Woodrow Wilson International Center for Scholars
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Shattered Dreams and Restoring Hope:

Organized crime and violence on the U.S. - Mexico border.
(Reflections on a trip to the border January 26-Feb 4, 2010)
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A little over three weeks ago six American colleagues and I stood in stunned silence and freezing rain in Ciudad Juarez, Mexico at the entrance to one of several homes where grieving parents mourned the cold blooded murders of fifteen young people on January 31st. We entered the small government-financed house in a working class neighborhood on the south side of Juarez just four days after the 13 teenagers and 2 adults were slaughtered in three houses across the street where they celebrated a birthday. As we pushed passed the car port lined with traditional funeral wreaths, and into the crowded and cramped living room, we could see two open caskets with the faces of lifeless teenagers being caressed by wailing grandmothers and friends. We shook hands with the stunned father of one nineteen-year-old victim, but no words seemed adequate to the occasion. We awkwardly nodded and mumbled our condolences.

Outside the house was a hand-scribbled sign that simply said, "What do you want us to do? Arm our children? Justice." In its simplicity, the sign captured the sense of anger and desperation we heard expressed throughout our 9-day trip to the U.S.-Mexican border.

Our group of seven is part of a joint research and writing project to examine the effectiveness of US and Mexican efforts to confront transnational organized crime that is tearing apart communities in both countries. Our project starts with the assumption that both countries have a shared responsibility to address the violence and underlying causes giving rise to the current crises in places like Ciudad Juarez.

Nine-days in the San Diego/Tijuana area and El Paso/Ciudad Juarez is not enough time to draw definitive conclusions about what is going on, but it has lead us to make some preliminary observations about the situation. Here are a few such observations that may help inform people and governments in both countries and lead to a more informed discussion about what is plaguing the area and thoughts about possible policy approaches to be considered in addressing this seemingly intractable problem.

Consumption is the driving force behind trafficking in illegal drugs. It's hard to imagine that the problems along the border would be as great if it weren't for competition between organized crime groups to meet the demand for illegal drugs in the United States. The U.S. is still the largest consumer market for cocaine anywhere in the world, with marijuana, methamphetamines, and "black tar" heroin comprising significant elements of illicit trade between the U.S. and Mexico. And despite spending billions annually to stop the supply and trafficking of drugs into the United States, consumption rates remain largely unchanged since 2002.[1]

Despite the importance of drug trafficking, what is going on at the border and throughout the hemisphere extends well beyond drug trafficking. What were once drug trafficking organizations focused primarily on delivering illegal drugs across the U.S. border some 10 or 20 years ago, have now morphed into organized crime conglomerates that have diversified into other areas of illegal activity such as extortion, kidnapping, trafficking in pirated goods and humans. Furthermore, the mechanisms they utilize to traffic goods north are useful in bringing things south – especially weapons and bulk cash. Why is this distinction important? Because traffickers have traditionally focused on moving their illegal products from point "A" to point "B" and organized crime is concerned with controlling territory where it can operate a number of different illegal rackets and can supply a domestic Mexican market.

The phenomenon is not one-way, but circular. Trafficking is not just happening on a northbound axis, but in a circular fashion. Illegal drugs sold in the US generate resources that are either transported back across the Mexican border, or are used to purchase weapons and other products used by organized crime in Mexico. There is a significant black market in stolen automobiles and auto-parts in places like Ciudad Juarez, for instance. Mexicans with relatives in the U.S. have increasingly been targeted for kidnapping.

While weapons and money are flowing southward we saw little evidence of an effective strategy to stem these flows. The U.S. only periodically conducts southbound inspections, and, at least according to one official, these are largely useless because of the volume of traffic that would need to be inspected. Mexican port authorities also conduct random southbound inspections, but these result in checks of less than 10 percent of vehicles.

At both the Tijuana and Ciudad Juarez ports of entry, Mexico has installed a controversial program called SIAVE (Sistema de Aforo Vehicular), in which vehicles are weighed and checked against an official weight table. Vehicles exceeding a pre-set weight parameter are diverted to secondary inspection. While this program has been installed in Tijuana it is not yet in full operation, according to Mexican officials. It has apparently been in quiet use in Ciudad Juarez for some months, but the results are not publicly known.

