



PROJECT ON REFORMING THE ADMINISTRATION OF JUSTICE IN MEXICO
CENTER FOR U.S. MEXICAN STUDIES
9500 Gilman Drive, #0521, La Jolla CA 92093-0510
Tel. 858-534-6039, 858-534-6447
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Binational Collaboration in Law Enforcement and Public Security Issues on the U.S.-Mexican Border

By

José María Ramos
Colegio de la Frontera Norte
P.O. Box L
Chula Vista, CA 91912-1257
ramosjm@colef.mx

David A. Shirk
Center for U.S.-Mexican Studies
University of California-San Diego
9500 Gilman Drive, #0510
La Jolla, CA 92093-0510
dshirk@sandiego.edu

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ABSTRACT: This paper examines law enforcement and security context of the U.S.-Mexican border region and the new challenges that have developed since September 11 as a result of new terrorist concerns. The authors explore the conventional understanding of U.S.-Mexican relations and the question of whether there is a “security community” along the border. The authors map the law enforcement and security structures that are of significance in shaping the U.S.-Mexican relationship, particularly the new Department of Homeland Security. The authors highlight successful instances of U.S.-Mexican collaboration in the San Diego-Tijuana region as possible models for best practices in other parts of the U.S.-Mexican border region.

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Introduction

This chapter analyzes the challenges for U.S.-Mexican cross-border cooperation in law enforcement and border security, with particular emphasis on the experience of the San Diego-Tijuana region. The objective of this inquiry is to determine the extent to which cross-border collaboration is directed toward alleviating key border security challenges, which challenges are prioritized, and what improvements can be made to facilitate such collaboration.

The first section provides an overview and conceptual framework for understanding the challenges of bi-national collaboration in law enforcement and security along the U.S.-Mexican border, and evaluates the degree to which these challenges are of “local” or “transnational” significance. Consideration is also given here to the differing priorities and capabilities the authorities in United States and Mexico regarding the border and national security. While past experience shows that the two nations have traditionally had very different priorities and perspectives, we argue that the post-9/11 context has resulted in new opportunities and incentives for collaboration.

The second section profiles the relevant law enforcement agencies affecting border law enforcement and security, and identifies key changes that have resulted in recent years on both sides of the border. On the Mexican side, the reorganization of federal law enforcement structures and the creation of a new border commission are emerging developments that have begun to alter the prospects for bi-national collaboration. On the U.S. side, a governmental reorganization unlike any seen since the 1950s has led to the wholesale restructuring of border, immigration, customs, and other security procedures and enforcement under the Department of Homeland Security, and will have major implications for the prospect of border law enforcement and security. In addition to mapping the new institutional landscape of border law enforcement and security, this section identifies the current mechanisms for cooperation between national, state and local agencies in the U.S. and Mexico, respectively.

Two key questions emerge from this discussion and help to establish a rubric for understanding bi-national collaboration: What are the different types or degrees of collaboration that exist? And in what substantive areas of law enforcement and security is collaboration strongest between the United States and Mexico? Both questions raise

several related questions: To what extent do agencies collaborate with foreign agencies at different levels of jurisdiction? How do members of these agencies perceive their foreign counterparts and agencies? Our preliminary findings suggest that binational collaboration takes place primarily between agencies at similar levels of jurisdiction, but that important instances of cross-border cooperation take place between agencies at different levels. At the same time, despite significant amounts of distrust and frustration due to conflicting motives and negative perceptions, cooperation in certain areas of law enforcement can be very effective thanks to specific mechanisms for bi-national cooperation in law enforcement and security.

This paper analyzes both the changing political context and evolving institutional environment for bi-national cooperation, with special emphasis on the San Diego-Tijuana region. The San Diego-Tijuana region is a microcosm of the border itself; a nexus where economic disparities and differences in governmental structures complicate cross-border interactions in important ways, and where seemingly competing objectives –trade and border protection– present significant challenges for both sides. As a result, the San Diego-Tijuana region provides useful examples and models that may be effectively exported to promote the spread of “best practices” to other locations (and even policy areas) along the border region.

Bi-national Collaboration in Law Enforcement and Security: Challenges and Perspectives

Many border policy challenges transcend political boundaries; they are essentially not domestic, but transnational in nature. Yet, typically the institutional, legal and political contexts for confronting these transnational challenges are primarily domestic in nature. This is particularly the case with regard to issues of law enforcement and security along the border, where domestic institutions and legal frameworks are the embodiment of the state’s very sovereignty and political authority (Andreas 2001). Indeed, the control of migration flows, narco-trafficking, arms-trafficking, and a number of other forms of violent or property-related crimes have been long-standing concerns and points of contention for policy-makers and stakeholders of the border region.

In recent years, major shifts in the national priorities of both Mexico and the United States have added new dimensions to the cross-border law enforcement and security context. Yet, many of the traditional structural and political challenges of cross-border collaboration remain largely in place. In this paper, we hypothesize that there are four major factors that substantially impact the nature of bi-national cooperation in law enforcement and public security, namely: **1) differences in federal organizational and political structures, 2) socioeconomic disparities across the border region, 3) different priorities and perspectives, and 4) regional variation.** More specifically, there are important differences in the structuring of jurisdictional authority in the two federal systems, resulting in a considerably more limited role for state and local law enforcement authorities in Mexico than in the United States. The limitations on state and local jurisdictions in Mexico are compounded by the relative lack of resources of

Mexican law enforcement agencies in comparison to those available to their U.S. counterparts. Furthermore, there are important differences in the goals and approaches to law enforcement in Mexico and the United States, which dramatically affects the prospects for cooperation in certain areas. Finally, while U.S. priorities often take precedence, there are important differences in the perceived priorities and challenges most relevant to Mexico. These factors are likely to influence a variety of forms and policy areas where cross-border collaboration is important. However, as we discuss below, they are especially relevant to cooperative arrangements in law enforcement and security.

