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INTERNATIONAL LAW: THE IMPORTANCE OF EXTRADITION

HEARING

BEFORE THE

SUBCOMMITTEE ON CRIMINAL JUSTICE, DRUG POLICY, AND HUMAN RESOURCES

OF THE

COMMITTEE ON GOVERNMENT REFORM

HOUSE OF REPRESENTATIVES

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INTERNATIONAL LAW: THE IMPORTANCE OF EXTRADITION

THURSDAY, MAY 13, 1999

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON CRIMINAL JUSTICE, DRUG POLICY,
AND HUMAN RESOURCES,
COMMITTEE ON GOVERNMENT REFORM,
Washington, DC.

The subcommittee met, pursuant to notice, at 2:09 p.m., in room 2203, Rayburn House Office Building, Hon. John Mica (chairman of the subcommittee) presiding.

Present: Representatives Mica, Gilman, Barr, Hutchinson, Ose, and Kucinich.

Staff present: Robert B. Charles, staff director; Sean Littlefield and Gil Macklin, professional staff members; Amy Davenport, clerk; Cherri Branson, minority counsel; and Ellen Rayner, minority chief clerk.

Mr. MICA. Good afternoon. I would like to call this meeting of the Subcommittee on Criminal Justice, Drug Policy, and Human Resources to order, and welcome you this afternoon.

Our subcommittee is going to deal today with the topic of the importance of extradition, and we will hear from several witnesses who can shed some light on problems that we have incurred with specific countries and also in getting compliance with our requests for extradition.

I am going to open before our ranking member comes. I have an opening statement, I will recognize others, then we will hear from our first panel, and proceed in that order.

Today, the subcommittee will address an issue that I believe lies at the very root of our drug war—getting those traffickers who ship deadly drugs and kill innocent citizens returned to the United States.

This issue is extradition—and I believe it is at the very heart of winning that war the drugs—and it is the key to international law enforcement and respect for law and order. Unfortunately, international extradition, especially with our neighbor to the south, Mexico, is seldom publicly examined. That is why this issue is the subject of our oversight hearing being conducted today.

Since a critical part of returning drug trafficking felons to the United States is apprehending them, we will also look at the status of our drug-fighting maritime agreements in this hemisphere, again, with a focus on Mexico, a country with which we have had problems in this area, also.

A little background of the enormity of the international drug crisis may be useful. Both the United States and many other nations confront a drug problem today which is reaching epidemic proportions. In this decade alone, drug use has cost American society more than 100,000 dead and in excess of $300 billion. Each year, illegal drugs send over a half million Americans to hospital emergency rooms and cause at least 14,000 drug-related deaths. We have lost more American citizens to drug deaths than we have lost in the entire Vietnam conflict. This past year, in central Florida, in my home area, we had more heroin-related deaths than homicides.

In nations that serve as drug source and transit areas, powerful and increasingly violent drug-trafficking groups often act with impunity. They become more powerful than duly elected governments. These groups seize and maintain their power through threats, intimidation, and murder, and they increasingly apply those same tactics on U.S. soil.

Without the capacity or ability to extradite foreign criminals to the United States where they are certain to stand trial, face conviction, and receive very stiff sentences, we will never fully defeat these death-dealing cocaine, heroin, and methamphetamine drug trafficking organizations. Unfortunately, as most know, the chief offenders have been impossible to dislodge from the country of Mexico, also our ally to the south.

Not surprisingly, the only potential nightmare for murderous drug kingpins of Colombia, Mexico, and elsewhere, is that they could be extradited to the United States. In the United States—unlike other locations in the western hemisphere and, particularly, in Mexico—bribes and influence will not set them free. Only when they face the prospect of confronting our judicial system and an American judge, do international drug dealers become at all concerned.

One example will illustrate the fear that extradition ignites in the hearts of drug traffickers. Roll back the clock to the Colombian trafficking organizations of the late–1980's and early–1990's. Medellin and Cali were drug war zones. In that nation, more than 3,000 police officers and nearly the same number of innocent women and children were executed in an all out effort by Pablo Escobar and his traffickers to stop the Colombian Congress and President from passing a tough drug extradition treaty.

In 1985, 11 of 24 justices of the Colombian Supreme Court—were murdered in cold blood by leftist guerrillas employed by drug cartels. All 11 judges who were killed were supporters of the extradition treaty.

When the reconstituted supreme court voted on the validity of the extradition treaty in 1987, the treaty was mysteriously found to be unconstitutional. One cartel slogan is particularly memorable. They would say, "We prefer a tomb in Colombia to a jail in the United States."

So now, wind the clock forward to 1999. Here we are, and we now have an honest and determined President in Colombia. Again, we are very fortunate to have President Pastrana in office. We have an international and national hero in the person of the Colombian National Police Chief Director Jose Serrano. We are mak-

ing progress against traffickers from Peru and Bolivia to Colombia and the Greater Antilles, through the courage and initiatives of both President Hugo Banzer of Bolivia and with the cooperation of President Fujimori and his actions in Peru.

Missing is that same progress in two nations that continue to make extradition and maritime apprehension difficult, if not at times totally impossible. The countries which will receive the better part of our attention today because of these actions are Mexico and Cuba.

In Mexico, we have a number of requests for the extradition of drug traffickers still outstanding. To date, not a single, major Mexican drug trafficker and zero drug kingpins have been extradited by Mexico to the United States for prosecution under United States' law; that is zero.

We have at least 41 requests outstanding, which I would like to make part of the record, without objection, so ordered. We will list all of them in the record at this point.

What is worse, we seem to have little hope without some new legislation or some new initiatives by Congress for achieving any results in this area. That is one of the reasons this subcommittee hearing is so important today, as we get a fix on where we have been, where we are, and where we are going with this very serious problem.

Yes, there has been an increase in dialog, and there are more common points in our relationship with Mexico than there are differences. But the problem we face, the extradition impasse, is among the biggest—perhaps, I think the biggest—aspect of our relationships now on this important issue that requires the attention of Congress.

Also in this hemisphere, and wholly without cooperation in this great extradition effort, is Cuba. Castro's Cuba remains a safe haven for drug traffickers, and the message today from Congress, should be clear that we are not going to tolerate inaction by any country in the western hemisphere, particularly when we see the damage it is doing to our Nation and to our young people.

Extradition is not a game of diplomacy or an inconsequential sideshow in our war on drugs. It is at the very heart of winning, at the heart of defeating, the kingpins in Mexico and elsewhere, and I believe it is not only in the best interest of the United States and our future generations, but also in the interest of all children in this hemisphere. So, that summarizes the reasons we are having this subcommittee hearing today.

We have an outstanding list of witnesses who are very qualified, from the Department of Justice, Department of State, Drug Enforcement Administration, the Coast Guard, and we are also pleased to have participation by a member and past-president of the California Narcotic Officers Association. Each will give us their perspective on the problems they face without full cooperation in the matter of extradition.

For those comments, I am pleased to yield now to a very distinguished member of our subcommittee and also the incredibly dedicated chairman of our International Affairs Committee, the gentleman from New York, Mr. Gilman. You are recognized.

Mr. GILMAN. Thank you, Chairman Mica, and I want to thank you for holding this important hearing on extradition. Your Subcommittee on Criminal Justice, Drug Policy, and Human Resources is especially important to us these days, as we find that the use and trafficking of heroin and cocaine, have been climbing incredibly high. There are few more important tools than extradition in our arsenal against international criminals, terrorists, and drug traffickers who are targeting our Nation and targeting our people.

On the drug battlefront, there can be no safe havens for those who seek to destroy our communities and the lives of our young people by shipping their poisons into our Nation. Three Presidents have previously called illicit drugs a serious security threat to our Nation. Such a threat warrants a serious response, including extradition, among other weapons that we have in our arsenal.

The Attorney General of the United States, Janet Reno, best summed up the new post-cold war fight against international crime not long ago when she said, ''There is no such thing as one Nation's crime problem anymore. To a new generation of very ambitious criminals,'' she said, ''national boundaries are no more than a line on the map.''

I believe the Attorney General's statement is the best argument for why we need aggressive extradition, greater international cooperation, and the ability to bring to justice, here in the United States, those who violate our laws and destroy our communities. Whether these drug dealers are from Thailand, Colombia, Mexico, or other drug-producing areas around the globe, they must be held accountable to our American people, to our institutions, and to the laws they violate by making us the targets of their criminal activity.

Our hearing today will highlight the need for more accountability, and I look forward to reviewing today's testimony. I am pleased that we have such outstanding panelists as the Deputy Assistant Attorney General for the Criminal Division, Ms. Mary Lee Warren; Ms. Jamison Borek, Deputy Legal Adviser to the Department of State; Mr. Donnie Marshall, Deputy Administrator of our DEA; and Rear Admiral Ernest Riutta, Assistant Commandant of Operations for our U.S. Coast Guard—our U.S. Coast Guard does such a good job in interdicting—and Mr. Ronald Brooks, past-president of California Narcotic Officers Association—who we had breakfast with earlier this morning.

I also want to welcome our law enforcement officers who are here today on Police Memorial Week. I was just looking over some statistics, Mr. Chairman; 14,000 law enforcement officers have died since our Nation began some 200 years ago. Over 400 already this year, and we can't say enough about their heroic efforts and what they are doing, protecting lives and property.

I would also like to remind those who are in the battle with us on drugs to make certain that we recognize that we have five major battlefields out there in reducing supply and reducing demand, all at the same time. Reducing supply by going to the areas where it is grown and eradicating. Interdicting once it gets into the mainstream of distribution. Law enforcement, when it reaches our shorelines. And, in addition to reducing supply, to reduce demand, by educating our young people and reminding them that drugs are

not recreational, but they can be deadly. And finally, to treat and rehabilitate those who have become victims of drug abuse. We can't take money from one to do the other; they all have to be fought simultaneously.

Again, I want to commend Chairman Mica and his subcommittee for doing the outstanding job of focusing attention on the need to "beef up" our war against drugs.

Thank you, Mr. Chairman.

Mr. MICA. Thank you, Mr. Gilman.

I am pleased now to recognize the gentleman from California, Mr. Ose, for an opening statement.

Mr. Ose does not have an opening statement at this point, so we will go directly to our first panel.

And our first panel has three witnesses: Mary Lee Warren, Deputy Assistant Attorney General of the Criminal Division, of our Department of Justice; Jamison S. Borek, Deputy Legal Adviser, the Department of State; and Donnie R. Marshall, Deputy Administrator of the Drug Enforcement Administration.

This is an investigations and oversight subcommittee of Congress. We do swear in our witnesses, so if you wouldn't mind, please stand? Raise your right hands.

[Witnesses sworn.]

Mr. MICA. Thank you. The witnesses answered in the affirmative, and I would like to welcome you.

I see we have at least one repeat offender, and a couple of new victims here. [Laughter.]

We have a few ground rules. We try to ask you to limit your oral presentation to 5 minutes. We won't, since we have two smaller panels today, be too tight on time. We also allow you the opportunity to submit, without objection, longer statements, a written statement, or other materials for the record.

So, with those guidelines, we welcome you, and I will recognize, first, Mary Lee Warren, Deputy Assistant Attorney General of the Department of Justice.

STATEMENTS OF JAMISON S. BOREK, DEPUTY LEGAL ADVISER, U.S. DEPARTMENT OF STATE; MARY LEE WARREN, DEPUTY ASSISTANT ATTORNEY GENERAL, CRIMINAL DIVISION, U.S. DEPARTMENT OF JUSTICE; AND DONNIE R. MARSHALL, DEPUTY ADMINISTRATOR, U.S. DRUG ENFORCEMENT ADMINISTRATION

Ms. WARREN. Mr. Chairman, with your and the subcommittee's indulgence, would it be possible for Ms. Borek to begin? I think it will be more a logical progression. She will——

Mr. MICA. Is this something you all have worked out in advance? [Laughter.]

No?

Ms. WARREN. I think she——

Mr. MICA. That is fine.

Ms. WARREN. Thank you so much.

Mr. MICA. That is fine; we will recognize Jamison S. Borek, Deputy Legal Adviser, who is with the Department of State. And I am pleased to recognize you first.

Welcome.

Ms. BOREK. Thank you, Mr. Chairman, and, members of the committee.

As you have requested, I will simply summarize a few points and ask that my prepared statement be accepted for the record.

Mr. MICA. Without objection, your entire statement will be made part of the record.

Go right ahead.

Ms. BOREK. Thank you.

The Department of State appreciates the opportunity to discuss international extradition with you today. As you have noted, the growth in transborder organized and other transborder crime has become a major international problem, especially in the area of violent crime, terrorism, drug trafficking, and laundering of the proceeds of crime. This has confirmed the need for increased international law enforcement cooperation. This is an across-the-board effort and extradition is an essential tool in that effort.

Extradition is the only formal and organized way to seek the return of people for trial. In some cases, deportation can achieve the same effect, but it is more an ad hoc and occasional process, although sometimes very effective.

There is no general obligation in international law to extradite persons, but there is a widespread practice, and certain features of extradition practice are fairly well established among all countries. Other aspects, on the other hand, are very much a question of local procedure and local requirements, and so there is a great deal of variation in the actual practice from country to country.

Under U.S. law, fugitives can only be extradited either pursuant to a treaty or, in certain cases, a special statutory authority. Generally, it is by treaty, and we have some 110 extradition treaties with countries throughout the world. There is also authority under existing law to extradite persons where it is necessary to ensure the prosecution for crimes against U.S. nationals abroad, and this can be done under a provision of 18 U.S.C., which is fairly recent.

In the new 1999 crime bill, which will be formally submitted next week, we have asked to expand the authority to permit extradition in two additional cases, where there is not a treaty, but where this is in the law enforcement interests of the United States.

Extradition requests are made by the Department of State in the United States, but at the initiative of the Department of Justice, based either on Federal or State or local charges. The Government's decision to request extradition in different countries is divided in different ways between the executive and the judicial branches. The decision typically involves both branches, with some degree of judicial review under the respective laws of the country, and the things which are at issue in a judicial review may vary from place to place.

We have been engaged in a constant process of seeking to enter into new extradition relationships as well as to update and improve existing ones. We have many old treaties that go back even as far as the late–19th century and treaties which apply to countries because of decolonization. We are trying to update these treaties and to have treaties with countries with whom we do not now have treaties, so that we will have, as much as possible, a comprehensive web of extradition treaties throughout the world.

This is a very aggressive extradition policy. It is based on the idea that everyone should be subject to effective prosecution somewhere for their crimes. There are, however, some limitations on our ability to accomplish this.

One big problem that we have encountered concerns the extradition of U.S. nationals. As a matter of longstanding policy, the U.S. Government does extradite U.S. nationals for trial in other countries. This is important to ensure prosecution of persons who have committed serious crimes, whom we, ourselves, would not be able to prosecute. Not all countries, however, take this approach.

Civil law countries, in particular, often have limitations on the extradition of their own nationals. At the same time, they typically have jurisdiction, themselves, to prosecute these people for crimes committed anywhere in the world. This is a theoretical adjunct to non-extradition, but, in practice, it is not as effective an approach.

We have been, along with the Department of Justice, aggressively seeking to persuade other countries that it is important—in fact, necessary—to extradite their nationals in this modern world of transnational crime. We have had, I think, some success in this. I think thanks, in particular, to the strenuous and even personal efforts of the Attorney General, also, the coordinated efforts of the two departments, and the fundamental logic of the need to extradite in the interests of the countries concerned. There have been notable advances, especially in Latin America, with respect to this issue in recent years. Our recent treaties with Bolivia and Argentina are clear expressions of our efforts in this regard.

At the same time, however, there are many countries which are still extremely reluctant—indeed, completely reluctant, to extradite nationals, and we are still continuing to work on that with those countries.

Some of the other problems that we have encountered in extradition relationships have to do with the question of death penalty and human rights concerns. This is particularly true in connection with European countries, but also a number of Latin American countries do have problems, even prohibitions, with extraditing in death penalty cases, unless we are able to give assurances that the death penalty would not be imposed.

One troubling problem that is emerging is that, in some cases, this is being extended to the question of life sentences, and we are encountering some situations in which countries are unwilling to extradite unless there are assurances against life sentences, which is a much more difficult, I think, and troubling expansion.

Another problem has to do with the fact that there is a judicial process involved in this in all countries, and judicial process gives rise to opportunities for delay of increasingly, I think, persons who are facing extradition are hiring more and more sophisticated lawyers. This gives rise to additional issues; legal issues are being exploited which previously had not been, and we are encountering a number of problems with particular judicial rulings and general judicial delays.

Notwithstanding these difficulties, we continue to work hard with countries around the world to enhance international extradition, to address each problem as it arises, both in terms of the

specific cases and in terms of the overall systemic approach to extradition to ensure that it is effective.

In this regard, we work in total lock-step with the Department of Justice, and we appreciate the excellent partnership that we have enjoyed in this endeavor.

I thank you, Mr. Chairman, and, members of the committee. And I would be pleased to answer any of your questions.

[The prepared statement of Ms. Borek follows:]

TESTIMONY OF

JAMISON S. BOREK
DEPUTY LEGAL ADVISER, U.S. DEPARTMENT OF STATE

BEFORE THE SUBCOMMITTEE ON

CRIMINAL JUSTICE, DRUG POLICY AND HUMAN RESOURCES

OF THE COMMITTEE ON GOVERNMENT REPORM

UNITED STATES HOUSE OF REPRESENTATIVES

May 13, 1999

Mr. Chairman and members of the Committee:

I am pleased to appear before you today to testify on the subject of "International Law: The Importance of Extradition."

The Department of State appreciates this opportunity to discuss international extradition. The growth in transborder criminal activity, especially violent crime, terrorism, drug trafficking, and the laundering of proceeds of organized crime, has confirmed the need for increased international law enforcement cooperation. Extradition is an essential tool in that effort, providing the most effective means of obtaining the return of international fugitives. In recent years, our extradition requests have resulted in the return to the United States of some of the world's most notorious criminals, such as those responsible for the 1993 World Trade Center bombings in New York City.

As you are aware, extradition is the process by which a person charged with or convicted of a crime under the law of one state is arrested in another state and returned for trial or punishment. Although States have no general obligation in international law to extradite persons, the practice has become widespread and is nearly universal. Because of the many unique national legal systems around the world, however, there is no single set of rules that govern the process of international extradition and the conditions upon which extradition may be granted vary widely.

Under U.S. law, fugitives can only be extradited from the United States pursuant to authorization granted by statute or treaty. The general rules of extradition for the United States

are found in Title 18, United States Code, beginning at section 3181. Virtually all extraditions from the United States take place pursuant to bilateral extradition treaties or conventions. There are, however, some other possible bases. For instance, extraditions are possible to the war crimes tribunals for the Former Yugoslavia and for Rwanda pursuant to statutory authority granted by Congress combined with executive agreements between the United States and each of the tribunals. In addition, there is currently a limited exception for extradition without a treaty -- a 1996 amendment to Section 3181 of the U.S. Criminal Code permits extradition from the United States, even in the absence of a treaty, of foreign nationals who have committed violent crimes against U.S. nationals outside of the United States.

At this point, the United States has approximately 110 extradition treaty relationships, with countries throughout the world. Under these treaties, the extradition process can be initiated either through a formal request for extradition or a provisional arrest request, which initially requires less supporting documentation. The provisional arrest or "PA" request is made in cases of urgency, such as where the fugitive is likely to flee. Once a fugitive is apprehended pursuant to a provisional arrest request, the Requesting State will have a set number of days to file a formal request for extradition. For example, the U.S.-Canada and the U.S.-Mexico extradition treaties provide that a formal request must be made within 60 days following the provisional arrest of a fugitive.

Extradition requests by the United States are made by the Department of State, at the initiation of the Department of Justice, after formal charges are brought by federal, state and local prosecutors. Extradition may be sought for felonies ranging from terrorism and narcotic offenses to common crimes such as murder, arson and fraud. The government of the country receiving an extradition request will typically conduct a preliminary review to determine whether the request appears to fall within the scope of the applicable extradition treaty. If it determines that additional information is required, the government will inform the Requesting

State of that fact through diplomatic channels. If provided by the Requesting State, such additional information can then be used in proceedings in the Requested State that may lead to extradition.

A government's decision to extradite is typically subject to some form of judicial review under its national laws. Thus, in the United States, following initial review by the executive branch to determine whether an extradition request meets the facial requirements of the relevant treaty, the extradition request is presented to a U.S. court for a decision as to extraditability. At this stage, a magistrate or district judge needs to: confirm the identity of the fugitive; determine whether "probable cause" exists to believe that the fugitive committed the offense charged; and ascertain that no valid defense to extradition under the applicable treaty has been asserted. If these conditions are fulfilled, the judge or magistrate will issue a certificate of extraditability, which is subject to challenge through a petition for a writ of habeas corpus and subsequent appeal. Under U.S. law, the final decision on whether a fugitive will be extradited is made by the Secretary of State.

Not all legal systems are the same as ours, and judicial and executive branch authorities may play a greater or smaller role in extradition. Moreover, the extent of the judicial proceeding and the evidentiary requirements differ among legal systems. Although an extradition hearing is not supposed to be a full-fledged trial on the merits, the evidentiary requirements vary from legal system to legal system and do not necessarily mirror the requirements for our own "probable cause" standard.

We have been engaged in a constant process of seeking to enter into new extradition relationships, as well as to update and improve existing ones. Just last fall, for example, the United States Senate gave its advice and consent to 18 new extradition treaties recently negotiated by the Administration. These consist of 16 comprehensive new treaties and two

protocols to existing treaties. In general, these new instruments contain updated provisions regarding key areas such as dual criminality, provisional arrest, procedures for extradition, and statutes of limitations. Of the 16 new treaties, 15 are comprehensive treaties that replace pre-existing, outdated treaty relationships, some of which go back to the late nineteenth century.

