



JUNE 16, 2016

OUR EVOLVING UNDERSTANDING AND RESPONSE TO TRANSNATIONAL CRIMINAL THREATS

UNITED STATES SENATE COMMITTEE ON FOREIGN RELATIONS

ONE HUNDRED FOURTEENTH CONGRESS, SECOND SESSION

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WITNESS STATEMENTS

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Prepared Statement of:
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Hearing before the:
Senate Committee on Foreign Relations

**“Our Evolving Understanding and Response to
Transnational Criminal Threats”**

June 16, 2016

Chairman Corker, Senator Cardin, distinguished Members of the Committee; thank you for the opportunity to appear before you to discuss the Department of State's work to prevent transnational organized crime from harming U.S. citizens and threatening our national interests.

Since 2011, it has been my privilege to serve as Assistant Secretary of State for the Bureau of International Narcotics and Law Enforcement Affairs (INL) which leads the Department's efforts to meet this considerable challenge. INL is responsible for coordinating U.S. government efforts abroad to increase international cooperation against all forms of transnational crime. To support this mission, INL is entrusted with developing and managing U.S. foreign assistance programs in approximately 90 countries to strengthen the criminal justice capacity of like-minded foreign governments. INL also coordinates and funds the efforts of U.S. law enforcement agencies that provide training and other assistance to our international partners.

Transnational organized crime encompasses a wide variety of criminal threats, ranging from illegal trafficking in drugs, people and wildlife to cybercrime and money laundering. Any serious ongoing criminal activity that crosses international borders and involves three or more people meets the legal definition of transnational organized crime, and these activities threaten the interests of the United States on three broad, interrelated fronts.

First, transnational organized crime's impact is felt directly on the streets of virtually every community in America. Drugs, counterfeit merchandise, and other contraband are illegally smuggled into the United States every year, undermining our border security and inflicting harm on society and individuals. Heroin, fentanyl, and illicit opioids originating from abroad are perpetuating the national opioid epidemic. Cyber-enabled fraud and other forms of crime victimize American citizens of billions of dollars annually, and transnational criminal gangs commit crimes in collaboration with their peers located beyond our borders.

Second, American businesses and financial institutions are more affected than ever before by the impact of transnational organized crime. When international crime infiltrates legitimate commercial sectors, our companies and workers are deprived of a level playing field to compete globally. Markets for U.S. products are diminished, prices are distorted, and consumers are exposed to additional risks from unregulated (and in many cases unsafe) products. Counterfeiting and piracy cost the U.S. economy billions of dollars annually and expose consumers to dangerous and defective products. Transnational crime also

corrupts international financial institutions that supply the credit and banking services that our global economy depends on.

Third, international criminals engage in a variety of activities that pose a grave threat to our national security and the stability of the global community. Corruption and the enormous flow of illicit profits generated by criminal activity are serious threats to the stability of democratic institutions, the rule of law, and sustainable economies around the world. Once imbedded within the political institutions of a society, transnational criminal networks weaken the bonds of trust between citizens and their state. Governments corrupted at senior levels by organized crime cannot be trusted to act as reliable partners of the United States, or as responsible stakeholders in the international community. The convergence of crime, corruption, and weak governments can also devolve into failed states and ungoverned spaces that provide a foothold for terrorism, insurgencies and unchecked human rights abuses.

The Department of State has treated transnational organized crime as a foreign policy priority for approximately the past forty years. We started with illegal drugs. In the late 1970s, INL was created to develop and manage international drug control programs. Our focus was on eradicating drug crops in Latin American source countries. We had some success with eradication, but in and of itself, it wasn't sufficient; drug cultivation could be shifted to new areas where governments had less authority. When it became apparent that eradication wasn't enough, in the 1980s, we shifted our approach to interdiction. And again, we had some successes, particularly in reducing the flow of cocaine through the Caribbean. But traffickers can adapt and evolve quickly, budgets to support interdiction are limited, and the flow of drugs shifted over time.

These early years of experience taught us some valuable lessons with wider applicability to all other forms of transnational organized crime. We learned that we could displace criminal activity in certain regions for a time and that we could displace the leadership of particular criminal organizations and by doing so, bring about short-term disruption to drug flows. But these were short-term palliatives, not sustainable long-term solutions. Over the past two decades, with support from successive administrations and bipartisan backing from Congress, INL has recalibrated its work to focus on two mutually supportive strategic objectives; helping partner governments build, reform, and sustain judicial institutions that enhance the capacity of their criminal justice systems; and developing the global architecture necessary for cross-border law enforcement cooperation and preventing corruption.

Our shift to institution building became more pronounced as the threat of transnational organized crime evolved during the 1990s, beyond drugs. As globalization accelerated with the end of the Cold War, so too did the spread of transnational organized crime, along with its attendant corruption. U.S. policy leaders recognized that the same institutional shortcomings of vulnerable states allowed all manner of criminal threats to expand across international borders. To deny international safe havens to these criminal networks, our assistance programs had to expand to focus on strengthening these institutions and provide host governments with the ability to enforce their laws.

Developing strong and effective criminal justice institutions requires a long-term commitment. Successful law enforcement operations are satisfying, but strengthening institutions provides value for a generation. All links in the criminal justice continuum – police, courts, and corrections – must be capable of effectively delivering justice, securing public trust and safety, and enabling international cooperation.

