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<b>1. REPORT DATE (DD-MM-YYYY)</b> 04-05-2011		<b>2. REPORT TYPE</b> FINAL		<b>3. DATES COVERED (From - To)</b>	
<b>4. TITLE AND SUBTITLE</b>  Mexico's Growing Insurgency and the U.S. Response				<b>5a. CONTRACT NUMBER</b>	
				<b>5b. GRANT NUMBER</b>	
				<b>5c. PROGRAM ELEMENT NUMBER</b>	
<b>6. AUTHOR(S)</b>  MAJ David A. Barber  Paper Advisor (if Any): CAPT Molenda/LtCol Wallace				<b>5d. PROJECT NUMBER</b>	
				<b>5e. TASK NUMBER</b>	
				<b>5f. WORK UNIT NUMBER</b>	
<b>7. PERFORMING ORGANIZATION NAME(S) AND ADDRESS(ES)</b>  Joint Military Operations Department  Naval War College  686 Cushing Road  Newport, RI 02841-1207				<b>8. PERFORMING ORGANIZATION REPORT NUMBER</b>	
<b>9. SPONSORING/MONITORING AGENCY NAME(S) AND ADDRESS(ES)</b>				<b>10. SPONSOR/MONITOR'S ACRONYM(S)</b>	
				<b>11. SPONSOR/MONITOR'S REPORT NUMBER(S)</b>	
<b>12. DISTRIBUTION / AVAILABILITY STATEMENT</b> <i>For Example:</i> Distribution Statement A: Approved for public release; Distribution is unlimited.					
<b>13. SUPPLEMENTARY NOTES</b> A paper submitted to the Naval War College faculty in partial satisfaction of the requirements of the Joint Military Operations Department. The contents of this paper reflect my own personal views and are not necessarily endorsed by the NWC or the Department of the Navy.					
<b>14. ABSTRACT</b> In many ways, Transnational Criminal Organizations (TCOs) represent an insurgency that threatens the stability of both the U.S. and Mexico. To the TCOs, terrorist activities are a means to an end. Currently, the ability of the TCOs to operate freely along the border demonstrates a breach of both U.S. and Mexico national sovereignty; major seams exist in the U.S. defenses. The inability of the government to determine if the TCO problem is a law enforcement or military problem makes it impossible to fully synchronize or appropriate the requisite funding or resources to combat the problem. The U.S. currently utilizes a wide array of measures to limit the influence of TCOs and drug cartels on the American way of life. However, certain laws and policies prevent the U.S. from bringing full capabilities to bear on the problem. Specifically, the U.S. must strategically redefine how it classifies TCO/cartel activities, must modify the <i>Posse Comitatus</i> Act, and after exhausting all alternative solutions, apply kinetic solutions to TCO/cartel safe havens and activities in Mexico. Critics of this proposal in the U.S. will argue the importance of <i>Posse Comitatus</i> and the protection that the law provides citizens against the potential abuses of a rogue military. Some will argue that the activities of TCOs or Drug Trafficking Organizations (DTOs) do not warrant a pre-meditated, preemptive military strike against a sovereign nation, especially an ally of the U.S. Finally, the potential for mistakes or collateral damage threaten to aggravate the situation further; military operations become extremely complex when attacking a congested urban area or village. Despite these criticisms, TCOs pose a serious threat to the nation and the U.S. Government must use all appropriate measures to protect its citizens.					
<b>15. SUBJECT TERMS</b> Mexico, Insurgency, Terrorism, Transnational Criminal Organization, Drug Trafficking Organization, Cartel, Posse Comitatus, USNORTHCOM, JTF-N					
<b>16. SECURITY CLASSIFICATION OF:</b>			<b>17. LIMITATION OF ABSTRACT</b>	<b>18. NUMBER OF PAGES</b>	<b>19a. NAME OF RESPONSIBLE PERSON</b> Chairman, JMO Dept
<b>a. REPORT</b> UNCLASSIFIED	<b>b. ABSTRACT</b> UNCLASSIFIED	<b>c. THIS PAGE</b> UNCLASSIFIED			<b>19b. TELEPHONE NUMBER (include area code)</b> 401-841-3556

**NAVAL WAR COLLEGE  
Newport, R.I.**

**Mexico's Growing Insurgency and the U.S. Response**

**by**

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**A paper submitted to the Faculty of the Naval War College in partial satisfaction of the requirements of the Department of Joint Military Operations.**

**The contents of this paper reflect my own personal views and are not necessarily endorsed by the Naval War College or the Department of the Navy.**

**Signature: \_\_\_\_\_**

**04 May 2011**

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## Abstract

In many ways, Transnational Criminal Organizations (TCOs) represent an insurgency that threatens the stability of both the U.S. and Mexico. To the TCOs, terrorist activities are a means to an end. Currently, the ability of the TCOs to operate freely along the border demonstrates a breach of both U.S. and Mexico national sovereignty; major seams exist in the U.S. defenses. The inability of the government to determine if the TCO problem is a law enforcement or military problem makes it impossible to fully synchronize or appropriate the requisite funding or resources to combat the problem. The U.S. currently utilizes a wide array of measures to limit the influence of TCOs and drug cartels on the American way of life. However, certain laws and policies prevent the U.S. from bringing full capabilities to bear on the problem. Specifically, the U.S. must strategically redefine how it classifies TCO/cartel activities, must modify the *Posse Comitatus* Act, and after exhausting all alternative solutions, apply kinetic solutions to TCO/cartel safe havens and activities in Mexico. Critics of this proposal in the U.S. will argue the importance of *Posse Comitatus* and the protection that the law provides citizens against the potential abuses of a rogue military. Some will argue that the activities of TCOs or Drug Trafficking Organizations (DTOs) do not warrant a pre-meditated, preemptive military strike against a sovereign nation, especially an ally of the U.S. Finally, the potential for mistakes or collateral damage threaten to aggravate the situation further; military operations become extremely complex when attacking a congested urban area or village. Despite these criticisms, TCOs pose a serious threat to the nation and the U.S. Government must use all appropriate measures to protect its citizens.

## **Introduction**

America faces a diverse collection of challenges from a loose arrangement of violent extremists that defy international standards and states that face internal collapse.<sup>1</sup> As America withdraws from Iraq, reduces troops in Afghanistan, and struggles with economic woes, it continues to both redefine foreign policy and designate security priorities. These priorities include halting the spread of violent extremism, and preventing the proliferation of weapons of mass destruction to rogue states and terrorists. Homeland Security is always one of many U.S. policy objectives, but budget and manning constraints result in agencies and departments spreading resources across a wide range of programs or priorities. In the upcoming post-Iraq era, consideration for foreign policy focus should include targeting the uncontrolled violence and growing lawlessness that characterizes the condition of several Mexican states and the region around the U.S.-Mexico border.

In many ways, Transnational Criminal Organizations (TCOs) represent an insurgency that threatens the stability of both the U.S. and Mexico. To the TCOs, terrorist activities are a means to an end. In 2008, GEN(ret) Barry McCaffrey stated, “The Mexican State is engaged in an increasingly violent, internal struggle against heavily armed narco-criminal cartels that have intimidated the public, corrupted much of law enforcement, and created an environment of impunity to the law.”<sup>2</sup> As GEN(ret) McCaffrey reviewed the situation, he specifically warned of the threat that the TCOs pose to the U.S. The U.S. currently utilizes a wide array of measures to limit the influence of TCOs and drug cartels on the American way of life.

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<sup>1</sup> U.S. President, *National Security Strategy*, (Washington D.C.: U.S. Government, 2010), 17.

<sup>2</sup> Barry McCaffrey, "Narco-Violence in Mexico: A Growing Threat to U.S. Security,"

[www.americandiplomacy.org](http://www.americandiplomacy.org),

[http://www.unc.edu/depts/diplomat/item/2009/0103/comm/McCaffrey\\_mexico.html](http://www.unc.edu/depts/diplomat/item/2009/0103/comm/McCaffrey_mexico.html) (accessed February 26, 2011). McCaffrey visited Mexico with a number of experts to analyze the situation. See also U.S. Department of Justice, *National Drug Threat Assessment*, (Washington D.C.: National Drug Intelligence Center, 2010), 2. According to the U.S. DoJ, Mexican DTOs represent the greatest drug trafficking threat to the U.S.

However, certain laws and policies prevent the nation from bringing full capabilities to bear on the problem. Specifically, the U.S. must strategically redefine how it classifies TCO/cartel activities, must modify the *Posse Comitatus* Act, and after exhausting all alternative solutions, apply kinetic solutions to TCO/cartel safe havens and activities in Mexico.

