Southwest Border Violence: Issues in Identifying and Measuring Spillover Violence

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February 16, 2010

Congressional Research Service
7-5700
www.crs.gov
R41075

Summary

There has been a recent increase in the level of drug trafficking-related violence within and between the drug trafficking organizations in Mexico. This violence has generated concern among U.S. policy makers that the violence in Mexico might spill over into the United States. Currently, U.S. federal officials deny that the recent increase in drug trafficking-related violence in Mexico has resulted in a spillover into the United States, but they acknowledge that the prospect is a serious concern.

The most recent threat assessment indicates that the Mexican drug trafficking organizations pose the greatest drug trafficking threat to the United States, and this threat is driven partly by U.S. demand for drugs. Mexican drug trafficking organizations are the major suppliers and key producers of most illegal drugs smuggled into the United States across the Southwest border (SWB). The nature of the conflict between the Mexican drug trafficking organizations in Mexico has manifested itself, in part, as a struggle for control of these smuggling routes into the United States. Further, in an illegal marketplace—such as that of illicit drugs—where prices and profits are elevated due to the risks of operating outside the law, violence or the threat of violence becomes the primary means for settling disputes.

When assessing the potential implications of the increased violence in Mexico, one of the central concerns for Congress is the potential for what has been termed "spillover" violence—an increase in drug trafficking-related violence in United States. While the interagency community has defined spillover violence as violence targeted primarily at civilians and government entities—excluding trafficker-on-trafficker violence—other experts and scholars have recognized trafficker-on-trafficker violence as central to spillover. When defining and analyzing changes in drug trafficking-related violence within the United States to determine whether there has been (or may be in the future) any spillover violence, critical elements include who may be implicated in the violence (both perpetrators and victims), what type of violence may arise, when violence may appear, and where violence may occur (both along the SWB and in the nation's interior).

Currently, no comprehensive, publicly available data exist that can definitively answer the question of whether there has been a significant spillover of drug trafficking-related violence into the United States. Although anecdotal reports have been mixed, U.S. government officials maintain that there has not yet been a significant spillover. In an examination of data that could provide insight into whether there has been a significant spillover in drug trafficking-related violence from Mexico into the United States, CRS analyzed violent crime data from the Federal Bureau of Investigation's Uniform Crime Report program. The data, however, do not allow analysts to determine what proportion of the violent crime rate is related to drug trafficking or, even more specifically, what proportion of drug trafficking-related violent crimes can be attributed to spillover violence. In conclusion, because the trends in the overall violent crime rate may not be indicative of trends in drug trafficking-related violent crimes, CRS is unable to draw definitive claims about trends in drug trafficking-related violence spilling over from Mexico into the United States.

This report will be updated as circumstances warrant.

Contents

Introduction 1
The Southwest Border Region and the Illicit Drug Trade Between the United States and Mexico 2
Demand for Drugs in the United States 3
Supply of Illegal Drugs from Mexico 3
Mexican Drug Trafficking Organizations 5
Partnerships in the United States 9
Activities 10
Relationship Between Illicit Drug Markets and Violence 11
What Is Spillover Violence? 12
Characteristics of Spillover Violence 13
Who May Be Implicated in Violence 13
What Type of Violence May Arise 15
When Violence May Appear 15
Where Violence May Occur 16
Challenges in Evaluating and Responding to Spillover Violence 17
Complexity of the Issue 17
Defining Goals and Objectives 18
Measuring the Problem 19
Is There Spillover Violence? 19
Analysis 20
Conclusion 24

Figures

Figure 1. Drug Routes Within Mexico and at the United States-Mexico Border 6
Figure 2. U.S. Cities Reporting the Presence of Mexican Drug Trafficking Organizations 8
Figure 3. Violent Crime Rate in Selected MSAs 22
Figure 4. Violent Crime Rate in Selected Southwest Border MSAs 23
Figure A-1. OCDETF Cases Referred to the USAOs, by Federal Agency 40
Figure A-2. OCDETF Case Filings and Convictions 41

Tables

Table 1. U.S. Illegal Drug Seizures Along the Southwest Border 5

Appendixes

Appendix. Selected U.S. Efforts and Issues 26

Contacts

Author Contact Information 42
Key Policy Staff 42

Introduction

There has been a recent increase in the level of drug trafficking-related violence within and between the drug trafficking organizations (DTOs) in Mexico—a country with which the United States shares a nearly 2,000-mile border.[1] Some estimates have placed the number of drug trafficking-related deaths in Mexico since January 2007 at over 14,000.[2] Mexican media estimates have placed this death toll around 7,300 for 2009 alone. Further, Mexico's most violent city, Ciudad Juarez—with about 2,100 murders in 2009—is located directly across the border from El Paso, TX. This violence has generated concern among U.S. policy makers that the violence in Mexico might spill over into the United States. Currently, U.S. federal officials deny that the recent increase in drug trafficking-related violence in Mexico has resulted in a spillover into the United States, but they acknowledge that the prospect is a serious concern.[3] As an extension of its counternarcotics policy, as well as in response to the possibility of violence spillover, the U.S. government is supporting Mexico's crackdown campaign against drug cartels in Mexico through the Mérida Initiative.[4] It is also enhancing border security programs and reducing the movement of contraband (drugs, money, and weapons) in both directions across the Southwest border.

When discussing drug trafficking-related violence in the United States, one important point to note is that the *mere presence* of Mexican drug trafficking organizations in the United States is not in and of itself an indication of the *spillover* of Mexican drug trafficking-related violence in the United States. While their presence may be an indication of the drug problem in general, it does not necessarily reflect activity directly tied to the recent violence seen in Mexico. The DTOs (Mexican and others) have been developing sophisticated illicit drug smuggling and trafficking networks for years. These activities engender violence and associated criminal activity, not just along the border but in other areas throughout the country, such as along domestic interstate distribution networks and in major metropolitan areas.[5] The United States has experienced levels of drug trafficking-related crime for many years.[6] The immediate question confronting policy makers is whether the increasing violence between the drug trafficking organizations in Mexico affects either the level or character of drug trafficking-related violence in the United States. A

[1] See, for example, "Congress Discusses Increasing Drug Violence in Mexico," *Voice of America*, March 11, 2009.

[2] For more information on the drug-related violence in Mexico, see CRS Report R40582, *Mexico's Drug-Related Violence* , by June S. Beittel.

[3] See for example, U.S. Department of Homeland Security, "Remarks by Secretary Napolitano at the Border Security Conference," press release, August 11, 2009, http://www.dhs.gov/ynews/speeches/sp_1250028863008.shtm and Arthur H. Rotstein, "Bersin: Mexican drug violence threat major concern," *The Associated Press*, July 15, 2009, quoting Alan Bersin, the U.S. Department of Homeland Security Special Representative of Border Affairs.

[4] The Mérida Initiative is a multi-year proposal for $1.4 billion in U.S. counterdrug and anticrime assistance to Mexico and Central America. The details of the Mérida Initiative will not be discussed in this report; for more information, please see CRS Report R40135, *Mérida Initiative for Mexico and Central America: Funding and Policy Issues*, by Clare Ribando Seelke.

[5] Drug Enforcement Administration, *Statement of Joseph M. Arabit Special Agent in Charge, El Paso Division*, Regarding "Violence Along the Southwest Border" Before the House Appropriations Committee, Subcommittee on Commerce, Justice, Science and Related Agencies, March 24, 2009, http://www.usdoj.gov/dea/speeches/s032409.pdf.

[6] The Organized Crime Drug Enforcement Task Forces (OCDETF) Program, for instance, has been operating since 1982 to combat major drug trafficking and money laundering organizations. For more information on the OCDETF Program, see http://www.justice.gov/dea/programs/ocdetf.htm. The trends in drug trafficking-related crime across the United States are currently unknown because federal law enforcement agencies do not systematically track and report drug trafficking related crimes.

related question is whether evidence of spillover violence would necessitate a policy response from Congress qualitatively different from the current efforts to combat drug trafficking.

This report focuses on how policy makers would identify any spillover of drug trafficking-related violence into the United States. This report provides (1) an overview of Mexican drug trafficking organization structures, how they conduct business, and the relationship between the drug trafficking organizations in Mexico and their partnerships operating here in the United States; (2) a discussion of the illicit drug trade between Mexico and the United States, as well as a discussion of factors implicated in drug trafficking-related violence; (3) an analysis of the possible nature of any spillover violence that may arise, as well as issues involved in accurately identifying and measuring such violence; and (4) an evaluation of available crime rate data and a discussion of how this data may or may not reflect changes in drug trafficking-related crime. This report does not include a discussion of illicit drug enforcement issues,[7] nor does it include specific policy options that may be considered to stem a potential uptick in drug trafficking-related violence. The **Appendix** describes selected recent U.S. efforts undertaken to address the possibility of spillover violence and the drug control problem.

The Southwest Border Region and the Illicit Drug Trade Between the United States and Mexico

The nature of the conflict between the Mexican DTOs in Mexico has manifested itself, in part, as a struggle for control of the smuggling routes into the United States.[8] Therefore, the prospects for spillover violence are most keenly anticipated in the Southwest border (SWB) region of the United States because the region represents the arrival zone for the vast majority of illicit drugs that are smuggled into the country. The size, geography, and climate of the SWB region have long presented unique challenges to law enforcement. The southern border with Mexico stretches nearly 2,000 miles in length, is sparsely populated in some areas, and is dotted with legitimate crossing points (ports of entry)—both large and small. *The National Drug Threat Assessment, 2008*, summarized the illicit drug threat scenario along the SWB in stark terms:

> The Southwest Border Region is the most significant national-level storage, transportation, and transshipment area for illicit drug shipments that are destined for drug markets throughout the United States. The region is the principal arrival zone for most drugs smuggled into the Unites States; more illicit drugs are seized along the Southwest Border than in any other arrival zone. Mexican DTOs have developed sophisticated and expansive drug transportation networks extending from the Southwest Border to all regions of the United States. They smuggle significant quantities of illicit drugs through and between ports of entry (POEs) along the Southwest Border and store them in communities throughout the region. Most of the region's principal metropolitan areas, including Dallas, El Paso, Houston, Los Angeles, Phoenix, San Antonio, and San Diego, are significant storage

[7] For more information, see CRS Report R40732, *Federal Domestic Illegal Drug Enforcement Efforts: Are They Working?* by Celinda Franco.

[8] In addition, the drug related violence in Mexico is also resulting from a struggle between the drug trafficking organizations and the Mexican government attempting to crack down on the DTOs. For more information, see Scott Stewart and Alex Posey, *Mexico: The War with the Cartels in 2009*, Stratfor Global Intelligence, November 9, 2009, http://www.stratfor.com/weekly/20091209_mexico_war_cartels_2009.

> locations as well as regional and national distribution centers. Mexican DTOs and criminal groups transport drug shipments from these locations to destinations throughout the country.[9]

The most recent threat assessment indicates that the Mexican drug trafficking organizations pose the greatest drug trafficking threat to the United States.[10] Demand for illicit drugs in the United States partly drives this threat.

Demand for Drugs in the United States

The United States is the largest consumer of illegal drugs and sustains a multi-billion dollar market in illegal drugs.[11] According to the Central Intelligence Agency, the United States is the largest consumer of Colombian-produced cocaine and heroin, as well as a large consumer of Mexican-produced heroin, marijuana, and methamphetamine.[12]

The latest National Household Survey on Drug Use and Health (NSDUH),[13] in 2008, surveyed individuals aged 12 and older regarding their drug use during the previous month. Survey results indicated that an estimated 20.1 million individuals were current (past month) illegal drug users, representing 8% of this population. This percentage of users had remained relatively stable since 2002.[14] Among these drug users, marijuana was the most commonly used drug, with an estimated 15.2 million users (6.1% of the population), followed by nonmedical use of prescription-type psychotherapeutic drugs (6.2 million users, or 2.5% of individuals). The survey also estimated that there were 1.9 million users of cocaine (0.7% of Americans), as well as 1.1 million users of hallucinogens (0.4% of the population)—of which 555,000 reported use of Ecstasy. Results also estimated 314,000 methamphetamine users.

Supply of Illegal Drugs from Mexico

Mexican drug trafficking organizations are the major suppliers and key producers[15] of most illegal drugs smuggled into the United States across the SWB. Moreover, Mexico is the major transit country for cocaine, according to the U.S. State Department; as much as 90% of the cocaine consumed in the United States comes through Mexico.[16] Further, cocaine trafficking is

[9] U.S. Department of Justice, National Drug Intelligence Center, *National Drug Threat Assessment, 2008*, Product No. 2007-Q0317-003, October 2007, p. v, http://www.usdoj.gov/ndic/pubs25/25921/25921p.pdf. Hereinafter, NDTA, 2008.

[10] U.S. Department of Justice, National Drug Intelligence Center, *National Drug Threat Assessment 2009*, Product No. 2008-Q0317-005, December 2008, p.III, http://www.usdoj.gov/ndic/pubs31/31379/31379p.pdf. Hereinafter, NDTA, 2009.

[11] Oriana Zill and Lowell Bergman, "Do the Math: Why the Illegal Drug Business is Thriving," *PBS Frontline*, http://www.pbs.org/wgbh/pages/frontline/shows/drugs/.

[12] U.S. Central Intelligence Agency, *World Fact Book*, available at https://www.cia.gov/library/publications/the-world-factbook/index.html.

[13] NSDUH is an annual survey of approximately 67,500 people, including residents of households, non-institutionalized group quarters, and civilians living on military bases. The survey is administered by the Substance Abuse and Mental Health Services Administration of the U.S. Department of Health and Human Services and is available at http://oas.samhsa.gov/NSDUHlatest.htm.

[14] According to the NSDUH, within the period 2002 - 2008, the annual percentage of illicit drug users in the 12 and older age group ranged from 7.9% to 8.3%.

[15] Mexican DTOs distribute cocaine (produced primarily in Colombia), and they produce as well as distribute heroin, methamphetamine, and marijuana.

[16] U.S. Department of State, Bureau for International Narcotics and Law Enforcement Affairs, *2009 International* (continued...)

the leading drug threat[17] in the United States, according to the NDIC's 2009 National Drug Threat Assessment.[18] According to the Drug Enforcement Administration (DEA), cocaine availability was lower in 2007 and 2008 (relative to 2005 and 2006) in certain areas of the United States for a number of reasons, including cocaine eradication, cocaine seizures, pressure on drug trafficking organizations in Mexico, inter-cartel violence, and border security.

Mexican drug trafficking organizations are also the main foreign suppliers of marijuana and methamphetamine in the United States. There was a decline in seizures of Mexican-produced methamphetamine beginning in 2006 and continuing in 2007 and 2008, in part because of Mexican import restrictions on precursor drugs beginning in 2005, as well as because some Mexican-based methamphetamine producers have more recently moved their laboratories into the United States.[19] Despite the declines in the presence of Mexican-produced cocaine and methamphetamine, there was an increase in the flow of Mexican-produced marijuana to the United States in 2007,[20] as well as an increase in distribution of Mexican-produced heroin (particularly in the eastern and northeastern states).[21]

The true quantity of drugs produced and transported by Mexican drug trafficking organizations, however, is unknown. Available data provide insight into the quantity of drugs seized along the SWB, though this data cannot speak to the total amount of drugs produced and/or transported into the United States, nor does it provide information about the proportion of these drugs that are actually seized along the SWB. For instance, **Table 1** illustrates federal seizures of illegal drugs along the SWB for calendar years (CY) 2003-2008. Total cocaine seizures along the SWB decreased in 2007 and 2008 relative to previous years when cocaine seizures had been increasing. Additionally in 2008, cannabis seizures along the SWB decreased while seizures of heroin and methamphetamine seizures increased over 2007 levels. These data, however, do not provide insight into the total amount of drugs illegally produced and transported by the DTOs. Rather, this data reflect an unknown proportion of drugs that the Mexican drug trafficking organizations are bringing into the United States through a variety of transportation modes.