In addition to the treaties recently approved by the Senate, we are actively looking to update many of our treaties in Latin America, Europe and elsewhere. There are nearly a dozen treaties at some stage of negotiation, and we anticipate entering into negotiations on dozens of other treaties in the future.

The comprehensive treaties we have recently negotiated contain four noteworthy provisions that will substantially serve our law enforcement objectives.

First, these treaties define extraditable offenses to include conduct that is punishable by imprisonment or deprivation of liberty for a period of one year or more in both states. This is the so-called "dual criminality" approach. Treaties negotiated prior to the 1970s typically provided for extradition only for offenses appearing on a list contained in the instrument. For example, the 1931 Extradition Treaty with the United Kingdom listed 27 categories of offenses. However, as time passed and new offenses were provided for under U.S. law, such lists grew increasingly out of date. The dual criminality approach obviates the need to renegotiate treaties to cover new offenses in instances in which both states pass laws to address new types of criminal activity.

Second, each of the new treaties is noteworthy in that it provides that attempts and conspiracies to commit extraditable offenses are themselves extraditable offenses. Such provisions ensure that certain drug-related offenses and offenses under our continuing criminal enterprise and racketeer influence and corrupt organization statutes are covered.

Third, the new treaties will permit extraditions in cases where the extraditable offense is committed both before and after their entry into force. This retroactivity provision is particularly useful and important, since it will ensure that persons who have already committed crimes can be extradited under the new treaties after they have entered into force.

Fourth, the treaties all contain a provision that permits the temporary surrender of a fugitive to the Requesting State when that person is facing prosecution for, or serving a sentence on, charges within the Requested State. This provision is useful to the Requesting State and the fugitive insofar as charges pending against the person can be resolved earlier while the evidence is fresh; and where the person sought is part of a criminal enterprise, he can be made available for assistance in the investigation and prosecution of other participants in the enterprise.

One of the most important issues in our extradition treaty negotiations concerns the extradition of nationals of the Requested State.

As a matter of longstanding policy, the U.S. Government extradites U.S. nationals. This policy, however, is not necessarily typical of international extradition practice. In fact, many countries are prohibited by their constitutions or other domestic laws from extraditing their own nationals. States that currently do not extradite their nationals include many countries in Europe such as France, Germany, Austria, and Belgium, as well as many in this hemisphere such as Brazil, Ecuador, Venezuela, and Panama. The U.S. Government has made it a high priority to try to convince such states to agree to extradite their nationals, notwithstanding laws or traditions to the contrary. For example, most of the treaties we have recently sent to the Senate allow for the extradition of nationals. In particular, we have made notable advances in South America with respect to this issue. Our recent treaties with Bolivia and Argentina are

clear expressions of our efforts in this new group of treaties. Each of these provides for extradition of nationals and, together, represent a watershed in our efforts to convince countries in the Western Hemisphere to oblige themselves to extradite their nationals to the United States. We are already using these treaties as precedents in our efforts with other nations in Latin America and elsewhere. In practical terms, these treaties should help the United States to bring to justice narcotics traffickers, regardless of nationality, who reside or may be found in these countries.

At the same time, the issue of extradition of nationals is inherently sensitive, and we have not succeeded in obtaining unqualified approval in every instance. Nevertheless, we will continue our efforts to convince all countries to remove constitutional and other legal impediments to the extradition of nationals. Our goal is to negotiate and to bring into force as many treaty relationships as possible that have no restrictions on the extradition of nationals.

There are many success stories in international extradition and many fugitives have been returned to face justice for their crimes. The process, however, is not simple and sometimes results in delays or denials of extradition. Apart from the nationals issue I just discussed, many countries are concerned about the penalties that may be imposed in the Requesting State, such as the death penalty or even life sentences. For example, many countries – including Australia, Belgium, Hungary, Switzerland, and Thailand – may decide not to extradite fugitives unless they receive assurances that the death penalty will not be imposed in the Requesting State. Further, other considerations may factor into an extradition decision, such as a state's obligations to abide by the Torture Convention or other relevant international instruments.

In some countries, the judicial process is lengthy and subject to multiple reviews that can delay extradition for years. Confusion can result from differing legal systems, different standards of proof, different rules of admissibility, and so forth.

Despite these difficulties, we are working hard with countries around the world to enhance our international extradition program, and to improve the possibility that fugitives may be returned for trial and punishment to countries with jurisdiction over their crimes. We appreciate the excellent partnership of the Justice Department in this endeavor.

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

Mr. MICA. Thank you, we will save questions until we have heard from all the panelists.

We will now go to Mary Lee Warren, Deputy Assistant Attorney General.

Ms. WARREN. Thank you, Mr. Chairman.

I am pleased to appear before the subcommittee today on this very important issue, that is the importance of extradition and the global effort to deny safe haven and impunity to fugitives.

Ms. Borek gave sort of a global overview of the extradition situation with the United States at the moment, and I will focus more particularly on the United States/Mexico extradition relationship.

The report of that extradition relationship is a mix of good news and not so good news. Extradition, particularly the extradition of nationals, as Ms. Borek said, has been an Attorney General, Department of Justice, and Department of State priority, and we do see a changing tide in the world on this issue. We have even seen the changing of attitudes in Latin America, where the subject had previously been considered unspeakable. And since 1996, the Government of Mexico has found that in exceptional cases, the extradition of Mexican nationals may be justified.

I have provided a chart attached to my written statement that gives a statistical overview for 1995 through 1999 of the United States/Mexican——

Mr. MICA. Without objection, we will make that part of the record.

[The information referred to follows:]

EXTRADITIONS FROM MEXICO TO THE UNITED STATES

Year	Jan 1 - May 10, 1999	1998	1997	1996	1995
Number of Extraditions from Mexico to the United States	2	12	13	13	4
Number of Extraditions on Drug Charges	1[b]	4	7	6	0
Number of Mexican Nationals Extradited	1	3	0	2[c]	0
Number of Mexican Nationals Extradited on Drug Charges	1	1[d]	0	0	0

[b]This number does not include a US citizen extradited for drug-related money laundering

[c]This number includes one Mexican national and one dual US-Mexican national

[d]Although also charged with and extradited for marijuana trafficking, this Mexican national was extradited principally for the murder of a United States Border Patrol Agent

EXTRADITIONS FROM THE UNITED STATES TO MEXICO

Year	Jan 1 - May 10, 1999	1998	1997	1996	1995
Number of Extraditions from the United States to Mexico	5	15	21	16	14
Number of Extraditions on Drug Charges	0	2	3	1	0
Number of United States Citizens Extradited	0	5	2	3	1
Number of United States Citizens Extradited on Drug Charges	0	1	0	0	0

Ms. WARREN. Thanks.

In Mexico, during 1998, they basically maintained the improved record that they achieved since 1995, by formally surrendering 12 fugitives through the extradition process, including 3 Mexican nationals. In 1997, it was 13, with no Mexican nationals; in 1996, 13, with 1 Mexican and 1 dual-national. One of the Mexican fugitives returned to the United States in 1998 faces marijuana trafficking charges in this country, but the major crime for which his surrender was sought was the murder of an INS boarder patrol agent.

Thus far, in 1999, two fugitives have been extradited by Mexico, one a United States citizen and the other a Mexican national who had escaped from a United States Federal correctional facility following his conviction on substantial narcotics charges.

In addition, as very good news, in 1998, the Mexicans deported to the United States approximately 30 United States citizens sought on criminal charges here. They were found in Mexico in violation of immigration laws there and turned over to the United States authority.

This total is more than three times any other year for which we have statistics. However, as the chairman noted, no major Mexican narcotics traffickers has yet been extradited by Mexico to the United States. This fact is clearly a disappointment to the Department of Justice, as we know it is a disappointment to the members of the subcommittee.

We believe it is important to note at the same time, however, that the executive branch of the Government of Mexico, through the SRE, their foreign ministry or state department equivalent, issued 19 orders of extradition in 1998, including 5 orders against Mexican citizens facing significant drug trafficking charges in the United States. They have issued five more such extradition orders in 1999. Of those, some of the major traffickers, they have ordered extraditable are the two Amezcua brothers, the methamphetamine kingpins, and Arturo Paez Martinez, an enforcer in the Tijuana cartel.

We await the extradition of one or more major Mexican traffickers in 1999, but we are mindful, as are our Mexican counterparts, that recent court decisions in Mexico could pose real threats to our extradition efforts.

In Mexico, as in the United States, we are reminded of the independence of the judicial branch of government. In two cases, one against Oscar Malherbe, who was a chief lieutenant in the Gulf cartel, and the other against Jaime Gonzalez Castro, a supplier of narcotics from Sonora. In Mexico, intermediate appellant courts have issued nonappealable rulings that article 4 of the Mexican penal code is mandatory, and that the exceptional case exception to the prohibition against extraditing nationals applies only when there is no bilateral extradition treaty in effect, which is to say that Mexicans must be tried domestically, in Mexico, for crimes committed abroad. And they may not be extradited when there is an extradition treaty between the requesting country, such as the United States and Mexico. This is from two intermediate appellant courts that really do not have the same precedential value as our U.S. courts, but it is an alarming decision.

In an attempt to have this mandatory article 4 issue raised to a higher level and resolved in a manner favorable to our bilateral extradition relationship, the Mexican foreign ministry and the Office of Attorney General recently sought discretionary review of the issue before the Mexican Supreme Court in the "Kitti" Paez Martinez case. Regrettably, their high court refused to exercise its discretion and reached down and exercised jurisdiction over this case, and the issue still remains unresolved at the highest levels.

Another disappointment, this one involving two Argentine citizens sought by the United States. Again, one of those intermediate courts held that fugitives cannot be extradited if they face the possibility of a life sentence, something mentioned by Ms. Borek, at least they may not be extradited without an assurance that such sentence will not be imposed. The United States/Mexico Extradition Treaty contains a provision for assurances against the death penalty, but no similar provision for potential life terms. And I note that most of the major narcotics traffickers sought by the United States will be facing life sentences for the crimes for which they are charged. And we hope that the reasoning of this decision, plainly wrongly decided in our view, is not followed by any other Mexican court.

I would like to bring some significant cases to the attention of the subcommittee and the status of those cases.

Two defendants accused of killing law enforcement officers in the United States, Agustin Vasquez Mendoza and Rudolfo Romero, unfortunately remain at large, despite continuing efforts to locate them by authorities on both sides of the border. With regard to major Mexican narcotics trafficker, Paez Martinez, the Amezcua brothers remain in custody in Mexico, as they appeal the orders of extradition entered against them. In addition, U.S. citizen, Arizona drug trafficker William Brian Martin, who has been successfully manipulating their amparo or appeal process, remains in custody where he has been for years. Finally, accused murderer Jose Luis DelToro, a U.S. citizen, has similarly appealed the issue of his extraditability but at least remains incarcerated as this process slowly grinds forward.

I must raise another caution, although the foreign ministry, the SRE, has found numbers of fugitives extraditable in the past, we suffered a recent setback when the SRE declined to find Alfredo Martinez extraditable recently. He is charged in a murder case filed in the State of Colorado, accused of stabbing his wife to death. Although stabbed 20 times, she was still able to utter that Alfredo did this. They denied our extradition request at their State Department level, and we have received no acceptable rationale yet for this denial. We are still seeking that.

In another discouraging turn, the SRE has recently advised that they may automatically transform our extradition requests into those domestic prosecutions under article 4. In the past, we had always believed that we would be consulted before this "flipping" of our extradition cases into domestic prosecutions decision was entered.

We have been less than enthusiastic about domestic prosecutions of nationals for crimes committed abroad, an option that many countries try to interpose. As a general proposition, we disfavor

such domestic prosecutions because the costs of transferring proceedings to another country can be extraordinary, because evidence gathered in one country may not be easily transferrable or accepted with the same weight and import in the other country, and because there is enormous hardship to witnesses and victims to travel long distances to proceedings in another language in another country, and, finally, because there is no real finality or sense of justice in the community where the crime was committed and the harm felt.

Not being consulted about whether our extradition case should instead be processed under the domestic prosecution regime in Mexico is a turn for the worse, but we do not consider this issue settled, and we will continue to discuss this point at the highest levels with our Mexican counterparts.

If there are other fugitives' cases or extradition-related issues of special interest to the subcommittee, we will, of course, be happy to supply additional reports, but on behalf of the Department of Justice, I thank you all for the opportunity to appear today.

[The prepared statement of Ms. Warren follows:]

Department of Justice

STATEMENT

OF

MARY LEE WARREN

DEPUTY ASSISTANT ATTORNEY GENERAL

CRIMINAL DIVISION

BEFORE THE

SUBCOMMITTEE ON CRIMINAL JUSTICE, DRUG POLICY AND HUMAN RESOURCES

COMMITTEE ON GOVERNMENT REFORM

UNITED STATES HOUSE OF REPRESENTATIVES

CONCERNING

THE IMPORTANCE OF EXTRADITION IN INTERNATIONAL CRIME CONTROL

PRESENTED ON

MAY 13, 1999

I am pleased to appear before this Subcommittee today, as a representative of the Department of Justice, to discuss an issue that is of particular significance to the Department and to all who are committed to the pursuit of international criminal justice — the importance of extradition in the global effort to deny safe haven and impunity to fugitives.

Progress on General Extradition Issues

One of the Justice Department's primary initiatives in recent years has been the improvement and expansion of our extradition relationships worldwide, with a particular emphasis on persuading other countries to authorize the extradition of their nationals. We have spent enormous time and energy at every level, and particularly through the repeated and vigorous efforts of Attorney General Reno, in advocating the benefits of extradition to our international counterparts and colleagues, based on the logic of extradition in calling fugitives to account for their crimes in the country whose laws they violated, the efficiency and effectiveness of extradition in ensuring that the prosecution of accused criminals takes place in the national jurisdiction where the evidence and witnesses are located, and the equity of extradition in recognizing the rights and sensitivities of the victims, the victims' families, the witnesses, and the society most directly and adversely affected by the criminal conduct at issue.

We have, of course, also supported deportation as an alternative to extradition in appropriate cases because it too results in the return of the fugitive to the country of the crime. We have been less enthusiastic about the alternative of having fugitives prosecuted in their country of nationality, an option interjected by a number of countries to dispel the need to extradite citizens. We are generally dissatisfied with domestic prosecution because the costs involved in transferring proceedings to another country can be extraordinary, because evidence gathered pursuant to one criminal justice process may not be legally transferrable to or admissible or given the same weight and effect in another, and because the potential hardship to victims and witnesses who may be required to travel long distances to participate in foreign court systems in foreign languages in order to achieve justice seems unjustified and inequitable.

Fortunately, we believe that real progress is being made in terms of a growing acceptance of modern extradition mechanisms and, in a somewhat surprising number of venues with longstanding and previously impenetrable bars to the extradition of nationals. The European Union Convention specifically recognizes the need to reform domestic laws to allow nationals to be extradited. Israel, a nation particularly sensitive to the situation of its citizens, has now passed a law allowing those citizens to be surrendered for trial in the country of their

alleged offenses. Portugal and Italy have departed from tradition by legally recognizing the need to extradite nationals for particularly significant international criminality.

It is in Latin America, however, that we have found the most marked change of attitude on extraditing fugitives, regardless of nationality. Chile, Guatemala, and Uruguay have broken with tradition by creating no barriers to extradition based on nationality. Our bilateral treaty with Bolivia now mandates the extradition of citizens for serious offenses. The Senate has approved a new treaty with Argentina and we have signed a treaty with Paraguay with affirmative provisions on surrendering nationals. After decades of disappointment, we are now developing a productive extradition relationship with the Dominican Republic under a recent law there that recognizes the government's authority to extradite Dominicans. Since 1996, the Government of Mexico has found that in "exceptional cases," the extradition of Mexican nationals may be justified (a topic discussed more fully below). Colombia has gone so far as to amend its constitution on this issue, and El Salvador has proposed a similar constitutional change.

Even in those countries in Latin America where the historic bar to extraditing nationals has not been dropped and our bilateral treaties are in most

ways seriously outdated, we have been able to secure the surrender of significant U.S. or third-country national narcotics traffickers, either through the invocation of the 1988 U.N. Drug Convention or through the application by the other country of its domestic laws. Within the last two years, for instance, major defendants have been transferred to the United States for trial by Brazil (Mery Valencia), Panama (Jose Castrillon), and Venezuela (Pastor Perafan).

In sum, we at the Department of Justice believe that substantial progress has been made in promoting the benefits of extradition and achieving growing acceptance of its indispensability in the fight against transnational criminal activity. I assure you that our efforts will continue undiminished in pursuit of the goal of "no safe haven" anywhere for any fugitive from justice.

U.S.-Mexico Extradition and Fugitive Relationship

It is our understanding that this Subcommittee has a particular interest in the extradition process in Mexico, which is similar to those in many other civil law jurisdictions and not particularly complicated until the appeal or *amparo* process begins.

-- Provisional Arrest

Requests for provisional arrest for the purpose of extradition are presented by the U.S. to the Government of Mexico through diplomatic channels, as required

by the U.S.-Mexico extradition treaty. Upon receipt of such a request, the Foreign Secretariat (SRE) transmits it to the Mexican Attorney General's Office (PGR), which then petitions a federal court to issue a warrant of arrest. If the exact whereabouts of the fugitive are set forth in the U.S. diplomatic note and there is no reason to believe he or she will move to a different location before the warrant can be issued and executed, the petition for the warrant is submitted to a federal judge in that location. Generally, however, because of the fleeting nature of location information and the tendency of fugitives to move around to avoid detection and apprehension, the PGR pursues the issuance of arrest warrants with nationwide enforceability in Mexico City. Once the warrant has been issued, it is normally the responsibility of Interpol/Mexico to search for and apprehend the fugitive, who, once apprehended, is then incarcerated for 60 days pending our presentation of the formal package of documents in support of our request for extradition.

-- Extradition proceedings

The extradition process in Mexico, like that in this country, is based on documents, such as sworn affidavits and certified reports and records, rather than on witness testimony and adversarial confrontation. The standard of proof in Mexico is the "probable responsibility" of the fugitive for the crimes for which extradition is sought. This standard cannot be met with hearsay evidence, such as

police reports of witness interviews or summaries of lab results or forensics analysis; it must be proved by firsthand witness statements and corroboration in the form of certified copies of original records and documents. The formal extradition request must also contain an assurance that the fugitive will not receive the death penalty, if such an assurance has been sought by the Mexican government.[1]

The formal extradition package is once again presented through diplomatic channels, going from the SRE to the PGR to the judge. The judge reviews the evidence and issues an opinion on whether the fugitive should be extradited. In so doing, the judge may come to a number of different conclusions: that extradition should be denied on the basis of Mexican citizenship; that extradition should be denied on the basis of evidentiary insufficiency; that extradition should be granted on some, but not all, of the charges; or that extradition should be granted on each of the charges contained in the formal request.

At this point, the executive branch of the Mexican government, through the SRE, again enters the process. In Mexico, the judge's initial ruling on extradition is viewed as simply an "opinion," which is advisory in nature, but not binding on

[1] It should be noted that Mexico is not unique in this requirement. The great majority of countries worldwide and especially those in Latin America will not extradite a fugitive unless assurances are given that he will not be subjected to the death penalty in the requesting nation.

the SRE. The SRE, for instance, can agree with the judicial ruling, or it can deny extradition on charges that had been approved by the judge, or it can grant extradition on judicially disapproved charges; and the SRE can also authorize the extradition of Mexican nationals, despite a contrary ruling by judge, if its review of the evidence and the crime(s) reveals that the case is "exceptional". (As discussed below, however, the authority of the Government of Mexico to extradite nationals is currently in question because of recent appellate court decisions on the issue.)

If the SRE enters an order of extradition, the order is served on the fugitive, and the appeal (*amparo*) process generally begins. An SRE denial of extradition results in the release of the fugitive when the order is based on substantive grounds; but when a denial is premised on Mexican nationality, the case is automatically transferred back to the PGR for the immediate initiation of a criminal proceeding under Article 4 of the Mexican Penal Code, which authorizes the prosecution in Mexico of Mexican citizens for offenses they are alleged to have committed in other countries.

– *Amparo* process

The *amparo* process in Mexico is complicated and difficult for those not educated in Mexican law schools to understand. In the context of extraditions,

fugitives found extraditable almost always avail themselves of the process by filing petitions for relief at the lower court level (not necessarily in the same jurisdiction in which the original judicial decision on extradition was rendered) and then continuing to the intermediate appellate court and even the Supreme Court. The issues raised range from constitutional challenges to matters of statutory interpretation to the most minute technical allegations of error. The process can be a prolonged one, as we have all noticed with such extraditees as Jose Luis Del Toro and William Brian Martin. Its duration is apparently attributable both to slowness in the judicial system and to the absence of any firm requirement that claims for relief be consolidated. New claims seem to be filed whenever surrender is imminent, and wealthy fugitives have great success in finding attorneys who are able to use all the twists and turns of the *amparo* system to delay and frustrate the extradition process.

The Government of Mexico shares many of our concerns about *amparos* and protracted proceedings relating to extradition. Any dramatic revision in the *amparo* process is unlikely, however, because the public in Mexico continues to view the *amparo* as their only real protection against governmental abuses of their individual rights and freedoms.