The proposed courses of action for the U.S. are extremely bold and, at face-value, they appear to conflict with national and international laws and norms; many will overlook the merits to find criticism. Critics of this proposal in the U.S. will argue the importance of *Posse Comitatus* and the protection that the law provides citizens against the potential abuses of a rogue military. Some will argue that the activities of TCOs or Drug Trafficking Organizations (DTOs) do not warrant a pre-meditated, preemptive military strike against a sovereign nation, especially an ally of the U.S. Finally, the potential for mistakes or collateral damage threaten to aggravate the situation further; military operations become extremely complex when attacking a congested urban area or village.

Despite such criticisms, TCOs and their like pose sufficiently serious threats to U.S. national security that the U.S. Government must use all appropriate measures to protect its citizens and help its southern neighbor. Military action alone will not solve this problem. Mexico must improve significantly its internal security, while the U.S. curbs drug demand and the illegal flow of weapons south. A successful and comprehensive U.S. counter-TCO policy includes synchronization of all national power elements (DIME: Diplomatic, Informational, Military, and Economic). Due to the length constraints of this paper, however, its principal focus is military means while certain non-military initiatives are mentioned but not fully discussed or analyzed.

## **Nature of the Problem (Internal Mexican Conditions)**

In a recent interview with the Council on Foreign Relations, U.S. Secretary of State Hillary Clinton stated: "...we face an increasing threat from a well-organized network, drug-trafficking threat that is, in some cases, morphing into or making common cause with what we could consider an insurgency, in Mexico and Central America."<sup>3</sup> The origins of this "insurgency" actually date back to the early 1900's. Through the 20<sup>th</sup> Century the Mexican TCOs kept a low profile, yet slowly gained significance as middlemen for the Colombian cartels. By the 1990s, when the flow of drugs through the Caribbean was disrupted, trafficking routes through Mexico became a major avenue of approach into the U.S.

The Mexican TCOs strictly controlled the land trafficking routes into the U.S., so the Colombians paid cash to gain access; in time they began paying in powder cocaine. This change enabled Mexican cartels to create their own distribution networks in the U.S. and eventually overtake Colombian influence throughout the U.S.<sup>4</sup> By 2011, over 95% of the cocaine in the U.S. arrived through Mexico.<sup>5</sup> The U.N. estimates that the illicit narcotics business in Mexico is worth \$142 Billion, with yearly earnings as high as \$48.4 Billion. This is equivalent to 11% of Mexico's GDP.<sup>6</sup> For many decades, this extraordinary amount of illicit capital continuously enabled the cartels to operate in a permissive environment.

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<sup>3</sup> Council on Foreign Relations, "A Conversation with U.S. Secretary of State Hillary Rodham Clinton," [www.cfr.org](http://www.cfr.org), September 8, 2010, <http://www.cfr.org/diplomacy/conversation-us-secretary-state-hillary-rodham-clinton/p22896>, (accessed February 26, 2011).

<sup>4</sup> Robert C. Bonner, "The new cocaine cowboys," *Foreign Affairs*, (JUL/AUG 2010), 36. Beittel states that the Colombians lost influence because of U.S. and Colombian government efforts to break up their organizations. Also, see June S. Beittel, *Mexico's Drug Trafficking Organizations: Source and Scope of the Rising Violence*, (Washington D.C.: Congressional Research Service, January 7, 2011), 5.

<sup>5</sup> Beittel, 5. The cartels do not limit themselves to just cocaine; their smuggling operations are an extremely lucrative business; among other things, Mexico is a major supplier of heroin, marijuana, meth, and ecstasy.

<sup>6</sup> John P. Longmire and Sylvia M. Longmire, "Redefining Terrorism: Why Mexican Drug Trafficking is More than Just Organized Crime," *Journal of Strategic Study*, (November 2008), 36. Also, see Colleen W. Cook, *Mexico's Drug Cartels*, Washington D.C.: Congressional Research Service, (October 16, 2004), 4.

For 71 years, a period of one-party rule in Mexico allowed the sale of drugs to grow and flourish. Under the Institutional Revolutionary Party (PRI), the Mexican government was centralized, hierarchical, and either tolerated or protected drug production and trafficking.<sup>7</sup> In many ways the drug trade provided a stable environment throughout Mexico. The cartels promised to keep violence to a minimum in exchange for bribes to individuals in power.<sup>8</sup> A “culture of corruption” at the highest offices in Mexico trickled down to local levels; honest officials feared co-workers and reprisals against their families.<sup>9</sup> Eleven years ago Mexicans voted the PRI out of political power, yet despite attempted reforms, the influence of the cartels throughout Mexico’s judicial and law enforcement agencies remains strong today.

Currently the seven major cartels that operate throughout Mexico offer large amounts of cash, protection, and benefits to allies (see figure 1). With moderate unemployment and underemployment rates reaching 25%, the nation lacks the resources or institutions to combat poverty.<sup>10</sup> Mexico’s weak economy and lack of social support make TCOs popular with the poor. The cartels readily answer Mexico’s problems by providing supplemental cash to those

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<sup>7</sup> Beittel, 4-5. This policy was known as “accommodation.” Arrests and eradication took place, but the effects of widespread corruption accommodated a “working relationship between authorities and the drug lords.”

<sup>8</sup> Hal Brands, "Mexico's Narco-Insurgency and U.S. Counterdrug Policy," [www.strategicstudiesinstitute.army.mil](http://www.strategicstudiesinstitute.army.mil), <http://www.strategicstudiesinstitute.army.mil/pubs/display.cfm?PubID=918>, (accessed February 23, 2011), 5-6. Additionally the cartels allowed PRI to referee disputes and resolve conflicts between the various groups. The PRI effectively controlled the smuggling routes into the U.S. and granted access to the cartels.

<sup>9</sup> McCaffrey. The cartels largely controlled the state and local police and Mexico’s Federal police force was either too corrupt or weak to conduct successful investigations. In 1997 Mexico arrested its national Drug Czar for working with the Juarez Cartel. Also see Bonner, 3. In many cases the police were kidnapping and killing for the cartel. The cartels had even compromised a senior official in the attorney general’s office and Comadante positions in the northern Mexico states were going for several million dollars each.

<sup>10</sup> McCaffrey. See also U.S. Central Intelligence Agency, "The World Fact Book," [www.cia.gov](http://www.cia.gov), <https://www.cia.gov/library/publications/the-world-factbook/geos/mx.html>, (accessed April 5, 2011). Also see Max G. Manwaring, "A contemporary challenge to state sovereignty: Gangs and other illicit transnational criminal organizations in Central America, El Salvador, Mexico, Jamaica, and Brazil," [www.StrategicStudiesInstitute.army.mil](http://www.StrategicStudiesInstitute.army.mil), December 2007, <http://www.strategicstudiesinstitute.army.mil/pubs/display.cfm?pubID=837>, (accessed February 15), 28-9.



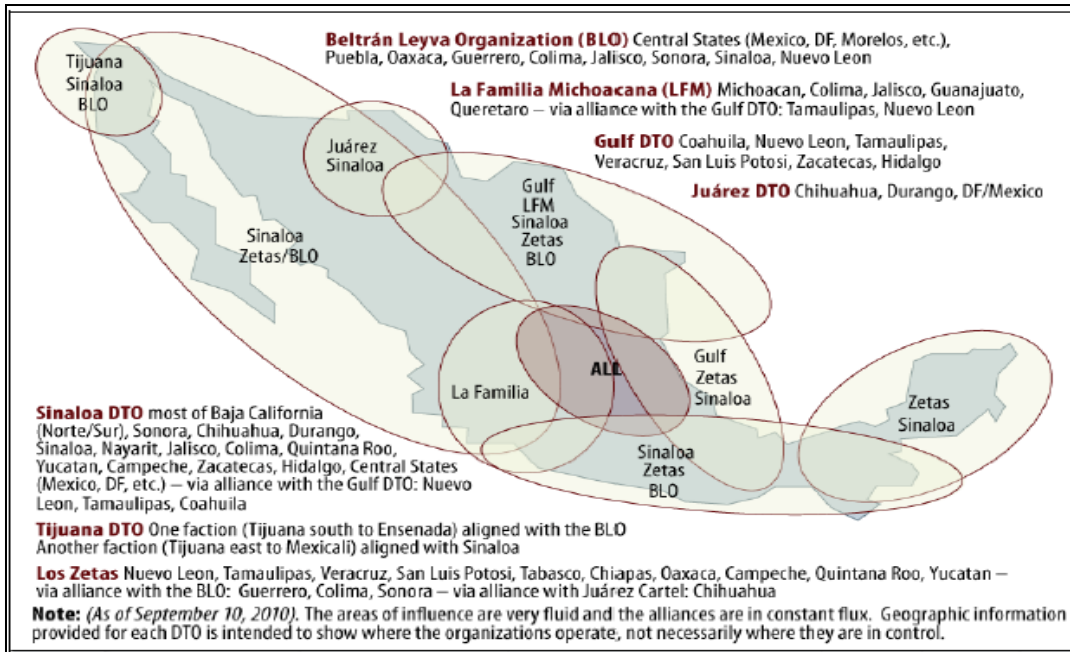


Figure 1: Major Mexican Drug Cartels and their Areas of Influence

with low-paying jobs or a steady source of income for the jobless. To maintain popularity, the TCOs routinely throw festivals for residents of their strongholds and donate food and toys to the poor.<sup>11</sup> The money and power offered by the cartels provide temptation to all.