First, the different functioning of Mexican and U.S. federalism has a notable influence on jurisdictional relationships among law enforcement officials. Because agencies in the United States have a certain degree of overlap in their jurisdictional authority, they are nominally better able to collaborate domestically across federal, state, and local levels. In Mexico's federal system, on the other hand, Mexican governmental authority and resources have been politically and geographically centralized in the federal capital of Mexico City. As a result, Mexican state and local governments in the border region generally have not traditionally had the authority or the resources to adequately address many policy issues. Decentralization of governmental authority has been ongoing since the early 1980s, but remains significantly centered in Mexico City (Rodríguez 1987; Padua and Vanneph 1993; Lujambio 1995; Cornelius, Eisenstadt et al. 1999; Shirk and San Diego Dialogue Program 1999; Ward and Rodríguez 1999).

Law enforcement presents a special challenge for Mexican federalism since police forces are divided into two main types: preventive and judicial. Preventive or uniformed police are charged with the role of "keeping a vigil over order in towns and cities." As the term suggests, their main role is to prevent crime by vigilance, patrol and administrative operations. In the case on judicial police forces, police are supposed to work in criminal investigations directly under the supervision of a magistrate that is primarily charged with investigation (*ministerio público*). Mexican municipalities employ only preventive police, whereas the states and federal government have both preventative and investigative units. State judicial police and investigating attorneys operate within state and local criminal jurisdiction (the so-called *fuero común*) and federal judicial police and investigating attorneys operate within federal jurisdiction (the *fuero federal*). The lack of municipal investigative units means that many challenges –such as drug trafficking– fall under purely federal jurisdictions even though they have direct implications for local communities.

In addition, the fact that all Mexican officials can only serve one term –six and three years for state and local officials, respectively– and the lack of a bureaucratic civil service leads to high turnover. This hinders the development of expertise and can limit the continuity of effective practices, especially cross-border collaborative relationships that are dependent on personal relationships and trust. Empowering those authorities –and making them accountable– would require significant revisions to the political operation and legal functioning of Mexican federalism. On the one hand, restructuring of the Mexican criminal code to provide greater jurisdiction for state and local authorities to

address certain crimes would increase their effectiveness. On the other hand, recent proposal considering the prospect of re-election for legislators and state and local officials in Mexico may help to provide greater continuity and accountability.

Second, there are important disparities between law enforcement agencies on either side of the border. U.S. law enforcement agencies benefit from significantly higher budgets than their Mexican counterparts. To qualify for their positions and for career advancement, U.S. officers and agents must undergo rigorous vetting, training, and high professional standards, and in return receive reasonably favorable compensation. In contrast, the main problems confronted by Mexican police forces, as indicated in the government's own national security plan, include: lack of planning criteria to guide the organization and operation of police services, inadequate budgets, resource allocation not based on specific criteria, lack of adequate criteria in determining salaries, low pay, high rates of personnel turnover which, in turn, complicate efficient resource allocation over the medium and long term, as well as lack of standard merit policies on promotions or dismissals (Bailey and Chabat, 2001). Mexican police forces also suffer the constant shuffling of personnel between one or another agency across the country. The root of these problems is significant differences in fiscal resources available to state and local governments on the Mexican side of the border, which –despite important efforts to decentralize– remain significantly limited in their capacity to generate public revenue.

This said, it is worth noting that recent fiscal downturn has also presented severe challenges for law enforcement agencies on the U.S. side of the border, especially for state and local authorities. Budget crises in two major U.S. border-states –California and Texas– have had a direct impact on U.S. state and local law enforcement budgets. The San Diego police department's \$4 million budget cut necessitated an across-the-board reduction in basic supplies (even toilet paper) and response capability. Local cost saving measures such as these take place at a time when the U.S. federal government pours considerable human and fiscal resources into the new Department of Homeland Security. More effective law enforcement and security for the border region will require that state and local agencies have access to a larger share of the resources currently directed to Homeland security than is currently being contemplated.

Third, it is important to note that there are very different perspectives and perceptions on law enforcement and security challenges on either side of the border. The differences in perspectives is rooted in the tendency of both Mexican and U.S. officials to view transnational issues such as drug trafficking and migration– through domestic lenses, focusing on the domestic impacts of “foreign” problems. For example, Mexican officials tend to emphasize domestic impacts of crime and rising drug-use among Mexican minors, who are also beginning to transport drugs across the border at an increasing rate. Likewise, in the case of the positive and negative impacts of migration (e.g., victimization of migrants, migrant remittances), the domestic impacts of transnational issues tend to be given greater attention in Mexico than their impacts in the United States.

This domestic perspective on transnational issues is mirrored in the United States. For example, the demand for low cost labor in the United States creates market incentives for

workers to migrate across the border –both legally and illegally– to fill that demand. Yet despite alarm about illegal Mexican immigration over the course of the 1990s, there was a sharp downward trend in domestic enforcement through employer fines (from more than 14,000 in 1991 to less than 150 in 2001) and in workplace apprehensions. As with Mexico, the domestic focus of U.S. priorities can actually clash with and be counter-productive for law enforcement efforts in Mexico. For example, 9/11 led to a level of scrutiny that effectively shut down border trafficking routes and contributed to an excess supply of drugs in Tijuana that lowered the price and contributed to local consumption.