Status Report on Fugitives

– **Extradition** (chart attached to show basic U.S. and Mexican statistics from January 1, 1995 to May 10, 1999)

In the area of extradition, a significant and visible aspect of bilateral cooperation, in 1998 Mexico basically maintained the improved record achieved since 1995 by formally surrendering 12 fugitives through the extradition process, including three Mexican nationals (as compared to 13 extradited in 1997, with no Mexican nationals; and 13 extradited in 1996, with one Mexican and one dual national). One of the Mexican fugitives (Bernardo Velardes Lopez) extradited in 1998 faces marijuana trafficking charges in this country, although the major crime for which his surrender was sought was the murder of an INS-Border Patrol agent. Thus far in 1999, two fugitives have been extradited by Mexico, one a U.S. citizen and the other a Mexican national who had escaped from a U.S. federal correctional facility following conviction and sentencing on substantial narcotics related charges.

As many observers and critics of the extradition relationship have noted, no major Mexican narcotics trafficker has yet been extradited by Mexico to the United States. This fact is clearly a disappointment to the Department of Justice, as we know it is to the members of this Subcommittee. We believe it is important

to note, however, that the executive branch of the Government of Mexico, through the SRE, issued 19 orders of extradition in 1998, including five orders against Mexican citizens facing significant drug trafficking charges in the United States (among them, Jesus Amezcua, a methamphetamine kingpin, and Arturo "Kitti" Paez Martinez of the Tijuana cartel). In 1999, the SRE has entered extradition orders against five fugitives wanted by the United States, including Mexican national Luis Amezcua, similarly a methamphetamine kingpin.

We await the extradition of one or more major Mexican traffickers in 1999; but we are mindful, as are our Mexican counterparts, that recent court decisions in Mexico could pose real threats to our extradition efforts. In two cases, one against Oscar Malherbe (a chief lieutenant of Juan Garcia Abrego in the Gulf Cartel) and the other against Jaime Gonzalez Castro (a Sonora based narcotics source of supply to Arizona), intermediate courts have issued nonappealable rulings that Article 4 of the Mexican Penal Code (authorizing the prosecution in Mexico of Mexican citizens for crimes committed abroad) is mandatory and that the "exceptional cases" exception to the prohibition on extraditing nationals applies only when there is no bilateral extradition treaty in effect. (Malherbe and Gonzalez Castro remain in custody, facing difficult Article 4 prosecutions). In an attempt to have the Article 4 issue resolved at a higher level in a manner favorable

to our bilateral extradition relationship, the SRE and the PGR recently sought its review by the Mexican Supreme Court in the Arturo "Kitti" Paez Martinez case, but the court declined to review the matter holding that it was not constitutional in nature and did not yet reflect a conflict between appellate courts.

On another issue, this one involving two Argentine citizens, an intermediate court has held that fugitives cannot be extradited if they face the possibility of a life sentence, at least not without an assurance that such a sentence will not be imposed. The U.S.-Mexico extradition treaty allows Mexico to require assurances against imposition of the death penalty in extraditions to the U.S., but contains no similar provision when a potential life term is available.

- Deportation

In the area of deportations, 1998 was a very successful year for Mexico, based on the information of an extremely effective working relationship between Mexican immigration authorities and the FBI and the U.S. Marshals Service personnel posted at our Embassy in Mexico City. In 1998, this relationship led to the identification, location, and expulsion of over 30 U.S. citizens who are fugitives from U.S. justice, but whose removal from Mexico was based on their illegal immigration status in that country rather than on the existence of U.S. criminal charges. This proactive program resulted in three times as many fugitive

deportations from Mexico in 1998 as in any other year in which we have tracked such actions.

Significant Cases

I would like to advise the Subcommittee of the status of cases of particular significance in the U.S.-Mexico fugitive relationship. Two defendants accused of killing law enforcement officers in the United States, Agustin Vasquez Mendoza and Rudolfo Romero, unfortunately remain at large, despite continuing efforts to locate them by authorities on both sides of the border. With regard to major Mexican narcotics traffickers, Arturo "Kitti" Paez Martinez and Jesus and Luis Amezcua remain in custody in Mexico as they appeal the orders of extradition entered against them by the SRE, as does U.S. citizen William Brian Martin, who has been successfully manipulating the *amparo* system for years. Finally, accused murderer Jose Luis Del Toro, also a U.S. citizen, has similarly appealed the issue of his extraditability, but at least remains incarcerated as the process slowly continues.

If there are other fugitives or cases of special interest to you we will, of course, be happy to supply any status reports the members of the Subcommittee may request.

On behalf of the Department of Justice, I thank you all for the opportunity to appear before you today. I would be pleased to attempt to answer any questions that you may have at this time.

Mr. MICA. Thank you for your testimony.

I would now like to recognize Donnie R. Marshall, who is the Deputy Administrator of our DEA.

Mr. MARSHALL. Chairman Mica, members of the subcommittee, thank you very much. I appreciate the opportunity to be here today to talk about the importance of extradition.

Mr. Chairman, as you probably already know, it is an issue that I feel very strongly and passionately about.

I would like, first of all, to thank the subcommittee for your support to the Drug Enforcement Administration and drug law enforcement, in general.

With your permission, Mr. Chairman, I have submitted a complete statement for the record.

Mr. MICA. Without objection, that will be made part of the record.

Mr. MARSHALL. I think that it is very appropriate that this committee is focusing on the extradition problem during National Police Week, as we have already heard referred to here this morning. National Police Week honors law enforcement officers who have given their lives in the service of their community and of their country. And it is appropriate because so much of the crime and violence that we see in this country today emanates directly from the drug trade, and that drug trade is controlled largely by people outside the United States, the very kind of people that this hearing is focusing on today. And the work of the subcommittee, I believe, will help ensure that those officers and their families that we are honoring here during National Police Week did not make their sacrifices in vain.

As you are aware, DEA's primary mission is really to target the highest levels of international drug trafficking organizations operating today. We recognize that our success will continue to be limited until the leaders of these international organizations are brought to justice, either in their own country or through the extradition process.

Now the mechanics of the extradition process is really not within DEA's purview, but I want to comment that we have seen in DEA, time and time again, the thing that international drug traffickers fear most is extradition to the United States. And, Mr. Chairman, I believe in your opening statement you articulated very well some of the reasons why they fear that extradition. And for that reason, extradition can be a very important tool in our anti-drug arsenal.

U.S. law enforcement has to be able to attack the command-and-control functions of the international syndicates operating in the world today, which are directing the flow of drugs into this country, and I believe that U.S. law enforcement does that very well.

As for DEA, we direct our resources against the leaders of the major drug organizations. We seek to have them located, arrested, extradited where appropriate, prosecuted, and given sentences commensurate with their crimes.

The international drug trafficking group—a very complex and sophisticated group operating out of Colombia and Mexico—really are very vicious, violent, destructive, rich, and sophisticated organizations that operate on a global scale. The drugs and the violence which accompany the drug trade have really reached virtually

every community in the United States—communities I am sure in your own districts and States. The international criminal organizations based largely outside the United States control the drug trade from its source, up through the Caribbean and Mexico, and on into the United States. We can't really understand the drug trafficking situation, I believe, today, without looking at the evolution of the groups from Colombia and how the groups from Mexico have learned from the Colombian groups.

During the late–1980's and early–1990's, the major traffickers from Medellin were investigated, arrested, prosecuted by the Colombian National Police and the DEA—and expulsions and extraditions actually played a major role in those investigations. As those Medellin traffickers were immobilized, the Cali traffickers really moved in and assumed power that was more or less equal to the Medellin cartel. These groups were not as violent, but they were just as corrupting and intimidating. The Colombian National Police, however, to their credit, and with a lot of heroism by those people, continued the intense law enforcement pressure. They focused on the Cali leaders, and by 1995 and 1996—and certainly, today—many, if not most, of the top trafficking leaders from the Cali organizations are either in jail or dead.

But as a result of this, the traffickers from Mexico took on even greater significance, greater prominence. In addition to their traditional roles as cocaine smugglers and marijuana and heroin traffickers, the Mexico-based organizations used their strength to emerge as major methamphetamine producers and traffickers. This helped make them an even stronger and greater force in international drug trafficking.

Now, the Mexico-based organizations are no longer simply middle-men for the Colombians or transporters for the Colombians. With the disruption of these Cali groups, the groups in Mexico such as the Carrillo-Fuentes' organization, the Arellano-Felix organization, the Amezcua, the Caro-Quintero group, and others have really consolidated their power, and they now dominate the drug trafficking along the United States/Mexico border, inside Mexico, and in many United States cities.

These organizations, I believe, reach into the very institutions which are intended to fight drugs, as the traffickers continue a reign of violence in Mexico and along the border with the United States.

Historically, these and other traffickers in other countries and at other times in our history, have had the ability to corrupt and intimidate public officials and institutions throughout the world. The ability, I believe, of any government to attack these organizations is dependent upon the existence of honest, dedicated law enforcement professionals. And to attain this goal, meaningful anti-corruption initiatives which lead to sound investigations and prosecutions of corrupt officials, must be aggressively pursued. And only then, I believe, can we realize success, and we will realize that success through an honest cadre of law enforcement officials.

Part of this process, I believe—I believe very strongly—must be grounded and must be based upon bringing to justice those individuals who control large-scale drug trafficking. Only through ensuring that these criminals face prison sentences commensurate with

their crimes, can we make any significant progress. In many cases, in countries such as Colombia, we have seen that the traffickers are arrested and jailed, but they continue to wield influence from their prison cells. And despite our many efforts and successes in indicting the leadership of these international organizations, too often, the drug lords are not apprehended or they are not returned to justice to serve sufficient prison sentences.

The obstacles that law enforcement in Mexico and Colombia face are really enormous obstacles, and we shouldn't fool ourselves about that. One of the biggest threats to our success right now in Mexico is that the traffickers are accustomed to operating in an environment free of the threat of extradition, free of the threat of meaningful prison sentences, and in an environment where they can intimidate, bribe, corrupt, and violently retaliate against law enforcement and judicial officials and against the systems.

In order for DEA and our international counterparts really to be successful in our efforts, we have to break, I believe, that stranglehold of violence and intimidation. And we have to address that through aggressive law enforcement, continual improvement of criminal justice institutions, and, perhaps most importantly, as a prelude to those things, extradition.

It is my strong belief that the expulsion and extradition of the major traffickers from Mexico, many of whom have been repeatedly indicted in the United States, would be a strong measure of Mexico's success in the counterdrug efforts. But more importantly, for the Government of Mexico, the extradition of some of these incredibly violent traffickers, particularly such as Ramon Arellano Felix, could very well, I think, assist in breaking the pattern of violence and intimidation that exists in these countries. And it would serve, I think, to benefit those dedicated professionals within the Government of Mexico, and particularly within the PGR, and give them the opportunity to combat these major drug-trafficking organizations, similar, frankly, to what was experienced in Colombia following some of these major trafficker extraditions and expulsions in the 1980's.

Other notable extradition requests that are currently in place—have already been referred to—for the Amezcua brothers, who were arrested in 1998 on Government of Mexico charges, but recently the Mexican charges have been dismissed for insufficient evidence. Both Luis and Jesus Amezcua were rearrested and are being held in Mexico, really solely on the United States provisional arrest warrants.

The DEA recognizes that the extradition to the United States of these international drug traffickers is not necessarily the long-term solution to solving the drug problem that exists in our country. But we hope that new initiatives and continued cooperative efforts can really enhance our ability to combat these major organizations in Colombia and Mexico, and really throughout the world. By building institutions that sentence traffickers to significant prison terms or by allowing extradition of these traffickers to the United States, I believe, our international counterparts can enhance their potential for success.

In summary, Mr. Chairman, I believe that extradition is a very key essential first step from which a lot of other progress and perhaps many other successes could ultimately be accomplished.

I thank you for the opportunity to be here, and I will be happy to answer any questions that you have.

[The prepared statement of Mr. Marshall follows:]

Remarks by

Donnie Marshall
Deputy Administrator
Drug Enforcement Administration
United States Department of Justice

before the

House Government Reform and Oversight Committee's Subcommittee on Criminal Justice, Drug Policy and Human Resources

regarding

"International Law: The Importance of Extradition"

Rayburn House Office Building
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May 13, 1999
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NOTE: This is the prepared text and may not reflect changes in actual delivery

Statement of
Donnie Marshall
Deputy Administrator
Drug Enforcement Administration
before
the Subcommittee on Criminal Justice, Human Resources and Drug Policy
May 13, 1999

Chairman Mica and Members of the Subcommittee: I appreciate the opportunity to appear today at this hearing on "International Law: The Importance of Extradition". I would first like to thank the Subcommittee for your continued support of the Drug Enforcement Administration (DEA) and your overall support of drug law enforcement. My testimony will provide you with an objective assessment of the law enforcement issues involving international organized criminal groups and describe the role that the DEA plays in identifying and combating these groups. The DEA recognizes that our success will continue to be limited until the leaders of these criminal organizations are brought to justice either in their native country or through the extradition process. We also recognize that extradition is vitally important in the short term, as an effective tool that can be utilized to achieve success in our overall drug control strategy.

While the mechanics of the extradition process are not in the purview of the DEA's area of responsibility, we have seen time and again, that the international drug traffickers that we are charged with investigating, fear extradition to the U.S. For that reason extradition has, many times, been a powerful tool in our counter-drug strategy. The traffickers fear extradition to the United States because they cannot obtain acquittal through violence, intimidation or bribery, buy preferential treatment in our criminal justice system, nor can they easily escape from U.S. prisons. DEA's primary mission is to target the command and control structure of the highest levels of the international drug trafficking organizations operating today. The DEA's investigative objectives, as well as our joint investigations with our state and local counterparts, are a very important part of our global strategy to combat international drug trafficking organizations. By using a global strategy, we also gather vital intelligence which assists our interdiction counterparts, and are able to build sound cases against the leadership of these organizations, which may enable us to indict and extradite those individuals who reside outside of the United States.

International Organized Crime

It is important to demonstrate at the outset why the threat posed by international drug syndicates is so ominous. The United States must be able to attack the command and control functions of the international syndicates which are directing the flow of drugs into this country. Focusing the attention of law enforcement on the criminals who direct these organizations is the key to combating international drug trafficking. Accordingly, the DEA directs its resources against the leaders of these criminal organizations, seeking to have them located, arrested, extradited, prosecuted, and given sentences commensurate with the heinous nature of their crimes.

The complex and sophisticated international drug trafficking groups operating out of Colombia and Mexico, are vicious, destructive entities which operate on a global scale. Trafficking organizations from Cali, and the four largest drug trafficking organizations in Mexico --- operating out of Guadalajara, Juarez, Mexicali, Tijuana, Sonora, and the Gulf region --- are simply organized crime groups. The organizational leaders --- the Rodriguez-Orejuela brothers in Colombia and Vincente Carrillo-Fuentes, Jesus Amezcua, Miguel Caro-Quintero, and Ramon and Benjamin Arellano-Felix from Mexico---are simply the 1990's versions of the mob leaders U.S. law enforcement has fought since shortly after the turn of this century. These international organized crime leaders are far more dangerous, far more influential and have a greater impact on our day-to-day lives than did their domestic predecessors. The drugs and the attendant violence which accompanies the drug trade, has reached virtually every community in the United States.

These international trafficking groups make operational decisions from places like Cali, Colombia, Sonora, Mexico and other locations outside the U.S. borders, which dilute American quality of life and directly impact drug-related crime in places such as Orlando, Florida, Yakima, Washington, and Charlotte, North Carolina. It has become evident that these groups have reached new levels of sophistication and have become a threat not only to the United States and Europe, but their own nations, and other Latin American nations as well. Their power and influence is being witnessed on an unprecedented scale, and unless innovative, flexible, multi-faceted responses are crafted, these drug trafficking organizations threaten to grow even more powerful in the years ahead.

International criminal organizations who currently control the drug trade from its source, through the Caribbean and Mexico, and on into the United States are to a large degree, intertwined. We cannot discuss the trafficking situation today without looking at the evolution of the groups from Colombia, and how the groups from Mexico have learned from them, which has created the situation we are facing today.

Colombian Trafficking Organizations

During the late 1980's and early 1990's the major traffickers from Medellin, Colombia were investigated, arrested and prosecuted by the Colombian National Police (CNP) and the DEA. This began with the important return of Carlos Lehder to face drug charges in the United States, and ended with the death of Pablo Escobar at the hands of the CNP. As the Medellin traffickers disintegrated, the Cali traffickers quietly coalesced and assumed power equal to that of their predecessors'. The drug traffickers from Cali were far more sophisticated than the Medellin group and eventually became deeply involved in all aspects of the cocaine trade, including production, transportation, wholesale distribution and money laundering. Whereas the Medellin traffickers seemed to revel in the terror and violence that became their trademark--and ultimately contributed to their downfall--the Cali traffickers attempted to avoid indiscriminate violence, further contributing to their image as legitimate businessmen. However, when the Cali traffickers employed violence to attain their goals--and they frequently did--it was precise and exacting. The Cali leaders --- the Rodriguez-Orejuela brothers, Jose Santacruz Londono, Helmer "Pacho" Herrera-Buitrago--- amassed fortunes and ran their multi-billion dollar cocaine businesses from high-rises and ranches in Colombia. Miguel Rodriguez-Orejuela and his associates composed what was, until then, the most powerful international organized crime group in history. They employed commercial aircraft to ship metric ton quantities of cocaine into Mexico. Using landing strips in Mexico, they were able to evade U.S. law enforcement and made important transportation alliances with the traffickers in Mexico. Once the cocaine was safely delivered to traffickers in Mexico, independent Mexico-based transportation groups subcontracted by the Colombian trafficking organizations arranged for the delivery of the cocaine to contacts within the U.S.

With intense law enforcement pressure focused on the Cali leadership by the brave men and women in the CNP during 1995 and 1996, all of the top trafficking leaders from Cali are either in jail or dead. During this same time frame, U.S. law enforcement agencies were effectively attacking Colombian cells operating within the United States. With the Cali leaders' imprisonment in Colombia and the attacks on their U.S. cells, traffickers from Mexico took on greater prominence. This alliance between the Colombian traffickers and the organizations from Mexico benefited both sides. Traffickers from Mexico had long been involved in smuggling marijuana, heroin, and cocaine across the U.S.-Mexico border using solid distribution routes to deliver drugs throughout the United States. The Mexico-based organizations' emergence as major methamphetamine producers and traffickers all contributed to making them a major force in international drug trafficking. The Mexican traffickers, who were previously paid financially by the Colombian traffickers for their services, would now routinely receive up to one-half of the shipment of cocaine as payment. This led to Mexican traffickers having access to multi-ton quantities of cocaine allowing them to expand their markets and influence in the United States, and making them formidable cocaine traffickers in their own right.

Traffickers' from Mexico Rise to Prominence

Recent events highlight the ever-changing nature of drug law enforcement efforts against international drug traffickers. The Mexican-Central American corridor has been the primary smuggling corridor for cocaine destined for the United States since the 1980's. Events in Mexico and along the border bring emphasis to the fact that trafficking groups from Mexico are a significant force in international organized crime. These organizations are no longer simply middlemen in the cocaine transportation business. With the disruption of the Cali syndicate, groups such as the Amado Carrillo-Fuentes organization, the Arellano-Felix cartel, the Amezcua-Contreras brothers, and the Caro-Quintero group have consolidated their power and now dominate drug trafficking along the U.S.-Mexico border and in many U.S. cities. These organizations reach into the very elements of the Mexican government which are intended to fight drugs, as the traffickers continue a reign of terror and violence along the border with the United States.

The violence that is an essential part of these ruthless and powerful organizations impacts innocent citizens who live in the United States. The traffickers' willingness to murder and intimidate witnesses and public officials has allowed these organizations to develop into the present day threat they are to the citizens of the United States and Mexico. Drug traffickers continue their brazen attacks against both U.S. and Mexican law enforcement officials and their sources of information. These traffickers have long had the ability to corrupt and intimidate public officials and institutions throughout the world.

The battle against corruption in Mexico is a long-term endeavor that requires constant vigilance. The ability of any government to attack powerful criminal organizations is dependent upon the existence of honest, dedicated law enforcement professionals. To attain this goal, meaningful anti-corruption initiatives which lead to sound criminal investigations and prosecutions of corrupt officials must be aggressively pursued. Only when implementation of these measures results in widespread behavioral changes can success be realized by an honest cadre of law enforcement officials against these organizations. Part of this process must be grounded in bringing the individuals responsible for facilitating large-scale drug trafficking to justice. Only through ensuring that these international traffickers face monetary sanctions as well as serve prison sentences commensurate with their crimes, can we expect significant success.

In many cases, particularly in Colombia, we have seen that the traffickers that are arrested and jailed, continue to wield influence from their prison cells. They continue to have access to their wealth that allows them to buy preferential treatment, the ability to communicate with surrogate employees, and gives them the ability to continue to intimidate, corrupt and threaten the very institutions responsible for their incarceration. This became blatantly evident in Colombia when Pablo Escobar surrendered to Colombian authorities and was incarcerated in Envigado prison. As part of Escobar's surrender agreement, security would be the Army's and Escobar's handpicked bodyguards responsibility. The prison was quickly transformed into a veritable mansion, with lavish penthouse and furnishings. While incarcerated he continued to

run his drug trafficking enterprise. His downfall began when he ordered the murder of two of his top lieutenants who had been summoned to Envigado by Escobar. Pending a transfer to a more secure facility, Escobar escaped and became the target of the largest manhunt in Colombia's history. If sentences and prison accommodations in these countries are not meaningful, then extradition to the U.S. must be a tool in our arsenal to ensure that traffickers account for their crimes in the country whose laws they violated, prosecution takes place in a jurisdiction where the evidence and witnesses are located and we can be sensitive to the victims adversely affected by their criminal conduct.