(...continued)

Narcotics Control Strategy Report (INCSR), vol. 1, March 2009, p. 414.

[17] The NDTA indicates that "[t]he relative threat posed by a specific drug requires a subjective analytic assessment based on many considerations, such as the cost of interdiction, seizure, and eradication; the number of individuals using or addicted to the drug; the level of availability in U.S. drug markets; the extent and organization of distribution groups; the level of violence associated with distribution and use of the drug; the level of property crime associated with use of the drug; and the level of involvement by international drug trafficking organizations (DTOs) and gangs." NDTA, 2009, p. IV.

[18] NDTA, 2009, p. 1. This threat is not based on the availability or current use of cocaine in the United States; marijuana, not cocaine, is the most commonly-seized drug along the Southwest Border (see Table 1), and the NSDUH indicated that marijuana was the most commonly used illegal drug.

[19] Ibid., p. 9.

[20] Ibid., p. 21.

[21] Ibid., p. 26.

Table 1. U.S. Illegal Drug Seizures Along the Southwest Border

(in metric tons)

	CY2003	CY2004	CY2005	CY2006	CY2007	CY2008
Heroin	0.3	0.4	0.2	0.5	0.4	0.6
Cocaine	16.3	22.0	22.7	28.2	20.9	16.1
Cannabis	1201.0	1106.6	1025.7	1132.0	1367.8	1254.4
Methamphetamine	1.9	2.9	2.9	2.8	1.7	2.2
Total	1219.5	1131.9	1051.5	1163.5	1390.8	1273.3

Source: US DEA, in response to CRS request, March 27, 2008 and March 31, 2009.

The 2009 *National Drug Threat Assessment* indicates that Mexican drug trafficking organizations, in addition to being the major supplier of illegal drugs being smuggled into the United States, also have a strong presence within the United States.[22]

Mexican Drug Trafficking Organizations[23]

Mexican drug trafficking organizations are transnational organized crime groups[24] whose criminal activities center primarily around the drug trade. In general, organized crime groups attempt to fill particular illicit market niches. Specifically, DTOs respond to the societal demand for illegal drugs. Some experts have likened drug trafficking organizations to corporations or even small nation-states. They are influenced by factors such as geography, politics, economics, and culture.[25] Geographically, for example, Mexican DTOs are situated between the world's largest producer of cocaine (Colombia) and the world's largest consumer of cocaine (United States), leading Mexico to be a natural drug transshipment route between the two countries.[26] In addition, major Mexican criminal organizations focus primarily (though not exclusively) on drugs, because the drug trade has, to date, generally proven to be more economically lucrative than other illicit activities such as kidnapping and extortion.[27]

[22] Ibid., p. 45.

[23] The terms drug trafficking organization (DTO) and drug cartel are terms often used interchangeably. Cartel is one of the dominant terms used colloquially and in the press, but some experts disagree with using this term because "cartel" often refers to price-setting groups and because it is not clear that the Mexican drug trafficking organizations are setting illicit drug prices. For the purpose of consistency, this report uses the term *drug trafficking organization*. For more information on the Mexican DTOs, see archived CRS Report RL34215, *Mexico's Drug Cartels*, by Colleen W. Cook. For information on the current violence between the DTOs in Mexico, see CRS Report R40582, *Mexico's Drug-Related Violence*, by June S. Beittel.

[24] For more information on organized crime in the United States, see CRS Report R40525, *Organized Crime in the United States: Trends and Issues for Congress*, by Kristin M. Finklea.

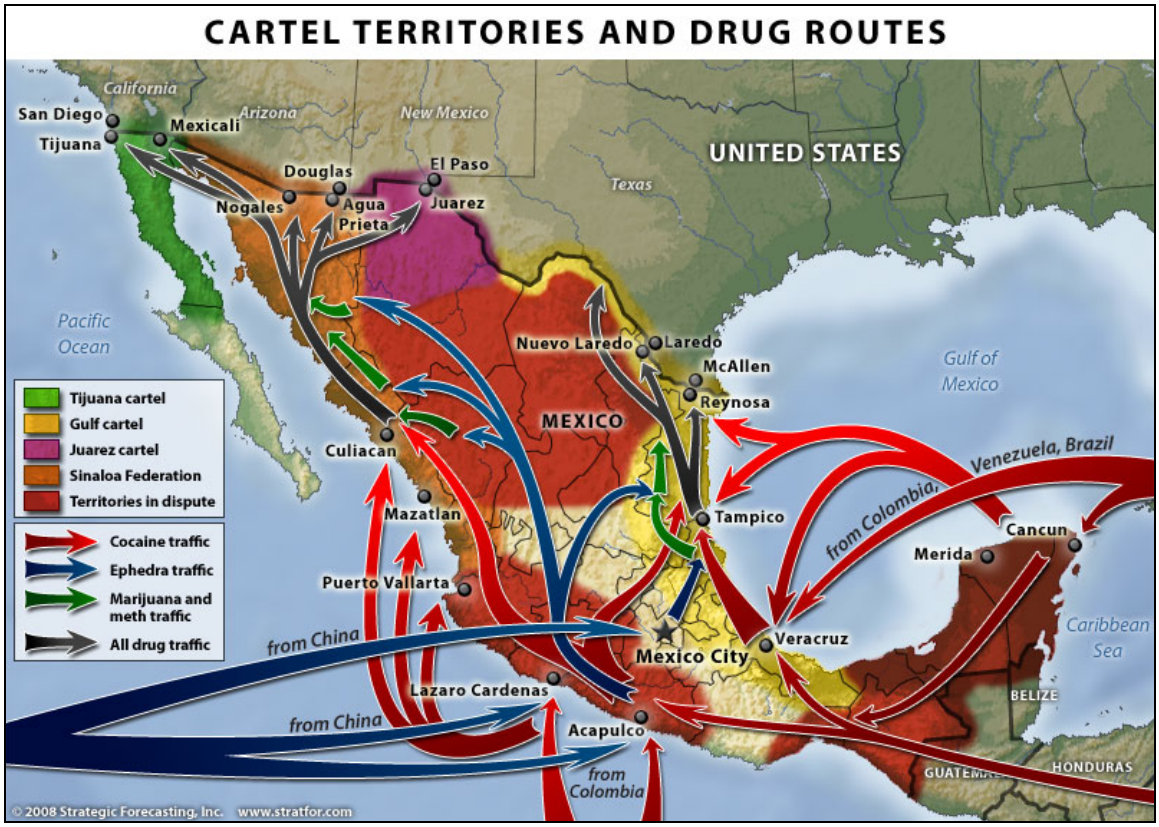
[25] Stratfor Global Intelligence, *Mexican Drug Cartels: The Net Assessment*, March 9, 2008, http://www.stratfor.com/podcast/mexican_drug_cartels_net_assessment.

[26] Stratfor Global Intelligence, *Organized Crime in Mexico*, March 11, 2008, http://www.stratfor.com/analysis/organized_crime_mexico.

[27] Ibid. Refer to the section in the report, "Activities," for more information on other illicit activities engaged in by the drug trafficking organizations.

Mexican drug trafficking organizations either (1) transport or (2) produce and transport drugs north across the United States-Mexico border.[28] **Figure 1** illustrates the drug trafficking routes within Mexico and at the United States-Mexico border. After being smuggled across the border by DTOs, the drugs are distributed and sold within the United States. The illicit proceeds may then be laundered or smuggled south across the border. The proceeds may also be used to purchase weapons in the United States that are then smuggled into Mexico.[29] This leads to a general pattern of drugs flowing north across the border and money and guns flowing south.

Figure 1. Drug Routes Within Mexico and at the United States-Mexico Border



Source: Fred Burton and Ben West, *When the Mexican Drug Trade Hits the Border*, Stratfor Global Intelligence, April 15, 2009, http://www.stratfor.com/weekly/20090415_when_mexican_drug_trade_hits_border.

Although Mexican drug trafficking organizations have been active for some time, they have become more prominent since the decline of the powerful Colombian drug trafficking organizations beginning in the 1980s.[30] The NDIC estimates that Mexican drug trafficking organizations maintain drug distribution networks—or supply drugs to distributors in at least 230 U.S. cities (as illustrated in **Figure 2**)—and annually transport multi-ton quantities of illicit drugs

[28] As mentioned, Mexican DTOs distribute cocaine (produced in Colombia, Venezuela, and Brazil), and they produce as well as distribute heroin, methamphetamine, and marijuana.

[29] For more information on gun trafficking on the Southwest border, see CRS Report R40733, *Gun Trafficking and the Southwest Border*, by Vivian S. Chu and William J. Krouse.

[30] Stratfor Global Intelligence, *Organized Crime in Mexico*, March 11, 2008, http://www.stratfor.com/analysis/organized_crime_mexico. See also archived CRS Report RL34215, *Mexico's Drug Cartels*, by Colleen W. Cook.

from Mexico into the United States using a variety of multi-modal transportation methods.[31] Estimates are that these drugs generate between $18 billion and $39 billion in U.S. wholesale drug proceeds for the Colombian and Mexican drug trafficking organizations annually.[32]

[31] NDTA, 2009., p. 45.

[32] NDTA, 2009., p. 49. According to ONDCP data, the trafficking and distribution of cocaine generates about $3.9 billion, marijuana generates about $8.5 billion, and methamphetamine generates about $1 billion. Jane's, *Security, Mexico*, February 20, 2009.

Figure 2. U.S. Cities Reporting the Presence of Mexican Drug Trafficking Organizations

January 1, 2006-April 8, 2008

Source: National Drug Intelligence Center (NDIC), National Drug Threat Assessment, 2009, Map A5. U.S. cities reporting the presence of Mexican DTOs, January 1, 2006, through September 30, 2008, U.S. Department of Justice, Product No. 2008-Q0317-005, December 2008, http://www.usdoj.gov/ndic/pubs31/31379/appenda.htm#Map5.

When conceptualizing Mexican drug trafficking organizations as businesses, policy makers may question the impact of possible drug trafficking-related violence spillover (into the United States) on the drug trafficking *business*—selling drugs in the U.S. black market. Although the effects of violence on businesses in the black market may not mirror those effects on business in the licit market, one way of examining this question may be to look at the impact that violence or violent crimes have on business in general. One recent study, for example, examined the impact of surges in violence on businesses in various industries in locations of varying crime rates.[33] Results suggested that surges in violence had the most negative impact on those businesses that were service-related (e.g., retail and personal service industries) and located in typically low-crime areas. Specifically, the impact on business was in terms of a reduction in the number of new businesses, a decrease in business expansions, and a lack of overall business growth. In order to generalize these findings from retail businesses to drug businesses, one underlying assumption must be that the locations for buying retail goods and personal services are the same as those for purchasing drugs. If these findings are generalizable to the drug trafficking business, this could suggest that any spillover in drug trafficking-related violence to the United States could adversely affect those service-related businesses (including drug trafficking businesses) in cities with relatively (pre-spillover) low crime rates. On the other hand, if violence affects businesses in the licit and illicit markets differently, these findings may not apply to potential effects of drug trafficking-related violence on drug trafficking business.

Already, there have been anecdotal predictions regarding the impact of violence on drug trafficking business; Douglas, AZ, police chief Alberto Melis has said that "spillover violence would be bad for business ... and they're [the drug traffickers] businessmen."[34] Further, the Drug Enforcement Administration (DEA) has expressed moderate confidence that there will not be a significant increase in spillover violence—at least in the short term—because "Mexican trafficking organizations understand that intentional targeting of U.S. persons or interests unrelated to the drug trade would likely undermine their own business interests."[35]

Partnerships in the United States

The NDIC has indicated that in order to facilitate the distribution and sale of drugs in the United States, Mexican drug trafficking organizations have formed relationships with U.S. street gangs, prison gangs, and outlaw motorcycle gangs.[36] Although these gangs have historically been involved with retail-level drug distribution, their ties to the Mexican drug trafficking organizations have allowed them to become increasingly involved at the wholesale level as well.[37] These gangs facilitate the movement of illicit drugs to urban, suburban, and rural areas of the United States. Not only do these domestic gangs distribute and sell the drugs, but they also aid in

[33] Robert T. Greenbaum and George E. Tita, "The Impact of Violence Surges on Neighbourhood Business Activity," *Urban Studies*, vol. 41, no. 13 (December 2004), pp. 2495-2514.

[34] Brady McCombs and Tim Steller, "Drug Violence Spillover More Hype Than Reality: Southern Arizona Lawmen Discount Threat of Cartel Warfare Crossing Border," *Arizona Daily Star*, April 26, 2009, Tucson Region.

[35] Drug Enforcement Administration, *Statement of Joseph M. Arabit Special Agent in Charge, El Paso Division*, Regarding "Violence Along the Southwest Border" Before the House Appropriations Committee, Subcommittee on Commerce, Justice, Science and Related Agencies, March 24, 2009, http://www.usdoj.gov/dea/speeches/s032409.pdf.

[36] NDTA, 2009, p. 46.

[37] Wholesale refers to the sale of goods to retailers for resale to consumers rather than selling goods directly to consumers. Retailers, on the other hand, sell goods directly to consumers. Wholesalers tend to sell larger quantities of goods to retailers, who then sell smaller quantities to consumers.

smuggling and enforcing the collection of drug proceeds.[38] For example, Barrio Azteca is one of at least nine prominent U.S. prison gangs with ties to Mexican drug trafficking organizations.[39] Barrio Azteca primarily generates money from smuggling marijuana, heroin, and cocaine across the Southwest border for the drug trafficking organizations, but they are also involved in other crimes, such as extortion, kidnapping, and alien smuggling.[40]

Activities

Like other organized crime groups, Mexican drug trafficking organizations are profit-driven. While the primary goods trafficked by drug trafficking organizations are drugs, some experts have noted that these organizations do generate income from other illegal activities, such as the smuggling[41] of humans and weapons, counterfeiting and piracy, kidnapping for ransom, and extortion.[42] If the drug trafficking organizations are not able to generate income from the drugs—due to any number of reasons (increased Mexican or U.S. law enforcement, decreased drug supply, decreased drug demand, etc.)—they may increase their involvement in other money-generating illegal activities, such as kidnapping and home invasions. Take, for example, the number of drug trafficking-related kidnappings for ransom in Phoenix, AZ.[43] The NDIC reported 358 such incidents in 2007 and 357 in 2008 (through December 15, 2008), and indicated that nearly every incident was drug-related.[44] Further, the NDIC reports that these numbers may be underreported because victims may fear retaliation for reporting or may expose their own involvement in drug trafficking. Still, Tucson, AZ, police have reported that although there has been an increase in kidnappings for ransom and home invasions, the suspects in the cases are local criminals—not active drug trafficking organization members from Mexico.[45] This disparity in reports indicates that while there may be an increase in certain illegal activities that *may* be tied

[38] NDTA, 2009., pp. 43-46. See also, National Gang Intelligence Center and National Drug Intelligence Center, *National Gang Threat Assessment, 2009*, Product No. 2009-M0335-001, January 2009, http://www.fbi.gov/publications/ngta2009.pdf.