For both countries, perspectives on the issue of corruption are significant in affecting bi-national collaboration. Corruption –not legal loopholes– is generally perceived to be a significant problem in Mexico that compromises the administration of justice and complicates cross-border collaboration. Corrupted Mexican judges make it possible for convicted criminals to be released after serving only token sentences, and complicit relationships between prosecutors and judges compromise the fairness of trial procedures and increase the number of wrongful conditions. Key public security officials and law enforcement personnel in Mexico have been implicated in major corruption scandals. Until recently, corruption detected in Mexican law enforcement organizations has merely led to dismissal, not arrest and prosecution. More recent trends, such as the formation of anti-corruption task forces, cases brought against high-level public officials, and the announcement of arrests within the Federal Attorney General’s office, appear to constitute sincere efforts to combat corruption at multiple levels during the first years of the Fox administration.

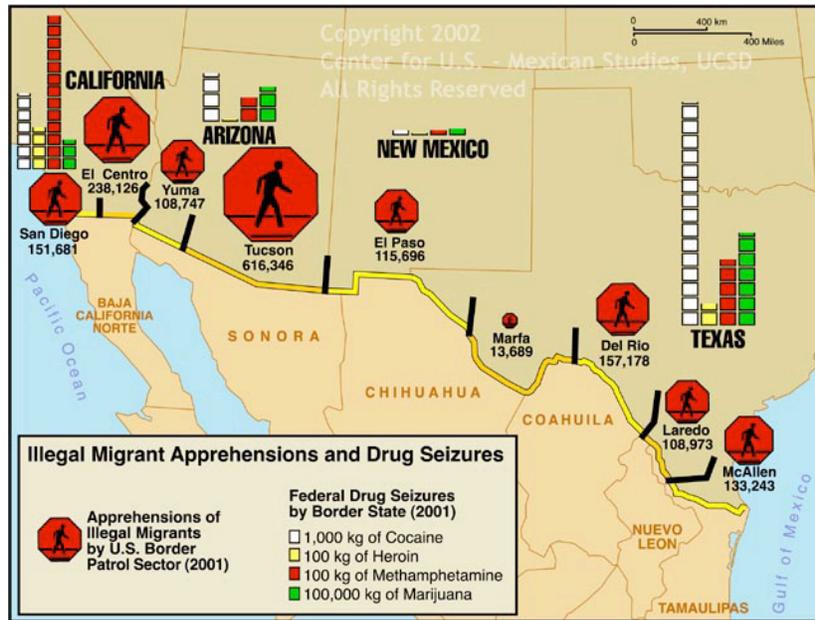
While the problem of corruption in Mexico is generally acknowledged among law enforcement officials on both sides, there are important differences in perceptions on how corruption impacts law enforcement in the United States. The perception in Mexico is that corruption exists in the United States but is ignored or not publicized. U.S. agencies officials, however, consistently maintain that corruption in the United States exists primarily at the street-level and that, when it is detected, officials respond through uncompromising and widely-publicized prosecution of corrupt elements. Still, the perception of unilateral accusations of corruption has important impacts on Mexican sensibilities and makes it even more difficult to address an issue that negatively affects bi-national cooperation.

Finally, a fourth factor that has significant impacts on U.S.-Mexican collaboration in law enforcement and security is regionalism. The border region is comprised of 12 major corridors of cross-border interaction: San Diego-Tijuana, Calexico-Mexicali, San Luis-San Luis Río Colorado, Nogales-Nogales, Douglas-Agua Prieta, El Paso-Ciudad Juárez, Presidio-Ojinaga, Del Rio-Ciudad Acuña, Eagle Pass-Piedras Negras, Laredo-Nuevo Laredo, Hidalgo-Reynosa, Brownsville-Matamoros. These twin-city regions are the major gateways for imports and exports between Mexico and the United States, and they also confront important challenges in dealing with immigration, narco-trafficking, trafficking-in-persons (labor and sexual exploitation), and other violent and property crimes.

The need for a bi-national, regional analysis of the border's different zones comes from the tendency to generalize about U.S.-Mexican border issues. This frequent perception and portrayal of the border as a monolithic entity frequently leads to superficial diagnoses and limits the possibility for remedies to significant challenges. Thus, the case-by-case analysis of these particular cities helps to assess the effect of U.S. border policy at the regional level. For this reason, our analysis takes the precaution of emphasizing the regional perspective of San Diego and Tijuana, rather than attempting to make more general claims.

“Regional perspective” here is understood as encompassing the attitudes, politics, or actions of governmental and non-governmental actors in regard to narco-trafficking, public security and border security. The point of view of regional or local actors in binational interaction is subject to particular economic, political, and social contexts that characterize each sub-region or locality. Thus, the environment influences the roles of actors and the kinds of responses they make to the principal border and cross-border issues confronting them. Given that local and state capacity to deal with public safety is in the hands of governmental units, it is necessary to propose local, regional, and bi-national public policies.

The role of context, environment, and institutional power differ in each state or border city. Similarities exist to the degree that common factors affect the impact of law enforcement and public security challenges. The differences lie in the importance that these two issues have in some regions compared to others, and the responses to them vary depending on the political party in power, including the character of the administration and the type or intensity of relationships it may have established with the federal government and with U.S. actors. For example, although Tijuana and Ciudad Juarez share similar concerns relating to public security, these cities exhibit differences in the influence those problems exert. The trafficking of methamphetamine is much more significant in the former, while cocaine smuggling tends to be greater in the latter (see Figure 2). Differences also appear in the strategies that local and state actors in each city followed in regard to public policies and the means to promote cooperation with their U.S. counterparts and with the Mexican federal government. For example, the greater migrant number of apprehensions found in the Tucson sector in 2001 (see Figure 2) of the border patrol is believed to be the result of shifting migrant flows away from concentrated border enforcement zones in California and Texas.