Mexico recently applied pressure to all levels of government in an attempt to eradicate corruption. Within Mexico’s federal police force, 3,200 officers out of 34,500 failed integrity tests in August 2010 and intelligence sources report of cartel influence in the national legislature, the attorney general’s office, and possibly in the U.S. Embassy.<sup>12</sup> With widespread corruption throughout law enforcement, the Mexican government relies on its Army to fight TCOs, but these forces are not immune to bribes either; the cartels offer

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Manwaring suggests that the destabilizing social conditions of nations are exploited by insurgents, barons, organized criminals, and many others who are working to achieve their own nefarious purposes.

<sup>11</sup> Brands, 19-20. Brands states that children sing folk songs about the cartels and many hope to work for the cartels when they grow up. Additionally, Brands quotes a USAID worker who stated: “The poverty, lack of opportunity, and feelings of hopelessness that characterize many lives in Latin America are often no match for the cash flow, livelihood, and social cohesion offered by many gangs.”

<sup>12</sup> Beittel, 4. Beittel states that 10 Mayors and 18 other state and local officials were arrested for cartel ties. Also, Brands, 16.

soldiers three times their monthly salary for support.<sup>13</sup> The Mexican government's approach to combating the cartel threat is hardly inactive, yet it is highly ineffective.

The cartels represent a new type of organized criminal group that is roughly equivalent to an international terrorist organization. The term terrorism, however, is not universally defined; both the U.S. and Mexican governments go to great lengths to avoid that label. Both nations officially recognize cartel activity as organized crime, not terrorism.<sup>14</sup> Many suggest that terrorist groups "require" a political, religious, or ideological goal. Others dispute this argument by comparing Mexico's drug cartels to the United Self-Defense Forces of Colombia (AUC). The AUC did not possess any of those "requirements" and was only interested in drug related activities. In 2001 the U.S. State Department designated the AUC as a foreign terrorist organization.<sup>15</sup> Furthermore, this argument is strengthened by suggesting that cartel activities such as assassinations, executions, kidnappings, use of high powered assault weapons and fear mongering are identical in nature to acts committed by terrorist groups.<sup>16</sup> The ideology of the cartels is obvious: they want to maximize their profits while minimizing interference to their business. To attain this end, the cartels influence, coerce, or control others to secure a permissive environment. This sounds strikingly similar to the modus operandi of terrorist organizations around the globe.

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<sup>13</sup> Ibid, 17. See also John Antal, "The future of border security technology along the U.S.-Mexican border," (*Military Technology*, 2010), 53. Drug cartels pay approximately \$100 million in bribes every month.

<sup>14</sup> Longmire, 36-7. The Longmire's compare the DTOs to the Russian Mafia or Gambino crime family. They also note that defining the problem as crime and not terrorism limits government response and resource allocation.

<sup>15</sup> Ibid, 48. Also, see Robert J. Bunker, "The Mexican Cartel Debate: As Viewed Through Five Divergent Fields of Security Studies," [www.smallwarsjournal.com](http://www.smallwarsjournal.com), February 11, 2011, <http://smallwarsjournal.com/blog/journal/docs-temp/675-bunker.pdf>, (accessed February 13, 2011), 16. In January 2011, Edgardo Buscaglia, a fellow at the Autonomous Technological Institute of Mexico suggested the UN designate several Mexican DTOs as terrorist organizations. Bunker believes the Mexican government will ignore this suggestion, but it may hold merit in the U.S. because the State Department designated the FARC and AUC in Colombia as terrorists.

<sup>16</sup> Ibid, 42-46.

Mexico's inability to stop cartel terror and influence is weakening Mexico's legitimacy. Since 2006, drug-related violence claimed the lives of over 36,000 people.<sup>17</sup> Cartel-related kidnapping rates are also extremely high. Though Latin America accounts for 8% of the world's population, almost 75% of global kidnappings occur in the region.<sup>18</sup> To control their public image the cartels initiated efforts to control the media by targeting journalists and newspapers unfavorable to their activities. In Ciudad Juarez the leading newspaper sought a truce with TCOs and identified them as the de-facto city authority.<sup>19</sup> In 2008 the Council of Hemispheric Affairs stated: "Due to pervasive corruption at the highest levels of Mexican Government, and the infiltration by cartel informants into the security forces, an ultimate victory by the state is uncertain."<sup>20</sup> Because Mexico demonstrates an inability to confront or control the cartels, many fear instability throughout that nation.

The combined effects of the various TCOs represent an insurgency that uses terrorist tactics against the legitimate Mexican government. In recent months senior U.S. officials classified TCOs as insurgencies and even suggested troop intervention. These officials quickly retracted their statements due to heavy domestic political pressure and condemnation from Mexico.<sup>21</sup> The cartels create an environment favorable for their business and threaten

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<sup>17</sup> David Lawder, "U.S. warns on travel to five more Mexican states," <http://news.yahoo.com>, April 22, 2011, [http://news.yahoo.com/s/nm/20110422/us\\_nm/us\\_mexico\\_usa\\_travel](http://news.yahoo.com/s/nm/20110422/us_nm/us_mexico_usa_travel) (accessed April 23, 2011).

<sup>18</sup> McCaffrey. The Citizen's Institute for Crime Studies estimated that more than 500 kidnappings occur every month. The overwhelming majority are not reported because the population do not trust the police.

<sup>19</sup> Beittel, 1. Additionally, see *The Economist*, "Shifting battle lines bring violence to new parts of Mexico." *The Economist*, (June 5, 2010), 46. In March 2010, one journalist was killed in Reynosa and five disappeared. In that same month, two journalists in Mexico City were kidnapped and beaten, and an American reporter was forced to leave the city. Fear and insurance premiums keep the media away. Also see Cook, 11. The Committee to Protect Journalists has noted a high level of self-censorship among media in Nuevo Laredo and other parts of northern Mexico.

<sup>20</sup> *Ibid*, 4.

<sup>21</sup> Beittel; 2, 24. Though the Mexican government refuses to label the cartels as an insurgency, President Calderon admitted that the cartels are a challenge to the state and suggested that they want to replace the state. Both the Mexican government and reportedly President Obama criticized Secretary of State Clinton in September 2010 after she claimed the cartels resembled an insurgency. See Matthew LaPlante, "Army official

Mexico through five activities: (1) Straining government capacity; (2) Challenging state legitimacy; (3) Acting as a surrogate or alternate government; (4) Dominating the informal economic sector; and (5) Infiltrating police and NGOs.<sup>22</sup> Many argue that TCOs are not an insurgency because their objectives do not fit a standard definition of insurgency; TCOs do not seek to “overthrow” the existing government. Based on criminal motives, however, their activities represent a new form of insurgency: a “criminal-insurgency.” In his analysis of criminal activity and state sovereignty Dr. Max Manwaring stated:

... Rather than try to depose a government in a major stroke (or coup), or prolonged revolutionary war...[they] slowly take control of national territory (turf) one street or neighborhood at a time...The putative objective is to neutralize, control, or depose governments to ensure self-determined (non-democratic) ends.<sup>23</sup>

The TCO political agenda is to conduct activities that make the government ineffective at stopping crime and ultimately governing the populace. An “overthrow,” therefore, is not necessary because the TCOs create an environment where the rules do not apply to them.