[39] Fred Burton and Ben West, *The Barrio Azteca Trial and the Prison Gang-Cartel Interface*, Stratfor Global Intelligence, November 19, 2008, http://www.stratfor.com/weekly/20081119_barrio_azteca_trial_and_prison_gang_cartel_interface.

[40] For more information, see Tom Diaz, "Barrio Azteca—Border Boys Linked to Mexican Drug Trafficking Organizations—Part Three," April 17, 2009, http://tomdiaz.wordpress.com/2009/04/17/barrio-azteca%E2%80%93border-bad-boys-linked-to-mexican-drug-trafficking-organizations-%E2%80%94-part-three/. See also the U.S. Department of Justice website at http://www.usdoj.gov/criminal/gangunit/gangs/prison.html.

[41] While drug trafficking organizations may not be directly involved in alien or gun smuggling, they may tax the smugglers who wish to use the established drug trafficking routes. Further, the NDIC has indicated that drug trafficking organizations may engage in violent confrontations with the smuggling organizations, as the drug traffickers fear that the smugglers' use of their routes may lead to the traffickers' apprehension. See National Drug Intelligence Center, Office of National Drug Control Policy, *Arizona High Intensity Drug Trafficking Area: Drug Market Analysis 2009*, Product No. 2009-R0813-002, March 2009, p.14, http://www.justice.gov/ndic/pubs32/32762/32762p.pdf.

[42] Jane's, *Security, Mexico*, February 20, 2009. Also, Stratfor Global Intelligence, *Mexican Drug Cartels: The Net Assessment*, March 9, 2008, http://www.stratfor.com/podcast/mexican_drug_cartels_net_assessment.

[43] Sam Quinones, "Phoenix, Kidnap-For-Ransom Capital," *Los Angeles Times*, February 12, 2009. See also, National Drug Intelligence Center, Office of National Drug Control Policy, *Arizona High Intensity Drug Trafficking Area: Drug Market Analysis 2009*, Product No. 2009-R0813-002, March 2009, http://www.justice.gov/ndic/pubs32/32762/32762p.pdf.

[44] Ibid., p. 18.

[45] Brady McCombs and Tim Steller, "Drug violence spillover more hype than reality: Southern Arizona lawmen discount threat of cartel warfare crossing border," *Arizona Daily Star*, April 26, 2009, Tucson Region.

to drug smuggling and trafficking, these illegal activities are *not necessarily* directly related to drug trafficking in general or to Mexican drug trafficking organizations in particular.

Relationship Between Illicit Drug Markets and Violence

In an illegal marketplace, where prices and profits are elevated due to the risks of operating outside the law, violence or the threat of violence becomes the primary means for settling disputes and maintaining a semblance of order—however chaotic that "order" might appear to the outside observer. This was a fundamental conclusion reached by the National Academy of Sciences Panel on the Understanding and Control of Violent Behavior.[46] Because illegal drug markets operate outside the law, no courts or other forms of peaceful mediation[47] exist for resolving disputes between drug producers, traffickers, and their customers. As with other black markets, drug markets are necessarily governed by the threat of violence, which may lead to actual violence. Illegal drugs and violence, then, are linked primarily through the operations of underground drug markets.[48]

Drug trafficking-related violence in Mexico has been on the rise; in 2008, there were more than 5,100 drug trafficking-related murders in Mexico—a 126% increase over 2007.[49] Mexican drug trafficking organizations are now at war with each other as well as with the police and military personnel who are attempting to enforce the drug laws in northern Mexico along the U.S. border. The drug trafficking organizations, as a result of enforcement actions in Mexico, along with increasing border enforcement measures taken by the United States, are finding it more difficult and more costly to control the production zones and smuggling routes. One of the consequences of this increasingly competitive environment is a rise in the level of violence associated with the illicit drug trade as the drug trafficking organizations struggle for control over territory, markets, and smuggling routes. Policy makers are thus confronted with the uncomfortable possibility that increased law enforcement (which leads to increased difficulty and costs to control production zones and smuggling routes, and which in turn leads to the need to resolve disputes over such territories) could result in increased drug trafficking-related violence. This appears to be the situation that has recently developed in Mexico.

This relationship gives rise to a number of important issues for policy makers. One such matter is evaluating the relative costs and benefits of increased enforcement of the current drug policy against the potentially elevated levels of violence that such increased enforcement might engender.[50] Could the drug trafficking-related violence currently evidenced in Mexico reach a

[46] Jeffrey A. Roth, "Psychoactive Substances and Violence," National Institute of Justice (Research in Brief Series), February 1994 (Washington, D.C.: U.S. Department of Justice).

[47] Negotiated settlements do occur, although they often feature intimidation.

[48] See for example, Peter Andreas and Joel Wallman, "Illicit market and violence: what is the relationship?," *Crime, Law, and Social Change*, vol. 52, no. 3 (September 2009), pp. 225-230, and Peter Reuter, "Systemic violence in drug markets," *Crime, Law and Social Change*, vol. 52, no. 3 (September 2009), pp. 275-285.

[49] For more information on this violence in Mexico, see CRS Report R40582, *Mexico's Drug-Related Violence* , by June S. Beittel.

[50] A Mexican study of the cost-effectiveness of using the military in the drug war (in Ciudad Juarez) has found that there is a high cost with little success, as murders, kidnappings, extortions, and other crimes continue to increase. See http://narcosphere.narconews.com/notebook/kristin-bricker/2009/11/numbers-dont-add-mexicos-drug-war.

level that would prompt U.S. policy makers to consider policy actions that could alter the underpinnings of the illegal drug market? It does not appear as if the violence has reached such a level as yet. Policy makers, however, have expressed significant concern over the possibility of the current violence in Mexico spilling over into the United States.

What Is Spillover Violence?

When assessing the potential implications of increased violence in Mexico as a result of the increasing tensions between the drug trafficking organizations located in Mexico, one of the central concerns for U.S. policy makers is the potential for what has recently been termed "spillover" violence—an increase in drug trafficking-related violence in United States. Given this concern, it is critical to develop an understanding of what "spillover" is, what it might look like, how it might be measured, and what potential triggers for policy action can be identified from this analysis.

To date, Congress has not adopted a formal definition of spillover violence. Several definitions and/or qualities of spillover violence have been provided by government officials, as well as experts and analysts. For instance, according to the DEA, the interagency community has defined spillover violence in the following manner:

> [S]pillover violence entails deliberate, planned attacks by the cartels on U.S. assets, including civilian, military, or law enforcement officials, innocent U.S. citizens, or physical institutions such as government buildings, consulates, or businesses. This definition does not include trafficker on trafficker violence, whether perpetrated in Mexico or the U.S.[51]

This definition of spillover provides a relatively narrow scope of what may constitute spillover violence. In particular, it excludes the category of violence—trafficker-on-trafficker violence—in which the vast majority of drug trafficking-related violence in Mexico has occurred. If policy makers and law enforcement are concerned that the drug trafficking-related violence, as seen in Mexico, may spill over into the United States, they are necessarily concerned with this predominant category of trafficker-on-trafficker violence that is excluded from the interagency community's definition of spillover violence. The boundaries of what may constitute spillover violence, as defined by the interagency community, thus makes the likelihood that the United States will experience this form of spillover violence relatively small. Further, by generally constraining the definition of spillover violence to those acts that target the government and innocent civilians, the type of violence necessary to constitute spillover (according to the interagency definition) may begin to resemble acts of terrorism.[52] If so, policy makers and experts may be challenged with discriminating between spillover violence and terrorism.

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[51] Drug Enforcement Administration, *Statement of Joseph M. Arabit Special Agent in Charge, El Paso Division*, Regarding "Violence Along the Southwest Border" Before the House Appropriations Committee, Subcommittee on Commerce, Justice, Science and Related Agencies, March 24, 2009, http://www.usdoj.gov/dea/speeches/s032409.pdf.

[52] 18 U.S.C. § 2331 defines terrorism as "activities that (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; (B) appear to be intended—(i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by mass destruction, assassination, or kidnapping; and (C) occur primarily outside the territorial jurisdiction of the United States, or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to intimidate or coerce, or the locale in which their perpetrators operate (continued...)

Several experts and scholars have also discussed qualities of drug trafficking-related violence that may constitute spillover, including aspects of trafficker-on-trafficker violence. Such qualities are analyzed in the following section and may provide policy makers with additional definitions of spillover violence. Of note, this report does not address non-violent indicators—such as rising corruption of U.S. officials and law enforcement—that could be related to drug trafficking-related violence spillover.

Characteristics of Spillover Violence

Some experts have suggested that a spillover of violence into the United States may look similar to the recent surge of violence in Mexico. In Mexico, this increasing violence has been seen through a rise in both the number of drug trafficking-related murders and the brutality of the murders. It is also taking the forms of increasing intimidation and fear, attacks on security forces, assassinations of high-ranking officials, growing arsenals of weapons, and indiscriminate killing of civilians.[53]

While a potential spillover of violence into the United States could appear similar to the violence in Mexico, the violence may be contingent upon numerous factors that differ between the United States and Mexico. For instance, the U.S. government may respond differently to domestic drug trafficking-related violence than the Mexican government has, and these differences in responses could in turn influence the nature of the drug trafficking-related violence seen in each country. This section of the report discusses several factors that may be of concern as Congress debates the potential spillover of drug trafficking-related violence. These factors include who may be implicated in the violence, what type of violence may arise, when violence may appear, and where violence may occur.

Who May Be Implicated in Violence

If the drug trafficking-related violence were to spill over from Mexico into the United States, Congress may be concerned with both the individuals perpetrating the violence as well as the victims of the violence.

Perpetrators

Reports on the drug trafficking-related violence in Mexico generally indicate that the perpetrators of violence are active members of drug trafficking organizations who are vying for territory, avenging betrayals, and reacting against the Mexican government's crackdown on the traffickers.[54] If violence were to spill into the United States, policy makers may question whether the perpetrators of the violence will continue to be active drug trafficking members from Mexico, or whether violence will be inflicted by others who may be more indirectly tied to the drug trafficking organizations. As mentioned, the drug trafficking organizations have connections with

(...continued)

or seek asylum."

[53] Stratfor Global Intelligence, *Mexican Drug Cartels: Government Progress and Growing Violence*, December 11, 2008, pp. 15-16, http://web.stratfor.com/images/MEXICAN%20Cartels%202008.pdf.

[54] CRS Report R40582, *Mexico's Drug-Related Violence* , by June S. Beittel.

U.S. groups such as street gangs, prison gangs, and outlaw motorcycle gangs who distribute and sell drugs, aid in smuggling drugs, and enforce the collection of drug proceeds.[55] To date, reports from law enforcement on drug trafficking-related violence in the United States are mixed; while some suggest that violence may be carried out by drug traffickers or other criminals from Mexico,[56] others indicate that domestic drug traffickers or gang members may be responsible.[57]

Victims

The violence plaguing Mexico has been directed toward several groups: competing drug trafficking organizations vying for territory, Mexican security forces, government officials, and those indebted to the traffickers. In fact, Mexican government officials have estimated that 90% of the murders in Mexico have targeted members of drug trafficking organizations.[58] Although there have been reports of civilian bystanders being killed and isolated events of indiscriminate killing, there are not consistent reports of the drug traffickers targeting civilians who are unconnected to the drug trade.[59] If there were to be a significant spillover of violence into the United States, policy makers may question whether the victims would be of a similar group as the victims of violence in Mexico. To date, the anecdotal reports of drug trafficking-related violence in the United States indicate that not only the perpetrators, but the victims of the crimes as well, are all somehow involved in the drug trade.[60] If any significant spillover of drug trafficking-related crime were to follow a similar pattern, policy makers could expect that individuals on both sides of the violence are connected to the drug trade.

There are circumstances, however, under which the drug trafficking victims in the United States could extend to groups beyond those involved in trafficking. If there is an increase in violence and the U.S. government cracks down on the drug trafficking organizations similarly to the Mexican government, the traffickers' reactions in the United States may be similar to that seen in Mexico—a surge in violence against security forces and government officials. Federal officials have indicated that increased targeting of U.S. law enforcement personnel, similar to that which has occurred in Mexico, would constitute evidence of spillover.[61] If, however, the U.S. response differs from that of Mexico, the reactions from the drug trafficking organizations may also differ. Further, a change in the victim pattern—to include innocent bystanders, for instance—may represent a departure from current patterns of drug trafficking-related violence and thus could represent a reasonable trigger for policy action to mitigate the effects of spillover violence.

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[55] NDTA, 2009., pp. 43-46.

[56] See, for example, Randal C. Archibold, "Mexican Drug Cartel Violence Spills Over, Alarming U.S.," *The New York Times*, March 22, 2009.

[57] Brady McCombs and Tim Steller, "Drug Violence Spillover More Hype Than Reality: Southern Arizona lawmen discount threat of cartel warfare crossing border," *Arizona Daily Star*, April 26, 2009, Tucson Region.

[58] See testimony by David Shirk, Director, Trans-Border Institute, University of San Diego, before the U.S. Congress, House Committee on Appropriations, Subcommittee on Commerce, Justice, Science, and Related Agencies, *Federal Law Enforcement Response to US-Mexico Border Violence*, 111th Cong., 1st sess., March 24, 2009.

[59] CRS Report R40582, *Mexico's Drug-Related Violence* , by June S. Beittel. See also Stratfor Global Intelligence, *Mexican Drug Cartels: Government Progress and Growing Violence*, December 11, 2008, http://web.stratfor.com/images/MEXICAN%20Cartels%202008.pdf.

[60] See, for example, Randal C. Archibold, "Mexican Drug Cartel Violence Spills Over, Alarming U.S.," *The New York Times*, March 22, 2009.

[61] Arthur H. Rotstein, "Bersin: Mexican Drug Violence Threat Major Concern," *The Associated Press*, July 15, 2009, quoting Alan Bersin the Department of Homeland Security Special Representative of Border Affairs. Further, this type of violence would be consistent with the interagency definition of spillover violence.

What Type of Violence May Arise

In Mexico, the drug trafficking-related violence most often reported is murder—over 14,000 drug trafficking-related deaths since January 2007.[62] There have also been reports of kidnappings, home invasions, and assaults, among other crimes. In the United States, many of the anecdotal reports citing an increase in violence point to an increase in drug trafficking-related kidnappings and home invasions. For instance, over the past two years, there have been reports of about 700 recorded kidnappings in Phoenix, AZ, that are related to drug and human smuggling.[63] It is unknown how many of these kidnappings, if any, also have ties to drug smuggling;[64] as mentioned, drug trafficking organizations may supplement their incomes with crimes other than drug trafficking if it is profitable. It is also unknown whether or not different types of violence are more associated with certain crimes (committed by drug traffickers) than with others. If there were to be a substantial spillover of drug trafficking-related violence from Mexico, policy makers and law enforcement may be concerned with what types of violence may appear. Would the types of drug trafficking-related violence already seen in the United States to date (i.e., kidnappings and home invasions) become more prevalent, or would there be a greater emergence of the types of violence seen in Mexico (i.e., murders)?

In addition to the type of violence, a spillover or increase in violence could also be measured by the nature of the violence. As mentioned, the rise in the number of murders in Mexico was also accompanied by increasing brutality, intimidation, and attacks on individuals other than those directly involved in the illicit drug trade (i.e., security forces and governmental officials).[65] If any spillover of violence into the United States followed a similar pattern as the violence in Mexico, there may be an increase in the brutality of crimes in addition to an increase in the pure *number* of crimes.