Drugs at The Source

The international drug syndicates discussed above maintain control over both the sources and the flow of drugs into the United States. The cocaine entering the United States continues to come from the source countries of Colombia, Bolivia, and Peru. According to DEA's Heroin Signature Program, which provides a chemical analysis of domestic heroin seizures and purchases to determine the geographic sources of origin, South American heroin comprised 75 percent of all heroin seized in the United States in 1997 and heroin from Mexico now represents 14% of the heroin seized in the United States. In addition, a current study being conducted by DEA indicates that as much as 29% of the heroin being used in the U.S. is being smuggled in by the Mexico-based organized crime groups.

For nearly two decades, crime groups from Colombia have ruled the drug trade by utilizing a tight organizational structure. The traffickers from Colombia, from Medellin then Cali, depended upon the acquisition of tons of raw coca from Bolivia and Peru. This coca was then converted to cocaine hydrochloride (HCl), generally in Colombia. These groups then used ingenious methods to deliver tons of cocaine to the U.S. and Europe, refining trafficking routes and techniques as necessary. Their vast responsibilities and their intricate distribution networks in the United States necessitated that they rely on a sophisticated system which ensured maximum security with minimum risk.

Colombian traffickers continue to dominate the movement of cocaine from the jungles of Bolivia and Peru to the large cocaine HCl conversion laboratories in Southern Colombia. An estimated thirty-five percent of the world's coca leaf is grown in Colombia and the vast majority of the cocaine base and cocaine HCl is produced in these laboratories throughout Colombia. Many of these activities take place in the southern rain forests and eastern lowlands of Colombia. Most of the coca cultivation in Colombia occurs in the Departments of Guaviare, Caqueta, and Putumayo. Also, cultivation occurs in areas of high insurgency that are effectively beyond the control of the Colombian Government.

As reported in *The Miami Herald* on May 6, 1999, the CNP raided May 5, 1999, what are being touted as the "most sophisticated cocaine-processing complexes in Colombia's history". This laboratory complex was spread over seven square miles and was capable of producing

massive quantities of cocaine. Cocaine conversion laboratories range from smaller "family" operations to much larger facilities, employing dozens of workers. It is estimated that this compound had sleeping quarters that could accommodate approximately 200 workers. Three hundred officers raided the laboratory site, which culminated in the seizure of precursor chemicals, cocaine HCl, processing equipment and documentary evidence. In this type of laboratory environment, once the cocaine HCl is manufactured, it is either shipped via maritime or aircraft to traffickers in Mexico, or shipped through the Caribbean corridor, including the Bahamas Island Chain, to U.S. entry points in Puerto Rico, Miami, and New York, or shipped directly to the United States.

Drug trafficking in the Caribbean (Puerto Rico, Haiti, Dominican Republic and the Bahamas) is overwhelmingly influenced by Colombian organized criminal groups. Over the years, the Caribbean has been a favorite smuggling route used by the Medellin and Cali crime groups to smuggle thousands of tons of cocaine to the United States. During the late 1970's and the 1980's, Colombia-based traffickers established a labyrinth of smuggling routes throughout the central Caribbean, including Haiti, the Dominican Republic and the Bahamas Island chain to South Florida, using a variety of techniques to transfer cocaine to U.S. markets. Past smuggling scenarios included airdrops of 500-700 kilograms in the Bahamian Island chain and off the coast of Puerto Rico, mid-ocean boat-to-boat transfers of 500 to 2,000 kilograms, and the commercial shipment of multi-tons of cocaine through the port of Miami.

DEA has identified four major organizations based on the northern coast of Colombia that have deployed command and control cells in the Caribbean Basin to funnel tons of cocaine to the United States each year. Colombian cell managers, who have been dispatched to Puerto Rico and the Dominican Republic, operate these cells and are responsible for overseeing drug trafficking in the region. These groups are also directing networks of transporters that oversee the importation, storage, exportation, and wholesale distribution of cocaine destined for the Continental United States.

The Law Enforcement Response

America's long experience with countering organized criminal activity has necessitated the development and execution of an aggressive strategy to identify, target, arrest and incapacitate the leadership of these organizations. DEA's role in addressing the drug problem is to continue to attack the leadership of these international criminal organizations. With a strategy consisting of mounting strategic strikes on the organizational command and control, the DEA is able to degrade the ability of the organizations to conduct business and impede their efforts to import drugs into the United States. Each time we demolish an organization as part of this strategy, we further facilitate the intelligence collection process which is critical to the interdiction of drugs. DEA gains vital intelligence about an organization to use both to further additional investigative efforts and in increasing the accuracy of intelligence information provided to interdiction operations conducted by other agencies. The domestic and international

aspects of trafficking organizations are inextricably woven together. Therefore, DEA believes that the United States must be able to attack the command and control functions of the international syndicates on all fronts which are directing the flow of drugs into this country.

Despite our many efforts to often repeatedly indict the leadership of these organizations, the current situation on many occasions, is that these drug lords are not apprehended by our international host country counterparts. Even if they are arrested, they are seldom, if ever, extradited back to the United States to face justice and serve sufficient prison sentences. The obstacles facing law enforcement in Mexico and Colombia are enormous. The traffickers are used to operating in an environment free from the fear of extradition, where drug traffickers intimidate, bribe, corrupt, and violently retaliate against the law enforcement and judicial systems. In order for the DEA and our international counterparts to be successful in our efforts, aggressive law enforcement principles, extradition treaties and the restructuring of judicial and governmental institutions must be applied or we will continue to be limited in success.

Our international cooperative efforts have proven to be successful in other parts of the world. For example, in 1994, the DEA and the Royal Thai Police initiated Operation Tiger Trap, designed to disrupt the heroin trafficking capabilities of the Shan United Army (SUA), the principal producer of Southeast Asian heroin. As a result of Operation Tiger Trap and other influences, the SUA warlord Chang Chi-fu, aka Khun Sa, surrendered to the Burmese authorities and remains under house arrest. The initial phase of Operation Tiger Trap resulted in the arrest and extradition of thirteen heroin traffickers, to include Kao Chang Pin, a top level heroin broker in the SUA. This coordinated law enforcement effort severely hampered heroin production in Shan-controlled areas.

The Role of Extradition: Colombia

From a historical standpoint, Colombia has experienced decades of narco-terrorism, some of which escalated over constitutional amendments allowing for the extradition of Colombian nationals to the United States. Earlier in my testimony I described a number of acts of terrorism carried out by the Medellin trafficking organizations, which were used to intimidate rival traffickers, government officials, and informants. During this time frame, a degree of this violence was also used as a tool to thwart extradition requests by the United States Government. During the rise of the Medellin traffickers in the 1980's, the violence reached unprecedented levels as the CNP became increasingly more aggressive in their counter-drug efforts, and high level traffickers were in danger of facing extradition. One of the most prominent Medellin traffickers at that time, returned to the United States in 1987, was Carlos Lehder. He was later convicted and sentenced to life in prison without the possibility of parole. To illustrate the vehemence in which Colombia traffickers resisted and feared extradition, Carlos Lehder was instrumental in forming a political debate over the merits of extradition and publicly faced off against Colombia's Justice Minister, Rodrigo Lara-Bonilla. In 1984, when Bonilla was suddenly

murdered, traffickers from Medellin, hidden behind the pseudonym "The Extraditables" were suspected.

In response to fear and the threat of extradition, the traffickers from Medellin continued to utilize violence and intimidation to rule their criminal enterprises. This violence was also used as a threat to the government to guard against extradition. Armed security forces were employed to enact terrorist activities and assassinations against rival traffickers, organizational employees, hundreds of Colombian police officials, judges, journalists, and innocent bystanders. These attacks included the murder of a Justice Minister and a Presidential candidate. The Medellin traffickers bombed an Avianca Jetliner in 1989, which killed 110 people, and also bombed the Department of Administrative Security headquarters in December 1989, killing an additional 50 and wounding another 200 individuals. As evidenced by these examples of extreme violence, calculated intimidation, and terrorism, it is easy to understand that our host country government's judicial systems would be ineffective in countering these attacks.

This wave of violence contributed to the abolishment of extradition in Colombia in 1991, and soon after, the Ochoa brothers and Pablo Escobar surrendered to the Colombian Government to take advantage of lenient prison sentences. Escobar continued to run his organization from prison until his escape in 1993, and his death shortly thereafter, following a shootout with the CNP.

More recently, the traffickers from Cali reacted violently upon the arrests of their leadership in 1995. Cali assassins killed more than a dozen suspected government informants and during 1992 in Queens, NY, journalist Manuel de Dios Unanue, who was an outspoken critic of the Cali traffickers, was murdered. Jose Santacruz Londono was later implicated during a criminal proceeding in NY, as having ordered de Dios' murder.

In spite of the abolition of extradition from Colombia in 1991, the United States Government has continued to work with the Government of Colombia on reinstating the extradition amendment. As a result, Colombia passed a constitutional amendment on December 17, 1997, which would allow for the extradition of Colombian nationals. President Andres Pastrana released Colombia's Drug Control Strategy in October 1998 and made a specific reference to using extradition as a tool against international drug trafficking. Since that time, the United States Government has requested the provisional arrest and extradition of four Colombian nationals, one of which is Diomedes Sevillano, who remains at large. Our requests for extradition of these individuals are based on two significant investigations conducted in cooperation with Colombian law enforcement authorities. Four pending extradition matters are currently under review by the Colombian Supreme Courts.

Although the Colombian Government has been supportive of our desires to extradite Colombian nationals, their constitutional amendment referred to earlier, has yet to be tested under its new parameters. These guidelines require overt acts, charges, and indictments dated after the December 17, 1997, effective date of the amendment. The DEA will continue to work

with the Colombian Government, the United States Department of Justice, and the State Department to coordinate the provisional arrest and extradition of Colombian traffickers who must be brought to justice.

The Role of Extradition: Mexico

In light of some of the issues discussed earlier in my testimony regarding the rise to prominence of the trafficking organizations based in Mexico, one of the biggest threats to our success against these traffickers is their continued willingness to corrupt and intimidate through bribery and violence. It is our belief, that the expulsion and extradition of the major traffickers in Mexico, many of whom have been repeatedly indicted in the U.S., would be a strong benchmark in measuring Mexico's success in counter-drug efforts. More importantly for the Government of Mexico (GOM), would be the extradition of incredibly violent traffickers such as Ramon Arellano-Felix and top organizational members, that could well assist in breaking the strangle-hold of violence and intimidation that exists in that country. This would serve to benefit the dedicated professionals within the GOM, and in particular in the PGR, and give them the opportunity to combat major drug trafficking organizations, similar to what was experienced in Colombia following major trafficker extraditions in the 1980's.

The GOM has made some progress regarding extradition over the last several months. In November 1998, Bernardo Velardes-Lopez, a Mexican national, was extradited to the U.S. to face murder and drug trafficking charges stemming from his involvement in the murder of U.S. Border Patrol Agent Alexander Kirpnick in June 1998. Although this is a positive step, this extradition cannot be defined as that of a significant trafficker, or even a mid-level trafficker. On March 23, 1999, the GOM extradited Tirzo Angel Robles to the United States to face marijuana trafficking charges. He was charged and convicted in the U.S. but escaped from a U.S. prison in 1995 and fled to Mexico. He was arrested in Mexico and deemed extraditable in February 1997. However, although Robles is the first Mexican national to be extradited to the U.S. for drug offenses, he will only serve time for the drug offenses for which he was convicted upon his initial arrest. Under GOM law, the U.S. will be prevented from prosecuting him further for his escape. These cases illustrate that the extradition of Mexican nationals can be accomplished. The next step in the process should be the extradition of top echelon drug traffickers. This would be a significant step forward for all of the reasons I have already illustrated.

The United States has presented the GOM with extradition requests on a significant number of Mexican traffickers. Extradition requests which have been made to the GOM by the U.S. for major traffickers who have been indicted in DEA investigations include:

Agustin Vasquez-Mendoza	Miguel Angel Martinez-Martinez
Ramon Arrellano-Felix	Antonio Reynoso-Gonzalez
Rafael Caro-Quintero	Mario Antonio Hernandez-Acosta
Vicente Carrillo-Fuentes	Jesus Amezcua-Contreras

Arturo Paez-Martinez
Jaime Ladino-Avila
Jose Gerardo Alvarez-Vasquez
William Brian Martin

Luis Amezcua-Contreras

Currently, one of the most notable request is for Jesus and Luis Amezcua-Contreras. In June 1998, they were arrested on GOM charges including organized criminal activity, money laundering, and illicit gains. The GOM recently dismissed their charges against the Amezcua's for insufficient evidence. Both Luis and Jesus were re-arrested and are being held in Mexico based solely on U.S. Provisional Arrest Warrants. Recently, the GOM ruled that Jesus and Luis could be extradited to the United States. As a result, both have filed a judicial appeal against extradition, which is pending a GOM judicial ruling.

CONCLUSION:

As I stated in my opening remarks, the DEA recognizes that the extradition to the United States of international drug traffickers is not the long-term solution to solving the drug problem that currently exists. New initiatives and continued cooperative efforts will enhance our ability to combat major trafficking organizations in Colombia and Mexico. By building institutions that sentence traffickers to significant prison terms or by allowing for extradition of traffickers to the U.S., our counterparts can assist our efforts towards incapacitating the traffickers from continuing their trafficking activities unabated. International drug traffickers are comfortable working in an environment that permits intimidation through violence, corruption or both. In order for the DEA and our international counterparts to realize success in our efforts, we must confront and repair the damage that international drug trafficking organizations have inflicted on our nations. This strategy can best be applied through aggressive law enforcement principles, extradition treaties, and our continued efforts to assist host nations in improving their law enforcement institutions.

I want to thank you for the opportunity to testify before the Subcommittee today. I will be happy to answer any questions you may have.

Mr. MICA. Thank you, and I do have several questions.

First of all, Ms. Warren, how many outstanding extradition requests for Mexican nationals do we have?

Ms. WARREN. I don't have the number—well, I can find it out—of Mexican nationals that are sought. I think it is a total of about 275 inactive and active extradition requests that we have in total.

Mr. MICA. And how old do you think the earliest of that——

Ms. WARREN. It can be a couple of decades, some of the earliest ones.

Mr. MICA. Again, we have not had one major drug trafficker or drug kingpin extradited; is that correct?

Ms. WARREN. No Mexican national major trafficker; correct.

Mr. MICA. And they did, however, extradite one individual. I guess it was last year? And one this year—a Mexican national?

Ms. WARREN. They have extradited——

Mr. MICA. According to your chart.

Ms. WARREN. Right. They have extradited several Mexican nationals over time. One so far this year; three last year; two in 1996.

Mr. MICA. Of those several hundred that we have outstanding extradition requests for Mexican nationals, do you know how many are in custody in Mexico? And how many are not held?

Ms. WARREN. Forty-seven, total, are in custody in Mexico on our extradition requests. I would have to work out the breakdown of how many of those are Mexican nationals.

Mr. MARSHALL. If I could help on that——

Mr. MICA. Yes.

Mr. MARSHALL. According to my list of traffickers, the most important ones that we have the provisional arrest warrants for, there are a total of—by my count—about 10 major traffickers that are in custody.

Mr. MICA. Ten major traffickers in custody out of 40 major drug traffickers or total?

Mr. MARSHALL. I am sorry; I can't give you the total list of how many we have requested extradition for, but I have a list of what we would consider the major traffickers, and there are about 10 of these in custody.

Mr. MICA. OK.

Did we ever get a list of all the extraditions?

If we didn't, we would like to request all of the outstanding extradition requests for Mexican nationals. If you could provide us with that, we would appreciate that.

One of the things that concerns me about the process is something that you testified to, Ms. Warren. And I appreciate your candor in testifying. Particularly, for the first time, about the problems we are experiencing with Mexico. That is, the delays that are now being employed by drug traffickers—using the judicial process, both in legitimate appeals, but also I am concerned about corruption in this process.

Maybe, Mr. Marshall, and, Ms. Warren, you might comment as to what you see going on here—again, the difficulty in getting any resolution to these requests.

Ms. WARREN. It seems to take an inordinate amount of time sometimes. We had the very good experience last year of Velardes, the killer of the Border Patrol agent, who was extradited in a pe-

riod of 4 months. We have a U.S. citizen, William Brian Martin, that we want on major narcotics charges, who has played out the system down there for 4½ years. Clearly, his wealth allows him to continue again and again to appeal issues. Unlike the United States' system where we must consolidate our appeals or forever lose them, they can do them seriatim, one after another, and they use the system and abuse the system that way.

Mr. MICA. You seem particularly frustrated by a couple of the recent decisions which just seem to fly in the face of what should be a just decision, particularly by SRE. Do you think there is corruption in the process? And, again, I will also ask Mr. Marshall, because I know he monitors some of the situation. Or are there legitimate delays?

It doesn't appear like there is reason or rule of law in the decisions. What is influencing these decisions?

Ms. WARREN. We don't really know. I can tell you that the SRE has granted the—ordered extradited many fugitives that the courts have found not to be extraditable: they have, in effect, overruled their courts because their courts' decisions are simply advisory opinions in extradition in Mexico. So they have really been forward-leaning on Mexican national extraditions since 1996, which was the first time Mexican nationals were extradited.

And we were terribly disappointed by what seemed to be a step backward in that Martinez decision and have been very vocal about our disappointment and I think have caught their attention that this is unexplainable to us and hard to rationalize in today's world.

Mr. MICA. Mr. Marshall, what do you see going on?

Mr. MARSHALL. Mr. Chairman, we don't have any evidence that I know of, in the corruption of the extradition process itself. I think that Ms. Warren probably summed it up very well, in that most of these traffickers use their wealth to buy the best lawyers and to really put legal obstacles in the way.

My professional judgment is that is probably what is happening. However, I will say that we saw in Colombia a number of years ago, where the traffickers, when they were jailed in their native country, they just continued to run their operations. They continued to threaten; they continued to bribe. They continued to order retaliation, and that is certainly a very real risk as long as these major traffickers, with their wealth and power, are in jail in their own country. And that is why I was referring to it in my opening statement, that it would be so necessary and such a big step forward to get them out of that environment, into the United States, to break that stranglehold.

But with regard to your particular question about corruption in the process, we have no evidence of that.

Mr. MICA. Finally, Ms. Borek, one of the major issues, both in Congress, and regarding the certification question—2 years ago in March, Congress—the House side—asked for cooperation, and extradition was one of our top priorities, and it has always been something that has been of concern for a number of the committees. And Members of Congress have expressed concern about extradition.

Do you know if President Clinton and President Zedillo discussed this? Was this brought up by our administration and the President when he met with Zedillo in Mexico recently?

Ms. BOREK. I know that law enforcement cooperation across the board, and especially in this drug area, is one of the highest priorities, also from a State Department point of view. And I know it certainly has been discussed at cabinet-level meetings. As for that particular meeting, since I am sworn to give you only the facts, and I don't know the facts, I would like to give you an answer for the record.

Mr. MICA. Well, we would appreciate that. And if there was specific communication on the extradition question that is part of any Department of State record or Department of Justice, we would like that for the record and will request that in writing.

I would like to yield now to the gentleman from Arkansas, Mr. Hutchinson.

Mr. OSE. Mr. Chairman, I believe my—I think they called this an 8-minute vote on the Upton——

Mr. MICA. They can't do that.

Mr. OSE. Well, then I must have misread——

Mr. MICA. That would be against the rule. [Laughter.]

Go right ahead.

Mr. HUTCHINSON. Thank you, Mr. Chairman. Let me make a couple of comments, first.

In reference to the problems of the judiciary in Mexico, you addressed the question, Ms. Warren. You suggested that they have serial appeals, whereas we have to consolidate them. That happened in America because of a legislative initiative to solve a problem in the courts. I haven't heard any discussion yet about whether President Zedillo and the executive branch and the Attorney General of Mexico have urged the legislature to change these laws that are allowing the courts to circumvent the extradition process?

Ms. WARREN. There has not been any legislative initiative in that area. This particular process that is more appeal than habeas-like, the Mexican public sees as their most important protection against governmental abuse, and the administration would probably have a very difficult time making the important changes that were made here.

Mr. HUTCHINSON. You are talking about habeas, which would be applicable, but in reference to one decision, it was based upon a construction of the law that was passed by the legislature that looked like a misconstruction of it. But whenever the courts do that, you can have a legislative remedy. You indicate that the Mexican executive branch has not initiated any legislative changes that would help solve the problem.

Ms. WARREN. That is correct, and we have urged a legislative fix, because, in fact, it is a statutory interpretation that those courts are——

Mr. HUTCHINSON. OK. And at what level have we, in the United States, urged a legislative fix?

Ms. WARREN. We have urged it at a lower worker level, but we have asked about it at higher levels. This is something I can report on personally. I know our Deputy Attorney General met with their Deputy Secretary of Foreign Relations and——

Mr. HUTCHINSON. Was that with Mr. Holder?

Ms. WARREN. Mr. Holder met with their Deputy Secretary, Juan Rebilledo, and asked if there would be a legislative initiative.

Mr. HUTCHINSON. With all due respect to Mr. Holder—and I have a high regard for him—I would suggest that the Attorney General of the United States put the pressure on—and I think this also should be addressed by the President. This is extraordinary. I know that Colombia had some problems in extradition, and they, have made some adjustments in their legislature because of that. But we have got to put the pressure on, not at a working group level, but at a high level. The Executive Department of Mexico has the ability, you know, to pressure some legislative changes.

And I think we have got to pressure them to do that. Obviously, there is going to be resistance, but I really think it is extraordinarily important that we do that.

Ms. WARREN. If I could just say, I don't think there is anyone who has been more vigorous about the extradition issue, with Mexico or with any other country, than Attorney General Reno.

Mr. HUTCHINSON. But you indicated that she has not raised it, herself, as far as any legislative fix, for this problem.

Ms. WARREN. She has not raised these particular cases. She will be meeting, as part of the Bi-national Commission, with her counterparts and all the other cabinet members who—or most of the cabinet members—in the Mexican cabinet the first of next month, and I know it will be an issue on her agenda.