In 2008 the U.S. Joint Forces Command specifically labeled Mexico as a “failing-state.”<sup>24</sup>

George Friedman compared Mexico’s situation to Lebanon in the 1980’s and Chicago in the 1920’s. Friedman stated:

Government officials, seeing the futility of resistance, effectively become tools of the cartels. Since there are multiple cartels, the area of competition ceases to be solely the border towns, shifting to the corridors of power in Mexico City. Government officials begin giving their primary loyalty not to government, but to one of the cartels. The government thus becomes both an arena for competition

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suggests U.S. troops might be needed in Mexico,” *The Salt Lake Tribune*, February 8, 2011; and Matthew LaPlante, “Army official recants insurgency in Mexico statement,” *The Salt Lake Tribune*, February 9, 2011. In February 2011 at the University of Utah, U.S. Undersecretary of the Army Joe Westphal called the cartels an insurgency and told the audience that U.S. troops may need to intervene. He also said that the White House was fully aware of his views. The next day Westphal quickly retracted and received strong condemnation from both the U.S. and Mexican governments.

<sup>22</sup> John P. Sullivan, “Future Conflict: Criminal Insurgencies, Gangs, and Intelligence.” [www.smallwarsjournal.com](http://smallwarsjournal.com), May 31, 2009, <http://smallwarsjournal.com/blog/journal/docs-temp/248-sullivan.pdf>, (accessed February 13, 2011), 7.

<sup>23</sup> Manwaring, 2.

<sup>24</sup> U.S. Joint Forces Command, *The JOE 2008: Joint Operating Environment*, (Suffolk: U.S. Joint Forces Command, 2008), 36. Pakistan was the other nation mentioned in the report. The JOE 2008 also states that any descent by Mexico into chaos would necessitate U.S. intervention. The JOE did mention that the situation would have to significantly deteriorate for the Mexican government to collapse.

among the cartels and an instrument used by one cartel against the other. That is the prescription for what is called a “failed-state”...<sup>25</sup>

It is a systematic breakdown of the state where the government is both influenced by, and an instrument of, criminals.<sup>26</sup>

If Mexico is not a “failing-state,” then it is well on its way to becoming a “failed-state” because of its inability to control TCO influence and exercise sovereignty throughout the country. Former U.S. Drug Czar Barry McCaffrey claimed that Mexico was on the edge of abyss and that the U.S.-Mexico response will determine the nation’s fate.<sup>27</sup> Given the high levels of violence, corruption, and perceived failure to govern, many Mexicans feel hopeless and frustrated. If the government backs down after its massive effort to stop the cartels, then Mexico’s population will lose confidence in their government and many politicians will lose determination for continued aggressive action.<sup>28</sup> Some suggest that the 2012 successor to President Calderon may not be as equally committed to combating the cartels. Mexican frustration is currently manifesting itself throughout the nation’s democratic process as the PRI regains its popularity and reaffirms its political control of Mexico.<sup>29</sup> The national

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<sup>25</sup> George Friedman, "Mexico: On the Road to a Failed State?" [www.stratfor.com](http://www.stratfor.com), May 13, 2008. [http://www.stratfor.com/weekly/mexico\\_road\\_failed\\_state](http://www.stratfor.com/weekly/mexico_road_failed_state), (accessed February 28, 2011).

<sup>26</sup> Ibid. Also, see Eric L. Olsen, interview by Committee on House Oversight and Government Reform Subcommittee on National Security and Foreign Affairs, *Senior Advisor, Security Initiative Woodrow Wilson International Center for Scholars Mexico Institute*, (October 1, 2009). According to Olsen, organized crime prefers to work outside the reaches of the state, but when a DTO cannot avoid the reach of the state, it seeks to protect its interests by accommodation or penetration of the government. The DTO/TCO goal is not necessarily controlling the entire state, only the portions essential to their operations.

<sup>27</sup> McCaffrey.

<sup>28</sup> John P. Sullivan and Adam Elkus, "State of Seige: Mexico's Criminal Insurgency," [www.smallwarsjournal.com](http://smallwarsjournal.com), 2008, <http://smallwarsjournal.com/blog/journal/docs-temp/84-sullivan.pdf>, (accessed February 20, 2011), 7.

<sup>29</sup> George Grayson, *Mexico's 2011 Gubernatorial Elections and their Impact on Policy*, (Philadelphia: Foreign Policy Research Institute, 2011), 2. After national elections in 2009 and 2010, the PRI controlled 237 of the 500 seats in the Mexican Chamber of Deputies (Congress). In state elections, the party placed governors in 19 of 32 states (including many states threatened by the DTOs). Additionally, the PRI wants less reliance on the armed forces and more emphasis on local law enforcement to fight the DTOs. This attitude runs counter to Mexico’s current strategy: The Mexican armed forces are not heavily influenced by the DTOs and, given the level of corruption in local law enforcement this move would be a large step backward for Mexico. Also see Jens E. Gould, "Mexico's PRI Leads in Universal Poll Ahead of 2012 Presidential Election,”

legitimacy and authority of the Mexican government steadily erodes as the cartel problem continues without a solution, or if the PRI and TCOs resume their past relationship.

Ultimately a Mexican government that cannot control itself, or the by-products of a “failing-state,” threatens U.S. security through “spillover” violence or economic disaster.

### **Nature of the Problem (Mexico-U.S. Relationship)**

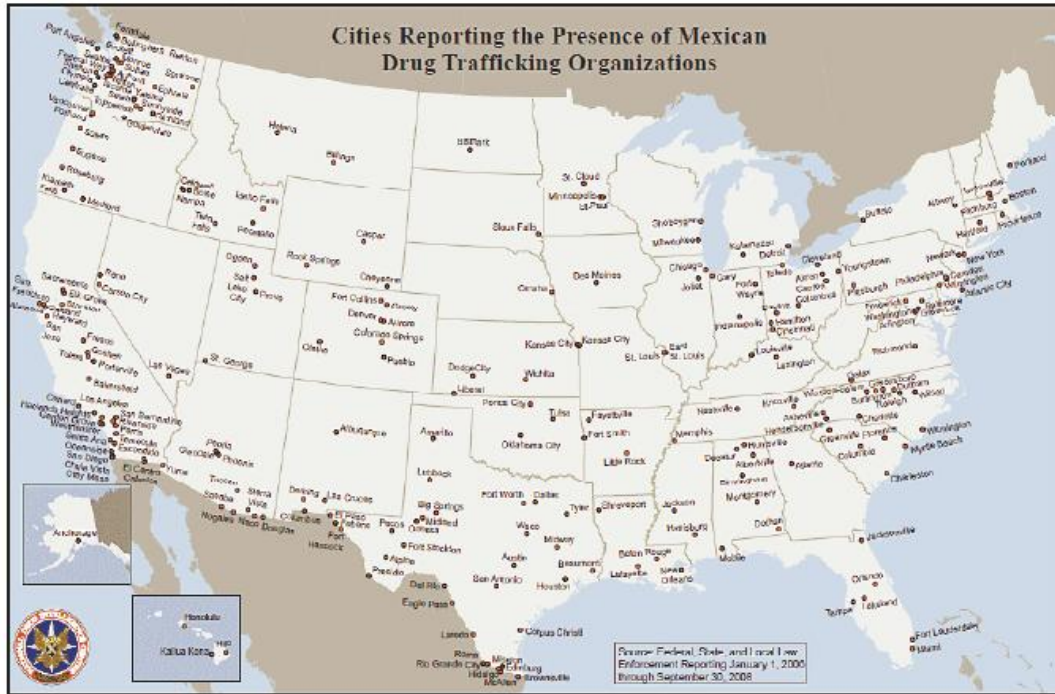
In a general sense, the narco-insurgency in Mexico is a cycle of violence fueled by America’s addiction to drugs and its liberal gun laws. The violence threatens the safety of Americans throughout Mexico and the U.S. The cartels concentrate on interaction with common-street, prison, and outlaw motorcycle gangs to gain new U.S. markets in urban, suburban, and rural settings.<sup>30</sup> The gangs enable the Mexican TCOs to supply or distribute their products to numerous major cities throughout the U.S. (see Figure 2). The TCOs also use these gangs to form an elaborate network of buyers throughout the U.S. to smuggle legally acquired ammunition and weapons into Mexico every year. The ATF reports that cartels receive between 90-95 percent of their firearms from the U.S.<sup>31</sup> These weapons are used to injure both U.S. diplomats and the common citizen.

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[www.bloomberg.com](http://www.bloomberg.com/news/2010-12-06/mexico-s-pri-leads-in-universal-poll-ahead-of-2012-presidential-election.html), December 6, 2010, <http://www.bloomberg.com/news/2010-12-06/mexico-s-pri-leads-in-universal-poll-ahead-of-2012-presidential-election.html>, (accessed March 26, 2011). In a recent poll by newspaper El Universal and Berumen y Asociados, the PRI holds a narrow lead over several other parties as the projected winner of Mexico’s 2012 Presidential election.