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[1] From, "The Continued Standstill in Reducing Illicit Drug Use," Policy Brief, September 2009, by Carnevale Associates, LLC. Carnevale also finds, "Over the 2002 to 2008, period illicit drug use by youth declined 20 percent; however, this decline ended in 2004; the rate is unchanged ever since."

While southbound inspections seem to have produced few seizures of weapons or cash, they do cause major traffic backs up. On a Friday evening in Tijuana we observed how southbound vehicles attempting to enter Mexico extended back in to the United States for several miles. The disruption and inconvenience of the inspections to local communities and commerce was quite striking.

We were left with the strong impression that southbound inspections are inadequate and ineffective to stop the flow of illegal weapons and bulk cash transfers to Mexico and should be used primarily based on specific intelligence information. More important would be an emphasis on upstream law enforcement operations based on gathered intelligence, to stop the purchase or aggregation of illegal weapons or cash.

Most of the violence appears to be attributable to conflicts within and amongst organized crime groups and youth gangs. Most officials estimated that only a small percentage – unofficially approximately 7 percent – of the violence is due to battles between Mexican law enforcement, military forces and illegal groups. A much larger portion of the violence is due to efforts of one criminal group to either defend its territory and routes, or establish control in territory or routes held by a rival gang.

While most of the violence is due to "bad guys shooting bad guys" it does not mean that all victims are themselves linked to organized crime. The January 31st massacre in Villas de Salvarcar seems to be a case in point. The victims of this tragedy were primarily high school and college-aged kids with no specific connections to gangs or organized crime.

In the case of Tijuana the conflict has been between elements of the Tijuana Cartel known as the Arrellano Felix Organization (AFO), and an AFO breakaway group lead by Teodoro "El Teo" García Simental, who may have been allied with elements of the Sinaloa Cartel known as the Joaquin "El Chapo" Guzman Organization. "El Teo" was captured by Mexican police in January. . In Ciudad Juarez, the long-dominate Juarez Cartel – also known as the Vicente Carrillo Fuente Organization (VCFO) – has been in a pitched battle to defend its territory from encroachment by the Sinaloa/Chapo Guzman organization.

It is also believed that the deaths of some law enforcement personnel is the result of one cartel trying to clear out corrupt officials on the pay role of a rival cartel. For example, the VCFO is also known as "La Linea" for the long line of police officials in its pay. Some of the violence against the police is thus thought to be the result of attempts by the Sinaloa cartel cleaning out the VCFO line of corrupt police.

Of course, not all violence is between cartels, youth gangs, or involves corrupt officials. There are legitimate cases of law enforcement and military confronting criminal groups, but these are in a minority.

The youth gang phenomenon is an important factor in Ciudad Juarez. While its important not to conflate organized crime and youth gangs, or draw overly generalized

conclusions about youth gangs everywhere, in Ciudad Juarez there seems to be ample evidence that they form strategic alliances with organized crime groups. They appear to operate locally controlling territory throughout the city where retail drug sales are common. It is believed, for instance, that the 15 youth killed and 12 injured on January 30 were attacked by members of one gang (Barrio Azteca) believing they were preventing members of another gang (Artistic Assassins, or Double As) from selling drugs in their territory.

The relationship between these youth gangs and organized crime is complicated and not entirely understood. It is generally believed that the Barrio Aztecas – the largest of the youth gangs estimated at 5,000 – has formed a strategic alliance with the VCFO, and that the AAs, and another group known as the Mexicles have formed an alliance with the Sinaloa cartel. Sometimes the gangs act as muscle for the cartels, but the cartels are also believed to have their own specialized assassination teams.

One theory is that the gangs are like the minor leagues for the cartels, and basically fight a proxy war for them to control local retail drug markets and engage in extortion rackets, kidnapping, and other illegal activity in Juarez. According to this theory, the cartels themselves have an interest in what happens in Juarez, but are primarily focused on satisfying the US drug market.

Violence is unlikely to decrease dramatically in the short-term until one of several things happens – Mexican and U.S. authorities can successfully dismantle the criminal groups operating in and around Juarez; one of the organized crime groups vanquishes the other(s); an equilibrium is established between organized crime groups and/or a cease fire or negotiated truce is established amongst them; or there is some sort of accommodation between organized crime and law enforcement.