As noted above, governmental and non-governmental actors shape the regional perspective along the border in important ways. Among non-governmental actors, the business community is particularly significant since it generates a certain influence over public policies affecting law enforcement and security. The business community's interest arises because the negative social consequences of these problems could diminish the inflow of capital, especially in the maquiladora and tourism sectors. The influence of non-governmental actors on law enforcement and public security may lead to more attention being given to the causes and effects of border issues. Nevertheless, their involvement varies from city to city and region to region along the border, depending on non-governmental actors' socioeconomic importance in each place. The influence of these actors also has repercussions for the role of government agencies working in the drug-control arena.

Mapping U.S. and Mexican Law Enforcement Agencies

The 9/11 attacks also had a significant impact on border enforcement structures and policies. The Border Patrol, for example, suffered a major drain on its available manpower because numerous agents were transferred to the Federal Air Marshals Program, leaving the organization below pre-9/11 staffing levels. This created major challenges because of the difficulty of recruiting, screening and training responsible and qualified individuals for these positions; it takes a full year to train and deploy new agents. Most significant, however, was the November 2002 legislation that completely reorganized the structure of federal agencies responsible for border law enforcement and domestic security with the creation of a new cabinet-level agency, the Department of Homeland Security. This constituted the largest bureaucratic reorganization in the federal government since the creation of the Department of Defense.

While this new context has affected long-standing border law enforcement and security challenges in important ways, there is a fundamental difference between such challenges and the new dilemmas posed by the threat of international terrorism. That is, prior to 9/11 the main law enforcement and security challenges confronted along the U.S. Mexican border –from drugs and immigration to auto-theft and forced prostitution– were market-based and demand driven. Accordingly, the responses to these challenges have been oriented toward market-oriented solutions directed to supply and demand. While there is a contentious debate over whether supply-side approaches or demand-side approaches are more appropriate or effective, the end goal is to address market forces. Yet with 9/11, the threat of terrorism at and beyond the border introduced a new set of motivations based on the ability to cause harm.

Along the border, the current policy response to this challenge is found in the 22 Point Smart Border Agreement (see Figure 5), which calls for “secure infrastructure,” “secure flows of goods,” and “secure flows of people.”

Figure 5: 22 Point Smart Border Agreement Between the United States and Mexico

Secure Infrastructure

1. Long term planning
2. Relief of bottlenecks
3. Infrastructure Protection
4. Harmonize port of entry operations
5. Demonstration projects
6. Cross-border cooperation
7. Financing projects at the border

Secure Flows of People

8. Pre-cleared travelers
9. Advanced passenger information
10. NAFTA travel
11. Safe borders and deterrence of alien smuggling
12. Visa policy consultations
13. Joint training
14. Compatible databases
15. Screening of third-country nationals

Secure Flow of Goods

16. Public/Private-Sector Cooperation
17. Electronic Exchange of Information
18. Secure In-Transit Shipments
19. Technology Sharing
20. Secure Railways
21. Combating Fraud
22. Contraband Interdiction

In the United States, most of the areas covered by the 22 Point Smart Border Agreement fall under the jurisdiction of the Department of Homeland Security. The 475-page Homeland Security Act of 2002 produced the largest governmental reorganization since the creation of the Department of Defense in 1949. According to Section 101(b1) of the 2002 Homeland Security Act the primary mission of DHS is to “prevent terrorist attacks

within the United States; reduce the vulnerability of the United States to terrorism; minimize the damage, and assist in the recovery, from terrorist attacks that do occur within the United States.” The new plan for domestic security created an entirely new cabinet level department by integrating functions, agencies, and 180,000 employees from ten other cabinet level departments.

In many ways, the tasks of the new department –and the new cross-border policy regime– are defined by the structure of the Smart Border Agreement. Secure “flows” of both people and goods, for example, are to be achieved through a combination of approaches that seek to establish safe “supply-chains” that will enable law enforcement personnel to distinguish potential threats from “known quantities” that have low probability of involvement in terrorist or other illicit activities. To address these tasks, the Department is comprised of directorates organized around four major issue areas: border security and transportation; emergency preparedness and response; information analysis and infrastructure protection; and science and technology. The most relevant of these areas for U.S.-Mexican relations and border security is the Border and Transportation Security Directorate (BTSD), which includes most of the agencies transferred from the DOJ and is headed by former-DEA director Asa Hutchinson (See Figure 6).