When Violence May Appear

Critical to the assessment of whether the United States is experiencing spillover violence is the establishment of a realistic timeline for measuring the change in drug trafficking-related violence in the United States. If the policy goal is to determine if any spillover violence is occurring in the United States as a result of the increasing violence in Mexico, then it would be logical to look at trends in drug trafficking-related crime in the United States since the onset of the conditions that precipitated the recent violence in Mexico—roughly beginning around when Mexican President

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[62] Figures are drawn from the Trans-Border Institute (TBI), "Drug Violence in Mexico: Data and Analysis from 2001-2009," January 2010, citing data gathered by Reforma newspaper. For a description as to why Reforma data are used instead of other sources, see p. 2-3 of the TBI report, available at http://www.justiceinmexico.org/resources/pdf/drug_violence.pdf. There have been varying reports as to the actual number of drug related deaths. For instance, the Washington Post also tracks this number, and that data is available at http://www.washingtonpost.com/wp-dyn/content/graphic/2009/04/01/GR2009040103531.html.

[63] Randal C. Archibold, "Mexican Drug Cartel Violence Spills Over, Alarming U.S.," *The New York Times*, March 22, 2009. The media has also reported 17 drug-related deaths in El Paso in 2008. See Sara Miller Llana, "Crossfire Towns: Eye-To-Eye Across the US-Mexican Border, Two Communities Confront Drugs, Guns, and Misconceptions," *The Christian Science Monitor*, June 21, 2009.

[64] Drug Enforcement Administration, *Statement of Joseph M. Arabit Special Agent in Charge, El Paso Division*, Regarding "Violence Along the Southwest Border" Before the House Appropriations Committee, Subcommittee on Commerce, Justice, Science and Related Agencies, March 24, 2009, http://www.usdoj.gov/dea/speeches/s032409.pdf.

[65] Stratfor Global Intelligence, *Mexican Drug Cartels: Government Progress and Growing Violence*, December 11, 2008, pp. 15-16, http://web.stratfor.com/images/MEXICAN%20Cartels%202008.pdf.

Felipe Calderon took office in December, 2006.[66] A comparison of the trends in drug-trafficking related violence (in the United States) before and after this reference point might shed some light on whether or not the United States is experiencing spillover violence.

As noted, the United States has experienced and continues to experience certain levels of drug trafficking-related crime. It may be difficult to isolate those drug trafficking-related violent crimes that are occurring either directly or indirectly as a result of the situation in Mexico. Therefore, it may also be useful for policy makers to use this same timeframe to measure changes in other spillover indicators, such as changes in the profile of victims of drug trafficking-related crime, the number and nature of violent attacks on U.S. law enforcement personnel, and changes in the nature of drug trafficking-related violence. This could be one means to standardize the measurement of any potential spillover and to provide policy makers with a more concrete idea of the trends. The discussion of *when* the violence occurs begs the question of *where* to measure any potential change in violence.

Where Violence May Occur

As may be expected, the majority of the discussion surrounding the prospects of spillover violence in the United States has been focused on the Southwest border (SWB). Initially, this makes intuitive sense. Even the very term "spillover" suggests the spread of violence across the border from Mexico—almost by osmosis. From a policy perspective, it is useful to question whether or not a focus exclusively on the border makes sense. Certainly this is where the analysis should begin as the SWB region is the primary region that links production and smuggling operations within Mexico to the United States. As noted, however, the drug trafficking organizations' operations within the United States are geographically dispersed throughout at least 230 cities. Drug trafficking organizations are businesses, and they not only maintain their own presence in the United States but also have relationships with U.S. groups such as street gangs, prison gangs, and outlaw motorcycle gangs to facilitate the distribution and sale of drugs within the United States.

Given that drug trafficking-related violence is prevalent throughout the United States, the task for policy makers is to concentrate the geographic analysis of changes in drug trafficking-related violence around areas that would have the greatest likelihood of eliciting evidence of spillover. One possible method of accomplishing this task could be to look at the various factors discussed above—changes in the levels, nature, and victim pattern of drug trafficking-related violence in selected geographic locations—along a timeline that corresponds with the escalation of drug trafficking violence in Mexico. Of course, the critical issue is selecting those geographic locations. Areas already identified as strategically important to drug trafficking operations here in the United States would be an optimal place to start. These locations would include cities, states, and localities in the SWB region, as well as along significant inland distribution routes. Policy makers may also wish to examine geographic areas that are not currently identified as strategically important to drug trafficking operations here in the United States, as a control for comparison.

[66] See CRS Report R40582, *Mexico's Drug-Related Violence* , by June S. Beittel.

Challenges in Evaluating and Responding to Spillover Violence

This section of the report discusses some of the challenges facing policy makers when considering policy options dealing with drug control and border security issues in general. These issues are discussed more generally because they provide the context within which any specific options for dealing with the potential spillover of drug trafficking-related violence will be determined. These policy challenges include the complexity of the issue, defining goals and objectives, and measuring the problem.

Complexity of the Issue

As evidenced through some of the above discussion, there are many federal agencies, state and local entities, task forces, intelligence centers, and various other groups that are not only involved in drug control policy in general, but have specific roles in countering threats posed by the Mexican drug trafficking organizations. Each of these agencies has different authorities, budgets, resources, and responsibilities when it comes to the drug control issue (the **Appendix** to this report details the recent drug control efforts of these agencies). This complexity has also been evident in the federal government's current response to the increasing drug trafficking-related violence in Mexico. The policy implication of this intricate web of jurisdictions is that it is difficult to centralize the establishment, implementation, and evaluation of policies—be they drug control policies in general, or the specific policy responses to the increased drug trafficking-related violence.

Several congressional hearings have been held on various aspects of the drug control and drug trafficking-related violence issues,[67] and some congressional policy makers have voiced their concerns over the lack of centralized direction on these issues. In particular, Congress has expressed concern over who is taking the lead—not just among the involved agencies—but within Congress itself.[68] Complicated congressional jurisdiction spread across a variety of committees in both houses means that oversight of the drug control and the drug trafficking violence issues is equally complex. Consequently, coordination of oversight of the areas is problematic and difficult to manage.

Adding further complexity is the fact that few of the agencies involved in the drug control effort are solely dedicated to a counterdrug mission (DEA and ONDCP being two of few exceptions). This presents several challenges in analyzing drug control policy. One challenge, for example, involves disaggregating an agency's drug control mission and activities from its other missions and activities. Take, for instance, interdiction at ports of entry. CBP officers select people, goods, and conveyances for additional scrutiny based on a variety of factors. Often, officers have no idea what the ultimate outcome of a physical inspection might be. The inspection might uncover illicit

[67] See, for example, U.S. Congress, House Committee on Homeland Security, Subcommittee on Border, Maritime, and Global Counterterrorism, *Combating Border Violence: The Role of Interagency Coordination in Investigations*, 111th Cong., 1st sess., July 16, 2009 and U.S. Congress, Senate Committee on Homeland Security and Governmental Affairs, *Southern Border Violence*, 111th Cong., 1st sess., March 25, 2009.

[68] See for example, Rob Margetta, "Lawmakers Want to Know Who Takes the Lead in Battling Border Violence," *CQ Today Online News*, March 10, 2009.

drugs, or it might uncover cash, weapons, or any number of items that are prohibited from entering the country. How then, may one estimate the portion of CBP officers' time that is spent on the counterdrug effort? This same question applies to the multitude of other agencies that also have drug control responsibilities. The question becomes even more difficult to answer when the aim is to analyze a specific drug control policy—such as specific policies targeted toward any potential spillover violence from Mexico. Disaggregating the drug control mission (or specific policies), however, is critical on several levels; not only does it affect the measurement of an agency's progress in implementing drug control efforts, but it also affects the directing of resources towards these efforts or specific policies.

Defining Goals and Objectives

The definition of success is a critical aspect of policy evaluation. As noted above, the existing complexities surrounding drug control policies in general, and policies to address the potential spillover violence from Mexico in particular, complicate the evaluation of these policies. For this reason, it is important to identify appropriate goals or objectives either for what might be an overall strategy or for specific policies.

For example, the appropriate domestic policy response to the increased drug trafficking-related violence in Mexico is difficult to articulate. This is because several forces are at work; it is tempting to conflate the response to a specific iteration of the problem (the change in drug trafficking-related violence in Mexico) with the drug control problem in general and, at the same time, to disaggregate the issue down to so many constituent parts (outbound inspections at the border, kidnappings in Phoenix, straw purchases[69] in Houston, a drug trafficking-related shooting in El Paso, etc.). This allows for the potential to obscure the actual policy problem to be confronted. From a policy perspective also, the degree to which this conflation or disaggregation occurs may not matter in the final analysis if the appropriate metrics are ultimately used to evaluate each.

With particular relevance to the subject of this report, if the policy task is to identify any potential or actual drug trafficking-related spillover violence in the United States, and the appropriate drug activity indicators can be accurately identified, the issue becomes how to correlate any change in drug activity indicators to the increased drug trafficking-related violence in Mexico. One potential complication with such an analysis is uniformly defining what constitutes drug-related violence.

This could potentially be broken down into three general categories: crimes committed by people under the influence of drugs; economic-compulsive crimes (crimes committed in order to obtain money or drugs to support drug use); and what are termed systemic drug crimes—crimes that result from the business of trafficking illicit drugs.[70] These definitions are important, because while the commission of crimes by people who are under the influence of illegal drugs and economic-compulsive crimes present important policy issues in and of themselves, changes in these indicators contribute little value to the determination of whether or not the United States is

[69] Straw purchases occur when guns are purchased from licensed gun dealers by eligible persons and then knowingly transferred to prohibited persons. Straw purchases are illegal under U.S. law (18 U.S.C. § 924(a)(1)(A)).

[70] Paul J. Goldstein, "The Drugs/Violence Nexus: A Tripartite Conceptual Framework," *Journal of Drug Issues*, vol. 14 (1985), pp. 493-506.

experiencing any spillover violence from Mexico *particularly related to the recent increase in drug trafficking-related violence*.

Measuring the Problem

The issue of measurement is important in several different contexts. There are issues with the collection and reporting of drug control statistics, as well as questions concerning what value the reported measures have. Because the drug control issue is complex, and so many agencies participate in its execution, invariably there are going to be differences in how agencies collect and report enforcement statistics. Central to the issue at hand in this report is the question of how to measure changes in drug-related violence, and specifically drug trafficking-related violence.

Even an indicator that conceptually could provide some value added to the central question (to choose an example popularly cited in the media—violent crimes excluding robberies) is difficult to evaluate. For example, in Tucson, the number of violent crimes excluding robberies from January to March of 2009 was 632; for the same period in 2008 the number was 651. So, there were fewer violent crimes in Tucson in the first three months of 2009 than in 2008.[71] These are not necessarily drug trafficking-related violent crimes, but if the premise—that the United States is experiencing spillover violence stemming from the drug trafficking activity in Mexico—is accurate, one would expect violent crimes to go up, and drug trafficking-related violent crimes would be included in the more general violent crime reporting. On the other hand, a significant drop in non-drug trafficking-related violence could obscure a rise in actual drug trafficking-related violent crime. However, the true driver of the change in *drug trafficking-related* violent crime cannot be ascertained from these statistics.

Another measurement issue is where to look for changes in drug-trafficking-related violence. This is another area where the problems with available data are manifested. Ideally, to conduct this analysis, one would have access to drug-trafficking-related violent crime data from the geographic areas of interest (border and interior locations with known drug trafficking activity). This data would be available in small geographic increments so that local differences could be taken into account, and it would be consistently available in comparable sets across an adequately long time period so as to conduct a statistically significant trend analysis. Unfortunately, this and other data are not readily available for analysis, as detailed in the section outlining the Congressional Research Service's (CRS's) evaluation of available data.

Is There Spillover Violence?

As discussed, a multitude of factors are involved in both defining as well as measuring spillover violence. Currently, there is no comprehensive, publicly available data that can definitively answer the question of whether there has been a significant spillover of drug trafficking-related violence into the United States. Although anecdotal reports have been mixed, U.S. government officials maintain that there has not yet been a significant spillover.

[71] Gabriel Arana, "There's No Drug Crime Wave at the Border, Just a lot of Media Hype," *The Nation*, May 29, 2009.

Analysis

In an examination of data that could provide insight into whether there has been a significant spillover in drug trafficking-related violence from Mexico into the United States, CRS undertook an analysis of violent crime data from the FBI's Uniform Crime Report (UCR) program.[72] Of note, however, the UCR data does not allow analysts to determine what proportion of the violent crime rate is related to drug trafficking or, even more specifically, what proportion of drug trafficking-related violent crimes can be attributed to spillover violence. The UCR compiles data from monthly reports from approximately 17,000 local police departments or state agencies, and it provides some of the most commonly cited crime statistics in the United States. Under the UCR program, the FBI collects data on the number of offenses known to police, the number and characteristics of persons arrested, and the number of "clearances" for eight different offenses, collectively referred to as Part I offenses. Part I offenses include murder and nonnegligent manslaughter, forcible rape, robbery, aggravated assault, burglary, larceny-theft, motor vehicle theft, and arson.[73] Within the Part I offenses, crimes are categorized as either violent or property crimes. *Violent crimes* include murder and nonnegligent manslaughter, forcible rape, robbery, and aggravated assault. *Property crimes* include burglary, larceny-theft, motor vehicle theft, and arson. The UCR, however, is not a comprehensive source for data on crime in the United States. It collects offense data on a limited number of crimes (Part I crimes), which means that offense data are available only for a small number of all crimes committed in the United States. For instance, it does not include data on kidnapping—one of the oft-cited drug trafficking-related crimes discussed as evidence of spillover violence. Further, the inclusivity of the UCR data is affected by other factors such as whether or not local law enforcement chooses to report data to the FBI, the variety in reporting and data classification practices of local law enforcement agencies, and the imputation methods used by the FBI to estimate crime in jurisdictions that have not reported for an entire year.[74]

For the purpose of this report, CRS presents and analyzes *violent* crime rates as reported by the UCR program, as policy makers have repeatedly expressed concern about the possibility of drug trafficking-related violent crimes increasing.[75] In addition to providing the overall national violent and property crime rates annually, the UCR program also provides these crime rates for metropolitan statistical areas (MSAs).[76] In the present analysis of violent crime rate data, CRS

[72] The UCR is most commonly referenced when discussing crime rates, and for the purpose of this report, we present and analyze crime rates as reported by the UCR program. For more information on how crime in the United States is measured and on the UCR program, see archived CRS Report RL34309, *How Crime in the United States Is Measured*, by Nathan James and Logan Rishard Council. See also http://www.fbi.gov/ucr/ucr.htm.

[73] The FBI also collects data on the number of arrests made for 21 other offenses, known as Part II offenses. Part II offenses include Other Assaults; Forgery and Counterfeiting; Fraud, Embezzlement; Stolen Property: Buying, Receiving, or Possessing; Vandalism; Weapons: Carrying, Possessing, etc.; Prostitution and Commercialized Vice; Sex Offenses; Drug Abuse Violations; Gambling; Offenses Against the Family and Children; Driving Under the Influence; Liquor Laws; Drunkenness; Disorderly Conduct; Vagrancy; All Other Offenses; Suspicion; Curfew and Loitering Laws (Persons under 18); and Runaways (Persons under 18).

[74] For more information, see archived CRS Report RL34309, *How Crime in the United States Is Measured*, by Nathan James and Logan Rishard Council.