Trust is a scarce commodity. The prevalence of corruption and the penetration of state institutions by organized crime have crippled efforts to combat organized crime. It has eroded the public's confidence in its authorities and means that the vital link between community and law enforcement is mostly non-existent. Lack of trust in authorities has also infected the capacity of various Mexican agencies – local, state, and federal - to work together, as well as hampered efforts by U.S. authorities to work with their Mexican counterparts.

The problem seemed most severe in Ciudad Juarez where we heard and witnessed open disdain by citizens directed at their authorities, and a dismissive refrain from many authorities about civil society groups. In Tijuana the situation seemed less dramatic. Concerns about corruption still ran high but there was also evidence of cross border collaboration based on personal experience and trust between civil society and officials. The charisma of Mexican General Alfonso Duarte Mujíca, would appear to be a lynchpin in the growing sense of trust between U.S. and Mexican authorities in Tijuana.

It is important to acknowledge that corruption and penetration of state institutions is not limited to the Mexican side of the border but occurs regularly in and amongst US agents.

Nevertheless, the problem is undoubtedly severe in Mexico and the urgent need to address it is self evident.

While some institutional reforms have been implemented to address this problem, and mass dismissals of allegedly corrupt officials have been attempted, the problem persists. Mechanisms of transparency and public accountability are few and weak, and simply putting corrupt officials out on the streets without proper investigations, prosecutions, and sentencing does little to restore public confidence in their authorities.

Efforts at creating transparent institutions have not been prioritized, and implementing greater transparency and accountability within the police and military is often controversial in the context of combating organized crime. Nevertheless, failure to restore public confidence in the government - be it local, state, or federal - means efforts to dismantle organized crime will be more difficult.

The Mexican military cannot replace civilian police and prosecutors in combating organized crime and should not be the centerpiece of an overall strategy. Military deployments in high crime areas have been the backbone of the Calderon Administration's battle against organized crime. But Mexican president's as far back as Ernesto Zedillo in 1995 have used the military as a "temporary replacement" for the civilian police.

The logic is that the military is less corrupt and more disciplined than the police, and thus benefits from greater legitimacy and acceptance from the public. A second element of the strategy has meant replacing civilian police commanders with retired military personnel, or officers on leave from their military career. In some instances this practice appears to have lead to greater coordination and trust between the local military commander and civilian police forces now under the leadership of former military officers. This practice was particularly evident in Tijuana.

Nevertheless, the military's record in Ciudad Juarez has raised serious questions about the strategy. While there are still local authorities that have absolute trust in the Mexican military, public sentiment seems to have turned against them as was evident in protests following the January 31st massacre. There are now over 200 reported cases of human rights violations by the military in Ciudad Juarez, and many citizens see the military presence as either abusive or ineffective. During President Calderon's February 11th trip to Ciudad Juarez, numerous protesters demanded the removal of the military, and our delegation heard similar sentiments expressed by various civil society leaders.

Criticism of the military strategy is not limited to human rights problems. Some observers have argued that the military's strategy in Ciudad Juarez has been limited to "presence patrols" without many strategic or intelligence based operations designed to directly confront the criminal organizations. Patrolling is done to dissuade or prevent criminal activity, but the effectiveness of this strategy has been questioned as violence has soared and criminals have become ever more brazen and gruesome in their attacks.

In addition, U.S. Ambassador Carlos Pascual has publicly raised concerns that the military's legal authority to combat crime is limited and, thus, not fully integrated with Mexico's judicial system. For example, the military has no explicit legal authority to carry out criminal investigations, interrogate suspects, question witnesses, or gather forensic evidence at a crime scene. President Calderón seems to have acknowledged the implicit legal problems facing the military and proposed numerous legal reforms in 2009 to expand the military's legal authority in criminal cases, but the Mexican Congress has yet to enact these reforms.

So given these legal limitations, the military's role appears to be limited to one of presence and patrol and, thus, mostly dissuasive and reactive. With the effectiveness of this strategy in doubt and the number of alleged human rights violations increasing, serious questions are being raised about the wisdom of the overall Calderon strategy.

