, and the sophisticated and effective efforts of the pro-Second Amendment lobby, were cited as important factors in dampening public discussion, legislative or regulatory action in Congress or the Administration. There is a general consensus within the leadership of both political parties that legislative action to restrict or regulate access to weapons is politically risky,

B) Strengthening democratic institutions:

A common thread in most cases of organized crime is the weakness of the State and democratic institutions. Organized crime thrives in places where mechanisms of accountability are weak and State capacity to withstand the economic and armed pressures of organized crime are least. Likewise, when organized crime is challenged effectively in one area, it often moves to places that have no government presence, or the capacity to resist within the governing apparatus, is minimal.

For example, there is evidence that as the cost of doing business increases along the northbound route to the United States, drug trafficking organizations are beginning to find new routes into the lucrative markets of Western Europe where demand is growing dramatically and exchange rates are favorable. In establishing these routes, the traffickers have increasingly looked to the weak and vulnerable states of Western Africa to find favorable conditions and a transshipment points to enter Europe.

Broadly speaking, organized crime enjoys favorable operating conditions when there are territories that with no or minimal state presence – the so-called ungoverned spaces – or where government exists formally but is highly penetrable by organized crime. The experts participating in both conferences focused their comments on the latter.

1) Endemic corruption: In the particular case of the mafia, or so-called Cosa Nostra, in Palermo, Italy corruption and penetration of the state went beyond bribes to public officials and included a deeper, more organic “endemic corruption.” In the case of Palermo the tentacles of organized crime actually controlled the institutions of government and officials worked on behalf of the interests of, and to protect the interests of, organized crime. Endemic corruption was also identified in parts of the local municipal government in Medellin, Colombia where neighborhoods and some local authorities were under the effective control of organized crime connected to the illegal drug business.

In these cases, to reestablish and regain legitimacy for the government was a central element of the strategy to defeat organized crime. Especially in Palermo, where Leoluca Orlando was mayor, the authorities pursued a policy of recovering public spaces for the citizens, inviting them into the halls of government to speak openly and freely, and establishing mechanisms and opportunities for citizen participation in the decisions and functioning of government. By opening public spaces and reclaiming the government for its citizens, and pursuing the Mafia and its representatives embedded in government, Mayor Orlando was able to slowly break the stranglehold the Mafia had placed on the city’s administration, and reestablished the government’s legitimacy before the public.

Ultimately, citizens became partners with the authorities in reestablishing control of the apparatus of government and vanquishing organized crime from the public square.

2) Professionalization of democratic law enforcement:

According to the participants in the Mexico Institute's security cooperation working group, enormous challenges remain for implementing the significant justice sector and law enforcement reforms adopted during the first two years of the Calderón administration.

In the case of the police, major progress was made in restructuring federal police forces to create a unified national police. Yet, the bureaucratic reorganization and streamlining of responsibilities has to be consolidated in what the group described as a "generational" task, requiring a long-term perspective and political commitments that go beyond a particular government.

these challenges involve in developing the proper incentives for police professionalization that would address the poor working conditions, low salaries, low educational levels, and low social prestige of policing in Mexico. These challenges are particularly acute at the State and Municipal level where there are limited resources, and often limited political incentives to take on the challenges of professionalization.

The working group took a closer look at the numerous and, at times, contradictory training standards for federal, state, and municipal police where both the length and curricula for basic training vary widely. In some cases, States require several months of training, while in other its mere weeks. In some cases, localities require almost no training for police and it is considered a job with little prestige, and equally low compensation, thus creating perverse incentives for corruption and further alienating police from the community they are supposed to serve. In contrast, higher education standards for new cadets, and improved and standardized training curricula were proposed as key elements for restoring a sense of prestige to the police profession.

Strengthening the Judicial System:

In both the working group and in the organized crime roundtable, participants stressed that efforts to improve the rule of law in Mexico held the greatest potential to mitigate organized crime violence. Judicial and law enforcement reforms can, over time, help make the state less vulnerable to penetration by organized crime. Reforms to make the criminal justice system more equitable, more transparent, and less prone to corruption would enhance the rule of law and would contribute to greater credibility and a better reputation for the country's police and justice system. With increased public confidence in its institutions, possibilities of greater partnerships to combat organized crime emerge between citizens, organized civil society, and government. Consequently, an invigorated civil society is a necessary element in any strategy to uproot endemic organized crime, roundtable participant Aldo Civico noted.

Yet, according to numerous participants,, Mexico faces significant challenges in its ability to effectively investigate and prosecute organized crime. Operators within the

criminal justice system – investigative police agents, judges, and prosecutors – lack the appropriate technical, legal, and scientific training and skills. Organized crime has effectively infiltrated some police forces, courts, and prisons, and there exists little effective public or institutional oversight of these institutions. Working group participants, for example, noted the need for expanded public accountability of the courts through the creation of so-called “judicial observatories,” or independent “watch dog” groups to keep track of verdicts and other important criminal justice information.

Recent developments, however, suggest the possibility of improvements. In April 2008 Mexico passed legislation to transform the country’s criminal justice system from a predominantly inquisitorial (presumed guilty) system to a predominantly accusatorial one (presumed innocent). Included in the reform package were provisions that would raise the bar for the proper and legal collection of evidence and that would raise standards for the presentation of such evidence in open court. Additionally the reform called for a more level playing field between prosecution and defense and greater support for alternative dispute resolution mechanisms, among other changes.