Figure 6. Directorates of the Department of Homeland Security

Border and Transportation Security Directorate (BTSD)

- Bureau of Customs and Border Protection (BCBP)
- Bureau of Immigration and Customs Enforcement (BICE)
- Transportation Security Administration
- Office for Domestic Preparedness
- Federal Law Enforcement Training Center

Science and Technology Directorate (STD)

- Homeland Security Advanced Research Projects Agency
- Office for National Laboratories

Information Analysis & Infrastructure Protection (IAIP)

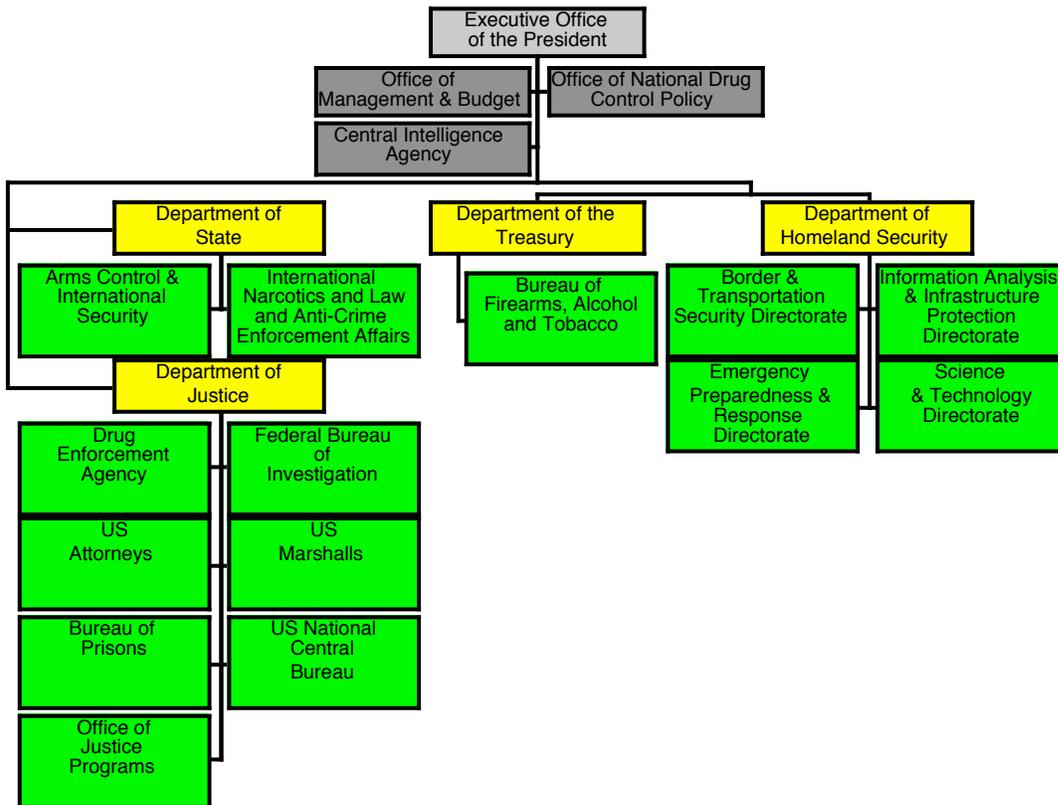
- Information Analysis
- Infrastructure Protection

Emergency Preparedness and Response Directorate (EPRD)

Again, the purpose of this massive reorganization of departmental responsibilities was to streamline operations and provide a single “unified face” for domestic and border security in light of new terrorist threats. To this regard, the greatest gains in efficiency appear to be in operations related to immigration control, border protection, transportation security, and disaster response capability. In short, the continued diffusion of domestic security responsibilities among various agencies outside of DHS suggests that the reorganization has achieved only a partial rationalization of bureaucratic structures and operations for dealing with terrorism. The resulting “map” of U.S.

agencies for addressing crime and security issues presents a fairly complex and overlapping matrix of institutions and programs. Overlapping responsibilities and jurisdictions persist in counter-terrorism and drug enforcement efforts; two areas where agencies of State Department, the Department of Justice (FBI, DEA), and the Executive Office of the President (CIA, ONDCP) continue to play important roles alongside DHS.

Figure 6: U.S. Federal Domestic Law Enforcement and Security Agency Mapping



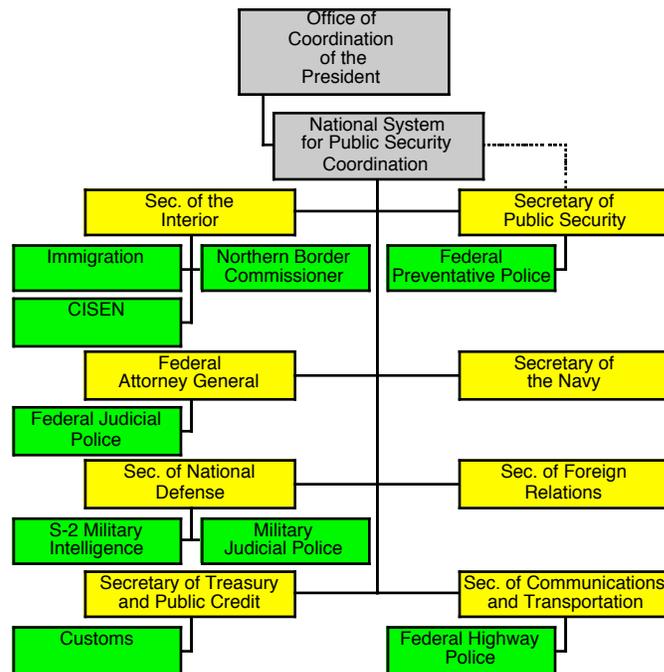
It is important to note that complexity and overlapping jurisdictions can hold important advantages and disadvantages for addressing law enforcement and security challenges. On the one hand, advocates of federal hierarchical organization suggest that the intricacy and overlap of the U.S. system has important advantages: promoting innovation in strategies, healthy competition between agencies, and more effective overall coverage of a variety of policy areas (Grodzins 1990). On the other hand, bureaucratic convolution and overlap can also allow for counter-productive inter-agency rivalries over scarce budgetary resources, inefficient duplication of efforts, and insufficient communication across agencies with similar responsibilities. In short, while allowing a broader and more diverse set of responses to key challenges, diffusion of responsibility creates unnecessary competition and allows some problems to fall through the cracks.