Mr. HUTCHINSON. I know these are great international complex issues, but it would just appear to me that this is so important to our well-being in the United States, that we advise Mexico that if they do not take appropriate action, when they have the ability to change something and the Executive Department has not pursued that, that if they do not pursue that and try to remedy that problem, then I don't think they are fully cooperating and should not be certified. And that is the kind of leverage that the Attorney General and the President should communicate.

We might have a disagreement in that, but I think that is the only thing that works, to get that type of attention.

Ms. Borek, my understanding is the Department of Justice makes a request on extradition to the State Department, and the State Department actually pursues extradition. Has the State Department done anything in regard to requesting the Mexican Government to change their laws to allow these extraditions to go forward without the judicial interference?

Ms. BOREK. Thank you. I think it is certainly true that we work together and closely with the Department of Justice on pursing this. These are relatively recent developments, and they are not fixed in law, given the nature of the system. And they are, therefore, things which we are addressing actively with the Government of Mexico, now and in the immediate future. There will be a discussion of these issues and——

Mr. HUTCHINSON. Has there been any in the past, on the issues that I raised?

Ms. BOREK. Well, they have been—they have certainly been discussed. Now, you are saying, though, at which level?

There will be a cabinet-level detailed discussion of these issues coming up at the next regularly scheduled meeting, and there is no question that we share the objective of ensuring that there is an effective extradition process here.

Mr. HUTCHINSON. And it is going to take a legislative change; otherwise, you are going to be blocked by the courts.

Ms. BOREK. Well, I would let Ms. Warren speak to that. Obviously it is, in principle, the easiest solution. Sometimes, however, given the nature of legislatures and in particular countries, it is not the most—the easiest solution to achieve. And I think our interest is in seeing this problem fixed in the most expeditious way.

Mr. HUTCHINSON. Let——

Ms. WARREN. There is still a chance before their courts to fix this as well. If another appellate court decides otherwise, then they will have a conflict. It will go, not as a discretionary matter, but automatically to their Supreme Court, to resolve this issue.

Mr. HUTCHINSON. Well, you work both tracks.

Ms. WARREN. Exactly.

Mr. HUTCHINSON. I mean that is a possibility, but also the executive branch, if they have that desire, they should submit legislation to correct that.

Ms. WARREN. It is going to be clear that it is not just one track.

Mr. HUTCHINSON. True. Right now, we have one track going; I want to go two tracks; that is what my suggestion would be.

Has there been any problem, from a Justice Department standpoint, with the State Department in regards to their efforts in securing extradition after you certify?

Ms. WARREN. Absolutely none.

Mr. HUTCHINSON. That is all.

Mr. MICA. Mr. Ose.

Mr. OSE. Thank you, Mr. Chairman.

Ms. Borek, on page 3 of your testimony, the final decision on whether a fugitive will be extradited from the United States is made by the Secretary of State?

Ms. BOREK. Yes, sir.

Mr. OSE. How many requests for extradition of fugitives in the United States have been granted by the Secretary of State in the last year?

Ms. BOREK. I would have to get you an exact number on that. I might say the other side of it, which is extradition requests are inevitably granted by the Secretary of State, unless there is some very serious problem about, generally, of a humanitarian nature concerning conditions that the person might be facing, or something along those lines. So, although there is this discretion, in fact, it is more a question of having an opportunity to consider and work through any concerns that are raised, and in the end—at least in the time that I am aware of this—we have always granted extradition.

Mr. OSE. Well, that brings me to my followup question, which would be, how many have been denied?

Ms. BOREK. As I say, in the time that I am aware of, there have been a number of cases in which there were issues about conditions or so forth, that we were able to resolve through assurances with the other government. We have not denied extradition requests.

In fiscal year 1997, we surrendered 100 persons. In 1996, 105. That seems to be roughly the range, although the increase I think in transnational criminal activity and also extradition treaties and requests is really exponential.

Mr. OSE. Is there a tracking on your numbers from 1997 or 1996 as to how many fugitives in the United States were extradited to, say, Mexico?

Ms. BOREK. I think we have those statistics here.

Now this is on a calendar basis, so there is some discrepancy. What I was giving you before was on a fiscal year basis. But we have, in 1998, 15 extraditions from the United States to Mexico. In 1997, 21; in 1996, 16; and then in 1995, 14.

Mr. OSE. Do you have any information as to how many requests for extradition in those years were made by the country of Mexico, as opposed to the number of extraditions granted?

Mr. MICA. Mr. Ose, I think we have less than 5 minutes on this vote now, so we do need to recess. We will come back; we will be at least 15 minutes. So about 3:30—we will recess until then, and you may continue.

[Recess.]

Mr. MICA. Call the subcommittee back to order, and I would like to yield back to the gentleman from California, Mr. Ose, for questions.

Mr. OSE. Thank you, Mr. Chairman.

I want to make sure I finish my line of questioning earlier. And perhaps you have had some time to dig some information up.

In terms of the number of requests made of the United States to extradite fugitives here in the United States, in 1997, it was 100, and in 1996, it was 105. And then the followup question was, how many of those requests for extradition, for instance, came from Mexico?

And, if—I don't recall the answer to that.

Ms. BOREK. Thank you. Let me preface this by saying that our various recordkeeping systems are really case management systems, and they are not very well geared to producing statistics.

In the case of incoming Mexican requests, we don't really have comprehensive, automatic statistics on that. However, I think it is a little bit misleading to look at requests, because sometimes a provisional arrest request is made on the chance that somebody is somewhere, or they might be there and then they might leave, and that is counted as a request. So without looking at the sort of requests, whether they are active and the quality of the information involved, sometimes it is not a complete picture.

The general—the number of 100 is the number of people that we actually extradited throughout the world in 1997 and——

Mr. OSE. From the United States to other countries?

Ms. BOREK. From the United States to other countries.

Mr. OSE. OK.

Ms. BOREK. And 105 in 1996.

I understand that the general order of United States requests to Mexico is 30 to 40 a year, that the general order of requests from Mexico to the United States is actually higher. However, as I say, some of these requests might be for people when it is not clear that they are in the United States or we might find that the request did

not meet the requirements of the treaty. This could happen, also, in the case of our requests.

So looking at just the bare number of requests probably doesn't give you a very solid picture of what is going on.

Mr. OSE. Well, lacking any other standard, how much higher do you suggest was the number of requests from Mexico to the United States?

Ms. BOREK. I don't think I would want to speculate. We would have to compare the Justice and the Department of State records on that.

Mr. OSE. Mr. Chairman, is it possible to submit a question for the record.

Mr. MICA. Oh, no problem. I can do that.

Mr. OSE. All right.

The other——

Mr. MICA. We will leave the record open.

Mr. OSE. The other question—I have two more questions, if you will, please, Mr. Chairman.

You cite in the testimony—in particular, Ms. Warren—the person known as William Brian Martin. I am curious, he is a fugitive from the United States we believe to be in Mexico?

Ms. WARREN. No; he is a U.S. citizen.

Mr. OSE. Correct. He is a United States citizen, fugitive from justice, we believe to be in Mexico?

Ms. WARREN. He has been arrested and is in jail, and has been——

Mr. OSE. He is incarcerated in Mexico?

Ms. WARREN [continuing]. On our extradition request.

Mr. OSE. OK.

And the lack of ability to have the appeals consolidated, as opposed to in a series, one after the other, is the impediment?

Ms. BOREK. He has sought to delay his review at every possible turning. He delayed the review from the trial court to the first appellant court, and now he has taken an appeal to their Supreme Court on the constitutionality of the extradition treaty.

Mr. OSE. OK. The reason I bring that up is that we have a list of countries with whom we do not have an extradition treaty, and the question arises in my mind as to the circumstances under which we would have a discussion with these countries about establishing an extradition treaty and the provisions thereof, as they would relate to American citizens who might flee the United States and end up residing in these countries, and the laws that would apply to them for extradition.

It would seem to me that if we can, since they are not nationals of those countries, that we should be able to negotiate with these other countries about the rules under which American fugitives would be returned to the United States. Now, is that part of the deliberation that the Department of Justice—excuse me—is that part of the advice that the Department of State receives from the Department of Justice on this?

Ms. WARREN. The Department of Justice and State really collaborate on those issues. I guess, yes. Maybe Ms. Borek can——

Ms. BOREK. I think we have difficulties with any country where the limitations are constitutional. This is also the case in the

United States. If you have a constitutional right, and there are constitutional rights that apply in the extradition process, that protect non-citizens as well as citizens in that context. Now there is a great deal of latitude, additional latitude, in the area of expulsion and deportation if you are dealing with American citizens. And we do try to take advantage of that way of getting Americans back to the United States in a more expeditious way.

However, some of the problems that we are looking at here are constitutional or they have to do with internal civil rights. It is hard to get them to adopt—nor would we adopt, in many cases, a completely different standard for an alien.

This is, I think, the problem with the amparo process—that as a general matter and having nothing to do with extradition—it is regarded by the population as a major bulwark of the individual human rights. They don't have the same kind of refined constitutional rights system that we have. And, therefore, although it is a very blunt instrument and it has a lot of difficulties, it is very much respected as a civil rights and a human rights protection, and that makes it difficult, just as a general matter and outside the extradition context.

Mr. OSE. Well, that begs the question I have been trying to get to, and that is, what are the standards that the Department of Justice uses in evaluating whether or not a country is cooperating on an extradition?

It would seem to me that the extension of their laws to people who might have entered their country illegally, under the Amparo regime, would be frustrating, to say the least, to our lawful authorities. And if that is something we can use in their evaluation, as to whether or not we have a country that is eligible for full certification, I would like to know about it.

The question really is, is that something that the Department of Justice uses in evaluating whether a country is eligible for full certification?

Ms. WARREN. Just in terms of the Department of Justice's review of the various certification criteria, ours is a factual review, so that we can provide advice to the Secretary of State and on to the President who, alone, makes the certification decision. We do look at extradition, but not solely to one particular facet of the law enforcement relationship, but all parts of it.

For example, in Colombia, we have not had an extradition since 1991, yet the passing of the extradition law, although restricted and not retroactive, was a good sign, and the President fully certified Colombia. Extradition was a consideration there.

To the Department of Justice, extradition is a very important criterion in our relationship beyond certification, just across the board and about how we get our fugitives back to this country to be tried in our court.

Mr. OSE. Well, as it relates to Mexico, the empirical data you gave us indicates that, in fact, we have had a decline in the degree of cooperation on extraditions since—well, we did a very good job stepping up from 1995 to 1996——

Ms. WARREN. And then it plateaued.

Mr. OSE [continuing]. And maintained it pretty well those 3 years, but I have to say, the first 4 months—fully a third of a year—we have reduced that by about 50 percent.

Ms. WARREN. No, and so far in 1999, we have not kept pace.

Let me just, if I may, also remind of the 30 deportations that we had. That was very important last year, in terms of returning fugitives.

Mr. OSE. And I would—I am trying to get to the point where I commend you for that. So I appreciate you beating me to the punch on that.

Do you think this degree of extraditions is sufficient to qualify for full certification?

Ms. WARREN. I won't respond in a certification context. We are disappointed at the moment in the rate of extraditions and in that extradition relationship. So, too, are the Mexicans, particularly those who we work with most directly in the Office of the Attorney General. The problems in the courts are frustrating them as much as they are frustrating us, of course.

Mr. OSE. Mr. Chairman, my time is up. I thank you for your generosity.

Mr. MICA. Thank you.

The gentleman from Georgia, Mr. Barr.

Mr. BARR. Thank you, Mr. Chairman.

With regard to the chart on page 14, Ms. Warren, the number of Mexican nationals extradited on drug charges—the one in 1999, I presume that is Velardes?

Ms. WARREN. In 1999?

Mr. BARR. In 1999.

Ms. WARREN. It appears in 1999 it is Velardes Lopez.

Mr. BARR. OK; that is what I said.

So aside from him, there have been no extraditions of Mexican nationals to the United States on drug charges this year. There was only one in 1998—and your footnote notes, I presume, accurately—that that person was extradited principally for the murder of a United States Border Patrol agent, not so much for drug trafficking.

How many Mexican nationals are extraditable to the United States on drug charges?

Ms. WARREN. I can, with a little counting, I will be able to give you the number of those who have been found extraditable by Mexico, but their cases are either still in the courts on appeal or——

Mr. BARR. How many do we consider extraditable?

Ms. WARREN. We have sought the extradition of an enormous number so we would consider—we wouldn't seek their extradition if we didn't believe they shouldn't be extradited.

Mr. BARR. So it is a very high—I mean, dozens?

Ms. WARREN. Dozens, and we have set certain priorities. Deputy Administrator Donnie Marshall testified about the DEA's priority.

Mr. BARR. I mean we have this huge gulf between the number of Mexican nationals that are extraditable from our standpoint on drug charges, and, aside from this one fellow who was extradited this year in May on the escape, and so forth, I mean none have been extradited. That is pretty distressing.

How much aid does the United States receive from Mexico?

Ms. WARREN. I know of none, but——

Mr. BARR. How much asset forfeiture proceeds does our law enforcement receive from Mexico?

Ms. WARREN. At the moment—just recently their law has changed. Their law did not provide for sharing with other countries. Their law will now allow for that, and we will——

Mr. BARR. How much aid does Mexico receive from the United States—economic assistance?

Ms. WARREN. I don't know that.

Mr. BARR. Does the State Department know?

Ms. BOREK. The State Department can provide you with that answer.

Mr. BARR. The State Department doesn't know?

Ms. BOREK. Well, the State Department Office of the Legal Adviser doesn't know. [Laughter.]

Mr. BARR. Fair enough.

Does the United States—I mean does Mexico receive economic assistance from the United States?

Ms. WARREN. Yes.

Mr. BARR. I suspected as much.

Does Mexico receive asset forfeiture proceeds from the United States?

Ms. WARREN. They have received $6 million from the United States and more is currently in the——

Mr. BARR. Would we be giving them more of this stuff if they extradite even fewer people to the United States? I mean we seem to be rewarding them for doing nothing.

Ms. WARREN. The purpose of the sharing of the assets is, as they participated in the investigation, or assisted in the forfeiture of the assets. We like to encourage that, as well as encourage extradition.

Mr. BARR. I mean it seems to me that this is all one way. We give Mexico substantial foreign aid; Mexico receives substantial sums in asset forfeiture proceeds—[laughter]—a balance of trade, similarly. Yet they—aside from this one person this year, and one person extradited last year, primarily on other charges—Mexico has extradited none of their nationals to the United States on drug charges.

Something just doesn't match up here.

Would it be fair to say that when the President of our country meets with the President of Mexico, he can raise whatever issues he wants with them? Are there any legal treaties limiting the issues that the United States President can raise with the President of Mexico?

Ms. WARREN. No.

Mr. BARR. I didn't think so.

Why don't we make the furnishing of assistance? Why don't we make the furnishing of asset forfeiture proceeds contingent on Mexico lifting its little finger and extraditing some of its nationals to this country on drug charges, insofar as there are literally dozens of Mexican nationals who would fall into the category of extraditable to the United States on drug charges?

Ms. WARREN. I would like to say, just to point out, that they—at least the foreign ministry there—has found important Mexican national drug traffickers extraditable to the United States. Those

individuals continue either to appeal the rulings or are serving sentences in Mexico at this time, but there are some that have been found extraditable, and we are awaiting their surrender to the United States.

Mr. BARR. Mr. Marshall, do you and your drug agents feel satisfied with that? I mean, does that make you feel that everything is being done that is being done, because Mexico recognizes some of these people, but they won't extradite our extraditable? And that there are some sitting in Mexican prisons?

Mr. MARSHALL. Well, Congressman, we are quite disappointed, and I think that you heard some of my testimony about how deeply I feel about the importance of this issue. And I have to say I am quite disappointed. And I think that a lot more progress could and should be made in this area.

Mr. BARR. Is it true that in 1997, we provided 72 Hueys—helicopters to the Mexican Army to fight drugs?

Ms. WARREN. I don't know the——

Ms. BOREK. I am informed that in the 2 years 1996 and 1997, we provided 73, total.

Mr. BARR. It must be more than I thought, and I thought it was 72.

Ms. BOREK. One crashed. [Laughter.]

Mr. BARR. Can you explain that rationale—if there is any rationale—between providing that number of Hueys to Mexico with the poor record of cooperation and assistance they have provided us? And yet we have to, you know, beg, borrow, and steal for years to try and get helicopters provided to Colombia for General Serrano, for example?

I mean, what is it that Mexico is doing that is so outstanding that they are given these, you know, tremendous resources, in addition to all of the economic assistance, drug proceeds, and everything? I mean I am just—it seems as if we are rewarding them for slapping us in the face.

Ms. BOREK. Let me comment on that, generally.

In terms of the drug cooperation effort, very often the highest priority that we have is to encourage national measures of investigation, enforcement, interdiction, eradication, and to try to strengthen national mechanisms, which may have a lot of problems. They may be ill-trained; there may be corruption. They may be just underdeveloped. Certainly at the moment, I think it is true to say that extradition has emerged as a very serious issue and one that we will have to look at and raise at the highest levels in the country——

Mr. BARR. You make it sound like all of a sudden there is a dilemma on the State Department.

Ms. BOREK. Well, there is; in terms of extradition, there have been changes in the recent past. We had a situation where they would not extradite nationals at all. Now, they are not the only country that refuses to extradite nationals, and there was a tremendous amount of pressure brought, and the SRE agreed to—really, there was a breakthrough in terms of agreeing to take advantage of this possibility of extraditing nationals in extraordinary circumstances, and that worked, and that was working.

And, then, there were a series of what are really judicial setbacks, and now we have the issue, which I think was discussed earlier, that there is a possibility of legislative remedy, and there is a possibility of judicial remedy here, and we certainly need to address it very strenuously.

But the—in the asset forfeiture——

Mr. BARR. How about having our President address strenuously, as opposed to working level discussions?

Ms. BOREK. The next level of discussion is at the cabinet level, and it is on the agenda for that level of discussion.

Mr. BARR. Would anybody disagree that one of the things—perhaps "the" thing that these drug traffickers—whether they are from Colombia or Mexico—fear more than anything else is to be extradited to this country, because they know that when they get up here, they will receive a lengthy, mandatory prison sentence?

Mr. Marshall, is that about as creditable a threat as we have? And if that threat isn't present, then——

Mr. MARSHALL. Congressman, yes, sir; you are right on target with that. And we saw in Colombia, where the Colombian—the Medellin cartel—back in the 1980's, had the country of Colombia and the government and government officials so wrapped that, basically, they operated with impunity there. Even when they were jailed they ran their drug empires and they threatened and bribed and intimidated from their very jail cells. And only when we managed to get a few of them expelled and extradited, beginning with Carlos Lehder in 1987, did we break that pattern. They feared it so much that they entered into, then, a campaign of terrorism and violence. They even blew an Avianca airliner out of the sky and claimed credit for it, in protest of the extradition.

So I think that, yes, that is the thing that they absolutely fear most, and in a situation like this, it is our, I think, absolute most valuable tool, at least as a first step, that could possibly be applied.

Mr. BARR. Thank you, Mr. Marshall.

Thank you, Mr. Chairman.

Mr. MICA. Thank you.

A couple of questions; the Governor of Quintana Roo, the Yukatan Peninsula, recently fled, just before the end of his term. We were informed, when we took our subcommittee and other Members of Congress down to Mexico to meet with officials, that one of the reasons for not going after him is, I guess, the incumbent official had some immunity from prosecution while he was in office. That he had some extra status, and he was going—they were going to go after him afterwards. But we have known that, with that sort of narco-terrorist state that is corrupt from the bottom to the top in Quintana Roo and the Yukatan Peninsula.

Has he been indicted in the United States? Do you know?

Ms. WARREN. He has not.

Mr. MICA. Do you know if there are any plans to go after him?

Ms. WARREN. That I could not comment.

Mr. MICA. Mr. Marshall.

Mr. MARSHALL. At the present time, we have no plans. We are trying to assist, to the degree that we can, the Mexican Government in locating him. But as far as I know, there are no plans for

indictment in the United States. Not to rule that out for the future, perhaps, but not at the present.

Mr. MICA. I raise that because it seems like he is such a high-profile individual, if he were indicted in the United States, and a request for extradition certainly for the death and destruction he has brought, not only in his own state, but also to the United States, has to be immense. And everybody has known what was going on there.

We heard some questions by Mr. Barr about assistance, and certainly we negotiate trade. And Mexico has gotten some incredible trade assistance from the United States—benefits from NAFTA, the collapse of their financial markets when we underwrote financing of their currency in a very difficult time.

Do we ask for any conditions? Or, as we negotiate these various treaties, do you know if the drug issue and extradition are raised at all in those negotiations, Ms. Borek?

Ms. BOREK. To my knowledge, NAFTA was negotiated on the basis of mutual interests in the trade area. It was negotiated not on the basis that that was an assistance program for Mexico, but on the basis that it was in the interests of the United States.

Mr. MICA. Do you go beyond extradition? Are you involved in other treaty negotiations?

Ms. BOREK. I am telling you what I understand. I am not responsible for the NAFTA——

Mr. MICA. Yes, but do you go beyond that in your work? Or are you just covering extradition issues?

Ms. BOREK. I cover a number of other subjects besides extradition. Economics is not one of them.

Mr. MICA. Well, I am just wondering if, at any level, extradition is made a topic of discussion or condition in any of our treaty negotiations with Mexico or——

Ms. BOREK. Extradition is, I think, probably not—and this is a "probably" I would say—is probably not made a condition in general treaty negotiations. It is extensively and intensively discussed within the law enforcement cooperation context, and it also figures on general agendas for high-level discussions. And usually, the Secretary of State, for example, is not involved in treaty negotiations, but she regularly does raise the question of law enforcement cooperation and extradition which, as I say, is, I think, at the moment, a particular focus of attention with the Government of Mexico.