[75] This does not exclude the possibility that policy makers may be equally concerned with drug trafficking-related property crimes. However, this report focuses on violent crimes. For information on national trends in both violent and property crime rates, see CRS Report R40812, *Federal Crime Control Issues in the 111th Congress*, by Kristin M. Finklea.

[76] The Office of Management and Budget (OMB) defines MSAs as having at least one urbanized area of 50,000 or more in population, plus adjacent territory that has a high degree of social and economic integration with the core as (continued...)

relies upon the violent crime rate data *for the MSAs* as calculated by the UCR program. As mentioned, the violent crime rate includes murder and nonnegligent manslaughter, forcible rape, robbery, and aggravated assault.

As mentioned, the NDIC estimates that Mexican drug trafficking organizations maintain drug distribution networks—or supply drugs to distributors in at least 230 U.S. cities (as illustrated in **Figure 2**).[77] Because this information is assimilated based on state and local law enforcement agency estimations, as well as law enforcement interviews with NDIC staff, this is not necessarily a comprehensive or nuanced picture of Mexican drug trafficking presence in cities around the United States. For instance, while some cities may experience a larger amount of drug trafficking activity than others, these cities are considered as equally experiencing drug trafficking presence for the purpose of the NDIC estimate. In addition, there may be other cities not reporting the presence of drug trafficking organizations, even if these organizations are active in those cities. If drug trafficking-related violence is in fact increasing in those cities reporting a presence of Mexican drug trafficking organizations, one may expect to see an increase in such violence in the 230 cities identified by the NDIC—or perhaps only in those cities that are situated along the SWB if the violence is truly spilling directly across the border. Further, if this increase in violence were to follow a similar time frame as the escalating violence in Mexico, one may expect to see an increase in violence since December 2006, when Mexican President Felipe Calderon took office and began to crack down on the drug trafficking organizations.[78] For each of these 230 cities, CRS determined whether there was a corresponding MSA and violent crime rate reported in the UCR for that MSA. CRS identified 138 such MSAs, 8 of which directly abut the border between the United States and Mexico.[79] As illustrated in **Figure 3**, CRS calculated the average violent crime rate across the border MSAs and the non-border MSAs for each of fiscal years 1999 through 2008.

(...continued)

measured by commuting ties. For more information, see Executive Office of the President, Office of Management and Budget, Update of Statistical Area Definitions and Guidance on Their Uses, OMB Bulletin No. 10-02, December 1, 2009, http://www.whitehouse.gov/omb/assets/bulletins/b10-02.pdf.

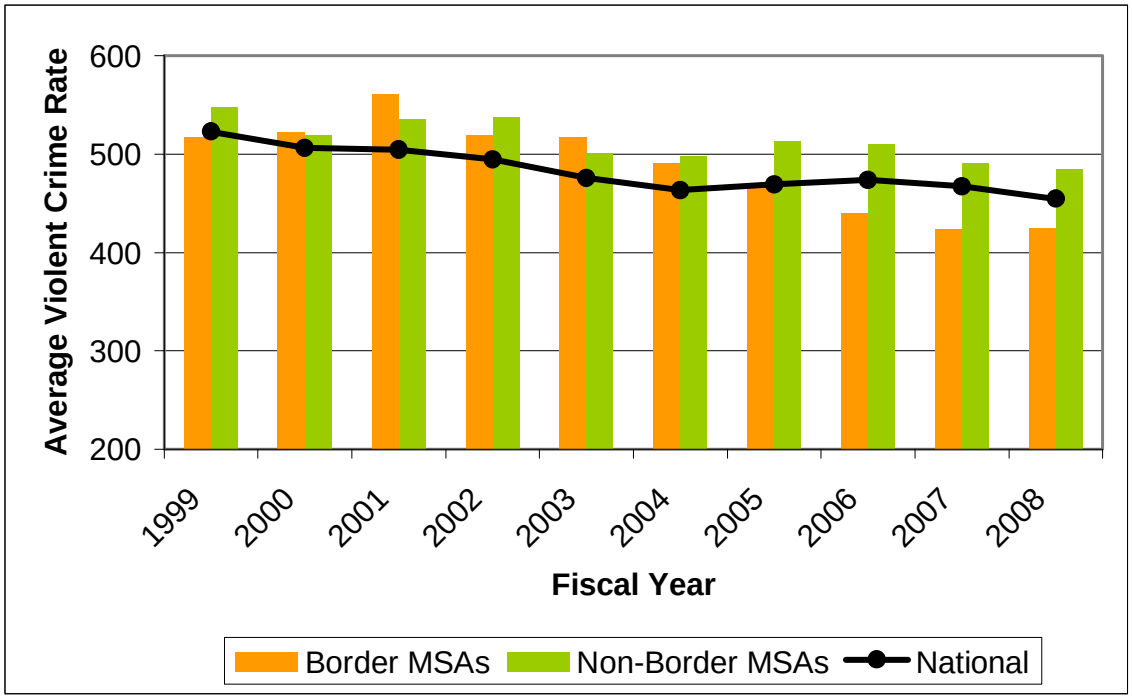
[77] NDTA, 2009., p. 45.

[78] See CRS Report R40582, *Mexico's Drug-Related Violence* , by June S. Beittel.

[79] These MSAs include the cities of San Diego, CA; El Centro, CA; Yuma, AZ; Las Cruces, NM; El Paso, TX; Laredo, TX; McAllen, TX; and Brownsville, TX—all which were identified by the NDIC as having the presence of Mexican drug trafficking organizations.

Figure 3. Violent Crime Rate in Selected MSAs

FY1999-FY2008



Source: CRS analysis and presentation of UCR data. UCR data is available from the Federal Bureau of Investigation at http://www.fbi.gov/ucr/ucr.htm.

Notes: The UCR data is based on the average violent crime rate data across selected MSAs. The selected MSAs are those that correspond to cities identified by the NDIC as having a presence of Mexican drug trafficking organizations. Border MSAs (N = 8) are those which directly abut the border between the United States and Mexico, and non-border MSAs (N = 130) are those which do not touch the SWB. The national violent crime rate is presented as a point of reference. CRS performed an ANOVA comparing the average violent crime rate between border and non-border MSAs across fiscal years 1999 through 2008. The data indicate that there is no evidence of a statistically significant difference between violent crime rates in border and non-border MSAs, $F(1,18) = 2.48$, $p > .05$.

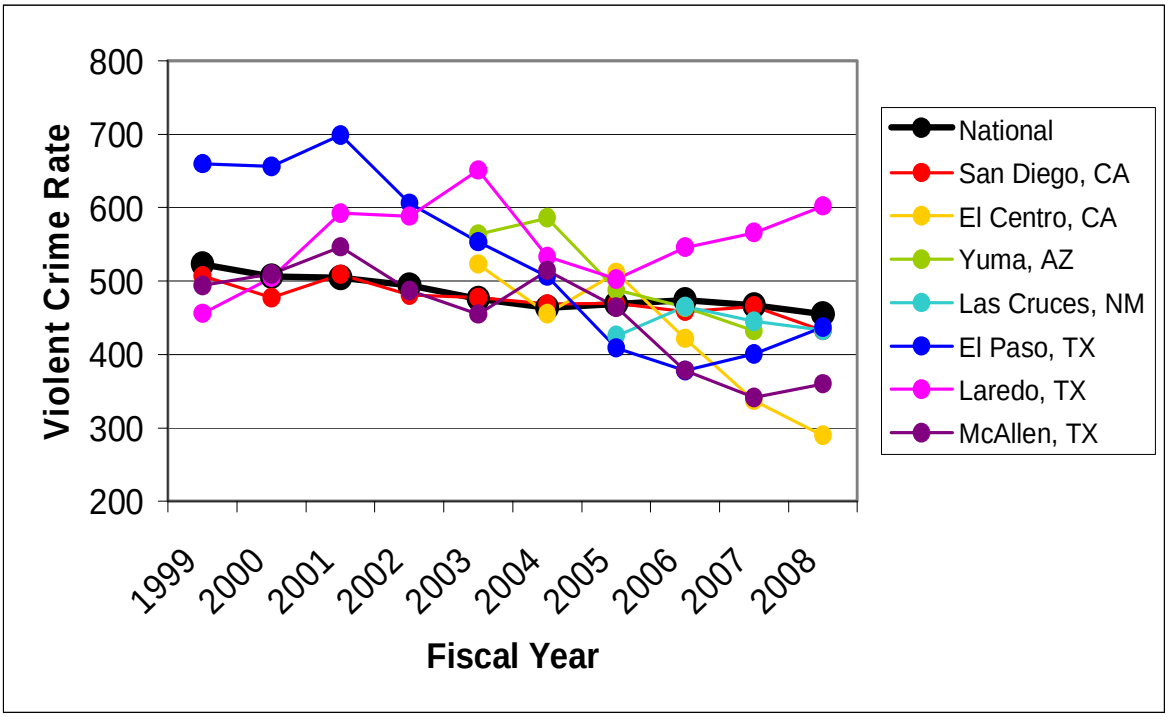
CRS analysis of available data suggests that the violent crime rate has not significantly increased in those areas where there is an identified presence of Mexican drug trafficking organizations, as well as available data on the violent crime rate for those MSAs. Further, such analysis suggests there is no statistically significant difference in the average violent crime rate in these border and non-border MSAs between fiscal years 1999 and 2008. Since 2001, the average violent crime rate in the eight selected border MSAs has generally declined, and it has remained below the national violent crime rate since 2005.[80] It is unknown, however, whether trends in the violent crime rate are related to changes in drug trafficking-related violent crimes. Because the violent crime rate is a compilation of violent crimes both related and unrelated to drug trafficking, an increase in drug trafficking-related violent crime could be masked by a decrease in those violent crimes not related to trafficking—or vice versa.

[80] In 2005, the national violent crime rate was 469 and the average violent crime rate across the selected border MSAs was 465.9.

Looking at the aggregate of border and non-border MSAs, however, may not provide information as to trends in individual MSAs or cities. For example, **Figure 4** illustrates the trends in violent crime rates in eight border MSAs. As mentioned, if spillover violence were to trend in time with the escalating violence in Mexico, analysts may expect to see an increase in drug trafficking-related violence in 2007 and 2008 relative to previous years. Although two MSAs—Laredo, TX and El Paso, TX—experienced an increase in violent crime rates in both 2007 and 2008 compared to 2006, the violent crime rate in the Laredo and El Paso MSAs remained lower than their violent crime rates in fiscal years 2003 and 1999-2004, respectively. This may be counterintuitive to some who expect that a "spillover" in violence may touch those cities closest in proximity to the violence in Mexico; Laredo and El Paso sit directly across the Southwest border from two of the most violent Mexican cities—Nuevo Laredo and Juarez.[81] Further, anecdotal reports suggest that while some cities have seen a spillover in drug trafficking-related violence, Laredo and El Paso have not.[82]

Figure 4.Violent Crime Rate in Selected Southwest Border MSAs

FY1999-FY2008



Source: CRS analysis and presentation of UCR data. UCR data is available from the Federal Bureau of Investigation at http://www.fbi.gov/ucr/ucr.htm.

Notes: The selected MSAs are those that correspond to cities identified by the NDIC as having a presence of Mexican drug trafficking organizations. The national violent crime rate is presented as a point of reference.

[81] Samuel Logan, "Mexican Drug Cartel Recruitment of Teenagers in the USA," *Mexidata.Info*, December 14, 2009, http://mexidata.info/id2495.html.

[82] Deborah Tedford, "Mexico Violence Not Spilling Into Texas Border Cities," *National Public Radio*, March 24, 2009, http://www.npr.org/templates/story/story.php?storyId=102256207.

Spillover violence may not occur uniformly across the entire SWB during the same time periods. There may be hot-spot "flare-ups" in response to Mexican drug trafficking activity directly across the border. If this were true, violence would have climbed in Laredo, TX, in 2004 and 2005 when there was an increase in drug trafficking-related violence across the border in Nuevo Laredo. It did not. Also using this hot-spot analysis, the more recent increase in violence in Juarez should be linked to an increase in violence in El Paso, TX, in 2008. In this case, an increase in violence in a Mexican city does appear to be correlated with an increase in violence in a neighboring U.S. city. This further illustrates that relying on trends in overall violent crime rates may not provide an accurate depiction of trends in violent crime (or more specifically, in drug trafficking-related violent crime) around the country.

Another possibility is that there may be a time lag between drug trafficking-related violence in Mexico and any associated violence in the United States. For instance, after settling territorial disputes in Mexico, rival drug trafficking organizations may engage in violent conflict on the U.S. side of the border. With the data available, however, it is not possible to separate out a time lag from other factors that may influence levels of drug trafficking-related violence that may be seen in the United States.

Conclusion

Mexico has experienced an increase in the level of drug trafficking-related violence within and between the drug trafficking organizations (DTOs), and the number of drug trafficking-related deaths in Mexico since January 2007 has been estimated at over 14,000.[83] Congress remains concerned with the possibility that the current drug trafficking-related violence in Mexico may spill over into the Untied States. One of the primary challenges in assessing this violence is defining the term *spillover*. While the interagency community has defined spillover violence as violence targeted primarily at civilians and government entities—excluding trafficker-on trafficker-violence—other experts and scholars have recognized trafficker-on-trafficker violence as central to spillover. When defining and analyzing changes in drug trafficking-related violence within the United States to determine whether there has been (or may be in the future) any spillover violence, critical elements include who may be implicated in the violence (both perpetrators and victims), what type of violence may arise, when violence may appear, and where violence may occur (both along the Southwest border and in the nation's interior).

At present, there is no comprehensive, publicly available data that can definitively answer the question of whether there has been a significant spillover of drug trafficking-related violence into the United States. Although anecdotal reports have been mixed, U.S. government officials maintain that there has not yet been a significant spillover. CRS analyzed violent crime data from the Federal Bureau of Investigation's (FBI's) Uniform Crime Report program in order to examine data that could provide insight into whether there has been a significant spillover in drug trafficking-related violence from Mexico into the United States. However, this violent crime data does not allow CRS to determine the proportion of violent crimes that are related to drug trafficking or, even more specifically, the proportion of drug trafficking-related violent crimes that are attributable to spillover violence. In its analysis, CRS calculated the average violent crime rate across eight selected Metropolitan Statistical Areas (MSAs) along the Southwest border and

[83] For more information on the drug-related violence in Mexico, see CRS Report R40582, *Mexico's Drug-Related Violence* , by June S. Beittel.

130 selected non-border MSAs—identified by the National Drug Intelligence Center (NDIC) as having the presence of Mexican drug trafficking organizations—for each of fiscal years 1999 through 2008. CRS analysis suggests that the violent crime rate has not significantly increased in those areas where there is an identified presence of Mexican drug trafficking organizations. Further, there appears to be no significant difference in the average violent crime rate in the selected border and non-border MSAs between fiscal years 1999 and 2008. In conclusion, however, because the trends in the overall violent crime rate may not be indicative of trends in drug trafficking-related violent crimes, CRS is unable to draw definitive claims about trends in drug trafficking-related violence spilling over from Mexico into the United States.

Appendix. Selected U.S. Efforts and Issues

Various departments and agencies are involved in combating drug-related activity both along the Southwest border and throughout the United States. This Appendix outlines selected U.S. efforts to counter the body of threats posed by drug trafficking organizations (DTOs). Although these efforts are not necessarily tailored to the current violence in Mexico or to the prospect of a spillover of violence into the United States, they include strategies and operations that may address the violence.