In addition to continued bureaucratic inefficiencies, critics of the new U.S. approach to domestic security point out that post-9/11 efforts have had disproportionate impacts on undocumented Latino immigration and drug-trafficking than on terrorism. As a result, critics allege that the “red herring” of terrorism has created an immigration and border

control system that negatively impacts Latinos and frequent border crossers with minimal gains in deterring terrorists.

Meanwhile, it is dubious whether Mexico will be able to fully adapt to the framework presented under the Smart Border Agreement without a significant reorganization of its own domestic law enforcement and security institutions. Upon taking office in December 2000, President Fox declared law enforcement and security issues to be among his administration’s top priorities. Thus far, the Fox administration has focused on the restructuring and increased militarization of federal law enforcement agencies. Two of Fox’s most important reforms in the security area have been the creation of a cabinet-level Ministry of Public Security (*Secretaría de Seguridad Pública*, SSP) headed by Secretary Alejandro Gertz. Gertz is charged with the implementation of the National Public Security System (*Sistema Nacional de Seguridad Pública*, SNSP) and oversight of the newly re-created Federal Preventive Police (see Figure 7).

Figure 7. Mexican Federal Law Enforcement and Security Entities



Like the U.S.-side reorganization of federal law enforcement and security agencies this restructuring is intended to achieve better coordination across agencies and areas. However, SSP is in some ways comparable to the Office of Homeland Security (which preceded the creation of DHS), given that the system it oversees is one of relatively diffuse jurisdictions. Within the framework of the SNSP, responsibilities for law enforcement and security are shared by agencies of the Executive Office of the President (e.g., *Center for Research on National Security*, CISEN), Attorney General’s Office (*Procuraduría General de la República*, PGR), Ministry of the Interior (*Gobernación*), Ministry of National Defense (*Secretaría de la Defensa Nacional*, SEDENA), Ministry of the Navy (*Secretaría de Marina*, SM), Ministry of Foreign Relations (*Secretaría de*

Relaciones Exteriores, SRE), and various sub-national agencies. The diffusion of key functions across these agencies (e.g., immigration and border affairs, which reside in the Ministry of the Interior) prevents the SSP functioning as a Mexican counterpart to DHS. Moreover, the SSP has recently appeared to pull away from border affairs, as the presence of Federal Preventative Police along key sections of the border has diminished.¹

As a result of the lack of a direct counterpart, the DHS has tended to work more closely with the Ministry of the Interior. This cabinet-level department has extensive powers derived from its traditional role as an instrument of intelligence and political control under the previous regime. In other words, the persistence of a strong domestic security role for Mexico's Interior Ministry perpetuates structures that were traditionally designed to facilitate political oppression. As a result, critics argue that these powers should be redistributed to prevent a return to past abuses. In the mean time, even Gobernación lacks control of key policy areas –such as customs and transportation– that would enable it to function as a counter-part to DHS.

Still, the lack of a cognate to the DHS is not the only potential barrier to a more effective domestic security system or to U.S.-Mexican cooperation. On the one hand, recent trends suggest that the military and military personnel are being increasingly utilized to enforce public security and border protection. Since the 1970s the Mexican military has been increasingly involved in various law enforcement functions and this involvement gained momentum in the 1990s. Recently, the discussion on role on Mexican military includes new military roles in counter-terrorism, drug interdiction, border security, and other internal security functions in support of civil authorities. The Interior Ministry's announcement that 18,000 troops would be mobilized to secure the northern border region during the Iraq conflict was an important example. In addition to the concerns about human rights raised by domestic military involvement, there are important questions about the willingness and ability of the military to adapt to increasingly integrated security operations with its North American counterparts. For example, it is unclear whether the Mexican military would be willing to take on a role in NATO, but this seems unlikely.

On the other hand, there are important structural reasons to separate investigative and enforcement functions from prosecutorial and judicial functions which –under Mexico's system– reside in the Attorney General's Office; to function properly this system requires a greater separation of executive and judicial powers than currently exists. In short, the ability of Mexico to meet the both demands of its own domestic security needs and terms of the U.S.-Mexican Smart Border Agreement will undoubtedly require careful consideration of the current structuring of its domestic law enforcement agencies. In the process, close collaboration with the United States would be beneficial in identifying mutual concerns and opportunities for the sharing of best practices.

Meanwhile, as the U.S. and Mexican federal governments move toward implementing the laws and administrative structures for dealing with law enforcement and security challenges, the concerns and experiences of state and local authorities on both sides of the border have been largely excluded from consideration in the federal-level policy-

making process. Perhaps more important, the centralization of responsibilities and resources for law enforcement under new federal-level agencies has not been accompanied by a corresponding increase in budgets for state and local law enforcement agencies.

