



Department of Justice

STATEMENT OF

**LANNY A. BREUER
ASSISTANT ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

BEFORE THE

**SUBCOMMITTEE ON HUMAN RIGHTS AND THE LAW
COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE**

ENTITLED

**“DRUG ENFORCEMENT AND THE RULE OF LAW:
MEXICO AND COLOMBIA”**

PRESENTED

MAY 18, 2010

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INTRODUCTION

Good afternoon, Mr. Chairman, Senator Coburn, and distinguished Members of the Subcommittee. Thank you for your invitation to address the Subcommittee and for the opportunity to discuss the Department of Justice’s work with our partners in Mexico and Colombia to advance the rule of law and strengthen the criminal justice systems of those countries. The stakes could not be higher – either for Mexico and Colombia, or for the United States. Our national security, and the national security of these countries, depends on our joint work to advance the rule of law – and, by so doing, to defeat the drug trafficking organizations that threaten the safety of all our citizens.

The role the Department of Justice plays in advancing the rule of law worldwide is perhaps less well known than our criminal investigations and prosecutions. But the two sides of our work form part of a single strategy. Crime and terrorism increasingly know no borders – and

without strong, stable and trustworthy foreign law enforcement partners, we cannot hope to defeat transnational crime.

Thus, with support from the Department of State, the Department of Justice places its prosecutorial and police experts in countries around the world to foster the rule of law. Our goal is identical with that of the Department of State: to work with other countries to ensure their legal systems are fair, efficient, and protective of human rights. As former UN-Secretary General Kofi Annan put it so well: “we will not enjoy development without security, we will not enjoy security without development, and we will not enjoy either without respect for human rights. Unless all causes are advanced, none will succeed.”

This message was brought home to me again last week, during my second visit to Mexico City. I met with the courageous men and women of the Department of Justice, who, along with their colleagues from the Department of Homeland Security, the Department of State, and other U.S. Government agencies, are working with their Mexican counterparts not simply on criminal cases and investigations, but on Mexico’s ambitious steps to revise its legal system and to fulfill the goals of the Merida Initiative. In my testimony today, I would like to pay tribute to their work, and that of their colleagues engaged in similar endeavors around the globe.

I will begin by giving a brief overview of the Department of Justice’s worldwide work on the rule of law, and then turn to a more detailed description of our work in Colombia and Mexico, focusing on its critical importance to the security both of those countries, and of the United States.

**THE DEPARTMENT OF JUSTICE'S WORLDWIDE
COMMITMENT TO THE RULE OF LAW**

Two weeks ago, I had the opportunity to speak at the Council on Foreign Relations on the Department of Justice's international rule of law efforts. As I noted there, our commitment to the rule of law underlies all of our international work. It begins with our Office of International Affairs, which together with the Department of State, has helped create a series of multilateral conventions that establish a universally-agreed upon framework of critical criminal laws and procedures that all countries should have – including the UN Transnational Organized Crime Convention, the UN Convention Against Corruption, the Vienna Convention on Narcotics, the Council of Europe Cybercrime Convention and the UN's legal instruments against terrorism.

That commitment to the rule of law is then carried forward in the Department of Justice's prosecutions of transnational crime, whether it is of bribes by U.S. companies intended to corrupt foreign officials, or of organizations that traffic in humans, or – the subject of today's hearings – drug trafficking organizations that threaten the safety of citizens of multiple countries.

Finally, the Department of Justice places Federal prosecutors and police experts in countries around the world for the sole purpose of working with foreign partners in their efforts to build justice systems that comport with the rule of law. The Department of Justice receives no independent funding for rule of law work and instead relies upon the Department of State, USAID, and other interagency partners for funding. We are grateful for their support.

As Assistant Attorney General for the Criminal Division, I could not be more proud of the work done by the two sections charged with this international rule of law work: the Office of Overseas Prosecutorial Development, Assistance and Training (known as "OPDAT"), which

focuses on prosecutorial and justice sector development; and the International Criminal Investigative Training and Assistance Program (known as “ICITAP”), which focuses on police and prison sector development and which celebrates its 25th anniversary next year. OPDAT and ICITAP have advisors in more than 35 countries around the world, from Afghanistan, to Iraq, to Kenya, to Indonesia – to Mexico and Colombia, which I will turn to in a minute. But before doing that, I would like to say that the men and women who serve with OPDAT and ICITAP, as partners with our other law enforcement partners, are true heroes: they are all highly experienced prosecutors and law enforcement experts, who could easily find more lucrative and easier employment elsewhere. Instead, they choose to frequently face not only physical danger and hardship, but separation from family for extended periods – and they do so for a single reason, because they are committed to building the rule of law internationally. Let me turn now to their work in Colombia and Mexico in particular.