<sup>30</sup> Kristin M. Finklea, *Southwest Border Violence: Issues in Identifying and Measuring Spillover Violence*, (Washington D.C.: Congressional Research Service, August 24, 2010), 9-10. In 2009 The Department of Justice determined that Mexican DTOs were active in more cities than any other DTO. They influenced over 900,000 criminally active gang members, representing approximately 20,000 street gangs, in more than 2,500 cities throughout the U.S. See U.S. Department of Justice; 2, 9.

<sup>31</sup> Ibid, 16. Additionally, see Loretta Sanchez, (D-CA), interview by Subcommittee on Border, Maritime, and Global Counterterrorism House Committee on Homeland Security, *Chairwoman* (July 17, 2009). Also Tom Diaz, interview by Committee on House Oversight and Government Reform Subcommittee on National Security and Foreign Affairs, *Senior Policy Analyst, Violence Policy Center*, (March 12, 2009). Mr. Diaz testified to Congress that firearms from the U.S. civilian gun market are fueling violence in Mexico and the U.S. He also stated, “The U.S. gun market not only makes gun trafficking in military style weapons easy, it



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>.

Figure 2: Major Cities with DTO influence

There is no sanctuary on either side of the border. Once popular vacation hot spots are now shunned by tourists who fear violence, and recently the U.S. issued travel warnings to citizens going to Mexico. In March 2010 the cartels used a car bomb to kill two U.S. citizens connected with the U.S. consulate in Ciudad Juarez; subsequent threats led to the closure of that consulate. Fearing the safety of its employees, the U.S. State Department evacuated minor dependents and approved danger pay for all its diplomats in northern Mexico, and in certain areas personnel only travel in armored vehicles during the day.<sup>32</sup> In Phoenix, Arizona violence is on the rise. A majority of the reported kidnappings are directly related to the TCOs and recently a cartel hit team disguised as SWAT assassinated a U.S. citizen and

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practically compels that traffic because of the gun market's loose regulation and the gun industry's ruthless design choices over the last several decades."

<sup>32</sup> Beittel; 1, 17. Also, see Lawder.

almost killed the real SWAT team responding to the violence.<sup>33</sup> The high level of violence, however, does not necessarily mean the U.S. is facing an internal threat similar to Mexico.

While the number of drug related crimes throughout Mexico continued to rise over the past couple years, violence in the U.S. remained constant.<sup>34</sup> Proof of al-Qaeda connections to cartels do not publically exist; some think such a link would threaten TCO smuggling routes and their lucrative business by drawing more attention to their activities.<sup>35</sup> Since the cartel focus is on making money, it is quite possible that they shun U.S. publicity to avoid confronting U.S. law enforcement. The cartel's focus on profit, however, directly interferes with the ability for many legal businesses to earn their own profit. This ultimately interferes with the economic stability of the U.S. and Mexico

The U.S. government fears a disruption to the economic viability of the region because of instability in Mexico. In a statement on managing the issues along the U.S.-Mexican border, President Obama recognized the threat posed by the TCOs to the \$364 Billion in annual commerce that crosses the border.<sup>36</sup> Between the U.S. and Mexico there are two cyclical relationships between goods and money that cross the border. It is ironic that the illegal exchange of drugs, money and weapons interferes with the legal exchange of Mexican finished products for U.S. dollars. A failing Mexican state has serious implications to the security and stability of the U.S. In late 2010, the U.S. Ambassador to Mexico warned that

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<sup>33</sup> Sullivan and Elkus, 9. Also see Manwaring, 13. Cartel hit squads are suspected of mounting armed incursions across the border to protect drug shipments. Also, see U.S. Department of Justice, 15. The 2010 National Drug Threat Assessment reported that Phoenix had 299 kidnappings in 2008 and 267 in 2009. The assessment suggested that many more kidnappings occurred, but are not reported out of fear.

<sup>34</sup> Finklea, 22.

<sup>35</sup> Brian M. Jenkins, "Could Mexico Fail," *HS Today*, (February 2009), 30.

<sup>36</sup> Administration of Barack H. Obama, "Declaration by the Government of the United States of America and the Government of the United Mexican States Concerning Twenty-First Century Border Management," [www.whitehouse.gov](http://www.whitehouse.gov), May 19, 2010, <http://www.whitehouse.gov/the-press-office/declaration-government-united-states-america-and-government-united-mexican-states-c>, (accessed March 26, 2011). Also, Brands, 13.



violence was becoming intolerable for business and threatening to decrease foreign investment into Mexico.<sup>37</sup> While Mexico is arguably an important foreign partner to the U.S., the U.S. is unarguably the most important foreign partner for Mexico.<sup>38</sup>

The economic ties between both countries are extensive. The U.S. receives one-third of its imported oil from Mexico; 82% of Mexican exports go to the U.S; over 42% (\$84 Billion) of direct foreign investment in Mexico comes from the U.S.; and fifty percent of Mexican imports come from the U.S.<sup>39</sup> Additionally at risk is a vast manufacturing supply chain where the same goods cross the border several times in various stages of completion; each time the goods travel through cartel territory, they are at risk.<sup>40</sup> Given the depth and breadth of economic ties between the two nations, it is imperative that the U.S. and Mexico work together to exhaust all efforts in combating the TCOs.

### **Conclusions (Analysis of Current Anti-TCO Efforts)**

To effectively combat the threat of TCOs and secure our nation's borders, a whole of government approach is necessary. As mentioned earlier, it is extremely important to synchronize the four elements of national power (DIME). In the 2010 National Security Strategy, President Obama emphasized not only the collective strength of the entire country to safeguard the nation, but cooperation amongst friendly nations.<sup>41</sup> This belief was reiterated several times in the 2011 National Military Strategy. Not only did that document highlight the importance of military power and the nation's other instruments of statecraft,

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<sup>37</sup> Beittel, 17. A State Department survey in 2010 found that a 1/3 of U.S. companies in Mexico were affected by crime (kidnapping/blackmail) and one-half had been affected by government's drug war with the traffickers.

<sup>38</sup> McCaffrey. Also, see Brands, 13.

<sup>39</sup> Ibid.

<sup>40</sup> David J. Danelo, "Disorder on the Border," *U.S. Naval Institute Proceedings*, (2009). A Senior Vice President of Maersk was extremely concerned about the constant shipment of goods across the border.

<sup>41</sup> U.S. President, 14-15.

but it reiterated the importance of assisting the Mexican security forces in combating the cartels.<sup>42</sup> In many ways it is an active, layered defense in depth that is prepared to meet any enemy abroad or at home.<sup>43</sup> To combat the cartels abroad, the U.S. emphasizes economic initiatives; at home the U.S. combats the cartels through the use of both military and law enforcement actions. The current U.S.-Mexican strategy, however, is not effective because it is not stopping the shipment of drugs north, nor is it countering the flow of weapons south.

Since 2007 the U.S. Congress appropriated almost \$2 billion in foreign aid to combat TCOs operating in North America. Officially called the Merida Initiative, it is a multi-year aid program that provides “assistance to Mexico and Central America aimed at helping those governments combat drug trafficking and other criminal organizations.”<sup>44</sup> The Merida Initiative is roughly based on Plan Colombia, a very successful aid program designed to combat the Colombian cocaine cartels. Plan Colombia, when compared to Merida, is a bigger aid program; yet the situation in Mexico is much worse. Mexico is a more prosperous nation, its governmental control is more decentralized, and it has a weaker judicial system and police force. Additionally, unlike Colombia, Mexico is unwilling to allow U.S. military advisors or forces take a direct operational role against the TCOs.<sup>45</sup> The Merida Initiative is similar to Plan Colombia in that it provides various types of military equipment and training in all aspects of law enforcement, legal, and military issues. The program is expected to last

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<sup>42</sup> U.S. Chairman of the Joint Chiefs of Staff, *U.S. National Military Strategy of the United States of America*, (Washington D.C.: Department of Defense, 2011); 5, 19.

<sup>43</sup> U.S. Department of Defense, *Strategy for Homeland Defense and Civil Support*, (Washington D.C.: Department of Defense, 2005), 1-2.

<sup>44</sup> Colleen W. Cook, Rebecca G. Rush, and Clare Ribando Seelke, *Merida Initiative: Proposed U.S. Anticrime and Counterdrug Assistance for Mexico and Central America*, (Washington D.C.: Congressional Research Service, June 3, 2008), 1.