Police professionalization is urgently needed, especially amongst local and state police forces. Amidst the growing violence in Juarez and eroding public confidence in the government and the military, President Calderón decided in early January 2010 to turn over operational control of anti-crime efforts in Ciudad Juarez to the federal police. Specifically, 1,600 members of the Federal Police were sent to Juarez to coordinate the government's response, and the role of the Mexican military was redefined as a supporting role. Nevertheless, the transition will likely take some time to fully implement as the military continues to be a major presence in the city, and Chihuahua state and local authorities continue to have greater confidence in the military's capacity to provide security.

Over the past three years, the Calderon government has dramatically reorganized the nation's federal police force and has made significant strides towards professionalizing the roughly 32,000 federal police. They are receiving training at the federal police academy in San Luis Potosi, and several U.S. law enforcement agencies are assisting with courses in modern investigation techniques.

As important as these advances are, and as welcome as it is to see civilian police forces taking the lead in places such as Ciudad Juarez, police professionalization is far from complete in Mexico. The Federal Police force is relatively new, and while it includes some seasoned law enforcement and former military personnel, it is still a relatively young and untested police force. More importantly, similar investments in state and municipal police forces have lagged behind. While there are some municipal police in major metropolitan areas such as Guadalajara with more advanced capacities, overall the level of professionalization in the remaining 360,000 state and municipal police has not kept pace. Improvements have been made amongst local police in Tijuana and Ciudad Juarez, but they are still seriously overmatched and significantly penetrated by organized crime.

Mexico's justice system appears ill-equipped and overwhelmed by the extent of the problems. In June 2008 Mexico began a period of fundamental transformation of its justice system. Key elements of the reform included moving from an *inquisitorial* system

based on a written record of depositions and physical evidence to an adversarial system of justice involving oral arguments and cross examination before a judge in open court. Other important elements in the reform include the presumption of innocence for the accused and a strengthened role for public defenders. The reforms represented an important first step in creating a system of due process in Mexico.

Along with these advances, the reforms also included controversial new provisions for fighting organized crime that gives law enforcement personnel and prosecutors greater flexibility to detain and interrogate organized crime suspects. Several legal exceptions to due process guarantees were created such as permitting lengthy detention of up to 40 days (with the possibility of another 40) before charges are brought against an organized crime suspect. The reforms also allow Mexican federal authorities for the first time to regulate asset seizures of persons believed connected to organized crime.

These reforms represent a profound legal and cultural shift for Mexico. Prosecutors in one state acknowledged that the new provisions required thorough criminal investigations for the first time rather than simply relying on confessions and admissions of guilt as they did under the previous justice system. To facilitate the implementation of these complex reforms, the law provided for an eight-year transition period that would allow states time to train their court officers and educate the public.

Despite the positive elements contained in the reforms, serious concerns were expressed about the ability of prosecutors and courts to adapt adequately in midst of the existing crisis situation. There is a perception that the reforms are being implemented in a haphazard and careless manner with too many suspects released either out right – because of insufficient preparation by prosecutors and investigators – or release on bond. Thus, there is a widespread belief that the justice system is simply becoming a revolving door for criminals and is unable to hold anyone accountable.

It was also apparent that the reform process in the State of Baja California had greater potential and more progress made in preparing for the implementation of the reforms than in the State of Chihuahua. In Baja California, we met with faculty members of the State University's college of law where training for current and prospective prosecutors are well underway. Nevertheless, the level of crime and the unfamiliarity of the new justice system made evident that the much needed criminal reforms were still a work in progress, and that their implementation in the midst of crisis was raising serious public doubts about their efficacy.

Lack of coordination and political infighting between political parties, political leaders, and government agencies has crippled Mexican anti-crime efforts. One of the more alarming issues brought to our attention was the extent to which Mexican authorities representing different agencies and levels of government (local, state, and federal) do not effectively coordinate their efforts and strategies. Local authorities often feel their opinions and perspectives are not being adequately considered by state or federal authorities, and federal agencies are reportedly unable to coordinate their work adequately. Political and partisan differences, electoral agendas, and in some cases inter-

agency competition for control of resources are the most often cited explanations for inadequate coordination. In any case, there does not appear to be a tradition or culture of inter-agency cooperation or joint task forces that result in a well coordinated policy amongst the various ministries and levels of government.

Will the violence in Mexico have a "spill over" effect on the United States? Yes and no. The violence in Mexico has already impacted the United States as more and more people seek refuge in the U.S. With so many familial and commercial ties across the border, it is not surprising that families and businesses are relocating to the United States in large numbers. We were told that housing in El Paso has become increasingly scarce as a result because of the violence in Ciudad Juarez.