Stopping the Flow of Drugs, Guns, and Money

Various agencies have introduced initiatives to stop the northbound flow of drugs into the United States while also stemming the southbound flow of money and guns into Mexico. For example, DHS has increased efforts both on land and at sea. According to DHS, Customs and Border Protection (CBP) launched 100% southbound rail screening in March of 2009 at all SWB rail crossings.[84] Also, DHS announced its intention to increase maritime interdictions, with a special emphasis on go-fast boats.[85]

Drugs

The Department of Justice (DOJ) is the federal agency responsible for enforcing federal criminal laws, and within it, the DEA is the only federal agency whose sole mission is to enforce federal drug laws. Working with its counterpart agencies on both sides of the border, the DEA pursues investigations and develops intelligence with the goal of identifying, infiltrating, and destroying drug trafficking organizations and disrupting their operations. At the end of FY2008, the DEA had 1,203 authorized Special Agent positions working in domestic offices with responsibilities for the SWB, amounting to approximately 23% of DEA's total authorized Special Agent workforce.[86]

The Office of National Drug Control Policy (ONDCP), located in the Executive Office of the President, is the agency responsible for coordinating the national drug control effort, promulgating the federal drug control strategy, and overseeing the strategy's implementation. The ONDCP director, also known as the Drug Czar, is responsible for submitting to Congress every two years a SWB Counternarcotics Strategy, the 2009 version of which is discussed later in this Appendix. The ONDCP also participates in the Southwest Border-Mérida Initiative Interagency Policy Committee and its associated Deputy Committee meetings. This entity addresses all policy issues concerning domestic Southwest border issues as well as implementation of the Mérida Initiative.[87]

[84] Ibid.

[85] U.S. Department of Homeland Security, "Fact Sheet: Southwest Border: The Way Ahead," press release, April 15, 2009, http://www.dhs.gov/ynews/releases/pr_1239821496723.shtm.

[86] Drug Enforcement Administration, *Statement of Joseph M. Arabit Special Agent in Charge, El Paso Division*, Regarding "Violence Along the Southwest Border" Before the House Appropriations Committee, Subcommittee on Commerce, Justice, Science and Related Agencies, March 24, 2009, http://www.usdoj.gov/dea/speeches/s032409.pdf.

[87] For more information on the Mérida Initiative, see CRS Report R40135, *Mérida Initiative for Mexico and Central America: Funding and Policy Issues*, by Clare Ribando Seelke.

Organized Crime Drug Enforcement Task Force (OCDETF) Program

The Organized Crime Drug Enforcement Task Force (OCDETF) Program targets—with the intent to disrupt and dismantle—major drug trafficking and money laundering organizations. Federal agencies that participate in the OCDETF Program include the Drug Enforcement Administration (DEA), the Federal Bureau of Investigation (FBI), Immigration and Customs Enforcement (ICE), the Bureau of Alcohol, Tobacco and Firearms (ATF), U.S. Marshals, Internal Revenue Service (IRS), U.S. Coast Guard, the 94 U.S. Attorneys Offices, and DOJ's Criminal and Tax Divisions. These federal agencies also collaborate with state and local law enforcement. [88] The OCDETFs operate in nine regions around the country and target those organizations that have been identified on the Consolidated Priority Organization Targets (CPOT) List, which is the "most wanted" list for leaders of drug trafficking and money laundering organizations.[89]

High Intensity Drug Trafficking Areas (HIDTAs)

The ONDCP director has the authority to designate areas within the United States that are centers of illegal drug production, manufacturing, importation, or distribution as High Intensity Drug Trafficking Areas (HIDTAs). All of the U.S. counties in the four states along the Mexican border were included in the SWB HIDTA when it was created in 1990. The HIDTA collects and shares intelligence and coordinates task forces composed of federal, state, and local agents that target drug-trafficking operations along the border.

Border Enforcement Security Task Forces (BEST)

The BEST initiative[90] consists of a series of multi-agency investigative task forces, of which ICE is the lead agency. They seek to identify, disrupt, and dismantle criminal organizations posing significant threats to border security. Other agency participants include CBP, DEA, ATF, FBI, USCG, and the U.S. Attorneys Offices, and state and local law enforcement. The Mexican law enforcement agency Secretaria de Seguridad Publica is a partner along the southern border. The Royal Canadian Mounted Police and Canadian Border Services Agency are partners on the northern border.

There are currently 12 BEST task forces, 8 on the Southwest border, 2 on the northern border and 2 at major seaports (Los Angeles and Miami). Each BEST concentrates on the prevalent threat in its area. On the southern border, this entails cross-border violence, weapons smuggling and trafficking, illegal drug and other contraband smuggling, money laundering and bulk cash smuggling, and human smuggling and trafficking.

[88] Drug Enforcement Administration, *Statement of Joseph M. Arabit Special Agent in Charge, El Paso Division*, Regarding "Violence Along the Southwest Border" Before the House Appropriations Committee, Subcommittee on Commerce, Justice, Science and Related Agencies, March 24, 2009, http://www.usdoj.gov/dea/speeches/s032409.pdf.

[89] U.S. Department of Justice, *FY2010 Budget and Performance Summary*, Interagency Crime and Drug Enforcement (ICDE), March 2009, p. 126, http://www.usdoj.gov/jmd/2010summary/pdf/icde-bud-summary.pdf.

[90] ICE, *BEST Fact Sheet*, Dec. 3, 2008.

Guns[91]

According to DOJ, ATF is the lead law enforcement agency responsible for stopping illegal gun trafficking from the United States to Mexico, given the bureau's statutory mission and authority.[92] In recent years, ATF has increased its efforts to suppress illegal gun trafficking in the Southwest border region of the United States. ATF reports that Mexican DTOs are increasingly sending enforcers—individuals responsible for intimidating individuals, collecting drug debts, and ensuring compliance with DTO activities—across the border to hire surrogates (straw purchasers)[93] who buy several "military-style" firearms at a time from federal firearms licensees (FFLs). The DTOs reportedly favor pistols that are equipped to accept high-capacity magazines and are chambered to accommodate comparatively large cartridges capable of piercing through armor vests typically worn by law enforcement officers. Less frequently, but no less troubling to law enforcement, the DTOs have also sought .50 caliber sniper rifles.

Firearms Enforcement

The Gun Control Act of 1968 (GCA), as amended, contains the principal federal restrictions on domestic commerce in small arms and ammunition. The statute requires all persons manufacturing, importing, or selling firearms as a business to be federally licensed; prohibits the interstate mail-order sale of all firearms; and prohibits interstate sale of handguns generally and sets forth categories of persons to whom firearms or ammunition may not be sold, such as persons under a specified age or with criminal records. It also authorizes the Attorney General to prohibit the importation of non-sporting firearms, requires that dealers maintain records of all commercial gun sales, and establishes special penalties for the use of a firearm in the perpetration of a federal drug trafficking offense or crime of violence.

Although there is no definition for "gun trafficking" in the GCA, it essentially entails the movement or diversion of firearms from legal to illegal markets.[94] Unlike other forms of contraband, almost all illegal firearms used criminally in the United States were diverted at some point from legal channels of commerce.[95]

Inspections of Federal Firearms Licensees

ATF inspects FFLs, or licensed gun dealers, to monitor their compliance with the GCA, and to prevent the diversion of firearms from legal to illegal channels of commerce. In the past, despite its crime-fighting mission, ATF's business relationships with the firearms industry and larger gun-owning community have been a perennial source of tension, which from time to time has been the

[91] See also, CRS Report R40733, *Gun Trafficking and the Southwest Border*, by Vivian S. Chu and William J. Krouse

[92] U.S. Department of Justice, Statement of David Ogden, Deputy Attorney General, before the United States Senate Committee on Homeland Security and Governmental Affairs, "Southern Border Violence: Homeland Security Threats, Vulnerabilities, and Responsibilities," March 25, 2009, p.11.

[93] Straw purchases occur when guns are purchased from licensed gun dealers by eligible persons and then knowingly transferred to prohibited persons. Straw purchases are illegal under U.S. law (18 U.S.C. § 924(a)(1)(A)).

[94] U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives, *Project Gunrunner: The Southwest Border Initiative*, ATF P 3317.6, March 2009, available at http://www.atf.gov/publications/download/p/atf-p-3317-6.pdf.

[95] Greg Ridgeway, Glenn L. Pierce, and Anthony A. Braga, et al., *Strategies for Disrupting Illegal Firearms Markets: A Case Study of Los Angeles*, RAND Corporation, 2008, p. 1.

subject of congressional oversight.[96] Nevertheless, under current law, ATF Special Agents and Industry Operations Investigators are authorized to inspect or examine the inventory and records of an FFL without search warrants under three scenarios:[97]

- in the course of a reasonable inquiry during the course of a criminal investigation of a person or persons other than the FFL;
- to ensure compliance with the record keeping requirements of the GCA—not more than once during any 12-month period, or at any time with respect to records relating to a firearm involved in a criminal investigation that is traced to the licensee; or
- when such an inspection or examination is required for determining the disposition of one or more firearms in the course of a criminal investigation.

For 2008, ATF reported that there were 6,647 FFLs in the United States operating in the Southwest border region of Texas, New Mexico, Arizona, and California.[98] By inspecting the firearms transfer records that FFLs are required by law to maintain, ATF investigators are often able to uncover evidence of corrupt FFLs dealing in firearms "off the books," straw purchases, and other patterns of possibly illegal behavior.

Straw Purchases and the Ant Run

Routine, small-scale smuggling of guns across the border often involves a series of straw purchases, during which guns are purchased from FFLs in border states and then sold to a middle man, who then smuggles the guns across the border. Repeated trips across the border of one to three guns, referred to in border parlance as the ant (hormiga) run, is a common way firearms are smuggled into Mexico.[99] In the United States, straw purchases are illegal under the GCA.[100] When a person buys a firearm from an FFL, the buyer and the FFL are required to fill out an ATF Form 4473. The FFL is required to verify the purchaser's name, address, date of birth, and other information by examining a state-issued piece of identification, most often a driver's license. If the purchaser or dealer falsifies any information on the Form 4473, it is a federal offense punishable by no more than 10 years imprisonment and/or a fine.[101] It is also illegal for the gun trafficker to sponsor the straw purchase, because it is a federal offense for any person to aid, abet,

[96] For example, in the 109th Congress, the House Judiciary Crime subcommittee held two oversight hearings examining ATF firearms enforcement operations at guns shows in Richmond, Virginia, in 2005. ATF agents reportedly provided state and local law enforcement officers with confidential information from background check forms (ATF Form 4473s), so that those officers could perform residency checks on persons who had otherwise legally purchased firearms at those gun shows. Questions were also raised as to whether ATF agents had profiled gun purchasers at those gun shows on the basis of race, ethnicity, and gender. See U.S. Congress, House of Representatives, Committee on the Judiciary, Subcommittee on Crime, Terrorism, and Homeland Security, Oversight Hearing on the Bureau of Alcohol, Tobacco, Firearms, and Explosives (BATFE) Parts I & II: Gun Show Enforcement, February 15 and 28, 2006. Also see Department of Justice, Office of the Inspector General, The Bureau of Alcohol, Tobacco, Firearms and Explosives' Investigative Operations at Gun Shows, I-2007-007, June 2007.

[97] 18 U.S.C. § 923(g)(1)(B).

[98] ATF briefing provided to CRS on May 5, 2008.

[99] Ibid.

[100] 18 U.S.C. § 921 *et seq.*

[101] 18 U.S.C. § 922(a)(6); 18 U.S.C. § 924 (a)(2).

counsel, command, or solicit a criminal act;[102] or engage in a conspiracy to defraud the United States. It is also illegal to smuggle firearms out of the United States.[103]

Gun Shows and Private Firearms Transfers

Private, intrastate firearm transfers are legal in some states at gun shows and flea markets. A person who is not "engaged in the business" of dealing firearms may transfer firearms to another person as long as he does not do so knowingly to a prohibited person, and as long as he does not knowingly transfer a handgun to a person who is not a resident of the state in which the transfer occurs.[104] It is notable that firearms acquired through private transfers, particularly multiple private transfers, are much more difficult to trace. Consequently, there is likely to be a premium for such firearms in illegal markets on both sides of the border, as there would also be for some stolen firearms, because there are no paper trails for these firearms. Southwest border states in which private transfers at gun shows are legal include Texas, New Mexico, Arizona, and California, but gun shows and all private firearm transfers are more strictly regulated in California.[105]

Firearms Tracing for Mexican Authorities

ATF also maintains a foreign attaché in Mexico City to administer an Electronic Trace Submission System (ETSS), also known as the e-Trace program, for Mexican law enforcement authorities. From FY2005 through FY2007, ATF traced just over 11,700 firearms recovered by Mexican authorities, and approximately 90% of those firearms were traced back to the United States.[106] Successful firearm traces are instrumental in developing investigative leads in homicide and gun trafficking cases. According to ATF, some of those cases uncover corrupt FFLs who were involved in larger criminal conspiracies to smuggle firearms into Mexico.[107] In January 2008, ATF announced that e-Trace technology would be deployed to an additional nine U.S. consulates in Mexico (Mérida, Juarez, Monterrey, Nogales, Hermosillo, Guadalajara, Tijuana, Matamoros, and Nueva Laredo).[108] The number of traces performed by ATF for Mexican authorities during FY2008 increased markedly. During FY2008, ATF traced 7,743 firearms recovered by Mexican authorities, as compared with the 11,700 firearms traced over a three-year period, FY2005-FY2007.[109] Of those firearms, 63.5% were determined to have been manufactured in the United States and 29.5% were determined to have been manufactured abroad, but imported into the

[102] 18 U.S.C. § 2.

[103] 18 U.S.C. § 554.1. Depending on the type of firearm, it is also a violation of either the Arms Export Control Act (AECA; 22 U.S.C. § 2778 *et seq*.) or the Export Administration Act of 1979 (EAA; 50 U.S.C. app. §§ 2401-2420) to transport a handgun, rifle, or shotgun across the border into Mexico without proper authorization of the U.S. government.

[104] 18 U.S.C. § 922(a)(5).

[105] See Brady Center to Prevent Gun Violence website on state gun laws, http://www.stategunlaws.org/.

[106] ATF briefing provided to CRS on May 5, 2008.

[107] Ibid.

[108] Bureau of Alcohol, Tobacco, Firearms and Explosives, Office of Public Affairs, "ATF Expands Efforts to Combat Illegal Flow of Firearms to Mexico," January 16, 2008.

[109] ATF briefing provided to CRS on April 16, 2009.

United States.[110] Consequently, 93% of firearms traced by ATF during FY2008 for Mexican authorities were either made in, or imported to, the United States.[111]

Project Gunrunner

During FY2006 and FY2007, ATF conducted Project Gunrunner to disrupt the illegal flow of firearms from the United States to Mexico. During those years, ATF dedicated approximately 100 special agents and 25 Industry Operations Investigators to a SWB region. In FY2007, ATF agents investigated 187 firearms trafficking cases and recommended 465 defendants for prosecution.[112] By the end of FY2008, ATF had deployed 146 special agents and 68 industry operations investigators to the SWB to bolster that initiative at a conservatively estimated cost of $32.2 million.[113]

Armas Cruzadas

Armas Cruzadas is a partnership between U.S. and Mexican law enforcement agencies. [114] Its objective is to synchronize bilateral law enforcement and intelligence sharing operations in order to identify, disrupt, and dismantle trans-border weapons smuggling networks. Among the activities under Armas Cruzadas, ICE Border Liaisons are deployed to the border to strengthen bilateral communication. There is also a Weapons Virtual Task Force, a virtual online community where U.S. and Mexican investigators can share intelligence and communicate in a secure environment.[115]

For the United States, ICE is a major participant agency in Armas Cruzadas because of its authority as the federal agency responsible for investigating cases involving weapons being smuggled out of the United States. ATF participates as a result of its authority over weapons being illegally sold and transported within the United States. CBP is also a participating agency due to its border security responsibilities.