Mr. MICA. But you can't site any high-level discussions or written communications in which the topic of extradition was raised?

Ms. BOREK. I think we could give you a summary of, I think, some of the law enforcement and extradition subjects that have been raised over a period of time. We could give you that.

Mr. MICA. But I mean outside of the context of the question of law enforcement, it is not raised in any other context. I am trying to get to what Mr. Barr was talking about, the various benefits that accrue to Mexico from the United States through treaties, agreements, international finance, and trade. Any contacts from the highest levels, or in these treaties, is there anything we can point to that might mention this?

Ms. BOREK. I think it is not expressed as a condition, for example, in a treaty negotiation. I think it is clear and it is repeatedly expressed as an important essential part of our overall bilateral relations, and that has implications across the board for all issues. I think it has been raised in that context repeatedly by high-level Department of State officials.

I think in the diplomatic area, the level and frequency with which an issue is raised is one of the important indicators that a government takes it seriously. And we can certainly give you a summary history of efforts that we have made to impress upon the——

Mr. MICA. I would like to see anything in writing for the past couple of years. We will make a note of it; we will make a written request.

I understand, also, that through the Department of State and through our various embassies that there is established a priority list for the embassies and for their goals and objectives. Are you aware of where extradition might be, or if it is on the list of priorities for the Mexican Embassy, United States?

Ms. BOREK. Yes, it is very definitely one of our highest priority issues with the Government of Mexico.

Mr. MICA. And it is on their priority list?

Ms. BOREK. It is on our priority list, the U.S. Embassy's, it is right up there with trade and other essential bilateral interests.

Mr. MICA. All right, and if you have a copy of anything written, as far as their priorities, we would also like to have that for the record.

Has the United States/Mexican High-level Contact Group ever offered Mexico a formal bilateral maritime agreement, to your knowledge?

Ms. BOREK. To my knowledge, no; it has not been raised at that level.

Mr. MICA. Ms. Warren, do you get involved in that at Justice?

Ms. WARREN. We are involved in some of the maritime agreements and assistance at the time of negotiations, but I know of no work done with Mexico thus far.

Mr. MICA. Are you aware of any efforts by our Government to—because when we were in Mexico, we also were criticized for not offering a maritime agreement, and it hadn't been part of a High-level Contact Group discussion?

Would it be possible—I don't know if you could make this commitment, Ms. Borek, but maybe we could ask you to call that to the attention of the Secretary of State and maybe the high-level working group as an agenda item.

The Congress passed, 2 years ago in March, a resolution requesting certain actions by Mexico—the House of Representatives did. One of the first items of about five or six was extradition. I believe the second or third was a maritime agreement. I know that sometimes the administration doesn't pay much attention to what the Congress would like to see, but it happened to be the current speaker's bill that did pass in resolution, and I think we are going to try to find some way to get a maritime working agreement with Mexico. I thought maybe we could get your cooperation on that?

Ms. BOREK. I might say that although it hasn't been raised in that context, I think it certainly has been raised. And it is interesting that you say it that we were criticized for not having offered that. That certainly is a nice opening, because I think we are interested in such an agreement.

Mr. MICA. All I can do is tell you what they told us. We get down there—especially me—[laughter]—at some personal peril—[laughter]—or infliction of abuse to hear their side of the story, but also to try to work with them and find some agreements. And certainly we do give economical and financial assistance, trade assistance, and almost open commercial borders, and incredible financial backing. Yet, it doesn't appear that some of these issues relating to stopping the flow of illegal narcotics into our country, which are costing us billions, are addressed, and it is a major concern.

We are going to figure out a way to get folks' attention on it, too.

Mr. Marshall, has DEA ever recommended to the Justice Department or to any other Department that economic cooperation be conditioned on extradition?

Mr. MARSHALL. I am not sure that we have made a formal recommendation in that regard. That is really kind of a political process that is outside the expertise of law enforcement.

Mr. MICA. Is there anything outside of the negotiations as far as law enforcement to law enforcement agency requests, to your knowledge, that DEA has said that we should look beyond just these simple requests and try to get some leverage to elicit action from the Mexicans?

Mr. MARSHALL. In a formal manner, not that I am aware of, Mr. Chairman.

Mr. MICA. What is the response the DEA Administrator has received from the Mexican Attorney General or other Mexican officials when he sought to promote the extradition issue?

Mr. MARSHALL. Well, we deal with the PGR, and I think that the PGR—the reception that we have gotten among those officials, including Mr. Herran, Mr. Ibarolla, and Attorney General Madrazo I think has been very favorable. I think that they have a genuine interest and a genuine desire to work toward solving the extradition problem.

I am not sure that the problems that we are encountering emanate from the PGR. I think they emanate perhaps from other elements such as the judiciary, perhaps the SRE.

So the reception with our own counterparts has been good, but it hasn't resulted in actual extraditions, as we would like to see.

Mr. MICA. I have been here in Congress for almost 7 years and helped write the certification laws as a staffer back in the 1980's when I worked down in the Senate. The only time we see any movement from Mexican officials and others—countries who have severe narcotics production and trafficking problems—is just before the question of certification comes up.

Now, Mr. Gilman and I introduced a bill that extends the decertification bill for Mexico indefinitely until we come up with a solution to deal with the problems we are facing with Mexico. Short of decertification, I ask each of you to respond, is there any legislative fix, or is there anything the administration can do to try to elicit additional cooperation, whether it be on extradition, a maritime

agreement, or anything else to help us get a handle on this serious problem? And, as you all know, more than 50 percent of the illegal hard narcotics coming into this country are now trafficked through and produced in Mexico, with an increase in heroin production. It is a long question, but maybe you have a short answer of anything you think we can do legislatively or the administration can do, short of decertifying Mexico?

Ms. Borek, any ideas?

Ms. BOREK. I can't say anything new. And I would say that the——

Mr. MICA. You have all the legislative tools you need—legal and otherwise—anything that we could do, again, to help elicit a little more cooperation? Something we are doing wrong?

Ms. BOREK. I think the——

Mr. MICA. We are too nice?

Ms. BOREK [continuing]. Certification statute is a very powerful tool which focuses attention very well, in general terms, on the problems that we are looking at, at the moment. At this exact moment in time, I wouldn't say that there is a clear legislative tool. I wouldn't say that could not be true.

Mr. MICA. Ms. Warren.

Mr. BARR. Excuse me, Mr. Chairman; I might have misunderstood.

Mr. MICA. Yes.

Mr. BARR. Did you say that the certification process is a great tool?

Mr. MICA. Yes. Yes, we have that on the record. [Laughter.]

Ms. BOREK. I think I said "powerful."

Mr. MICA. Powerful.

Mr. BARR. Powerful for who? I mean is Mexico a fully cooperating partner in the war against drugs? With extradition statistics—[laughter]—like these, in your opinion?

Ms. BOREK. I think the statistics you are looking at are for this year, and I think——

Mr. BARR. Oh, heaven forbid. [Laughter.]

Ms. BOREK. Well, I think the——

Mr. BARR. Whether you look at this year or 1998, 1997, 1996, or 1995, they are a bunch of zeros.

Ms. BOREK. There is no question that they did not extradite nationals before 1996.

Mr. BARR. What I am saying—what?

I am sorry, Mr. Chairman. I mean it is just ludicrous I mean to have witnesses sit here and tell us that, you know, this is a great tool.

It might be a great tool if it were utilized properly, but with statistics like these, it is a laughing—you know, it makes people laugh.

Mexico isn't cooperating with us. Have they—do they cooperate, Mr. Marshall, with DEA to the extent that you have the tools and the cooperation that you need from Mexico from the Mexican law enforcement and military and government?

Mr. MARSHALL. There are some core groups that we get good cooperation from. Overall, the law enforcement results have not been encouraging, and it has been quite disappointing.

Mr. BARR. I mean how can the State Department sit there and say that this is a great and powerful tool? I mean you ought to at least be honest with us that it isn't. I mean the chairman is giving a tremendous opportunity here. Are there some things that we could be doing? And all you come back with and say, "Oh, you know, this is a great and powerful tool." They aren't cooperating; they are not giving us the tools, the cooperation that we need. They are not extraditing people on drug charges. In what sense is this a powerful tool?

Ms. BOREK. I think you can't——

Mr. BARR. They are laughing at us.

Ms. BOREK. If you are looking at the whole history of cooperation with Mexico, you can't only look at extraditions. I think what has been viewed as important—and I defer to the Department of Justice and DEA on this—is to try to strengthen institutions across the board and to find the most effective way to do that.

There is no question that the certification of Mexico has been controversial, and that is part of what I think points to the fact that the certification process is a real process and people do take it seriously. I think, obviously——

Mr. BARR. Who takes it seriously?

Ms. BOREK [continuing]. There have been differences of opinions about Mexico.

Mr. BARR. Why should Mexico take it seriously? They are not providing us the tools; they are not providing the cooperation, and yet they are certified. They are the ones that get millions and millions of dollars in assistance. They get millions of dollars in asset forfeiture, and we are not demanding anything of them in return. How is that a powerful tool?

I know that is a rhetorical question because you think it is a powerful tool, but I think that is an absurd position to take.

I am sorry, Mr. Chairman; I interrupted you.

Mr. MICA. Ms. Warren, did you want to respond?

Ms. WARREN. I wanted to offer some legislative suggestions as part——

Mr. MICA. Go right ahead.

Ms. WARREN. As part of the announcement of the crime bill yesterday, one of the provisions that the administration is suggesting would be to bar Federal prisoners from getting credit for the time spent abroad fighting extradition. That might get someone like William Brian Martin to the United States faster if he knew he was not going to get any kind of credit for the 4½ years that he spent spinning out the extradition process in Mexico.

There are other suggestions that may seem minor but are of great moment to State and local jurisdictions. The cost of an extradition can wipe out a local budget—the translations and the cost of putting a package together. Have a fund to help assist them in that. And those are some of the suggestions that we are offering.

Mr. MICA. Mr. Marshall.

Mr. MARSHALL. Mr. Chairman, I think that certification can be a powerful tool, and I think we saw that it was a powerful tool when applied to Colombia. And I think that it, perhaps, gave some of the initiative to make some progress in that country. I am a strong supporter of the certification process, and I agree with some

of your comments and some of Congressman Barr's comments, that really we need to apply it across the board. That is what is was designed for, and, when applied properly, I think it can be a powerful tool.

Mr. OSE. Mr. Chairman.

Mr. MICA. Mr. Ose.

Mr. OSE. If I understand correctly from Mr. Barr's question, we have 72 operating Hueys in Mexico? And we have sent Blackhawks—are they still there—to the Army for drug interdiction; is that correct?

And we also have six Blackhawks we sent down to Colombia that, just last month, participated in busting—if I recall, I think in your testimony—there is a 7-square-mile cocaine processing facility?

Mr. MARSHALL. Yes, it was one of the largest in terms of area processing facilities that we have ever seen down there. I don't recall the 7 square mile description, but it was quite a large processing complex.

Mr. OSE. Well getting back to the chairman's request about how we can make this work better, are we placing restrictions on the use of the Hueys or the Blackhawks? Or are we not utilizing them properly? Is there training we could do? I mean, what would be the consequence, for instance, of having 12 Blackhawks in Colombia? Would we affect the price and purity of coke here on the streets of the United States?

The way I look at it is boil it down in the number of lives saved.

Mr. MARSHALL. I would have to say, Congressman, that with regard to the helicopters in Colombia, there have been some differences in times past about the way those helicopters were used—differences between the State Department, INL, and differences between DEA. We were concerned at one time that the helicopters were used exclusively for coca eradication at the expense of heroin, opium poppy eradication and law enforcement. Those disagreements have been, for the most part, worked out, and we are beginning to see some poppy eradication.

Now with regard to impact on the price and purity and availability, that is really a difficult, almost impossible question for me to answer. There are perhaps other experts in the intelligence community that could do a better job of this, but I think it is real difficult to say what it would take to affect the price and purity, particularly with regard to cocaine, because the cultivation areas are so vast in so many countries and can shift fairly dramatically and rapidly.

In the case of the opium poppy in Colombia—and as you probably know, Colombian heroin probably accounts for about 60 or 70 percent of the total heroin seized in the United States now. But with regard to that opium poppy cultivation in Colombia, it is confined to a reasonably small area, and reasonably easily reachable. And we believe that if we work to focus in a very concentrated, a very intense way, on the opium poppy eradication, that perhaps in that one instance that that could result in some impact on the availability.

Mr. OSE. So your last comment seems to suggest that there is a connection between our ability to eradicate and the availability of

supply and price in the United States? It is not direct, but perhaps indirect?

Mr. MARSHALL. In the case of heroin, I believe that we could have a very good chance of having an impact. In the case of cocaine, I am not so sure, and I am really even doubtful that we could, in a direct way.

Mr. OSE. Well if General Serrano took down—I am trying to find it. I think it was a lab producing 8 tons a week of hydrochloride, which is the cocaine precursor—if General Serrano took down 8 tons a week, would that have an impact?

Mr. MARSHALL. It is—again, Congressman, it is difficult to say at what level you begin having an impact and——

Mr. OSE. All right; 16 tons a week?

Mr. MARSHALL. I like to explain it, I think, in a manner where you have a certain level of demand for the product in our country. If you look at the amount of cultivation and you look at the producing capability of laboratories, they are capable of producing—or they are actually producing a level that is in excess of our demand in the United States and on the European markets. They do that because they build in a certain number of losses. They build in a certain spoilage. They build in a certain amount that they think will be seized by law enforcement. So they actually produce more than the demand. But then when you look at the amount under cultivation—the production capability—that is an even higher number. So you would have to bring that production capability, not the actual production, down to the level of demand, but you have to bring the capability down to a lower level, and this a very, very difficult thing to do.

I believe, personally, that there is an almost limitless amount of cultivation—or cultivation capability, at least—and I think it is going to be very, very difficult to impact that larger number up there.

Mr. OSE. Has the provision—let me just ask what I think is a real simple question. Has the provision of the helicopters to General Serrano been a positive or negative influence on his ability to interdict this market?

Mr. MARSHALL. Very positive, both in the area of the Colombian National Police law enforcement capabilities and in the area of heroin, opium poppy eradication, very positive.

Mr. OSE. So it has been positive?

Mr. MARSHALL. Yes, I believe it has been positive.

Mr. OSE. Thank you.

Mr. MICA. Mr. Barr.

Mr. BARR. I am fine, Mr. Chairman; thank you.

Mr. MICA. Well I appreciate the witnesses coming before us today. We have additional questions we would like to submit, and, without objection, we will leave the record open for at least 2 weeks for additional responses.

Since we have the Department of State here today and the Department of Justice and DEA, you all are really in the forefront of our efforts to seek cooperation.

We have gotten excellent cooperation from the Bolivians, President Banzer; excellent cooperation from President Fujimori. President Pastrana, the new President of Colombia, has pledged, and I

feel very confident that he will be, a good working partner in this issue.

But the problem we have in the whole western hemisphere is the question of Mexico. We also have a problem with Cuba becoming a drug haven and other areas. But this extradition question really goes to the heart of it, and you all have a key role to play.

We are just Members of Congress, we just try to respond to the concerns of our constituents. Unfortunately, this somehow doesn't get national attention. But when you go home tonight, I want the three of you to think about this—this issue is like three Columbine High Schools every single day across this country. And if you see the tragic deaths—I had another heroin death in my district—these are just unbelievably horrific deaths, particularly among our young people. There has been an 875 percent increase in heroin use among our teens in the last 5 years. These are staggering statistics that just aren't getting adequate attention.

But we, in Congress, are charged with getting some response. We view Mexico as a good ally, but you are on the forefront of the Department of Justice and State efforts and enforcement efforts to get their cooperation, so anything you can do, particularly on the extradition front, the maritime agreement front. We are not doing this to be bad guys or to call you here and harass you, but this is an incredible national problem—100,000 deaths in the last 6 years, plus—and most of it can be attributed to narcotics coming through Mexico, unfortunately.

So, we solicit your cooperation, your suggestions, and I appreciate your being with us today and hope that you will take these back to your respective agencies and work with us on these important items.

Thank you.

I would like to call our second panel this afternoon. Rear Admiral Ernest R. Riutta, the Assistant Commandant for Operations of the U.S. Coast Guard; and Ronald E. Brooks, past-president of the California Narcotic Officers Association.

We are pleased to welcome both of these gentlemen to our subcommittee. I did indicate—I am not sure if you heard my statements for our first panel, but we are an investigations and oversight subcommittee of Congress. We ask our witnesses to submit any lengthy statements for the record, or other materials for the record, And we do swear in our witnesses, so if you would stand, gentlemen, and raise your right hands.

[Witnesses sworn.]

Mr. MICA. Thank you. The record will reflect the witnesses answered in the affirmative. We are pleased to, again, welcome both of you. And we will hear, first, from Admiral Ernest—is it Riutta?

Admiral RIUTTA. Riutta.

Mr. MICA. Thank you; Assistant Commandant for Operations of the U.S. Coast Guard. Thank you.

STATEMENTS OF REAR ADMIRAL ERNEST R. RIUTTA, ASSISTANT COMMANDANT FOR OPERATIONS, U.S. COAST GUARD; AND RONALD E. BROOKS, PAST-PRESIDENT, CALIFORNIA NARCOTIC OFFICERS ASSOCIATION

Admiral RIUTTA. Thank you, Mr. Chairman. I am honored to be here, on behalf of the Commandant, to testify before this committee.

I have submitted a statement for the record, and with your permission——

Mr. MICA. Without objection, that will be made part of the record.

Admiral RIUTTA. I would like to just make a few comments to summarize my statement.

Mr. MICA. Go right ahead, sir.

Admiral RIUTTA. Sir, bilateral agreements are extremely effective tools for international cooperation and drug interdiction. International cooperation is critical to the success of the suppression of drug smuggling at sea. In recognition of this importance, an international law framework for cooperation in combatting drug flow has been developed. The 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances recognizes maritime drug trafficking as an international problem requiring bilateral and multilateral cooperation.

Article 17 of this convention requires parties to cooperate to their fullest extent possible to suppress illicit traffic by sea in conformity with the International Law of the Sea. It urges parties of the convention to enter into a bilateral or reasonable agreement to facilitate or enhance cooperation. Article 17 serves as the basis for the U.S.'s bilateral maritime counterdrug agreements.

The operational goal of these regional agreements is quite simple: to make territorial boundaries as transparent to law enforcement as they are to smugglers seeking refuge from interdiction. As the lead agency for maritime drug interdiction, your Coast Guard actively patrols the waters of the Caribbean Sea and the eastern Pacific in an effort to interdict or deter drug smugglers.

Campaign Steel Web is the Coast Guard's multiyear strategic plan for increasing seizure rates to achieve prescribed targets in the national drug control strategy. International engagement by way of bilateral agreements is one of the cornerstones of Campaign Steel Web. The Coast Guard conducts frequent combined operations with military and law enforcement organizations of many source and transit nations. In addition, Coast Guard law enforcement detachments deploy aboard British and Dutch warships involved in counterdrug operations. Leveraging foreign assets through bilateral and regional cooperation raises the smugglers' risk of interdiction and enhances the denial of maritime smuggling routes.

The United States has developed a comprehensive model agreement to enable maritime interdiction forces to work effectively and efficiently with other nations. Coast Guard officers are key members of interagency teams led by the Department of State who negotiate agreements with foreign nations. Currently, there are 19 counterdrug bilateral agreements in force and 14 other agreements or amendments to existing agreements in various stages of negotia-

tion. These agreements vary in scope between nations as they deal with national sovereignty on a cooperative basis.

The comprehensive model includes standing authority to take the following actions: board and search vessels waving the flag of a signatory nation; embark a shiprider empowered to authorize patrols, boardings, searches, seizures, and arrests in sovereign waters; pursuit of suspect vessels into sovereign waters, with permission to stop, board, and search; entry into sovereign waters to investigate suspect vessels and aircraft, also with permission to stop, board, and search; overflight by national aircraft in sovereign airspace in support of counterdrug operations, and authority to relay orders to land in the territory of a signatory nation.

Since these agreements deal with the issues of national sovereignty on a cooperative basis, the United States is not always able to reach agreement on all six parts of the model maritime agreement, and, therefore, some of our agreements are more limited in scope than the six functions I just described.

These negotiations, as you would expect, are a lengthy process, so we expect to conclude about one to two agreements of this nature per year. Our current focus involves Central American countries, including Panama, Nicaragua, and Honduras.

Under ideal conditions, a comprehensive regional agreement that denies safe havens for any smugglers would be our ultimate goal. Until that day comes, however, the next best thing are the bilateral agreements that we are putting in place.

That concludes my statement. I would be happy to answer any questions.