<sup>45</sup> The Economist, "As drug-related violence continues to rise, Mexican and American officials unveil plans for unprecedented security co-operation. But will they work?" *The Economist*, (March 27, 2010), 41. Also see Council on Foreign Relations. Secretary Clinton admitted that Plan Colombia was controversial, and that both nations made mistakes, but it was successful against the cartels.

several more years and cost hundreds of millions more to the U.S. taxpayers, but with Mexico's internal problems noted earlier, the final outcome in Mexico may not be similar to Colombia.

To prevent TCOs from entering the U.S., the Customs and Border Protection (CBP) division of the Department of Homeland Security (DHS) actively patrols America's borders and ports of entry. Of the 21,370 officers currently assigned to CPB, over 90% patrol the U.S.-Mexican border; since October 2006, this number increased by over 10,000 officers.<sup>46</sup> To fund their enforcement efforts, the U.S. Government steadily increased the CBP budget from \$6.7 Billion in FY2006 to a proposed \$11.9 Billion for FY2012.<sup>47</sup> Despite the drastic increase in both personnel and budget, drugs and weapons still penetrate the defense in large quantities; the border security provided by DHS is inadequate. It costs the U.S. \$113 Billion annually to incarcerate, provide health care, and provide education to illegal immigrants. The state of California, alone, spends \$21.8 Billion on illegal immigration.<sup>48</sup> Many illegal immigrants are tied directly to the problem because they were trafficked into the U.S. by the TCOs, or are seeking sanctuary from the TCOs. How can the U.S. effectively combat the cartels when states like California pay more to provide services to illegal immigrants than the U.S. Government (DHS) does to patrol the borders?

The DHS does not have enough forces with the right equipment to secure a large amount of space, or rapidly move their forces to meet a threat in remote areas. It is a *time, space,*

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<sup>46</sup> U.S. Department of Homeland Security, *Budget-in-Brief FY 201*, (Washington D.C.: U.S. Department of Homeland Security, 2011), 9. An additional 21,186 CBP officers work at official U.S. ports of entry. The FY2012 budget increases the FY2011 number of agents by 300. See also U.S. Army Combined Arms Center, "Support to Civil Authorities," *Newsletter 10-52*, (Leavenworth, July 2010), 74.

<sup>47</sup> U.S. Department of Homeland Security, 21.

<sup>48</sup> Federation for American Immigration Reform, *The Fiscal Burden of Illegal Immigration of American Taxpayers*, February 2011, [http://www.fairus.org/site/News2/1026578677?page=NewsArticle&id=23190&security=1601&news\\_iv\\_ctrl=1761](http://www.fairus.org/site/News2/1026578677?page=NewsArticle&id=23190&security=1601&news_iv_ctrl=1761), (accessed April 1, 2011).

*force* problem. As the agency applies pressure to criminal “hot spots,” activity begins to increase in “cool spots.”<sup>49</sup> Additionally, interagency infighting and turf battles between the DHS and other Executive agencies negatively affect the security of the border.<sup>50</sup> To assist the DHS in its uphill battle of securing the border U.S. Northern Command (USNORTHCOM) was established to provide personnel and capabilities that are not available to civilian agencies in large quantities.

The Pentagon created USNORTHCOM to assist in defending the U.S. against a terrorist attack. The command’s primary responsibility is not only homeland defense, but coordination with other federal agencies in preparing and responding to the consequences of a terrorist attack or other disaster.<sup>51</sup> USNORTHCOM is also the execution authority for Department of Defense counterdrug missions within its area of responsibility. Specific counterdrug missions include support to civilian law enforcement agencies (LEA); creating a shared network of intelligence and information support; and leveraging theater security cooperation activities, specifically with Mexico.<sup>52</sup> When USNORTHCOM took control of the homeland defense mission, it inherited Joint Task Force-6, an established counterdrug program with numerous local, state, and federal interagency ties.

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<sup>49</sup> U.S. Army Combined Arms Center, 78.

<sup>50</sup> MAJ David Youngblood, interview by MAJ David Barber. *JTF-N Planner (2005-2007)*, (February 20, 2011). In an email interview, MAJ Youngblood stated that divisions within the DHS, specifically CPB and Immigration and Customs Enforcement (ICE) are often competing for resources and at odds with their methods to secure the border. CBP wants to prevent people and products from crossing the border. ICE wants arrests, apprehensions, and seizures. Also, see Evan Perez and Cam Simpson, *U.S. to Send More Agents to Curb Border Violence*, March 25, 2009, <http://online.wsj.com/article/SB123791593844827233.html>, (accessed February 21, 2011). Perez and Simpson report about the refusal of the Bureau of Alcohol, Tobacco, Firearms, and Explosives to allow agents to participate in several DHS task forces. Additionally, Graham H. Turbiville, "Firefights, Raids, and Assassinations: Tactical Forms of Cartel Violence and Their Underpinnings," *Small Wars and Insurgencies*, (2010), 124.

<sup>51</sup> U.S. Army Combined Arms Center, 6.

<sup>52</sup> U.S. Northern Command, "Reports Prepared by US Northern Command (USNORTHCOM) for Congress, 2007-2009," [www.governmentattic.org](http://www.governmentattic.org), January 18, 2010, [www.governmentattic.org/2docs/NorthcomCongRepts\\_2007-2009.pdf](http://www.governmentattic.org/2docs/NorthcomCongRepts_2007-2009.pdf), (accessed February 15, 2011). See 2007 Advance Policy Questions for LTG Renuart.

Joint Task Force-6, re-designated Joint Task Force-North (JTF-N) in 2004, is assigned to U.S. Army North, the Army service component command within USNORTHCOM.

**JTF-N Mission:** JTF-N supports Drug Law Enforcement Agencies in the conduct of Counter Drug/Counter Narco-Terrorism operations in the USNORTHCOM area responsibility to disrupt trans-national criminal organizations and deter their freedom of action in order to protect the homeland.<sup>53</sup>

Established in 1989, JTF-N has completed thousands of missions while in direct support of counterdrug task forces at the local, state, and federal level. Though JTF-N coordinates and controls the missions of supporting military units throughout the U.S., it primarily provides support to CPB and other LEAs along the U.S.-Mexico border (Appendix A). They are not involved in any direct search or seizure, nor do the units collect or retain any information on U.S. citizens. The *Posse Comitatus* Act (PCA) specifically limits the type of active duty military support to civilian LEAs.

Enacted in 1878, the PCA currently places certain restrictions on direct military involvement and has served as the primary statutory guard against the direct use of the U.S. military in domestic law enforcement duties.<sup>54</sup> The PCA only limits the missions of active duty and reserve military members who are working in a Title 10 status. It does not involve National Guard service members working directly for a state governor (Title 32 status). Overall, the PCA is meant to provide governing principles to the Armed Forces, and not totally prohibit military involvement in enforcing civilian law. In 1986, to provide further guidance to service members, the DoD issued Directive 5525.5 that specifically outlined the legal framework for cooperation between DoD components and civilian LEAs. The PCA and Directive 5525.5 both allow military involvement when authorized by the Constitution or

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<sup>53</sup> Joint Task Force North, "Fact Sheet 1, Joint Task Force North," [www.jtfn.northcom.mil](http://www.jtfn.northcom.mil), January 11, 2011, [http://www.jtfn.northcom.mil/factsheets/1\\_1jan11mission.pdf](http://www.jtfn.northcom.mil/factsheets/1_1jan11mission.pdf), (accessed March 29, 2011).

<sup>54</sup> Thomas, 5.

Act of Congress.<sup>55</sup> While the PCA severely restricts the full employment of Title 10 forces and capabilities, mislabeling the threat restricts the nation from fully combating the threat.

### **Recommendations (The Way Ahead)**

“We will not apologize for our way of life, nor will we waver in its defense. And for those who seek to advance their aims by inducing terror and slaughtering innocents, we say to you now that our spirit is stronger and cannot be broken—you cannot outlast us and we will defeat you.”<sup>56</sup>

The inability of numerous government agencies to correctly classify the TCO threat prevents the U.S. from correctly resourcing and employing all means available to secure the homeland. Combating insurgencies requires a whole of government approach. It is not the sole responsibility of the military. As mentioned earlier, the U.S. Secretary of State and Undersecretary of the Army labeled the cartels as an insurgency, but they quickly withdrew their comments after receiving national and international political pressure. Both DHS and USNORTHCOM classify the cartel threat as a criminal problem needing a law enforcement solution.<sup>57</sup> Within USNORTHCOM, however, a labeling discrepancy exists. The use of the words “counter Narco-Terrorism” in the JTF-N mission statement is significant because its description of the problem runs counter to its higher headquarters. When referencing the cartels, it seems that politics influences the use of the words “terrorism” or “insurgency” at higher levels of government.