This said, local agencies are generally more likely to play a greater role in law enforcement and security issues in Mexico than they do in the United States. In the United States, local authorities –both county and municipal– have greater jurisdiction over a larger variety of law enforcement and security challenges, despite the vast and complex network of federal and state agencies to address such issues. The disparity between U.S. and Mexican local law enforcement authorities is primarily due to various constraints on the Mexican side, including legal limits of local jurisdiction and significantly smaller budgets and resources for municipal authorities. Meanwhile, of Mexico's 2,395 municipal governments some 335 lack police forces altogether while some 69 percent of preventive police are concentrated in the 87 largest municipios (Bailey and Chabat, 2001) Including both municipal and state level preventive police, the National Public Security System reported that some 280,000 officers were employed in 1999. The Federal District alone employed about 100,000 preventive police. Some 7,000 preventive police at the federal level (1995 estimate) are organized in a series of specialized forces (e.g., *Policía Federal de Caminos, Policía Fiscal Federal, Policía Marítima y Territorial, Policía Militar*, and the *Resguardo Aduanal*). The National Program of Public Security (*Programa Nacional de Seguridad Pública, PNSP*,) reported that, as of 1995, there were some 4,400 federal judicial police and some 21,000 state judicial police.

Bi-National Collaboration in Law Enforcement and Security

Despite significant challenges and asymmetries, there appears to be a flourishing cross-border relationship between U.S. and Mexican law enforcement and security agencies in the local and regional environment. In part, this appears to be linked to closer bi-national collaboration on a variety of fronts in the post-NAFTA environment. Three factors seem to be of benefit to bi-national collaboration in law enforcement and security in the San Diego-Tijuana border region: effective liaison mechanisms, legal mechanisms to facilitate cross-border prosecution, and positive relations between twin-city political elites.

The existence of effective liaison mechanisms between different agencies and levels of jurisdiction for dealing with a variety of cross-border challenges is an important factor cited by many law enforcement officials, but receives surprisingly little attention. Law enforcement agencies in most major Mexican border cities have established international-affairs or liaison offices. The goal of these liaison officers is to work closely with their cross-border counterparts at the local or state level to exchange information and provide assistance on a range of law-enforcement targets, such as narco-trafficking, car theft, weapons smuggling, transporting chemicals used in processing synthetic drugs, kidnappings, trafficking in minors, and so forth. Several of these issues require following

formal protocols established by the U.S. and Mexican federal governments. However, the officers frequently develop close informal relationships that enable them to work more effectively within and beyond these parameters.

In the San Diego-Tijuana region, most U.S. and Mexican law enforcement agencies at every level –federal, state, and local– have liaison teams for dealing directly with their cross-border counterparts, though these tend to be staffed more heavily on the U.S. side. These liaisons have created the International Liaison Officer Association (ILOA), which has operated and grown for over fifteen years. The ILOA meets monthly and currently includes representatives 30 U.S. agencies and 17 Mexican agencies (see Figure 8). Mexican agencies tend to be under-represented in the liaison groups due to the reduced number of personnel assigned to liaison duties. Liaisons come from outlying areas such as Mexicali, Ensenada, and Los Angeles to meet informally for regular luncheons that provide important networking opportunities.

Figure 8. Agencies Represented in the International Liaison Officer Association

United States Agencies	Mexican Agencies
<ul style="list-style-type: none"> • Arizona Department of Public Safety • Alcohol Tabacco & Firearms • Binational Emergency Medical Care Committee • California Department of Corrections • California Department of Insurance • California Department of Justice • California Highway Patrol • Chula Vista Police Department • California Department of Motor Vehicles • Escondido Police Department • Federal Bureau of Investigation • Los Angeles Police Department • Los Angeles County Sheriff's Department • Orange County District Attorney's Office • San Diego County District Attorney's Office • San Diego County Probation Department • San Diego County Sheriff's Department • San Diego Police Department • Sempra Energy • U.S. Attorney's Office • U.S. Border Patrol • U.S. Consulate Tijuana • U.S. Customs • U.S. Department of Transportation • U.S. Immigration & Naturalization Service • U.S. Marshal's Service • U.S. Navy Shore Patrol • U.S. Naval Criminal Investigative Service • U.S. Postal Inspection • U.S. Secret Service • City of El Monte Police Department 	<ul style="list-style-type: none"> • Customs (Aduana De Tijuana) • Attorney General Representative in Los Angeles (Agregaduria Regional Procuraduria De La Republica) • Attorney General Representative in San Diego (Sub-Agregaduria Regional Procuraduria General de la Republica) • Baja California State Attorney General's Office (Procuraduria Judicial Estatal) • Juvenile Corrections (Consejo De Orientacion Y Rehabilitacion Para Menores) • Center for Women's Protection (DIF - Centro De Proteccion Social de la Mujer) • Ensenada Municipal Police Department • Grupo Beta Tecate • Grupo Beta Tijuana • Inspeccion Fiscal Aduanera (Mexicali) • Instituto Nacional De Migracion • Mexican Consulate in San Diego • Policia Ministerial Del Estado De Baja California • Policia Federal Preventiva (Tijuana) • Procuraduria General De La Republica (Tijuana) • City of Tijuana - International Relations Office • Tijuana Municipal Police Department

In contrast to the Binational Liaison Mechanism –a semi-quarterly forum for high-ranking officials that is chaired by the region’s U.S. and Mexican consulates– ILOA meetings provide important opportunities for agent-to-agent networking, and many officers and agents cite these meetings and contacts as highly beneficial for effective bi-national cooperation. In addition to opportunities presented by ILOA meetings, the three members of the San Diego Police Department (SDPD) Border Liaison Unit work to maintain strong relationships with their single Tijuana Police Department counterpart and with other agencies on the Mexican side of the border. SDPD liaisons typically make at least one trip to Tijuana per day and making random visits to maintain friendly ties. One liaison officer noted in an interview that SD/TJ liaison relations are the best they have been in at least eight years.