[The prepared statement of Rear Admiral Riutta follows:]

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DEPARTMENT OF TRANSPORTATION

U. S. COAST GUARD

STATEMENT OF

REAR ADMIRAL ERNEST R. RIUTTA

ON

MARITIME BILATERAL COUNTERDRUG AGREEMENTS

BEFORE THE

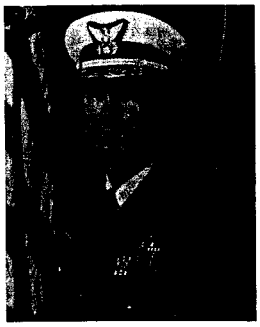
**SUBCOMMITTEE ON CRIMINAL JUSTICE, DRUG POLICY,
AND HUMAN RESOURCES**

COMMITTEE ON GOVERNMENT REFORM

U.S. HOUSE OF REPRESENTATIVES

MAY 13, 1999

Rear Admiral Ernest R. Riutta
Assistant Commandant for Operations
United States Coast Guard



Rear Admiral Ernest R. Riutta became the Assistant Commandant for Operations of the U.S. Coast Guard in July 1997. Under his leadership and direction are a wide variety of Maritime Safety, Law Enforcement and National Defense missions which provide essential Coast Guard services to the American public every day. These include Search and Rescue, drug and illegal migrant interdiction, protection of fisheries and living marine resources, and military readiness operations, among a number of others. Programs under his guidance that provide for the safe flow of commerce and marine transportation along America's shores and major waterways include Aids to Navigation, Recreational Boating Safety and domestic ice breaking. He also directs the allocation and distribution of Coast Guard aircraft (fixed wing and helicopters), vessels (high and medium endurance cutters, patrol boats and small boats), shore facilities and operational command infrastructure.

Prior to his present assignment, Rear Admiral Riutta served as Commander, Seventeenth Coast Guard District in Juneau Alaska, as well as Commander, Maritime Defense Command One Seven; and Commander, U.S. Naval Forces, Alaska. He is a 1968 graduate of the Coast Guard Academy and a 1990 graduate of the National War College. He was selected for rear admiral in August 1994.

Rear Admiral Riutta has commanded several units, including Coast Guard Cutter CHASE, Coast Guard Cutter VIGOROUS, Coast Guard Cutter IRONWOOD, Coast Guard Cutter CAPE WASH, and Loran Station Tan My, Vietnam. He served as Executive Officer in the Coast Guard Cutter ACACIA and as a deck watch officer in the Coast Guard Cutter BERING STRAIT. Rear Admiral Riutta's previous assignments in Coast Guard Headquarters have been as Deputy Chief, Office of Law Enforcement and Defense Operations; Chief, Officer Assignment Branch; and Assistant Chief, Plans and Programs Staff. His previous shore tours included duty at Coast Guard Activities Europe in London, and as Chief, Aids to Navigation Branch, Seventeenth Coast Guard District in Juneau, AK.

His military awards include two Legion of Merit Medals, two Meritorious Service Medals, five Coast Guard Commendation Medals, a Coast Guard Achievement Medal, five Unit Commendation Ribbons, a Meritorious Unit Commendation Ribbon, a Vietnam Service Medal, and a Humanitarian Service Medal, among many others.

A native of Astoria, Oregon, Rear Admiral Riutta is married to the former Barbara Starr Kramer of Chester Springs, Pennsylvania. They have two sons, Ian and Aaron.

DEPARTMENT OF TRANSPORTATION
U. S. COAST GUARD
STATEMENT OF
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U. S. HOUSE OF REPRESENTATIVES
MAY 13, 1999

Good afternoon, Mr. Chairman and distinguished members of the Subcommittee. It is a pleasure to appear before you today on behalf of the Commandant to discuss maritime bilateral counterdrug agreements. As Assistant Commandant for Operations, I can report that these agreements are an extremely effective tool of international cooperation in maritime drug interdiction.

The security of our maritime borders is a critical component of a balanced national strategy to reduce drug use and its destructive consequences. The National Drug Control Strategy recognizes this imperative and specifically tasks the Coast Guard to conduct flexible operations to detect, disrupt, deter, and seize illegal drugs in transit to the United States and at U.S. borders. The Coast Guard is further obligated to improve coordination and effectiveness of law enforcement efforts and improve bilateral and regional cooperation.

International cooperation is critical to the successful suppression of drug smuggling at sea. In recognition of its importance, an international law framework for cooperation in combating drug flow has been developed. This framework enables prompt and effective law enforcement action

with full respect for national sovereignty and territorial integrity, and accounts for the varying operational capabilities of individual nations.

The 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances recognized maritime drug trafficking as an international problem, requiring bilateral and multilateral cooperation. Article 17 of this Convention requires parties to **"cooperate to the fullest extent possible to suppress illicit traffic by sea, in conformity with the international law of the sea."** It urges parties of the Convention to enter into bilateral or regional agreements to facilitate or enhance cooperation.

Article 17 serves as the basis for the United States' bilateral maritime counterdrug agreements. The operational goal of these regional agreements is to streamline the lengthy diplomatic process required to obtain flag state authority for law enforcement actions against foreign suspect vessels on the high seas. In addition, some maritime counterdrug agreements permit interdiction activity within another nation's waters and airspace, where suspect vessels and aircraft often operate to avoid foreign law enforcement assets. These agreements may also provide standing authority for streamlined processes that expedite law enforcement actions. As a result, maritime counterdrug agreements can make territorial boundaries transparent to law enforcement, as they are to smugglers seeking refuge from interdiction.

As the lead agency for maritime drug interdiction, the Coast Guard actively patrols the waters of the Caribbean Sea and Eastern Pacific Ocean in an effort to interdict or deter drug smugglers. Campaign STEEL WEB is the Coast Guard's multiyear strategic plan for increasing seizure rates

to achieve prescribed targets in the National Drug Control Strategy. International engagement is one of the cornerstones of Campaign STEEL WEB. The Coast Guard conducts frequent combined operations with military and law enforcement organizations of many source and transit nations. In addition, Coast Guard law enforcement detachments deploy aboard British and Dutch warships involved in counterdrug operations. Leveraging foreign assets through bilateral and regional cooperation raises the smuggler's risk of interdiction and enhances the denial of maritime smuggling routes.

On occasion, interdiction forces intercept suspect vessels of foreign registry or pursue them to the boundaries of a nation's territorial sea. However, law enforcement action cannot be taken against suspect vessels, or aircraft, without express authorization from the flag or coastal state. Timely authorization is essential because it permits the Coast Guard to control the situation before the traffickers have time to jettison contraband, destroy evidence, or evade apprehension.

Flag state authorization may be ad hoc as each case occurs, or may occur on a comprehensive basis through a bilateral agreement. Since these cases occur at any time of the day or night, contact with the appropriate foreign government officials is not always expedient or even possible, making the advance authorization provided in an agreement invaluable.

Case-by-case implementation of the cooperative measures has proven to be extremely time-consuming. Typically, several hours elapse between the discovery of a suspect vessel and the flag state's authorization to board and search that vessel. Longer periods may be required where the authorization is sought after working hours or on weekends and holidays, when contact with

appropriate flag state officials results in costly operational delays. During the intervening period, the suspect vessel can easily undermine enforcement efforts by fleeing into the territorial sea of a nearby country. For example, a smuggling vessel or aircraft could travel through 14 national jurisdictions on a transit between Colombia and the U.S. Virgin Islands, easily frustrating the efforts of law enforcement personnel to maintain contact with it throughout its illicit journey. While traffickers move with impunity through national jurisdictions, foreign law enforcement units may not do so without the approval of the territorial sovereign.

The United States has developed a comprehensive model agreement to enable maritime interdiction forces to work more effectively and efficiently with other nations. Coast Guard officers are pivotal members of interagency teams, led by the Department of State, who negotiate these agreements with foreign nations. Currently, there are 19 counterdrug agreements in force and 14 other agreements, or amendments to existing agreements, in various stages of negotiation.

The comprehensive model agreement includes standing authority to take the following enforcement actions:

(1) Board and search vessels claiming the flag of a signatory nation;

(2) Embarkation of a coastal state shiprider empowered to authorize patrols, boardings, searches, seizures, and arrests in sovereign waters;

(3) Pursuit of suspect vessels into sovereign waters with permission to stop, board, and search;

(4) Entry into sovereign waters to investigate suspect vessels and aircraft, also with permission to stop, board, and search;

(5) Overflight by state aircraft of sovereign airspace in support of counterdrug operations; and

(6) Authority to relay an order-to-land in the territory of a signatory nation.

Since these agreements deal with issues of national sovereignty on a cooperative basis, the United States is not always able to reach agreement on all six parts of the model maritime agreements and, therefore, some agreements are more limited in scope.

In the event that drugs are found on a vessel boarded and searched under these provisions, the Coast Guard takes no action except to detain the vessel, cargo, and crew, preserving the flag or coastal state's option to exercise or waive prosecutorial jurisdiction. The model agreement also contains provisions for disposition of seized assets, including transfer of forfeited assets or proceeds of their sale as a consequence of any interdictions.

It is beneficial to the United States, as well as our neighboring allies, in view of their close proximity to drug source nations, to sign these agreements to counter the devastating effects associated with drug smuggling. This is particularly true with island nations of the Caribbean, where a number of contiguous nations are separated by relatively narrow bodies of water which serve as natural "stepping stones" for the smugglers between source and consumer nations. In many cases, geography, sparse populations, and limited enforcement capability make the waters and airspace of transit nations tempting safe havens for drug traffickers. Such maritime agreements also provide the opportunity for professional education and training for partnering maritime forces. We urge our transit country neighbors to consider as broad a regime of

cooperation as possible to enable our two governments to combat drug trafficking in the region more effectively and to enhance hemispheric security.

As some countries see these agreements as potential infringements on sovereignty, rather than as enhancements to counterdrug cooperation for the common good, progress in establishing these agreements can be slow. During the negotiating process we have worked through sovereignty concerns with each country, and it has not been an issue once the agreements were enacted. We expect to conclude one or two agreements each year. Our current focus involves Central American countries including Panama, Nicaragua, and Honduras. The agreement signed in December with Costa Rica pends ratification. Ideally, a comprehensive multilateral agreement that covers the entire Caribbean and denies any safe havens for smugglers should be our ultimate goal. Until that day comes, the next best thing is the bilateral agreements we are putting in place.

In summary, the ideal comprehensive bilateral counterdrug agreement contains six operational elements authorizing law enforcement vessels, aircraft, and personnel to undertake law enforcement action against vessels and aircraft suspected of illicit traffic in drugs. The agreement streamlines and materially enhances counterdrug operations and fosters interdiction units' ability to respond immediately, or as the tactical situation dictates, without the need to await authorizations through lengthy diplomatic channels on a case-by-case basis.

Enduring cooperation with the transit countries is critically important to the sustained success of maritime drug interdiction, and bilateral maritime counterdrug agreements in particular have significantly increased operational effectiveness. Actions under standing bilateral agreements

have been executed nearly one hundred times in each of the last two years, and in approximately one third of those cases there was a successful drug seizure and/or arrest. These successes benefit the United States as well as our hemispheric allies. We must continue our efforts to decrease drug smuggling by all reasonable means available and maintain counterdrug agreements as a key part of the overall strategy.

I appreciate the opportunity to discuss these agreements with you today and will be happy to answer any questions you might have.

Mr. MICA. Thank you, we will hear from Mr. Brooks, first, and then we will ask questions.

Mr. Brooks is past-president of the California Narcotic Officers Association. We are pleased to have you.

You are recognized, sir.

Mr. BROOKS. Thank you, Chairman Mica; and let me first thank you and this committee for the leadership role that you have taken and the support that you have given to drug law enforcement.

I am here representing the California Narcotic Officers Association, our president, Christy McCampbell, and our more than 7,000 members in the National Narcotic Officers Association's Coalition, 33 State associations with 50,000 members.

I am not an expert in extradition treaties or national security matters like our previous presenters, but I am a working narcotics agent who, for the last 24 years, has put my own life and the lives of the men and women that work for me at risk on a daily basis in the fight against drugs.

The United States and all Americans are currently under attack from enemies based on foreign soil. We are faced with daily acts of terrorism that make the bombing of the Murrah Building and the World Trade Center pale by comparison. With the cost to Americans reaching more than $50 billion annually, and thousands of lives lost each year, it is clear that drug trafficking is international terrorism. The greatest threat to the security of this Nation is drug abuse and the crime, violence, and social ills that accompany it.

It is very appropriate that we are holding these hearings today, during the annual Police Memorial Week services. This is a sacred time for those of us in law enforcement. Since 1794, when U.S. Marshal Robert Forsythe became the first law enforcement officer to give his life in the line of duty protecting American citizens, 14,600 of my fellow law enforcement officers have given their lives in the service of their country.

Addiction and the problems associated with drug abuse have plagued this country since the turn of the century. Drug use and enforcement were at the forefront of our Government's attention through the 1980's. In fact, from 1979 to 1992, through a strategy of drug education, treatment, and strong enforcement of our drug laws, we reduced drug abuse in this country by 50 percent. That is a victory by anybody's standards.

Yet, sadly, the interest in the war on drugs has steadily diminished during recent years. Yet, average Americans, when polled, continue to describe drug abuse, violent crimes, and gangs as their major concerns, and rightfully so. Every American deserves the opportunity to live and raise a family in communities that are safe and drug free.

The foreign threat that we face is particularly evident in California and throughout the Southwest border. America is especially vulnerable to the terrorism waged by international drug cartels operating along our very porous 2,000-mile border with Mexico. As you have learned today, the vast majority of the drugs—two-thirds of the cocaine, 14 percent of the heroin, 80 percent of the methamphetamine—on the streets of the United States today, either

comes from Mexico or is distributed by groups with command and control structures in Mexico.

While I believe President Zedillo and the leadership of the Government of Mexico is truly making an effort to fight drug-related corruption, and although there have been improvements in Mexico's response, with the drug crimes within the past year, it simply has not been enough.

The Government of Mexico has long described itself as an ally of the United States in the fight against illegal drugs. If Mexico is our ally, the true proof of their counter-narcotic cooperation would start with the actual extradition of major Mexican drug kingpins to the United States. This would be the single most important accomplishment that the Government of Mexico could make. The return of Mexican drug kingpins and other major narcotic traffickers to the United States to stand trial before the bar of justice is the single most effective way to destroy the drug mafias and reduce the level of corruption in the country of Mexico. It is time that we bring these merchants of death to the United States where they can face our judges with the stars and stripes prominently displayed in the courtroom, where these thugs could soon come to realize that they are in the greatest country in the world, and that their corruption and intimidation cannot help them escape justice.

The only way that our Government will be successful in dismantling these powerful drug cartels and halting the flow of drugs to our citizens is through the arrest and incarceration of the leaders of the cartels. Law enforcement officers working within the United States have effectively attacked these drug trafficking groups and have gathered sufficient evidence to bring their foreign-based leaders to justice in the United States. Virtually everyone in a leadership role in the cartels in Mexico and in Colombia have been indicted in the United States over and over again. The problem has been obtaining cooperation from Mexico and other countries in actively pursuing, arresting, and extraditing these drug lords.

We will never make a significant impact on the drug problem in America until we have the ability, through extradition, to bring the leaders of these crime groups to this country for prosecution. Unfortunately, as you have heard already today, the Mexican Government has never once conducted a legal extradition to the United States of a drug lord. The only way that we are going to deliver a death blow to these drug-trafficking groups operating outside the borders of the United States is to have the key leaders of those groups arrested and brought before us.

It has been heartening to learn this last July that law enforcement officials in Mexico arrested Jesus and Luis Amezcua-Contreras, based on indictments in the southern district of California. These brothers operate a criminal organization that is responsible for the vast majority of the methamphetamine that finds its way across the Southwest border and into the heartland of America.

We must, however, withhold our praise for the Government of Mexico until such time as the Amezcua-Contreras' are sent to the United States to pay for their crimes. The pending extradition of these dangerous drug kingpins is a test case that the Government of Mexico can use to demonstrate its resolve to join with the United

States as a partner in the elimination of Mexican-based drug trafficking groups, but this extradition, alone, will not be enough. Mexico must make an honest effort to arrest and extradite the other infamous members of the drug cartels.

It is obvious that drastic steps must be taken to force the extradition of drug kingpins. I would urge the House of Representatives to develop companion legislation to that proposed in the U.S. Senate by Senators Coverdell and Feinstein that would allow narcotic traffickers to fall under the International Economic Powers Act, where we can freeze out businesses and individuals that participate with these drug traffickers.

I would also urge, as has been suggested in this committee, economic sanctions against governments that clearly are not cooperating in our efforts, the only way we are going to make an impact.

Those of us in law enforcement have accepted the risks that accompany our chosen professions, but we should not be asked to take these risks unless our Government is prepared to demand, in the most forceful terms, the cooperation of all nations to actively pursue and arrest foreign-based drug kingpins, and then extradite them here to the United States.

In closing, extradition is one of the most critical weapons that we have in dealing with foreign nationals involved in drug trafficking in the United States. Organizations in many countries have used violent means to pursue their deadly trade. They are a common enemy of all civilized nations, and we need to work together to meet this common threat. We must bring the might of this great Nation to bear upon the countries that refuse to come to our aid, and only then we will be able to stop the narco-terrorists that threaten the citizens of the United States and people everywhere.

I thank you very much, Mr. Chairman, for having me present this to you today.

[The prepared statement of Mr. Brooks follows:]

Remarks by

Ronald E. Brooks

Past President
California Narcotic Officers' Association
and
Drug Policy Chair
National Narcotic Officers' Associations Coalition

Before the
House Subcommittee on Criminal Justice,
Drug policy and Human Resources

Regarding

The Importance of Drug Kingpin Extradition

May 13, 1999

Note: This is the Prepared Text and may not reflect the change in actual delivery.

Mr. Chairman. members of the subcommittee, I appreciate the opportunity to appear before you today to discuss the importance of obtaining the cooperation of foreign governments in the timely and effective arrest and extradition of drug kingpins that are under indictment in the United States. I am appearing before you as the Past President of the California Narcotic Officers' Association (CNOA) representing President Christy A. McCampbell and our 7,000 members from throughout California. I am also the Chair of the Drug Policy Committee for the National Narcotic Officers Associations Coalition (NNOAC), a group representing Chairman Tim Nelson, our 33 member state narcotic officers' associations, and more than 50,000 police officers from across the nation.

Although I am not an expert in extradition treaties or national security matters, I am a veteran narcotic agent with more than 24 years of service in California.

The United States and all Americans are currently under attack from enemies based on foreign soil. We are faced with daily acts of terrorism that make the bombing of the Murrah building in Oklahoma City or the World Trade Center in New York pale by comparison. With the cost to Americans reaching more than $50 billion annually and thousands of lives lost each year, it is clear that the greatest threat to the security of this nation, is drug abuse and the crime, violence and social ills that accompany it.

It is very appropriate that these hearings be held during the annual "Police Week Memorial" services. This is a sacred time for those of us in law enforcement. Since 1794, when U.S. Marshal Robert Forsyth became first law enforcement officer to die in the line of duty, 14,600 of my brother and sister police officers have given their lives while attempting to fulfill their legal and moral mandate of enforcing laws and protecting this nation's citizens. During the past ten years, 1,624 officers have died. That is one officer killed every 54 hours. My own state, California, leads the nation in officer deaths. Since the formation of the California Narcotic Officers' Association in 1965, 50 police officers have been killed while enforcing our state's narcotic laws.

Addiction and the problems associated with drug abuse have plagued this country since before the turn of the century. Because of an epidemic of drug abuse, vigorous drug enforcement and a strong anti-drug message were at the forefront of our government's attention throughout the 1980's. Some of our policy makers would have us believe that we should throw up our hands in defeat because we have lost the war on drugs. In fact, we have logged tremendous successes. Between 1979 and 1992, through a strategy of drug education and the strong enforcement of our nation's drug laws, we reduced drug abuse in the country by fifty percent. That is a victory by any standard. But sadly, interest in the war on drugs has steadily diminished during the past several years. Many persons now call for the re-distribution of our law enforcement and educational resources. The fight against drug abuse no longer seems to be a priority for our government. Yet average Americans, when polled, continue to describe drug use, violent crime and gangs as their major concerns, and rightfully so. Every American deserves the opportunity to live and raise a family in communities that are safe and drug free.

This foreign threat that we face is particularly evident in California and throughout the remainder of the Southwest border. America is especially vulnerable to the

terrorism waged by international drug cartels operating along our very porous 2,000-mile border with Mexico. An explosion in the migrant work force, reduced scrutiny of commercial vehicles at points of entry as a result of NAFTA and the Line Release Program have resulted in a tidal wave of illicit drugs coming into the U.S. Twenty-three metric tons of cocaine is smuggled into the United States annually. Two-thirds of that Cocaine enters across the U.S.-Mexico border. And fourteen percent of this nation's heroin is now produced in Mexico. The Drug Enforcement Administration currently estimates that 80% of the methamphetamine in the United States is either manufactured in Mexico or in the United States by Mexican National drug criminals, working under the command and control of drug lords operating from the relative safety of Mexico. In 1998, California law enforcement officers seized 1,578 methamphetamine labs. This earned California the dubious distinction of being referred to by Drug Enforcement Administration Administrator Tom Constantine, as a source country for methamphetamine. Each of the major drug labs in California was attributed to Mexican crime families with command structures in Mexico.

Even as we continue to make record drug seizures in the United States, our agents seize very little in the way of drug related assets. That is because these profits are smuggled out of the United States to avoid seizure and to add to the coffers of foreign-based cartels. In repeated cases that I have supervised, we arrest the laborers operating drug labs and the members of distribution groups transporting methamphetamine to the heartland of America without ever coming close to the kingpins. That is because they are operating from the safety of Mexico. What we do seize are wire transfer receipts and drug ledgers indicating that drug assets are being smuggled back to Mexico. We also seize photographs of opulent villas in Mexico that belong to the drug kingpins. Clear evidence of the millions of American dollars being sent to Mexico to support the lavish style of the drug lords. Law enforcement is unable to arrest the kingpins in these groups because they operate their manufacturing and poly-drug distribution networks beyond the current reaches of American law enforcement.

The endemic corruption in Mexico and the volume of trade that occurs between Mexico and the U.S. make it imperative that we hold the Government of Mexico responsible to interdict drugs and to arrest and extradite major drug violators.