To combat the cartels and seriously appropriate the necessary resources, the U.S. government must correctly classify the TCO threat. Political pressure hasn’t affected the U.S. Joint Forces Command (USJFCOM) because it views TCOs as a significant national

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<sup>55</sup> U.S. Department of Defense, "Directive Number 5525.5, " Washington D.C.: DoD, (January 15, 1986), Enclosure 4. Also, see Thomas, 6. Thomas argues that the Constitution contains no provision that specifically authorizes military enforcement of the law. Additionally Congress enacted 10 USC 331 and 332 that allows the President to use the military to suppress civil disturbances or insurrection and enforce law and order.

<sup>56</sup> U.S. President, 17. Quotation from President Obama’s Inaugural Address.

<sup>57</sup> U.S. Northern Command.

security threat and hopes to mitigate cartel violence to “eventually” make the problem a “public security and law and order problem.”<sup>58</sup> In other words, USJFCOM views the TCOs as a military problem. Many think of the cartels as a national-security threat deserving the same level of interest and resourcing as Iraq or Afghanistan.<sup>59</sup> If the government cannot decide whether the cartels are criminal or terrorist organizations, then it must compromise by labeling the TCOs as a “merged” threat.<sup>60</sup> Some also use the term “converged” threat: a situation where three threats to the U.S. converge to become a “dangerous confluence (see figure 3).”<sup>61</sup> Failure to accept the TCOs as nothing more than a criminal organization limits available resources and creates national security “seams” exploited by the cartels.

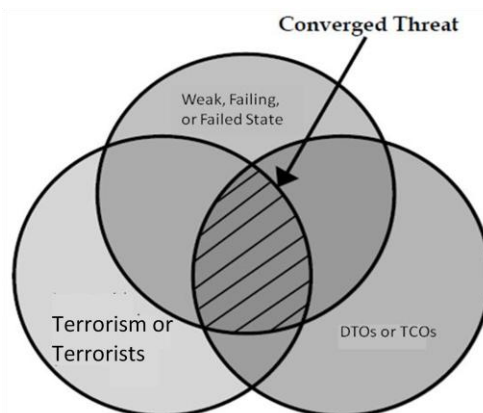


Figure 3: Threat Convergence Illustration

To militarily combat the cartel threat, one viable course of action is a limited repeal of the PCA. The drawdown in Iraq, future troop withdrawals in Afghanistan and the push for greater dwell time for ground forces make Active Duty units a logical choice. The proposed

<sup>58</sup> U.S. Joint Forces Command, *The JOE 2010: Joint Operating Environment*, (Suffolk: U.S. Joint Forces Command, 2010), 47.

<sup>59</sup> Gordon James Knowles, "Threat Analysis: Organized Crime and Narco-Terrorism in Northern Mexico," *Military Review*, (January-February 2008), 73.

<sup>60</sup> U.S. Army Combined Arms Center, 19. "Merged" threats have very little distinction between the group's criminal and terrorist activities. Agencies must cooperate and the military must take a larger role.

<sup>61</sup> Joanne Fish, Samuel McCraw, and Christopher Reddish, "Fighting in the Gray Zone: A Strategy to Close the Preemption Gap," <http://www.strategicstudiesinstitute.army.mil>, September 2004, <http://www.strategicstudiesinstitute.army.mil/pdffiles/pub412.pdf>, (accessed February 15, 2011), 7. This term was originally meant for a WMD threat, but its application still fits with DTOs or TCOs.

limited repeal of the PCA includes allowing military units to enforce civil law in certain areas along the border and conduct surveillance along traditional smuggling routes north of the Mexican border.<sup>62</sup> These measures enable the military to directly combat both drug and weapons smuggling. Currently, military units in support of JTF-N conduct 90% of their wartime mission tasks, so with minor additional training, they are ready to assume the mission along the border.<sup>63</sup> While the Active Duty military represents a logical solution to combat cartels, many will argue that the U.S. already has mechanisms in place to combat the cartels while remaining in compliance with the PCA.

Without a repeal of the PCA, or without national leadership officially declaring a state of emergency to circumvent the PCA, the National Guard represents the most expedient solution to the problem. Utilization of the National Guard in a Title 32 status precludes any need to repeal the PCA. The National Guard, however, currently faces an extremely high Operational Tempo as a result of sustained support to both Operations Enduring Freedom and Iraqi Freedom. The withdrawal of forces in Iraq and Afghanistan alleviates their situation, but further employment of the National Guard along the border could place undue strain on an already overworked force.<sup>64</sup> Though an expedient solution, the Title 32 status subordinates the Guard to the state Governor (not a Title 10 JTF). In an event where the Guard is needed elsewhere (state emergency), the Governor must choose between the needs of the state and the nation. Also, though not specifically bound by the PCA in their Title 32

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<sup>62</sup> U.S. Army Combined Arms Center. Current laws allow the military to conduct surveillance only on targets south of the border. Once targets cross into the U.S., they are allowed to track the targets up to 25 miles beyond the border. The U.S. military cannot track targets that originate on U.S. soil, or those that move past the 25 mile limit.

<sup>63</sup> Joint Task Force North, Fact Sheet 4, Joint Task Force North, *Joint Task Force North*, January 4, 2011, [http://www.jtfn.northcom.mil/factsheets/4\\_11jan11train\\_ops.pdf](http://www.jtfn.northcom.mil/factsheets/4_11jan11train_ops.pdf), (accessed March 25, 2011).

<sup>64</sup> U.S. Army Combined Arms Center, 31-32. CALL reported that in the 1980s, the National Guard accounted for approximately 1 million man-days of duty per year. In the 1990s, the total force shrunk, but it still provided 12.5 million man-days. In 2003, the figure jumped to 63 million man-days per year.



status, employed National Guard forces have always adhered to the law as a matter of principle.<sup>65</sup> Ultimately, whether the nation uses Active Duty or National Guard forces, a limited repeal of some prohibitions of the PCA (or DoD 5525.5) enables the nation's military to fully assist civilian law enforcement combat the TCO threat.

If the U.S. does not modify the PCA to combat the TCOs, then preemptive military action against cartel sanctuaries in Mexico becomes a possibility if all other efforts fail. Preemptive action is not sponsorship for a full-scale invasion. It is a proposal for limited cross-border raids and strikes against the TCOs using Special Operations Forces and highly trained, small infantry units. As stated earlier, the situation in Mexico is considered by some as a "narco-insurgency" that threatens U.S.-Mexico economic stability. As the cartels create a permissive environment in Mexico, foreign investment and business look for other markets. This permissive environment is created through corruption and violent attacks on Mexican and U.S. diplomats and law enforcement personnel. Over the past several years, Congress appropriated almost \$2 Billion to Mexico under the Merida Act, yet the death toll continues to rise. Recent polls indicate a general dissatisfaction with the current Mexican government; further proof is the resurgence of the PRI in political offices throughout Mexico. Current national security documents stress the importance of diplomacy and working with allies and partners, but several also stress a willingness to conduct unilateral attacks, if necessary.<sup>66</sup>

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<sup>65</sup> U.S. House of Representatives . "U.S. Southern Border Security--National Security Implications and Issues for the Armed Services." *Committee on Armed Services* . Washington D.C.: U.S. Government Printing Office, 2006, 27. See also Chuck R. Mason, *Securing America's Borders: The Role of the Military*, (Washington D.C.: Congressional Research Service, June 16, 2010), 3.

<sup>66</sup> U.S. President, I. The NSS stresses that no nation can meet global threats alone. Also see U.S. Joint Forces Command (JOE 2010); U.S. Chairman of the Joint Chiefs of Staff, *U.S. National Military Strategy of the United States of America*; (Washington D.C.: Department of Defense, 2011); and U.S. Department of Defense, *Quadrennial Defense Review Report*. QDR, (Washington D.C.: U.S. DoD, 2010). The 2010 JOE, QDR, and 2011 NMS all emphasize the importance of security partnerships, however, each specifically state that the U.S. must be willing to act alone, if necessary, to deter and defeat acts of aggression or protect national interests.