However working group members also noted that the implementation of the federal-level reform effort has been slow and complicated by entrenched interests. According to participant Carlos Ríos, the judicial reform has been compromised by provisions that create legal exceptions for organized crime, enhancing prosecutorial tools against mafias but, in the minds of some critics, going against the principle of the reform. Compounding the complexity of the reform is that the legislations provides for an eight-year transition process from old system to new. Working group participants noted that such a lengthy transition may reflect a lack of political will to ensure effective implementation of the reforms at the federal-level.

II. Areas in need of additional discussion and debate:

A) Sequencing. One area of unresolved discussion has to do with the sequencing of these strategies. The debate centered on whether law enforcement and suppression strategies must necessarily occur prior to undertaking other complementary strategies such as education and prevention programs and expanding economic opportunities can be effective; or whether these strategies should be undertaken in a parallel fashion with each reinforcing the other. Some have pointed to historic precedent that suggests that aggressive confrontation of organized crime and drug traffickers is necessary to create the safe space required for pursuing institutional strengthening strategies for judicial and law enforcement agencies. In the particular case of Palermo, some argued that Leoluca Orlando’s strategy of reclaiming public spaces was only possible after a decade of aggressive law enforcement efforts that weakened the Mafia.

Others argued that sequencing should not be viewed in a rigid linear fashion with suppression and pacification coming first followed by other “soft” programs designed to build up the state. In the case of Palermo, Italy, for example, they argued that the critical factor was the partnership established between citizens and government that lead to

legitimizing the state and changing the underlying culture that accepted endemic corruption as inevitable.

B) Role of the military

In the specific case of Mexico, debate about the role of the armed forces was very much a part of the sequencing debate. It is broadly understood and accepted that current law enforcement capacities in Mexico are limited and that federal, state and local police forces have been penetrated by organized crime at all levels. The need to professionalize law enforcement is an urgent and critical task, but also one that will take several years to achieve. Hence, the participation of the Mexican military in law enforcement activities would appear to be a necessary albeit short-term reality.

Others have argued that the military's involvement in combating organized crime raises some troubling questions. First, are concerns about the adequacy of the legal framework governing the role of Mexico's military in law enforcement? The Calderon Administration seemed to implicitly acknowledge this dilemma when it sent to the Mexican congress three legislative initiatives designed to more clearly define and regulate the military's role in law enforcement. Originally conceived of as a temporary support to civilian law enforcement, the military has taken on a central role in President Calderon's strategy by assuming direct and continuous law enforcement and civilian functions for which they have no apparent legal authority.

Finally, there are questions about public accountability and the military. Mexico's military justice system has maintained an expansive interpretation of its jurisdiction, largely keeping to itself cases involving alleged criminal acts committed by military personnel. But maintaining a separate military justice system has been challenged on legal grounds and the Mexican Supreme Court is expected to rule on the question in August. Whatever the ruling, the need to establish clearer mechanisms of accountability for military and public servants is essential to strengthening the legitimacy of the state before the Mexican public.

III. Conclusions: A multi-faceted, multi-dimensional approach

The rich and varied discussion amongst experts and panelists of the Mexico Institute's Security Cooperation Working Group, and the conference on International Experiences in Combating Organized Crime have highlighted the complexity of confronting organized crime while preserving the core elements of a liberal democracy. Assuming that the goal of most Western Hemisphere states is to preserve and strengthen democratic institutions, then a multi-dimensional, multi-faceted approach to dealing with organized crime seems the most promising. Rather than investing in one narrow law enforcement or suppression strategy, experts and panelists have concluded that attacking organized crime on all sides – financially, frontally, and by reducing consumption markets and profitability – would appear to be the best strategy for weakening organized crime and reducing the violence associated with it.

Such a strategy also requires a long-term commitment from governments to confront age-old challenges such as endemic corruption, weak judicial and law enforcement institutions, and the ingrained consumption patterns in Europe and the United States. These problems are rarely remedied quickly or in time for the next critical election. Rather, the United States and the countries of the region need to reach a political understanding and commitment to remain invested in the long-term multi-dimensional reforms and improvements that can contribute to weakening the grip of organized crime on the people of and democracy in the Americas.

Principle findings: Following are some of the principle findings and major questions that emerged during the two days of meetings.

A strong, credible/legitimate state that can carry out a multi-faceted, multi-dimensional strategy against organized crime is essential.

Organized crime exploits a weak or non-existent state.

A strong state does not have to be democratic to take on organized crime effectively, but it is preferable, especially in this hemisphere.

Can a country fight organized crime with democracy? Strengthening democratic institutions are an important element but is it sufficient? In what order should it be attempted?

Suppression and confrontation are an important element of combating organized crime but there are questions about strategic balance and sequencing.

States must make strategic choices about how and where to confront organized crime. The effectiveness and merits of confronting them at every point is questionable. Confrontations should be strategic and lead to the atomization of organized crime instead of consolidation of power amongst a particular organization.

Demand reduction, prevention and treatment are all essential elements of a multi-dimensional strategy.

Raising the cost of doing business is essential. States cannot wipe out money laundering, for instance, but can raise the cost of doing business.

Extreme violence and increasing para-militarization of DTOs also raises the cost

Is State – OC contact/dialogue possible or desirable? Numerous cases where the State negotiated truces or accommodation with OC that leads to a dramatic decrease in violence.

OC cooptation or control of the State or its institutions are signs of the endemic corruption that permit OC to operate freely. Also numerous examples of strong ties between political parties and OC – Democracia Cristiana, PRI, Para-politics in Colombia.

OC thrives on endemic corruption where the entire political system is co-opted and manipulated by OC. Combating endemic corruption requires a significant change in the culture and attitudes of society generally – pushing back against what has become “normal” albeit illegal.