I believe that president Zedillo and the leadership of the Government of Mexico is truly making an effort to fight drug-related corruption. Although there have been improvements in Mexico's response to drug crimes within the past year, it has not been enough. Through corruption, intimidation and apathy, the Mexican drug Mafias have become so wealthy and powerful that they rival the influence of legitimate governments.

Through extensive media attention and the glamorization of organized crime by Hollywood, most Americans are familiar with La Cosa Nostra. They can easily recite the names of crime families, such as the Bonannos, Colombos and Gottis. What many Americans do not realize, is that drug Mafias operating in Colombia and Mexico pose a much greater threat to their security than any crime group based in this country. The Mafia in America, pales by comparison to the wealth, violence and corruption of Mexico's major crime families. And, although average American citizens may not be able to recite their names, the kingpins of Mexico and Colombia's major drug Mafias, names such as the Arellano-Felix brothers, the Caro-Quintero organization

and the Amezcua-Contreras brothers are well known to every law enforcement agency in America.

For Californians and others livings on the Southwest Border, the influence of Mexico's crime families does not stop at the border. Members of the cartels cross into the United States to transport drugs, steal cars, procure firearms and kill their enemies. The Arrellano-Felix Organization has hired members of San Diego street gangs to carry out assassinations North of the border. Several murders in San Diego County have been directly linked to the Arellano-Felix cartel. It should be clear that the Government of Mexico has not made an honest effort to eliminate the powerful drug Mafias.

The United States and Mexico have had a mutual extradition treaty since 1980, yet the Drug Enforcement Administration (DEA) reports that the major cartels in Mexico, the Arellano-Felix, Carrillo-Fuentes and Caro-Quintero organizations continue to expand their powers and operate with virtual impunity. DEA Administrator Tom Constantine said, in recent Senate hearings, that over the past five years "the power of the Mexican criminal organizations has grown virtually geometrically". The arrest of INCD Commissioner General Gutirez-Rebollo and the corruption discovered within the elite, "vetted narcotic units" clearly demonstrates the extent of corruption in Mexico.

The Government of Mexico has long described itself as an ally of the United States in the fight against illegal drugs and narco-terrorism. If Mexico is our ally, a true proof of their counter-narcotics cooperation would start with the actual extradition of major Mexican drug traffickers to the United States. This would be the single, most important accomplishment that Mexico could make. The return of Mexican drug kingpins and other major narcotic traffickers to the United States to stand before the bar of justice is the single, most effective way to destroy these drug Mafioso and reduce the level of corruption in Mexico. It is time that we bring these merchants of death to the United States where they can face U.S. judges with the Stars and Stripes displayed prominently in the courtroom. These thugs would soon realize that they are in the greatest country in the world. A country, where they cannot use corruption, power and influence to escape justice.

The lack of cooperation by the Government of Mexico, in arresting these individuals, and the refusal to extradite arrested kingpins to the United States, has made the drug lords immune from justice. As evidence of this immunity, persons such as members of the infamous Arellano-Felix Organization, who control the Tijuana distribution system and Rafael Caro-Quintero, who is in prison in Mexico on charges related to the murder of DEA Agent Enrique Camarena, are still managing their drug trafficking organizations. Meanwhile, Rafael's brother, Miguel Caro-Quintero, who has been indicted repeatedly in the United States, recently called a radio station in Mexico City to accuse DEA Administrator Tom Constantine of slandering his reputation by describing him as a drug kingpin. To demonstrate his innocence, Caro-Quintero said that he had routinely driven through police and military roadblocks and was never challenged.

The only way that our government will be successful in dismantling these powerful drug cartels and halting the flow of drugs to our citizens, is through the arrest and

incarceration of the leaders of these powerful cartels. Law enforcement officers working within the United States have effectively attacked these drug trafficking organizations and gathered sufficient evidence to bring the foreign based leaders of these groups to justice in the United States. Virtually everyone in a leadership role in the cartels operating in Mexico or Columbia, has been indicted in the United States. The problem has been in obtaining cooperation from Mexico, Cuba, and several other countries to actively pursue and arrest these drug lords. The leaders of the drug cartels boast that they travel about Mexico without restrictions. It is apparent that they do not fear arrest. An even greater problem exists in getting these criminals extradited to the United States. We will never make a significant impact on the drug problem in America until we have the ability, through extradition, to bring the leaders of these crime groups to this country for prosecution.

Although we appreciate the cooperation of the Government of Mexico in returning drug suspect Juan Garcia-Abbrego to the United States to face trial, it is important to remember that Garcia-Abbrego held dual citizenship in the United States and was expelled rather than extradited. In fact, the Mexican Government has **never** conducted a legal extradition to the United States of any drug kingpin. The only way that we are going to deliver a death blow to the drug trafficking organizations operating outside the borders of the United States, is to have the key leaders of those organizations arrested and then extradited to the United States. To do so would levy a major impact on those organizations, which would result in dramatic decreases in the amount of drugs reaching our nation's youth

It has been heartening to learn that last July, law enforcement officials in Mexico arrested Jesus and Luis Amezcua-Contreras based on indictments from the Southern District of California. These brothers operate a criminal organization that is responsible for the vast majority of the methamphetamine being sold on the streets of the United States. The Amezcua-Contreras brothers are not currently wanted on any charges in Mexico and it appears that they are being held for extradition. We must, however, withhold our praise for the Government of Mexico until such time as the Amezcua-Contreras brothers are sent to the United States to pay for their crimes. The pending extradition of these dangerous drug kingpins is a test case that the Government of Mexico can use to demonstrate its resolve to join with the United States in the elimination of Mexican based, drug trafficking organizations. But this extradition alone will not be enough. Mexico must make an honest effort to arrest and extradite the other infamous members of its drug cartels.

Since the recent certification by President Clinton of Colombia, the government in Bogota has agreed to extradite four major drug kingpins. The extradition of Jaime Orlando Lara, Milton Perlaza, Jorge Eliecer Asprilla, and Orlando Garcia marks the first time the Government of Colombia has applied a 1997 constitutional change allowing them to hand over drug traffickers to foreign countries. We have seen dramatic reductions in crime in New York City and other places where we have applied strict, crime fighting techniques. We have witnessed similar results with the destruction of the Calli and Medellin Cartels by the brave members of the Colombian National Police (CNP). Under the expert leadership of General Rosso Jose Serrano, the Colombian National Police, fighting against overwhelming odds and at the loss of more than 4,000 officers, have broken the backs of these two, major cartels. It is hopeful that the actions taken by the government in Bogota, to extradite these four kingpins, will continue and that many

of the U.S. indicted criminals will be delivered to the United States. The recent events in Columbia should serve as an example to Mexico, and other non-cooperating countries, of the type of action that must be taken to obtain serious results in the war on drugs.

It is obvious that drastic steps must be taken to force the extradition of drug kingpins by non-cooperating governments. I would urge the House of Representatives to develop companion legislation to that proposed in United States Senate, which would allow narcotic traffickers to fall under the International Economic Powers Act. In 1995, President Clinton expanded the International Emergency Economic Powers Act to include specially designated narcotic traffickers. This expanded act applied to four drug traffickers affiliated with the Colombian Calli Cartel. The goal of this act was to completely isolate the targeted drug traffickers by making it illegal for persons that do business with the cartels to also do business in the United States. I would urge Congress to codify this act and expand it to address any narcotic trafficker that poses a threat to the security of this nation. I would also suggest that economic sanctions be considered for those countries that refuse to arrest and extradite drug kingpins.

Those of us in law enforcement have accepted the risks that accompany our chosen profession. But we must not ask our law enforcement officers to risk their lives, unless we, as a government, are prepared to demand, in the most forceful terms, the cooperation of all nations, to actively pursue and arrest foreign based drug kingpins. We must then require cooperation in the extradition of these kingpins to the United States to stand trial. To do any less would be unfair to the citizens of this great nation.

Extradition is one of the most effective weapons that we have in dealing with foreign nationals involved in drug trafficking in the United States. Organizations in many parts of the world including, Colombia, Mexico, Burma, Cambodia, Nigeria, and elsewhere, have used violent means to pursue their deadly trade. They are the common enemy of all civilized nations and we need to work together to meet this common threat. We must bring the power of this nation to bear upon all countries that refuse to come to our aid to stop the narco-terrorists that threaten not only the citizens of the United States, but people everywhere.

Thank you Mr. Chairman for allowing me to appear before your Committee today.

Mr. MICA. Thank you, Mr. Brooks.

Admiral, you said there—are there 19 maritime agreements in place?

Admiral RIUTTA. That is correct, Mr. Chairman.

Mr. MICA. And you are negotiating how many?

Admiral RIUTTA. We are in the process of either negotiating or modifying 14 more.

Mr. MICA. Now, are you also involved in negotiations with Mexico?

Admiral RIUTTA. Not on a bilateral agreement; no, sir.

Mr. MICA. Has there been any attempt to do that in the past?

Admiral RIUTTA. Not in one of these bilateral agreements that we have been negotiating across the Caribbean; not yet.

Mr. MICA. Who makes that decision, is it the Commandant of the Coast Guard and some equivalent with the Mexican Government? Or is it our State Department and the Department of Justice?

Admiral RIUTTA. The State Department has the lead on negotiations. We consult with them on what are priorities.

And as part of our Campaign Steel Web, when we began our negotiations for the bilaterals, we started in the eastern Caribbean. The reason we started there was because there are many small nations that have territorial seas that the drug runners were able to move in and out of with impunity, because these nations had no ability to do anything about drug smugglers——

Mr. MICA. What has happened off the coast of Mexico?

Admiral RIUTTA. Mexicans have some capability of responding, and we have found that when we are able to get the Mexicans timely notification and they have forces available, that they do respond within their territorial waters. We have had some recent successes with that.

Mr. MICA. Has there been any prioritization of having a maritime agreement or some bilateral agreement with Mexico, now that you have done 19 of these?

Admiral RIUTTA. They would be very high on our list of ones we desire to have a bilateral——

Mr. MICA. And has there been contact, to your knowledge, requesting that?

Admiral RIUTTA. No, sir; I don't know that there is any direct contact at any level.

Mr. MICA. It seemed like State indicated there had been some contact, or Justice.

Admiral RIUTTA. There is none that I am aware of directly, officially, that says we are trying to negotiate a bilateral. There have been some informal talks to indicate that, up until now, a bilateral probably wasn't a good thing to push forward. But we have had no official——

Mr. MICA. Why wouldn't it be a good thing? And who says that?

Admiral RIUTTA. These are working level people at my level, sir.

Mr. MICA. What is the reluctance?

Admiral RIUTTA. The reluctance is, some of the sovereignty issues that are prevalent across all of the countries may be a little more sensitive in Mexico than others.

Mr. MICA. Are you sensing that it is a policy of the United States, then, not to push, either from the State Department, a dip-

lomatic standpoint, or the Department of Justice, the question of entering into a bilateral maritime agreement with Mexico?

Admiral RIUTTA. To push it, at this particular time; no. I think everyone agrees with us that it would be a very good thing to have. There are many negotiations that are going on with the High-Level Contact Group——

Mr. MICA. But you seemed to indicate that it wasn't something that they wanted to bring up.

Admiral RIUTTA. That is——

Mr. MICA. If it could be avoided?

Admiral RIUTTA. Yes, sir.

Mr. MICA. That is basically the attitude?

Admiral RIUTTA. I don't know if it is an attitude so much as it is a practicality of the number of things they want to negotiate. Is this as important as some of the other things that are on the table?

Mr. MICA. That it doesn't seems to be up there, from your perspective?

Admiral RIUTTA. No, sir.

Mr. MICA. They don't want to raise it.

What happens in the situation of——

Admiral RIUTTA. Can I add something, sir, at this point?

Mr. MICA. Go ahead.

Admiral RIUTTA. There is a multilateral negotiation that is being sponsored by the Netherlands for the Caribbean, and that is the preferred method that the State Department has been using in recent months, to try to press it forward on——

Mr. MICA. With Mexico?

Admiral RIUTTA. With Mexico; that is correct.

Mr. MICA. We are using the Dutch route? Maybe we could use the Amsterdam needle model. [Laughter.]

Admiral RIUTTA. Well, if you recall, sir, that the genesis of this is the United Nations' resolution, so I mean it worked very well when——

Mr. MICA. Right, from last year.

Admiral RIUTTA [continuing]. They created that, so if the Dutch can help us achieve a bilateral or multilateral arrangement——

Mr. MICA. And would that give us, our Dutch ships, the right to—[laughter]—to participate with the Mexican nationals encounter?

Admiral RIUTTA. I would suspect so; yes, sir.

Mr. MICA. What happens in the case of hot pursuit rights in Mexican waters now?

Admiral RIUTTA. Today?

Mr. MICA. Yes.

Admiral RIUTTA. Right now, when we are pursuing someone into Mexican waters, or approaching Mexican waters, we inform the embassy through the IAC group—I don't remember what the acronym stands for, but it is a coordinating group in the embassy. They go to Marina through Cendro, and the Mexicans respond, of course—there had been one case last year where the Mexicans actually allowed us to continue the hot pursuit necessary in their territorial seas until such a time as they were able to pick up the case and then we were asked to depart their waters.

If we don't get the agreement, or they aren't able to do it then, we can't go into Mexican waters——

Mr. MICA. So there was one case where we could pursue. Have there been cases where they have been lost?

Admiral RIUTTA. There have been some, sir. I can't tell you exactly. I can find them.

Mr. MICA. How would you view this, as far as your involvement in trying to help us, then, go after these boats? Would it be helpful to have this in place?

Admiral RIUTTA. A bilateral agreement?

Mr. MICA. Yes.

Admiral RIUTTA. Absolutely.

Mr. MICA. And where else are we lacking? Did you say Panama, Nicaragua, and Honduras?

Admiral RIUTTA. Yes, sir. We are starting to work our way up Central America if you will. As I mentioned earlier, we started in the eastern Caribbean because that was where we judged the biggest problem was. We are working our way around, and the objective is to have agreements with every country that has a coastline——

Mr. MICA. Has Haiti approved one yet?

Admiral RIUTTA. No, sir, they haven't approved one yet because——

Mr. MICA. Because the parliament hasn't met—addressed the problem?

Admiral RIUTTA. That is correct. That is the problem.

Mr. MICA. What do you see as far as trafficking in and around Cuba?

Admiral RIUTTA. There is a substantial amount of traffic that goes through Cuba. I could get the numbers for you if you like of what the percentages that we get from international—cocaine flow, but there is quite a bit——

Mr. MICA. Of course, you have no agreement with Cuba?

Admiral RIUTTA. No, sir; we do not.

Mr. MICA. What about pursuit? Do you just stop at the——

Admiral RIUTTA. We stop outside the territorial sea.

Mr. MICA. Are there any instances of Cubans picking up on your pursuit to——

Admiral RIUTTA. Yes, sir. We have had some cases where the Cuban Border Guard has actually come out and picked up the pursuit of the——

Mr. MICA. You said "some cases." Are they pursuing most of them, or are most of them ignored? And are they going into this water and using it as an escape route—knowing that you are not able to pursue them?

Admiral RIUTTA. In answer to the first question, when the Cubans have resources available, and we are able to give them timely notification, they seem to respond. I don't know of any case that they just turned us down flat. However, there is an awful lot of coastline that has no one to respond.

And the answer to your second question is, "Yes." The drug runners using the waters through where we cannot go on—yes.

Mr. MICA. What kind of craft are you seeing used for those operations?

Admiral RIUTTA. Sir, they are mostly "go fast" boats.

Mr. MICA. "Go fast?" In and out?

Admiral RIUTTA. Yes, sir—in and out.

Mr. MICA. OK.

Mr. Brooks, are you seeing more or less heroin on the street? Cocaine and methamphetamine? What are your observations?

Mr. BROOKS. We are seeing a decrease, actually, in cocaine——

Mr. MICA. Cocaine——

Mr. BROOKS [continuing]. But certainly an increase in heroin. On the West Coast where we are, the majority of the heroin is "black tar," Mexican-produced heroin. In fact, 14 percent of all the heroin in the Nation is produced in Mexico.

What we are seeing is, in California—1,578 clandestine methamphetamine labs last year. We are awash in methamphetamine, and we are tracking now with the DEA methamphetamine across the United States to the Midwest, and even now, to the Northeast and the Southeast.

This methamphetamine—the small mom and pop clandestine labs are not—although there are a lot of them, they don't produce a significant amount of methamphetamine. But the super labs producing hundreds and hundreds of pounds of methamphetamine in California are being run by Mexican crime families, particularly the Amezcua's and the Arellano-Felix's, from command and control structures in Mexico. Labs on the ground, precursors coming over from Mexico, and the cash proceeds from those sales going back to Mexico. That has truly become a drug that is causing us tremendous problems, not only in toxic dumping, in drugs on the street, but in domestic violence. And, in fact, some studies show as much as 86 percent, 80 to 86 percent, of all the child abuse and family violence that we are seeing now in California is related to methamphetamine because the drug causes so much violence.

So it is a big problem for us, and it is a problem because we have these Mexican crime bosses operating in the relative safety of their own country, and not truly fearing arrest or extradition.

Mr. MICA. Thank you.

I am going to yield to Mr. Barr for two purposes.

Mr. Barr, would you take over and finish the hearing, ask questions that you may have, and then conclude the hearing? They are just calling me to the floor right now, so I would appreciate it if——

Mr. BARR. Actually, Mr. Chairman, you covered the topics that I was going to cover.

I very much appreciate the witnesses being here and hope that we can see some action as a result of these hearings today, so that both the Coast Guard and our narcotics officers in California can see some of these folks brought up here.

I know the extradition matter isn't directly related to what you are doing, Admiral, but I appreciate you testifying with regard to the various agreements, and, hopefully, we can see some, because I understand, knowing both maritime law and international law is very, very complex. And as you indicated, you can take a drug runner that goes from Florida down to the coast of South American Venezuela, and you go through dozens of jurisdictions, and each

one of those gives them an opportunity to do stuff that you are not aware of because you can't actually go into those waters.

Hopefully, we will see a comprehensive model agreement. I agree that it is sorely needed, and, hopefully, through your testimony today, we can maybe in some small way, light a fire under the State Department to move forward with a little more dispatch on this. I think this is very, very important for our interdiction efforts in the Caribbean area, more than anyplace else in the world.

Admiral RIUTTA. Sir, if I may, I would like to say that the State Department has been working very well with us—as you said, there are very complex agreements. We have almost a set negotiating team, and they have done a very good job in working with us in bringing these to court——

Mr. BARR. OK.

Mr. Chairman, if I could, ask unanimous consent to have a statement by Ms. Ros-Lehtinen placed in the record.

Mr. MICA. Without objection, so ordered.

[The prepared statement of Hon. Ileana Ros-Lehtinen follows:]

Opening Remarks by Hon. Ileana Ros-Lehtinen
for Hearing on:
"International Law: The Importance of Extradition"
Subcommittee on Criminal Justice, Drug Policy, and Human Resources
May 13, 1999, 2:00 p.m., 2203 Rayburn

I would like to commend my colleague, Mr. Mica, for bringing this issue before the Subcommittee.

Extradition is critical to law enforcement efforts worldwide -- the lack of it undermines our ability to seek justice for crime victims and weakens the very foundation of a free society. Extradition requires the interaction of two legal systems which respect, and abide by the rule of law.

Without such a premise, criminals will continue to act with impunity as they find hiding places to evade punishment for their heinous acts.

A case in point is that of Cuba under the Castro regime, which provides a safehaven for international fugitives and terrorists. The Federal Bureau of Investigation has documented the presence of close to 100 fugitives of American justice residing in Cuba, where they enjoy all the luxuries and privileges that come with being welcomed guests of the Castro regime.

Ironically, these fugitives are afforded greater liberty, access, and freedom of movement than what the Cuban people are allowed by the regime. While Cubans are imprisoned and tortured for voicing their opposition to the Communist dictatorship and for exerting their basic human rights, cold-blooded murderers like Joanne Chesimard who was convicted of killing a New Jersey State Trooper in 1977, are treated like celebrities.

Their crimes are diverse but their purpose is the same -- to evade punishment.

There is the case of Michael Finney wanted for air piracy; Ralph Goodwin for possession of explosives; Charlie Hill for kidnaping; William Palm for aiding and abetting an escape; Jose Montero for committing a crime aboard an aircraft; Robert Vesco for wire fraud/ securities; William Potts for hijacking; Francis Terpill for soliciting to commit murder; Victor Cabrera who was on the FBI's Top Ten list for bank robbery; Brian Wilson for murder; and the list goes on.

These are not benign criminals by any stretch of the imagination. These are violent individuals whose callous acts demonstrated little regard for human life.

The protection of these criminals and terrorists by the Castro regime is yet another poignant example of the lawlessness of the dictatorship.

While we may ask for the deportation of this criminals to the United States, unfortunately, the only true solution to this problem - the only way these fugitives will

stand before a court of law in the U.S. - is when there is a democratic government in Cuba that will respect the rule of law and will enforce the extradition treaty signed with the United States in 1904.

I look forward to that day. In conclusion, I would like to underscore my support for the efforts of our law enforcement agencies to ensure that justice is served.

Mr. BARR. OK; thank you, Mr. Chairman.

Mr. MICA. I would like to thank both of you.

Mr. BARR. And thank you, Mr. Brooks, and, Admiral.

Mr. MICA. We may have some additional questions for you, Admiral. I hate to cut you off short, but, again, I am being called to the floor.

I want to thank you so much, Mr. Brooks, and what your folks do.

Mr. BROOKS. Thank you.

Mr. MICA. We are very proud of you, particularly during a week when we can remember those who put their life on the line for our country and all Americans.

There being no further business to come before the subcommittee at this time, this meeting is adjourned.

[Whereupon, at 4:50 p.m., the subcommittee was adjourned.]

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