Money

As mentioned, the sale of illegal drugs in the United States generates somewhere between $18 billion and $39 billion in annual wholesale proceeds for Mexican and Colombian DTOs.[116] Money from the DTOs' illegal sale of drugs in the United States is moved south across the border into Mexico. Moving these funds from the United States into Mexico fuels the drug traffickers'

[110] Ibid.

[111] Ibid.

[112] Statement of William Hoover, Assistant Director for Field Operations, Bureau of Alcohol, Tobacco, Firearms and Explosives, before the Subcommittee on the Western Hemisphere, Committee on Foreign Affairs, House of Representatives, concerning "U.S. Obligations under the Mérida Initiative," February 7, 2008.

[113] CRS conversations with Bureau of Alcohol, Tobacco, Firearms and Explosives, Office of Legislative Affairs, May 14, 2008.

[114] ICE, *Armas Cruzadas Fact Sheet*, Nov. 12, 2008.

[115] U.S. Congress, Senate Committee on Judiciary, Subcommittee on Crime and Drugs, *Law Enforcement Responses to Mexican Drug Cartels*, Statement of Kumar C. Kibble, Deputy Director, ICE Office of Investigations, 111th Cong., Mar. 17, 2009.

[116] NDTA, 2009., p. 49.

criminal activities. This money is not directly deposited into the U.S. financial system, but rather is illegally laundered through mechanisms such as bulk cash smuggling, the Black Market Peso Exchange[117] (BMPE), or placed in financial institutions, cash-intensive front businesses, prepaid stored value cards (PSVCs), or money services businesses (MSBs). The NDIC indicates that the development of new technologies has provided outlets through which DTOs may conceal their illicit proceeds.

The Financial Crimes Enforcement Network (FinCEN), under the Department of the Treasury is involved in six High Intensity Financial Crime Areas (HIFCAs).[118] HIFCAs are designated by the Secretary of the Treasury, in consultation with the Attorney General, and are eligible to apply for federal funds to aid in specific law enforcement initiatives. HIFCAs are required to be discussed in the Secretary of the Treasury's national strategy on money laundering and related financial crimes—the last of which was required to be (and was) submitted to Congress in 2007.[119] These areas are designated to focus federal efforts at combating money laundering in areas with the highest money laundering activity. Two HIFCAs that are directly involved with combating money laundering related to drug trafficking along the Southwest border are the California Southern District HIFCA and the Southwest Border HIFCA. The California Southern District HIFCA includes six counties in southern California, but does *not* include the two California counties (San Diego and Imperial counties) that directly abut the Southwest border. The Southwest Border HIFCA includes all counties in Arizona and Texas counties directly along the Southwest border as well as those counties directly adjacent to the border counties.

Bulk Cash Smuggling

Bulk cash smuggling is one of the primary means by which DTOs launder their illicit proceeds south across the United States-Mexico border.[120] Several federal agencies record information on bulk cash smuggling, including DEA (through the El Paso Intelligence Center's National Seizure System), ICE (through the Bulk Cash Smuggling Center), and the Department of the Treasury (through the Treasury Enforcement Communications System database). Because each of these databases is distinct from the others, ONDCP has recommended that increased information sharing between federal—as well as between federal, state, and local law enforcement—could aid in investigations of DTOs involved in bulk cash smuggling.

Operation Firewall is an initiative to combat bulk cash smuggling, one of the methods that transnational criminal organizations use to move the proceeds from their criminal activities to fund future operations. ICE has found that as successful enforcement has made the transfer of illicit funds between banks and other financial institutions more difficult, criminal organizations are increasing their use of bulk cash smuggling.[121] Operation Firewall is a joint effort with CBP to

[117] The Department of the Treasury defines the BPME as "a large-scale money laundering system used to launder proceeds of narcotic sales in the United States by Latin American drug cartels by facilitating swaps of dollars in the U.S. for pesos in Colombia through the sale of dollars to Latin America businessmen seeking to buy U.S. goods to export," http://www.fincen.gov/statutes_regs/guidance/html/advis04282006.html.

[118] See the FinCEN HIFCA website at http://www.fincen.gov/law_enforcement/hifca/index.html for more information.

[119] 31 U.S.C. § 5341.

[120] Office of National Drug Control Strategy, *National Southwest Border Counternarcotics Strategy*, June 2009, p. 25, http://www.whitehousedrugpolicy.gov/publications/swb_counternarcotics_strategy09/swb_counternarcotics_strategy09.pdf.

[121] U.S. Congress, House Appropriations Committee, Subcommittee on Homeland Security, *Border Security Enforcement Task Force*, Statement of Marcy Forman, Director, ICE Office of Investigations, 111th Cong., Mar. 10, (continued...)

target the full array of methods used to smuggle bulk cash, including commercial and private passenger vehicles, commercial airline shipments and passengers, and pedestrians crossing U.S. borders with Mexico and Canada. [122]

Securing the Border

At the Ports of Entry

As a response to the violence in Mexico, DHS announced a number of measures to ensure additional security. Among those measures was the deployment of seven additional dual-detection canine teams, for a total of 12 teams in California, Arizona, and Texas. Moreover, additional mobile x-ray units were deployed to Texas and Arizona, joining the seven previously deployed units along the Southwest border in Texas and California.[123] In regards to Operation Stonegarden—grants to enhance cooperation and coordination among federal, state, local and tribal law enforcement agencies in a joint mission to secure the border—Secretary Napolitano waived the 50% cap on personnel and operational activity costs for local eligible jurisdictions along the border to provide additional resources where they are needed most. Also, CBP conducts the scanning of license plates along the Southwest border through automated license plate readers (LPR). As of April 2009, CBP operated 52 outbound LPR lanes at 16 Southwest border crossings. CBP claims to be expanding these outbound operations and intends to replace the existing LPRs to improve accuracy rates and enhance capability.[124]

Although notable resources are intended for deployment to the Southwest border, DHS has stated that no personnel will be transferred to implement this initiative.[125] Some Members of Congress have expressed concerns about resources (particularly manpower) being diverted from other areas of the border. Instead, DHS intends to deploy Mobile Response Teams for short operations along the Southwest border. According to a DHS press release:

> Mobile Response Teams, consisting of 25 CBP officers each, are available for special deployments along the Southwest border. Twelve additional MRT officers have already been deployed to Texas and Arizona field offices; 24 more are scheduled to be deployed to the California, Texas and Arizona field offices in early May. Combined with the four existing teams, these 36 officers will comprise eight additional teams for a total of 12.

CBP must manage the border in such a way that the institution of enhanced security measures does not unduly restrict or delay the processing of legitimate travel and trade. Since the September 11, 2001, terrorist attacks, this tension has been most keenly felt on the inbound lanes of the land border, as CBP has taken numerous measures to enhance the security of the people and goods entering the United States. Less attention has been paid to people and goods leaving the country.

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2009.

[122] ICE, *Operation Firewall Fact Sheet*, Feb 6, 2008.

[123] Department of Homeland Security, "Fact Sheet: Southwest Border: The Way Ahead," press release, April 15, 2009, http://www.dhs.gov/ynews/releases/pr_1239821496723.shtm.

[124] Ibid.

[125] Ibid.

The escalation of DTO-related violence in Mexico, and the concern that this violence might spill over in to the United States, has led for calls to enhance U.S. inspections of conveyances (cars, trucks, railcars) crossing the border from the United States into Mexico. The focus of these outbound inspections is stemming the flow of guns and money from the U.S. into Mexico. As reported above, CBP has taken several steps to enhance its outbound inspections. It is important to note, however, that every border crossing has two sides. In a public address in April 2009, Secretary of Homeland Security Napolitano was quoted as saying:

> The notion is that we will share the southbound inspections with Mexico, meaning that they will do some, we will do some. In other words, we're both not going to be everywhere all the time on southbound. Right now, Mexican customs or their equivalent doesn't do any southbound. So we're ... working with Mexico to change that dynamic, and share some responsibility along that border.[126]

Of concern to policy makers is achieving the appropriate balance of responsibility between the United States and Mexico for southbound inspections, and ensuring that the new outbound security measures do not unduly restrict the flow of legitimate trade and travel.

Between the Ports of Entry

Over the past several years, DHS has adopted a new strategy for fighting drug smuggling, illegal immigration, and other illicit cross-border activities. This strategy—known as the Secure Border Initiative (SBI)—has sought to gain operational control over the Southwest border of the United States, with the eventual goal of gaining such control over all of the country's border regions. The purpose of such a strategy has essentially been to "push the fight" against potential violators of the law to the ports of entry where screening and tracking resources are located. In order to achieve such a funneling effect, DHS had as of November 27, 2009, installed 642.2 miles of fence along the Southwest border, including 343.7 miles of pedestrian fence and 298.5 miles vehicular barriers known as "vehicle fence." These barriers are designed to consistently slow, delay, and be an obstacle to illegal cross-border activity. Additionally, CBP is pursuing a mix of personnel (there are currently more than 16,400 CBP agents between the ports of entry along the Southwest border), technology, infrastructure, and response assets known as SBInet that will serve as a "virtual fence." While the deployment of the physical barriers are planned for roughly 670 miles of the Southwest border, the eventual deployment of the virtual fence is intended to occur along the entire United States border. Despite the installation of these barriers, Border Patrol agents continue to be subject to attacks from the Mexico side of the border.[127] These attacks, however, have been ongoing for a number of years and do not appear to be linked to the recent feud between the DTOs.[128]

Although not confirmed by currently available research, officials for DHS have speculated that part of the violence that has erupted between Mexican drug trafficking organizations can be attributed to this strategy by DHS. These officials believe that the efforts to funnel smuggling and trafficking activities towards ports of entry have disrupted a number of the previous supply channels for such operations, thereby limiting the ability to conduct illegal cross-border activities.

[126] Department of Homeland Security, "Remarks by Secretary Napolitano at the Border Trade Alliance International Conference," press release, April 21, 2009, http://www.dhs.gov/ynews/speeches/sp_1240361190144.shtm.

[127] Based on CRS discussions with CBP and Border Patrol officials in El Paso, TX, December 3, 2008.

[128] Ibid.

These speculations are to some degree supported by media reports that Mexican smugglers and traffickers have become more aggressive in their attempted efforts at corrupting CBP officers. Such factors, along with the SBI strategy and the large numbers of new hires being brought in as CBP officers have placed an increased pressure on the Southwest border points of entry.

Shifting/Enhancing Resources

DHS announced resource shifts to augment specific border security efforts. The announced shifts included the doubling of ICE special agents to Border Enforcement Security Task Forces (BEST) from 95 to 190. Also, according to DHS, the 95 additional ICE investigators were to augment BEST task forces at the following locations: San Ysidro and Imperial Valley, CA; Phoenix and Tucson, AZ.; Deming and Las Cruces, NM; and El Paso, Laredo, and Rio Grande Valley, TX. ICE detailed 26 additional analysts to the Southwest border, thereby tripling the previous number. The ICE Attaché personnel in Mexico reportedly increased by 50% (from 24 to 36), to support the Mexican government, as well as domestic ICE offices, by pursuing investigations inside Mexico involving money laundering, narcotics or human trafficking, and weapons smuggling. Finally, DHS announced a quadrupling of the number of ICE Border Liaison Officers (BLOs) assigned along the Southwest border, from 10 officers to 40 officers.

Cross-Cutting Efforts

National Southwest Border Counternarcotics Strategy[129]

The National Southwest Border Counternarcotics Strategy (SWBCS) is a companion strategy to complement the overarching National Drug Control Strategy and to place specific emphasis on drug control efforts in the SWB region. One of the aims of the National Drug Control strategy is to disrupt the trafficking of illicit narcotics as close to the source zone as possible. The SWBCS is specifically focused on those shipments that are not intercepted in the source or transit zones, and directs resources to the arrival zone—the SWB of the United States.

The SWBCS is comprised of six strategic objectives that are incorporated into the overall strategic goal of reducing the flow of drugs, money, and weapons across the Southwest border. In order to accomplish this goal, the Strategy outlines major efforts in the areas of improving intelligence and information sharing, preventing smuggling at and between the ports of entry, utilizing air and marine assets, supporting investigations and prosecutions, countering financial crimes, combating the southbound flow of weapons into Mexico, advancing technology, and providing support to Mexico.

Southwest Border Initiative (SWBI)

The Southwest Border Initiative (SWBI) is a multi-agency (DEA, ATF, FBI, U.S. Customs Service, and U.S. Attorneys) initiative targeting Mexican and Colombian-based DTOs. [130] Federal

[129] Office of National Drug Control Policy, *National Southwest Border Counternarcotics Strategy*, June 2009, http://www.whitehousedrugpolicy.gov/publications/swb_counternarcotics_strategy09/swb_counternarcotics_strategy09.pdf. Herein after, SWBCS, 2009. The SWBCS is implemented by the Director of National Drug Control Policy, in conjunction with the DHS Office of Counternarcotics Enforcement as well as the DOJ Office of the Deputy Attorney General.

agencies target the communication systems of DTO command and control centers (in part, by conducting wiretaps) to identify all levels of the organizations. The SWBI, in operation since 1994, allows federal agencies to track the flow of drugs from Colombia or Mexico into the United States.

Mérida and Direct Support to Mexico

Congress has provided funding for the Mérida Initiative,[131] a multi-year proposal for $1.4 billion in U.S. counterdrug and anticrime assistance to Mexico and Central America.[132] With assistance largely in the form of equipment and training, goals of the Initiative include breaking the power and impunity of criminal organizations; assisting the Mexican and Central American governments in strengthening border, air, and maritime controls; improving the capacity of justice systems in the region; and curtailing gang activity in Mexico and Central America and diminishing the demand for drugs in the region.[133]

Enhancing Intelligence

El Paso Intelligence Center (EPIC)

EPIC was established in 1974 as an intelligence center to collect and disseminate information relating to drug, alien, and weapon smuggling in support of field enforcement entities throughout the region. Following 9/11, counterterrorism also became part of its mission. EPIC is jointly operated by the Drug Enforcement Administration (DEA) and U.S. Customs and Border Protection (CBP).[134]

Today, EPIC is a fully coordinated, multi-agency tactical intelligence center supported by databases and resources from member agencies. Its online query capability consists of 33 federal databases, six commercial databases, and its own internal database. EPIC operates a 24/7 watch program manned by special agents, investigative assistants and intelligence analysts to provide timely tactical intelligence to the field on request.

Agencies represented at EPIC include ICE; U.S. Coast Guard; U.S. Secret Service; the Departments of Defense (DOD) and Interior; FBI; Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF); U.S. Marshals Service; Federal Aviation Administration, National Drug Intelligence Center; Internal Revenue Service; National Geospatial–Intelligence Agency; Joint Task Force–North; Joint Interagency Task Force–South; Texas Department of Public Safety; Texas Air National Guard; and the El Paso County Sheriff's Office.

(...continued)

[130] For more information on the SWBI, see the Drug Enforcement Administration, *Southwest Border Initiative*, http://www.usdoj.gov/dea/programs/sbi.htm.