In addition to ILOA meetings, liaisons also benefit from a directory of the other U.S. and Mexican liaisons in the region, SENTRI fast lane passes for rapid border crossing, and NEXTEL cell phones that allow direct communication to their counterparts. As a result of such mechanisms, local law enforcement officials in the San Diego-Tijuana region note that –in comparison to the pre-NAFTA era– today cross-border collaboration between agencies makes it significantly more difficult for transient criminal elements to perpetrate crimes on one side of the border and evade the law by crossing to the other side.ⁱⁱ

A second factor that increases bi-national cooperation in the San Diego-Tijuana region is the use of Article 4 prosecutions. The San Diego-Tijuana region is unique in that the San Diego District Attorney’s office is the only local authority in California equipped to handle Article 4 prosecutions. Article 4 of the Mexican criminal code is used for prosecuting Mexicans who have committed a crime in the U.S. (or Americans arrested in Mexico for a crime involving a Mexican citizen in the U.S.). In such cases, U.S. authorities can file briefs providing evidence that can be used against the accused in Mexican court. U.S. authorities cannot re-try the individual upon return to the United States because of the 5th amendment, even if the punishment is considered inadequate or the individual has evaded their complete sentence through bribery. Usually, San Diego’s District Attorney will only use Article 4 to prosecute serious felonies, like murder or rape, when there is a strong indication that there will be adequate punishment.

A third factor enhancing U.S.-Mexican bi-national collaboration in the region is a history of good mayoral relations between the two cities. Beginning with the administration of Mayors Susan Golding and Hector Osuna, San Diego and Tijuana have placed a strong emphasis on cross-border collaboration. This represents important progress for San Diego which, despite being the city with the largest Anglo population on the border, has begun to emphasize and embrace its relationship with Mexico in ways that had not been done previously. Mayor Golding, for example, chaired a bi-national initiative on the bi-national region’s shared engagement of the global economy and served as an outside observer during the 2000 Mexican elections. These kinds of political connections present a positive scenario for law enforcement and security collaboration by sending a message that cross-border relations are desirable and encouraged.

In short, at a regional level there have been several initiatives for international and bilateral collaboration to improve public security and support law enforcement efforts along the border. Nevertheless, it is unclear what direction future cooperation will take. Current efforts to restructure law enforcement on the U.S. side are in flux as the new Department of Homeland Security solidifies its organizational structure and priorities. As a result, Mexico has necessarily had to patiently attempt to adjust to these changes, while at the same time asserting the need for cooperation and respect for Mexican priorities. What is clear is that cooperation should be a means to promote more effective law enforcement and security in both the national and transnational contexts. The challenge is in overcoming the vested interests of the law enforcement agencies and public officials, rooting out corruption, providing effective institutional leadership, and developing mechanisms for civic education and participation.

Recommendations: Models and Best Practices

Aside from the general practices and patterns identified in the previous section, what new or innovative approaches and specific practices to promote international collaboration have been employed by law enforcement agencies along the border? More importantly, how can effective cross-border collaboration be measured and improved? What are the resource limitations affecting cross-border collaboration? What kinds of resources or conditions are required to promote effective collaboration? Which means of collaboration are most efficient and cost effective? And to what extent can the practices employed in a given region be exported to different cross-border contexts? Several major areas and options for improved collaboration discussed are considered below.

Increased Center-Periphery Interaction: One significant issue is the gap created by the geographical and political distance of the border from the U.S. and Mexican capitols. Many law enforcement personnel in the San Diego-Tijuana region express concern the lack of representation of their concerns and experiences in federal-level policy-making forums.

Greater information sharing: Much remains to be done to standardize crime data collection. Municipal governments in Mexico have different ways of defining crime. Even at the state level, in Baja California authorities have had to struggle to forge a central mechanism for crime data collection and common reporting standards. Also, there is a need for more information sharing on the results of prevention programs and on criminal activity. Providing crime data and information about patterns can be helpful to counterparts on the other side of the border. Local police in California employed crime data from Tijuana that could be used to address gang activity crossing from East Tijuana into the United States.

Education and prevention programs: Given the prioritization of demand reduction and prevention discussed above, several participants emphasized that there need to be better initiatives for education, rehabilitation and high school equivalency programs. For example, one program in California City provides incarcerated Mexican nationals with

preparatoria diplomas (the equivalent of a U.S. high school degree) so that these can be used when they are re-located to Mexico. Such efforts will require a substantial shift in resources and tactics to promote social programs that have been cut in recent years. Also, there is a marketing problem for the issue of demand reduction; it is not sufficiently understood or accepted as a shared goal, and provides little political capital for politicians.

Adjusting to technological change and new contexts: The discussion suggested that some cross-border collaboration mechanisms need to be updated to accommodate technological advances and new circumstances. For example, a 1982 treaty for the recovery of stolen cars from California did not provide for modern advances in communication (e.g., email, internet) and therefore have significant room for enhancement and expansion. California law enforcement agencies are currently cooperating with insurance companies which have an interest in lobbying for cooperation and improvements in stolen vehicle recovery.

Better communication on decision-making between levels of government: Several participants expressed a need for policy makers and high-level officials to interact with experienced law enforcement personnel at the level of direct contact with persistent problems. There are insufficient forums for this kind of exchange, and state and local law enforcement expressed concern that policy decisions do not sufficiently draw on their substantial experience and direct conflict with key problems.

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ⁱ An accidental shooting of civilians in Tijuana in 2003 by Federal Preventative Police, reported instances of corruption, and efforts to increase police presence in the Mexican interior may all be relevant factors in explaining this trend.

ⁱⁱ Interview with San Diego Police Department, Border Liaison Unit Officer, April 29, 2003.