This is not an easy task; if all links in this chain are not addressed, sophisticated criminal organizations will exploit the weakest link. More than half of INL's budget today directly promotes sustainable institutions and criminal justice reform. Our goal is to help partner nations gain the capabilities they need to effectively sustain the administration of justice and the enforcement of their laws. U.S. foreign assistance is always a development bridge, not a permanent status quo. Our capacity building assistance is not intended to create dependencies nor to replace host country responsibilities to invest in developing and sustaining their own institutions.

This relates to another important lesson that INL has taken to heart: host governments and their citizens must own the process of reforming their institutions. It can't be driven by the desire of the United States or other donors. INL's support for capacity-building is directed by the requests of our international partners. No other approach works; host governments determine what assistance they will accept, and we do the best we can within available resources to work with them.

Assisting international partners across the full range of criminal justice sectors requires specialized expertise. INL has subsequently expanded its collaboration with a wider range of implementation partners. In addition to our longstanding partnerships with the Departments of Justice and Homeland Security, INL has expanded its range of Federal implementers to include the Administrative

Office of the U.S. Courts, the U.S. Marshals Service, the Federal Bureau of Prisons, and the Law Library of Congress. INL has also developed over 110 partnerships in 25 states and the District of Columbia with police departments, district attorneys' offices, public defender services, departments of corrections, and maritime ports. Our state- and local-level partners possess unique technical, linguistic, and cross-cultural expertise and represent the diversity of America's law-enforcement and justice sector communities. These partnerships are a win-win: our assistance programs benefit from the knowledge and expertise of active police officers, corrections officials, and legal professionals, and state and local partners expand their ties with countries of interest to their communities and gain new professional development opportunities.

This approach to long-term institution building on a global scale requires patience and a sustained political will by both host governments and our own. In many countries where INL operates, police, judicial, and correction institutions have been historically underfunded, with poorly-paid and trained staff operating under antiquated laws and codes. The institutional improvements that our programs support require generational change. Most progress takes place in incremental steps that seldom attract news headlines; more criminal investigations resulting in trials; more trials brought to successful verdicts; and more humane and secure prison facilities.

In Central America, INL's support for institutional reforms to law enforcement coupled with an emphasis on transparent, accountable policing in high crime locations is resulting in decreased rates of violent crime and improved relationships with communities. In Ukraine, we helped plan, equip, train, and roll out an entirely new police force in just ten months, covering 34 cities in every region in the country and credited in polls as the third most trusted institution in the country after the army and the church. Globally, INL-funded programs trained over 1,000 officials to combat wildlife trafficking in 2015, benefitting nearly 30 countries.

Colombia has served as a showcase for where our approach can succeed given sufficient resources, patience, and host nation political commitment. Fifteen years ago, before the advent of U.S. assistance under Plan Colombia, large areas of the country were beyond the writ of the state, controlled by terrorist and criminal organizations. Today, while many challenges remain, the Colombian state is not only able to provide its citizens greater security and access to formal institutions of justice, but the country now exports law enforcement and justice sector assistance to its international partners.

In addition to capacity building, INL has achieved substantial progress in developing frameworks for cross-border cooperation. Beginning in the late 1990s, thanks in large part to U.S. leadership, and working largely from U.S. models, the global community has developed a series of groundbreaking treaties that promote international law enforcement cooperation and reduce the advantage that criminals gain from crossing borders. The UN Convention against Transnational Organized Crime (UNTOC), which entered into force in 2003, is the first legally binding instrument that commits countries to common criminalization of a wide range of serious organized crimes and to cooperating with one another on criminal justice enforcement. It is supplemented by three Protocols to combat trafficking in persons, migrant smuggling and illicit trafficking in and manufacturing of firearms. The United States has used the UNTOC as the basis for mutual legal assistance and extradition cooperation with other countries on over 470 occasions, making the treaty a valuable tool for our criminal justice practitioners.

We've achieved similar progress in creating global standards against corruption, the great enabler and worst consequence of organized crime. The UN Convention against Corruption (UNCAC) entered into force in 2005 and provides a complementary framework to address both the supply and demand for corrupt international practices. The UNCAC lays out requirements for preventive anti-corruption measures, criminalization of bribery and other corrupt practices. These requirements are only as good as governments' ability to enforce them, so INL also works with international law enforcement networks such as INTERPOL to target perpetrators of corruption and their ill-gotten gains. INL also leads efforts within the G-20 to prevent corrupt officials from traveling internationally and enjoying the benefits of their crimes.

These UN benchmarks have been complemented by treaties developed in other multilateral organizations that support global efforts to prevent transnational crime. The Council of Europe's Convention on Cybercrime, for example, provides a model for countries to develop domestic legislation and provides a platform for increased cooperation in cybercrime investigations. The Financial Action Task Force (FATF) serves as the global focal point for concrete cooperation to counter money laundering, which greases the wheels of international criminal activity. Taken collectively, this legal framework provides the foundation necessary for systemic, standardized law enforcement and judicial cooperation between governments. INL is committed to using all levers of diplomacy to encourage our international partners to take advantage of this framework, for the protection of their own citizens and interests as well as ours.

In conclusion, we believe we are achieving progress and pursuing the correct strategy by working with like-minded governments and other partners to promote sustainable criminal justice institutions and durable civilian security. We have made great strides in developing an international legal foundation and normative framework for common approaches to combatting transnational organized crime. But I am not suggesting the problem is solved or that we will ever be able to declare victory. Criminal threats emanating from abroad are always going to exist, and we will need to remain constantly vigilant as they metastasize and evolve. Our goal is to continue to reduce the ability of transnational organized crime to operate with impunity, and ultimately reduce it to a manageable threat that can be contained by our partners domestically.