International law allows a nation to protect itself through preemptive attacks. Many point to Article 51 of the U.N. Charter as the legal basis for preemptive attacks in self-defense, yet the U.S. actually established a legal, international precedent for preemptive self-defense in the mid-1800s.<sup>67</sup> Though legal precedence exists, the legality of preemption is extremely ambiguous and various interpretations of Article 51 have created the perception of U.S. unilateralism.<sup>68</sup> Also, though the UN as a collective body has authorization to deter, defeat, or preempt threats to international order, it consistently demonstrates its inability to act in a timely manner.<sup>69</sup>

Some suggest changing, or further defining the concept of preemption. Former UN Secretary General Kofi Anan indicated that the UN must change its guidelines for authorizing preemptive attacks because of the “mutual vulnerability” of nations through “interconnected threats.”<sup>70</sup> Annan’s beliefs perfectly illustrate the interconnected U.S.-Mexico relationship and the threat to both nations from TCOs. Using the five criteria proposed by Gareth Evans when invoking Article 51, the U.S. can justify its decision to conduct preemptive attacks.<sup>71</sup> Additionally, the U.S. must emphasize strategic communications to illustrate that TCOs represent a “converged threat” and that the limited use of force with specific objectives on a sovereign nation is a last resort. There will always

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<sup>67</sup> David Bowman, “Preemptive Warfare--A Viable Strategic Option,” (Carlisle Barracks: USAWC Strategy Research Project, March 18, 2005), 4. The attack must be in self-defense as long as it is necessary, proportional, and a last resort. See also Fish, McCraw, and Reddish, 2. In 1842, Secretary of State Daniel Webster established the “classical standard” for legal use of preemptive force against an imminent threat.

<sup>68</sup> Ibid, 10.

<sup>69</sup> Ibid. Examples of UN failure to preempt or act in a timely manner were Rwanda and Darfur.

<sup>70</sup> Ibid.

<sup>71</sup> Gareth Evans, “When is it Right to Fight?” [www.cfr.org](http://www.cfr.org), 2004, [www.cfr.org/content/publications/attachments/59-1.pdf](http://www.cfr.org/content/publications/attachments/59-1.pdf), (accessed April 1, 2011), 75. Evans’ five questions are: (1) Based on the seriousness of the threat, is the threatened harm to the state or humans sufficient clear and serious? (2) Is there proper purpose and will the military actions halt or avert the threat? (3) Is military action the last resort, and are all non-military options exhausted? (4) Is the action proportional in scale, duration, and intensity (minimum necessary force)? (5) Have all consequences been considered for reasonable chance of success; is the cost of action less than is the cost of failure or inaction?

be international or domestic opponents of any preemptive use of force, but the consequences of continued appeasement of TCOs is too great to ignore.

Employed forces must have effective command and control, extensive training, and in some cases centralized planning and approval to mitigate risk. Whether the U.S. massively expands presence along the border with the National Guard, repeals the PCA, or conducts unilateral action against TCOs in Mexico, the possibility exists for damage to U.S.-Mexican infrastructure or civilian casualties. Due to the sensitive subjects of preemption and the PCA, there must be strong oversight at the highest levels. Currently, U.S. Army North possesses the capability to serve as a land component, or JTF commander. For sustained and large operations, both U.S. Army North and JTF-N (as a subordinate) can oversee deployments of U.S. forces in an anti-TCO role.<sup>72</sup> Relying on historical DoD and LEA relationships (through JTF-N) and emphasizing the enormous capabilities of the El Paso Information Center (EPIC) also mitigate collateral risk.<sup>73</sup> As stated earlier, military units conduct 90% of their combat mission tasks when supporting current JTF-N missions, so with additional training, securing the nation's borders is almost a natural task for many units. The use of highly trained Special Forces or Infantry units in cross-border attacks lowers operational risk because of their level of training. There is always a risk of wrongly targeting innocent civilians or making mistakes, especially when undertaking a new mission. Existing interagency relationships and the organizational structure of the military commands (Army

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<sup>72</sup> Thomas R. Turner, "Ready to defend, protect and secure," (*Army*, October 2009), 235-236. U.S. Army North has two rapidly deployable operational command posts each capable of providing C2 for a Battalion. Also see U.S. Army Combined Arms Center, 30. JTF-N has a 150 man staff that primarily provides intelligence and information sharing. They would require more people to support larger operations.

<sup>73</sup> *Ibid*, 83-84. EPIC is led by the DEA and staffed by 15 agencies (including DHS, DOJ, DOT, DoD) as well as state, county, and municipal law enforcement. It collects, analyzes, and shares information with law enforcement agencies around the world. No other agency in the U.S. provides real-time tactical support to the law enforcement community.

North and JTF-N) mitigate risk and will allow for easy expansion of current missions along the border

In a speech to the Naval War College, George Will stated, “control of the border is necessary for national sovereignty.”<sup>74</sup> Currently, the ability of the TCOs to operate freely along the border demonstrates a breach of both U.S. and Mexico national sovereignty; major seams exist in the U.S. defense. The inability of the government to determine if the TCO problem is a law enforcement or military problem makes it impossible to fully synchronize or appropriate the requisite funding or resources to combat the problem. To curb both the shipment of drugs and guns, the Active Duty military and National Guard provide the government with logical solutions because of their capabilities, existing command and control structures, and relationships with law enforcement agencies. The PCA, however, limits military action, and if the government doesn’t repeal or modify the PCA, then limited strikes against criminal activities and safe-havens in Mexico should strongly be considered. As mentioned earlier, a whole of government approach, not a military-only solution, is necessary to combat the cartels and secure the U.S.

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<sup>74</sup> George Will, "Address to U.S. Naval War College," Newport, (February 28, 2011)



# FACT SHEET

## ***Joint Task Force North***

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FACT SHEET NUMBER: 3

DATE: 11 January 2011

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### ***JTF North homeland security support***

Joint Task Force North (JTF North) coordinates military support to law enforcement agencies in order to anticipate, detect, deter, prevent, and defeat transnational threats to the homeland. All military support for homeland security is based on support requests.

Support requests are submitted to JTF North by designated federal law enforcement agencies. Assuming the support is appropriate and in compliance with the statutory guidelines for the domestic employment of military forces, JTF North seeks military units to volunteer to provide the requested operational support. Once a unit volunteers, JTF North facilitates mission planning and execution with the unit and the supported agency. In accordance with Department of Defense policy, missions must have a training value to the unit or provide a significant contribution to national security.

JTF North is an effects multiplier assisting law enforcement agencies to secure the homeland by providing supplemental and unique capabilities. JTF North support to federal law enforcement agencies is categorized in the following six support categories:

- **OPERATIONAL SUPPORT**
  - Aviation Support Operations
    - Aviation Transportation/Insertion/Extraction
    - Aviation Medical Evacuation (MEDEVAC)
  - Aviation Reconnaissance
    - Daytime Operations
    - Nighttime Operations
  - Air and Maritime Surveillance Radar
  - Unmanned Aircraft Systems (UAS)
  - Ground Surveillance Radar
  - Listening Post/Observation Post
  - Ground Sensor Operations
  - Ground Transportation
  
- **INTELLIGENCE SUPPORT**
  - Law Enforcement Agency Case Sensitive Intelligence Support
  - Collaborative Threat Assessment
  - Geospatial Intelligence Support
  - Modified Threat Vulnerability Assessment
  - Threat Link Analysis Product

(more)

## APPENDIX A (JTF-N Mission Support): Military missions conducted in support of LEAs

- **ENGINEERING SUPPORT**
  - Personnel Barriers
  - Vehicle Barriers
  - Lights
  - Roads
  - Bridges
  
- **GENERAL SUPPORT**
  - Mobile Training Teams – which include:
    - Basic Marksmanship
    - Trauma Management
    - Emergency Response
    - Counterdrug Field Tactical Police Operations
    - Counterdrug Marksman/Observer Training
    - Counterdrug Special Reaction Team Training
    - Integrated Mission Planning
    - Intelligence and Link Analysis
    - Interview Techniques
    - Multi-Subject Tactical Instruction
    - Threat Mitigation Training
    - Other training as requested
  - Transportation
  - Sustainment
  
- **INTERAGENCY SYNCHRONIZATION**
  - Support interagency planning process
  - Facilitate interagency and bi-national info sharing
  - Point of Integration Operations
  
- **TECHNOLOGY INTEGRATION**
  - Leverage Department of Defense science & technology investment
  - Ground/ Air/ Maritime sensor integration
  - Information Efficiency and Networks
  - Biometrics
  - Tunnel Detection

### *Evolution of Support*

During the first decade of JTF North's Military Support to Civilian Law Enforcement Agencies (MSCLEA), our support was relatively personnel-intensive, using individual personnel on the ground to provide border detection. Today we have shifted to a greater focus on technology, using ground sensors, radar, airborne platforms, and thermal imaging to not only reduce the manpower requirements, but conduct more effective border detection.

Our intelligence efforts have shifted from the border outward, deeper into the approaches to the United States. Working more closely with Canadian and Mexican agencies, we are trying to gain greater visibility on threats as they enter the U.S. Northern Command area of responsibility in order to cue these partner nations to interdict them before they reach our borders.

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