[131] CRS Report R40135, *Mérida Initiative for Mexico and Central America: Funding and Policy Issues*, by Clare Ribando Seelke.

[132] This includes the countries of Belize, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama.

[133] CRS Report R40135, *Mérida Initiative for Mexico and Central America: Funding and Policy Issues*, by Clare Ribando Seelke.

[134] See DEA, *El Paso Intelligence Center*. http://www.usdoj.gov/dea/programs/epic.htm

DHS Office of Intelligence and Analysis (I&A)[135]

DHS is a member of the Intelligence Community (IC). Its I&A is responsible for collecting, analyzing, and disseminating information related to homeland security threats "to the full spectrum of homeland security customers in the Department, at state, local, and tribal levels, in the private sector, and the IC."[136] The Under Secretary for I&A is the Chief Intelligence Officer for the Department and manages the entire DHS Intelligence enterprise consisting of I&A and the six DHS operational components with intelligence offices—U.S. Customs and Border Protection, U.S. Immigration and Customs Enforcement, U.S. Citizenship and Immigration Services, Transportation Security Administration, U.S. Coast Guard, and U.S. Secret Service.

To enhance its support to border security activities, I&A established an Integrated Border Intelligence Program (IBIP). Under IBIP, additional personnel and support infrastructure have been committed to support all of the Department's border security operations. The program is designed to link DHS intelligence resources, and those of state and local partners, with the IC in order to deliver actionable intelligence to front-line operators and to fuse national intelligence with law enforcement information. In order to enhance the intelligence component of the effort to stop the flow of illegal weapons into Mexico, Secretary Napolitano announced in March 2009 that DHS will triple the number of intelligence analysts at the Southwest border.[137]

An important initiative within the IBIP is the Homeland Intelligence Support Team (HIST). The first HIST team was deployed in 2007 to El Paso, TX. It consists of intelligence officers from I&A whose mission is to coordinate and facilitate the delivery of national intelligence and enhance information fusion to support DHS operational missions at the border. In this regard it serves as a bridge between the national and field levels and between I&A and the component intelligence staffs at the border. It can also push/pull information from state and local law enforcement officials. The HIST also helps provide context to I&A analysts on topics such as border violence. Its focus areas are alien smuggling, border violence, weapons trafficking, illicit finance, drug trafficking, and the nexus between crime and terrorism. Its location at the El Paso Intelligence Center (EPIC) gives the HIST staff immediate access to each of the DHS operational components plus 16 other federal, state, and local agencies.

DHS announced several other efforts directed at curbing the drug-related violence in Mexico. One such effort is the intended bolstering of the Secure Communities (SC) biometric identification deployment. This effort would expand SC from the previous 23 counties in the Southwest border states of Arizona and Texas and make this capability available to an additional 26 Southwest border counties in Arizona, California, New Mexico, and Texas.

[135] For more information on the DHS intelligence enterprise, see CRS Report R40602, *The Department of Homeland Security Intelligence Enterprise: Operational Overview and Oversight Challenges for Congress*, by Mark A. Randol.

[136] DHS, *Office of Intelligence and Analysis.* http://www.dhs.gov/xabout/structure/gc_1220886590914.shtm.

[137] White House Press Release, "Administration Officials Announce US Mexico Border Security Policy: A Comprehensive Response and Commitment," March 24, 2009. http://www.whitehouse.gov/the_press_office/Administration-Officials-Announce-US-Mexico-Border-Security-Policy-A-Comprehensive-Response-and-Commitment/

CBP Border Field Intelligence Center (BORFIC)

Originally established as the Border *Patrol* Field Intelligence Center in 2004 in El Paso, TX, BORFIC conducts all-source intelligence activities to support the border security mission of the BP and other DHS and CBP elements to predict, detect, deter, and interdict terrorists, terrorist weapons, and human traffickers and contraband smugglers entering the United States.[138]

BORFIC is responsible for supporting security efforts on both the northern and southern borders. It exchanges intelligence and law enforcement information with numerous federal, state, local, and tribal organizations agencies and actively participates in several interagency and bilateral groups. On the Southwest border, these include the El Paso Interagency Intelligence Working Group, consisting of EPIC, DOD's Joint Task Force-North, and the FBI; and the Bilateral Interdiction Working Group with Mexico. BORFIC shares law enforcement intelligence information with state and local fusion centers through the Homeland Security State and Local Intelligence Community of Interest (HS-SLIC) portal.[139] Currently, BORFIC has four personnel assigned to EPIC who work in tandem with the Homeland Intelligence Support Team also located there. CBP plans to relocate BORFIC to EPIC to enhance coordination efforts.

CBP Air and Marine Operations Center (AMOC)

Located in Riverside, CA, the AMOC is a 24/7, multi-agency coordination center that detects, sorts, and monitors air and marine tracks of interest[140] across the nation's borders and maritime approaches. The AMOC is staffed with intelligence operations specialists who provide connectivity to DHS and other intelligence community agencies. It also has liaison officers assigned from the USCG, Federal Aviation Administration, DOD National Guard Bureau, and the Government of Mexico.[141]

The AMOC produces a comprehensive air surveillance radar picture from as many as 450 sensors, including an extensive network of military and civilian radars across the United States and Canada. It allows the AMOC to provide real-time data on suspicious or non-cooperative aircraft and marine vessels to support interdiction operations as well as to other DHS intelligence and operations centers. In addition to aircraft and vessel location data, Detection Systems Specialists at the AMOC have access to numerous law enforcement and other databases that allow them to provide operational units with information regarding the flight plans, history, ownership, and registration of aircraft and vessels and criminal background information on pilots and vessel crew.

[138] CBP BORFIC, Briefing for CRS, Dec. 3, 2008.

[139] The Homeland Security State and Local Intelligence Community of Interest (HS-SLIC) allows intelligence analysts in 45 states, the District of Columbia and seven federal agencies to share sensitive homeland security intelligence information and analysis on a daily basis. It is hosted on a portal of the Homeland Security Information Network (HSIN).

[140] Among the reasons for an aircraft or vessel to be considered a track of interest is that it is unidentified, uncooperative (i.e., not responding to air traffic control or law enforcement direction), or otherwise behaving suspiciously.

[141] U.S. Government Accountability Office, *Opportunities Exist to Enhance Collaboration at 24/7 Operations Centers Staffed by Multiple DHS Agencies, 07-89*, Oct. 2006, pp. 13-14.

ICE Field Intelligence Groups (FIG)

The ICE Office of Investigations has 26 Field Offices that manage the investigative activities within their area of responsibility. Each office is supported by a co-located FIG consisting of an intelligence director or advisor and a staff of intelligence and operational personnel. FIG personnel identify and analyze criminal trends, threats, methods and systemic vulnerabilities related to ICE strategic priorities within their office's area. FIG intelligence reports, assessments, and other products primarily support the ICE leadership and field managers, but are also disseminated to other DHS, law enforcement, and IC member agencies. [142] FIG's at or near the Southwest border are those co-located with the ICE Office of Investigation Field Offices in Dallas, El Paso, Houston, and San Antonio in Texas; and Los Angeles and San Diego in California.

ICE Border Violence Intelligence Cell (BVIC)

The BVIC was established in January 2008 in order to provide intelligence support for ICE weapons smuggling investigations and government-wide efforts to combat violence along the United States-Mexico border.[143] It is located at EPIC within the Crime-Terror Nexus Unit. The BVIC works closely with I&A's HIST and other partners at EPIC.

As the level of violence along the U.S.-Mexican border intensified in the past two years, ICE has partnered with Mexican and other U.S. law enforcement agencies on three initiatives described below to enhance border security, disrupt transnational criminal organizations, and stop the illegal flow of firearms from the United States into Mexico. These are the Border Enforcement Security Task Forces (BEST), Armas Cruzadas, and Operation Firewall (described elsewhere in this report). The BVIC supports all three programs. At the BVIC, all-source intelligence is analyzed and operational leads are provided to the BEST task forces and ICE attaché offices. The BVIC also analyzes data from arrests and seizures by the BEST task forces and exchange intelligence with Mexican law enforcement agencies.

In November 2008, the BVIC, in collaboration with CBP and DHS I&A, produced an Intelligence Report, *United States Southbound Weapons Smuggling Assessment*, which examined U.S. southbound weapon smuggling trends. This report was designed to support the BEST's and other operational components in planning and conducting outbound firearms smuggling operations. In December 2008, the BVIC also co-authored a strategic-level analysis for the ICE and DHS leadership on the same issue.

Operation Black Flag

In reaction to the escalation of drug-related violence along the U.S.-Mexican border, DEA initiated Operation Black Flag in April 2008.[144] Collecting intelligence from law enforcement agencies and confidential sources on both sides of the border, the operation's main goal is to track

[142] This summary of FIG mission and functions is from Ibid., p. 1.

[143] ICE, *BVIC Fact Sheet*, June 2008.

[144] Drug Enforcement Administration, *Statement of Joseph M. Arabit Special Agent in Charge, El Paso Division*, Regarding "Violence Along the Southwest Border" Before the House Appropriations Committee, Subcommittee on Commerce, Justice, Science and Related Agencies, March 24, 2009, http://www.usdoj.gov/dea/speeches/s032409.pdf.

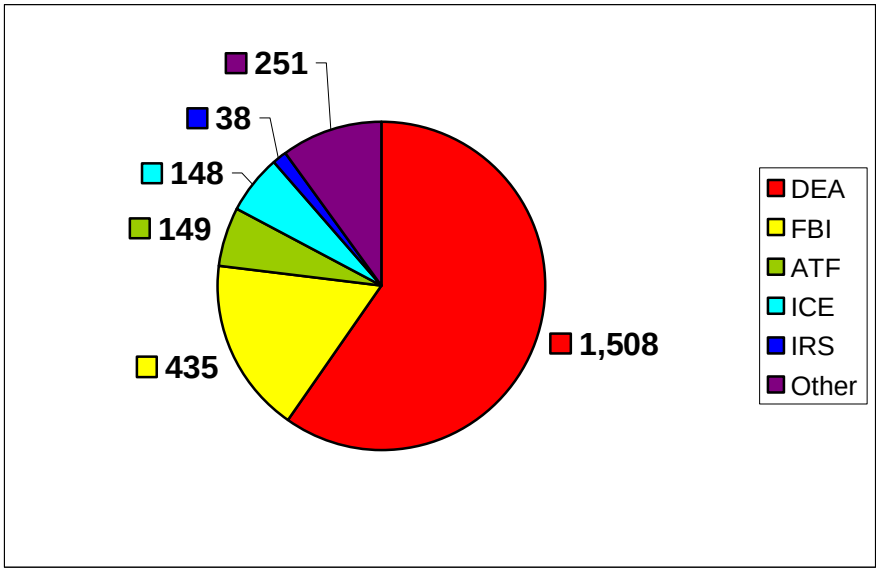
and report actionable intelligence on the capability and likelihood of Mexican DTOs extending their violent activities across the border and onto American soil.

Increasing Prosecutions

As mentioned, multiple federal agencies are involved in investigating the Mexican DTOs. Often, these cases are investigated in OCDETF investigations. **Figure A-1** illustrates the number of OCDETF cases referred to the United States Attorney Offices (USAOs) from various agencies in FY2008.

Figure A-1. OCDETF Cases Referred to the USAOs, by Federal Agency

FY2008



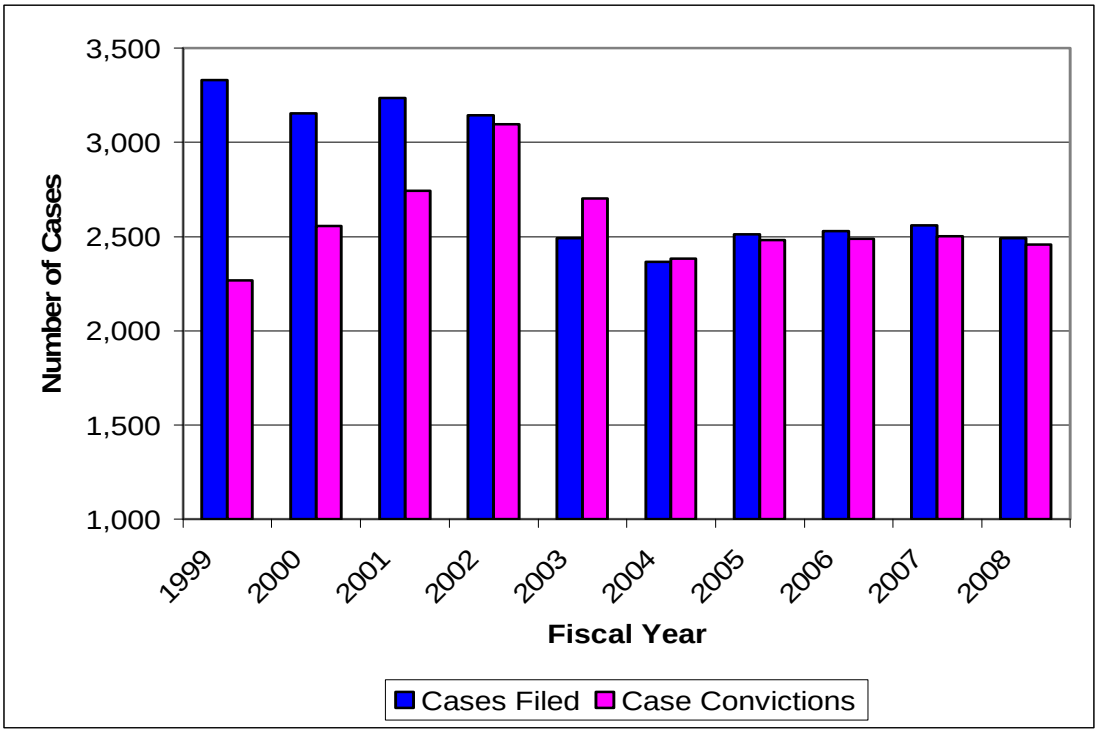
Source: CRS representation of data provided by USAO Congressional Affairs.

Generally, over the past 10 years, the number of OCDETF cases filed with the U.S. Attorneys has decreased by about 25% from 3,332 in FY1999 to 2,491 in FY2008,[145] as illustrated in **Figure A-2**. One possible explanation for the decline in OCDETF case filings is that U.S. law enforcement has not focused efforts on OCDETF cases, and therefore did not file as many cases with the USAOs. A second explanation may be that increasing enforcement has been effective in reducing the illegal activities of DTOs and money laundering organizations, thus leading to a decrease in the number of OCDETF cases referred to the USAOs.

[145] Data provided to CRS by USAO Congressional Affairs.

Figure A-2. OCDETF Case Filings and Convictions

FY1999-FY2008



Source: CRS representation of data provided by USAO Congressional Affairs.

Notes: Data represents the total number of OCDETF cases filed with the USAOs. This includes cases relating Mexican DTOs as well as other drug trafficking and money laundering organizations.

The data on OCDETF cases do not, however, allow analysts to determine the proportion of cases focused on particular drug trafficking and money laundering organizations—such as Mexican DTOs. It is unclear whether the proportion of OCDETF cases related to Mexican DTOs has changed significantly throughout the past 10 years. If the proportion of OCDETF cases related to Mexican DTOs has remained constant, then the total number of OCDETF cases has decreased relative to FY1999. If this proportion has increased, however, this could suggest several things, including an increase in Mexican DTOs' illegal activities or an increase in administration prioritization of Mexican DTOs.

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