THE IMPORTANCE OF MEXICO AND COLOMBIA

This Committee needs no reminding of the critical importance of Mexico and Colombia to the national security of the United States. The National Drug Intelligence Center’s 2009 National Drug Threat Assessment indicates that Mexican Drug Trafficking Organizations represent the “greatest organized crime threat to the United States.” And as you noted, Mr. Chairman, in hearings last year, “Mexican cartels aren’t just a threat in border states. They are now present in at least 230 U.S. cities, up from about 50 cities in 2006.” [Opening Statement of Sen. Durbin, Hearing on “Law Enforcement Responses to Mexican Drug Cartels,” (Mar. 17, 2009)]. Together, Mexican and Colombian DTOs generate, remove, and launder between \$18 billion and \$39 billion in wholesale drug proceeds in the United States annually. There is

increasing evidence that due to U.S. and Colombian law enforcement's success in dismantling Colombian DTOs, Mexican DTOs are now becoming more active in Colombia and elsewhere in South America. What is certain is that the national security and law enforcement interests of Mexico, Colombia, and the United States are intertwined.

I can assure you that this Administration is focused on this issue. As head of the Criminal Division, a major part of my time is spent on operations designed to attack these Mexican and Colombian DTOs through investigations and prosecutions. This is truly a whole-of-government operation. To target these DTOs, the prosecutors of the Criminal Division and the U.S. Attorneys' Offices work with all the law enforcement agencies of the United States, including the Department of Justice's DEA, FBI, USMS, and ATF, and the Department of Homeland Security's ICE and CBP. And we have achieved a number of remarkable successes, including the multi-agency Project Coronado -- which resulted in the arrest of 1,186 alleged members of the DTO La Familia Michoacana in October 2009 -- the February 2009, multi-national Operation Xcellerator, which targeted the Sinaloa cartel, and resulted in the arrest of more than 750 individuals on narcotics-related charges, as well as the seizure of \$59 million, hundreds of firearms, over 12,000 kilos of cocaine, and 5,500 kilos of methamphetamine. Likewise, our Office of International Affairs, working with our Embassies and foreign counterparts, has secured the extradition of major Mexican and Colombian traffickers to face justice in the United States. In 2009, our extraditions from Mexico of drug traffickers and violent criminals exceeded 100, a new record for that country. The tempo of these criminal investigations and prosecutions will only increase in coming months.

But both we and our Mexican and Colombian counterparts recognize that we cannot rely on criminal investigations and prosecutions in the United States alone, if we are to defeat the DTOs. Instead, we must ensure that Colombia and Mexico likewise have the capacity to investigate and prosecute these and other criminals in legal systems that are fair and efficient, and that are seen to be so by their populations. Both Colombia and Mexico have committed themselves to significant legal reforms to accomplish this. I would like to turn now to a description of how we have worked with both countries to advance this common objective.

THE DEPARTMENT OF JUSTICE'S RULE OF LAW WORK IN COLOMBIA

The Department of Justice has been engaged in rule of law work in Colombia for more than ten years, with funding from the State Department. During that time, under Plan Colombia and its successor programs, our Federal prosecutors, agents, and police experts have played a key role in working with Colombia on its ambitious commitment to reform its legal system, and to firmly establish the rule of law. DOJ placed its first police/investigator advisor in Colombia in 1994 and followed in 1995, with a senior Department of Justice prosecutor advisor. As part of Plan Colombia, more than 42 prosecutors have served either full-time or temporarily as Justice Sector Reform ("JSRP") advisors in Colombia along with numerous Federal and State investigators and forensic experts under ICITAP. More than 40 full time or temporary duty USMS personnel have also assisted with training and technical assistance. We currently have 8 U.S. DOJ personnel in Colombia working fulltime at the JSRP.

To give you some idea of the extraordinary quality of the Department's personnel involved, let me give you the background of Paul Vaky, who heads the JSRP, and Gary

Sheridan, who is the senior police advisor. Paul, who has served in Colombia for 6 years, has been with the Department of Justice for more than 20 years as both an Assistant U.S. Attorney and as OPDAT's Regional Director for Latin America and the Caribbean. Gary, retired Deputy Chief of International Operations for DEA, has managed the ICITAP program since 2003. He came to Colombia with 27 years of experience managing police programs, and conducting and supervising complex Federal criminal investigation.

Our work in Colombia typifies the rule of law approach we seek to implement around the world, when funding from State Department is available. Where appropriate, and with support of the host country, we always strive to address the whole criminal justice process – from investigatory practices, to prosecution, to imprisonment – to ensure that it meets international standards. And we do so, whenever possible, by placing our Federal experts as resident advisors in the host country, to create long-term, sustainable partnerships with their counterparts. As a matter of practice, we provide direct colleague to colleague assistance – prosecutor to prosecutor, investigator to investigator, forensic expert to forensic expert. In our experience, no other form of rule of law assistance has such a direct impact, or the potential to develop partnerships that will prove critical in subsequent cooperation between our countries.

The scope of the work done by the Justice Sector Reform Project in Colombia has been staggering – and the results have been equally impressive. Our prosecutors have worked with their counterparts at both the highest conceptual levels, and the most practical. At the highest level, our prosecutors have assisted Colombia as it has transformed its legal system from an inquisitorial one – a written, time consuming and non-transparent system – to a more rapid oral adversary system, in which evidence is presented and debated in oral public proceedings. We

have worked synergistically with USAID's "Justice Reform and Modernization Program" - which focuses on strengthening the Public Defender's Office, training public defenders in the new oral accusatorial system, and increasing access to justice for marginalized populations. This new system has demonstrated its promise by: a significant decrease in time to resolve criminal cases; a significant increase in convictions, including the broad use of pleas and plea bargains; and a transparency and ability of the public to observe justice which did not exist previously.

