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"Southern Border Violence: State and Local Perspectives"

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I. An Overview

Surging violence associated with Mexican-based drug cartels represents a growing threat to the safety of American citizens and is one of the most serious organized crime threats of the 21st Century. These sophisticated, heavily armed, well-organized and highly profitable organizations are using unimaginable violence to protect and grow their criminal enterprises.

The violence stems from four interrelated crimes: drug smuggling, human smuggling, arms trafficking and money laundering. These crimes move in both directions across the border. Drugs and humans are smuggled from south to north, while illegal traffic in weapons and money runs north to south. The cartels do a robust business in all four areas.

Addressing each of these criminal activities effectively demands a more comprehensive law enforcement strategy. Our country's response so far has been segmented among multiple federal, state and local agencies. Task forces have been assembled for specific operations with good results, but stronger federal leadership and a much better integrated response are urgently needed to dismantle the criminal organizations and restore the rule of law.

Our nation's frustration with spillover border violence goes back a long way. In 1916, Mexican revolutionary Francisco "Pancho" Villa led a raid into Columbus, N.M., that left 18 Americans dead. President Wilson responded by sending Gen. John "Black Jack" Pershing and 10,000 U.S. troops into the rugged mountains of northern Mexico to capture Villa. In nearly a year of searching, they never found him.

We are facing a far larger border crisis today. While Arizona may sit at the center of this storm, the cartels distribute drugs in more than 230 cities across the U.S. and operate with as much bloody violence as any terrorist organization. Accordingly, crimes associated with the border extend far into our country and threaten citizens in every state.

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 entered the U.S. illegally through Arizona, and approximately \$2 billion per year is paid to the smugglers, sometimes referred to as "coyotes," to transport undocumented individuals across the Arizona border. Human smuggling is largely facilitated by illicit wire transfers of money to pay the smuggling fees charged by 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, 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. Phoenix leads the nation in kidnappings with more than 700 such crimes—most of which were connected with human or drug smuggling—reported in the past two years, and Tucson reports a sharp rise in home invasions.

During the past few weeks, the border crisis finally made its way to the federal government's front burner. The Obama administration's recent plan to combat organized crime in Mexico and prevent more violence in the United States is encouraging. If that plan is fully funded, it will provide needed equipment and other resources for Mexican law enforcement. It will sharply increase the number of federal agents on the Mexican border, increase intelligence capabilities and provide new crime-fighting technology. Last week's appointment of Alan Bersin as the federal government's first "border czar" is another step in the right direction.

These are intelligent moves, but bringing down the powerful cartels will require a great deal more hard work. Most importantly, we need a comprehensive, highly coordinated strategy that integrates the work of federal, state and local agencies, and until such a strategy is in place, American citizens will continue to be at risk. 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 the cartels alone. We must work together to go after the head of the monster. This means cutting off their financial resources and dismantling their leadership.

The Mexican government has mounted a major fight against the cartels, and our nation must do all we can to strengthen Mexico's attack. It is clearly in our own national security interest to assist Mexico's military and law enforcement efforts. We must work more closely with our Mexican counterparts on bi-national investigations, intelligence gathering and analysis. We also need to help Mexico's nascent program to stamp out official corruption and reform its judicial system and police agencies.

II. Arizona Law Enforcement Efforts to Combat the Problem

Arizona has become the gateway for drug and human smuggling into the United States. Principal reasons include Arizona's transportation infrastructure and increased enforcement along the California and Texas borders. Phoenix has become a prime distribution point for both drug and human smuggling.

In one frightening episode, four people were killed and five others wounded in a shooting rampage along several miles of Interstate 10 near Phoenix. The victims were all undocumented immigrants engaged in human smuggling. This shootout didn't take place last month or last year; it happened in 2003. We have been dealing with spillover violence a long time, and one of the things we have learned is that 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.

A. It's All About the Money

Organized, cross-border crime between Mexico and Arizona involves illegal smuggling across the border of drugs, humans and weapons. Each of these illegal activities depends on the movement of money. Human smuggling 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. The company has become the focus of Arizona's interdiction efforts aimed at criminal proceeds.

Human smuggling organizations are well-organized and violent. Their human “cargo” are often victimized, held for ransom or worse. In one typical case, twenty 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.

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

Intercepting wire transfers of criminal proceeds has proven effective. 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 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 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.

The entry of undocumented immigrants into the U.S. is now controlled by violent criminal syndicates that have turned human smuggling into a multi-billion-dollar-a-year business. They have pushed aside most independent coyotes and established efficient logistical networks. Human smuggling is increasingly related to other crime, including rape and murder.

With Arizona the nation’s leading gateway for human smuggling, I will continue to use all legal means available to deter and prosecute the organized criminals involved.

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 the Phoenix Police Department.

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 (a federal-state-local task force of which my Office is a member) and U.S. Border Patrol.

X-Caliber 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. The owner was 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. The owner stood trial last month and was acquitted by directed verdict. My Office is appealing the judge's decision.

Operation River Walker, 2008: My Office indicted 48 people 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.

Operation Fly-By-Night, 2007: 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. Mérida 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, while serving as chair of the Conference of Western Attorneys General in 2007-2008, I helped forge a stronger partnership among state Attorneys General in the U.S. and Mexico. Following meetings in Cuernavaca and Phoenix, participants 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 Smuggling:** Bi-national exchange of information about smuggling networks, information provided by witnesses, operational modes, money transmitters, smuggling 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 that in certain circumstances drug traffickers caught in the U.S. but not prosecuted here would be sent 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 the flow of funds to the cartels. 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 long gun sales such as AK-47s and AR-15s.

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

A highly significant step affirmed at the Phoenix bi-national 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. Only by supporting Mexico's efforts to wipe out the cartel organizations will the U.S. be safe from the threat of cartel violence. Their fight is ours.

III. Additional Steps Need to be Taken

President Obama recently asserted that our country needs a comprehensive approach 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:

- Congress should continue to 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 collaborate with our Mexican counterparts on bi-national investigations, intelligence gathering and analysis. We must invest in compatible technologies and equipment for communication and data storage.
- We must assist Mexico's reform of its state and federal courts and criminal procedures, including training and technology sharing, to promote transparency and fight corruption.

- We should also support 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.
- We should broaden the High Intensity Drug Trafficking Area (HIDTA) mission to include the crimes of human smuggling and weapons trafficking in addition to drug trafficking and money laundering.
- Gun trafficking and tracing laws need to be updated to recognize the realities of today's sophisticated international gun trade. Southbound gun interdiction must be a priority.
- 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 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." Law enforcement agencies must anticipate and deal with tomorrow's cash transfer methods. We need legal and investigative tools specifically addressing such new developments. Stored value cards must 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 must 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 clearly 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 additional federal assistance and integration.