Additionally, organized crime has developed extensive distribution networks in the United States. Drugs crossing the US border are being shipped around the country via illicit networks, and southbound trafficking in weapons and money is rampant in the U.S. These all have a corrosive impact on American society, but they are a cause, rather than a result of the violence in Mexico..

On the other hand, El Paso is amongst the least violent cities in the United States. A city of approximately 750,000 experienced just over 20 murders in 2009, a rate of about 3 per 100,000. The rate in Ciudad Juarez was over 170 per 100,000 during the same period. It is evident that the kind of killing going on in Ciudad Juarez and Tijuana has not crossed the river into the U.S.

Kidnappings for ransom have also be cited as an example of the violence in Mexico crossing into the United States, but prosecutors in California and Texas said there is no new alarming trend in cross border kidnapping.

The crushing economic and social realities in Mexico and especially along the border are a contributing factor to the violence. Widely reported statistics include an estimate that 116,000 dwellings in Ciudad Juarez have been abandoned and approximately 25 percent have fled the city due to the violence and economic recession. An estimated 80,000 Juarez's youth are characterized as "Ní- Ní" as in they neither work nor go to school (in Spanish: *Ní estudian, Ní trabajan*). We spoke to one professor of urban planning from a local university who criticized the local and state governments for not planning adequate public spaces for cultural and athletic activities.

Further, according to the Mexican government's statistics and demography agency (INEGI) as many as 200,000 jobs have been lost as a result of the violence. The Business Coordinating Council reportedly told President Calderón during his visit to the city that 3 out of 10 businesses have closed, and the National Chamber of Commerce reports that approximately 75 percent of businesses have closed in the last two years.

President Calderón seemed to acknowledge the need for economic development and social investment when he visited Ciudad Juarez on February 11 and said "The presence of troops and police is not enough," . "We need stronger actions that strike at the root of

the problem, which has to do with the nature of society."

In the midst of the multiple and interconnected problems facing the United States and Mexico, it is sometimes overwhelming to figure out what can be done. Organized crime naturally operates in an opaque environment where precise information is difficult, if not impossible, to obtain. Little wonder, then, that a clear strategy for addressing this problem is equally difficult to define. Nevertheless it's important that leaders in both countries continue to work together to develop a strategy that is both long term and multi-dimensional, shunning the temptation to find easy answers or "magic bullets" that will "solve" the problem in short order.

In this spirit, the following are some ideas that governments may want to consider as they seek to define policies that are more effective:

- Focus more resources on reducing demand for illegal drugs in the United States with a particular focus on prevention and treatment programs. Reducing demand will reduce the economic incentives for trafficking and cut into the profits that are feeding the trade.

- Prioritize upstream intelligence based efforts to stop the flow of money and weapons back to Mexico. Southbound border inspections do not appear to have resulted in an effective strategy to disrupt the flow of cash and weapons southward, and the serious back ups in vehicular movement are causing major hardships for legitimate commerce and border communities.

- Provide idle youth with alternatives other than joining a gang, absorption by organized crime, or fleeing to the US. Investment in better educational opportunities and vocational training tied to real job opportunities are a starting point. But federal, state, and local governments should consider investing more in urban planning as well to create recreational and cultural opportunities for young people that give them healthy alternatives to crime.

- Professionalizing law enforcement agencies and the justice system are indispensable especially when it comes to increasing the investigative capacity of authorities. Investing in training for prosecutors, judges, and public defenders is also essential if the new oral/adversarial justice system is going to win public support. Equally important is governmental investment in mechanisms that promote transparency and accountability within governmental agencies, including but not limited to federal, state, and local police forces.

- Take steps to re-establish public trust in authorities by de-politicizing anti-crime strategies. Non-partisan task-forces that include civil society leaders, academic experts, and law enforcement professionals could be a starting point. Breaking down the barriers of distrust are key to a successful anti-crime strategy. Creating partnerships between civic organizations and government will be critical to reestablishing trust and make communities a secure place to live.

- Develop a culture of inter-agency collaboration and coordination within the three levels of Mexico's government, and between the US and Mexico.

- Encourage, strengthen, and protect an independent press and the role of civil society in Mexico, especially in the border cities.