And the Department of Justice also has been intimately involved in the practical implementation of Colombia's new criminal procedure code. Over a ten year period, DOJ has trained over 100,000 police, prosecutors, judges, forensic experts, and protection personnel. DOJ's program in Colombia has involved intensive practical training in areas such as crime scene management, trial techniques, evidence, charging decisions, interview techniques, police/prosecutor cooperation, use of forensic evidence and testimony, case evaluation and investigation and prosecution strategy. The program also involves training and technical assistance in complex areas of criminal law such as organized crime, drug trafficking, asset forfeiture, money laundering and financial crimes, public corruption, sex crimes, homicides, and kidnapping.

The Department also has a comprehensive program to provide training and technical assistance to the Human Rights Unit of the Colombian Prosecutor General's Office, which is tasked with the investigation and prosecution of major human rights offenses – massacres, kidnappings, sexual violence, and homicides of members of particular groups. In addition, DOJ is providing extensive assistance to the Prosecutor General's Justice and Peace Unit, which investigates and prosecutes demobilized members of paramilitary groups, including leaders who

are not only major drug traffickers but also perpetrators of some of the most heinous human rights offenses in Colombia's history. DOJ is also providing significant training in the area of forensics – DNA, ballistics, fingerprints, false documents, and more recently forensic anthropology and exhumation of grave sites. And DOJ has a broad protection program implemented by the U.S. Marshal Service focusing on witness protection, court security, and protection for prosecutors, judges and other officials.

None of this could have been accomplished without the commitment and courage of our Colombian partners. But the result has been a Colombia that is measurably safer, with increased protection of human rights and the establishment of the rule of law. It also has meant a safer United States, for the work of the JSRP has also helped create a Colombia that cannot only cooperate more effectively with our law enforcement and prosecutorial agencies, but that can tackle transnational crime itself, through its own legal system.

THE DEPARTMENT OF JUSTICE'S RULE OF LAW WORK IN MEXICO

The Department of Justice is now also deeply involved in the rule of law work that Mexico has undertaken under the Merida Initiative, a multi-year program that aims to improve law enforcement capabilities to identify, disrupt, and dismantle transnational drug trafficking organizations and organized crime. With funding from the State Department and USAID, we currently have three senior Federal prosecutors stationed in Mexico City under the auspices of OPDAT to work on rule of law issues with their Mexican counterparts. And here again, let me pause to note the spectacular expertise these Federal prosecutors bring to bear. The current Resident Legal Advisor, Kevin Sundwall, is an experienced Federal prosecutor who spent three years working in

Paraguay and worked extensively with the JSRP program in Colombia. His team includes experienced attorneys with prior capacity building experience in Iraq and Brazil. This is truly unmatched experience, and the partnerships our prosecutors are building could not otherwise exist.

As in Colombia, our rule of law work in Mexico runs the gamut from high-level advice on criminal code reform – as Mexico moves forward on its own decision to create a more adversarial system – to practical training on investigations and prosecutions. To assist the Mexican transition to the accusatory system, expert-to-expert exchanges, seminars, and workshops and trainings are underway. To date, working with U.S. Federal law enforcement agencies and the Department of State, the Justice Department has trained 5,462 individuals at all ranks – at the state and federal level – and in the executive and judicial branches. Within the Public Security Secretariat, for example, 4,400 students have graduated from a course on basic investigation skills, 250 from a mid-level police officer course, and 43 from a senior leadership course. These personnel are now in the Mexican Federal Police force, bringing new techniques and ideas to bear.

Mexican prosecutors, in turn, are working with our Department of Justice prosecutors on case development, evidence collection, trial advocacy, money laundering, and asset forfeiture. The Department of Justice and the U.S. Agency for International Development are training judges, prosecutors, and law schools on oral trials. We also have engaged in specialized training, such as offering a symposium on prosecuting complex crimes, training Mexican prosecutors and investigators on how to meet extradition challenges in the United States, and facilitating meetings between U.S. and Mexican prosecutors to more efficiently and effectively prosecute

sex trafficking cases involving both countries. We are also partnering with law enforcement and prosecutors in Colombia and have sent Mexican prosecutors and law enforcement officers to train in tandem with their Colombian counterparts on code reform, strengthening internal affairs and corruption investigations, and creating effective witness protection programs.

CONCLUSION

In sum, working with Mexico and Colombia to build the rule of law – and by so doing to fight the drug cartels and the violence associated with them – is a top priority of the Department of Justice. I am so proud of the men and women of the Department of Justice who have committed themselves to this work in Mexico and Colombia – and around the world – and I thank you for the opportunity to discuss their efforts, which make the citizens of all our countries safer.

I will be happy to answer any questions you may have.