

Congress of the United States

Washington, DC 20515

December 19, 2024

The Honorable Mike Johnson
Speaker of the U.S. House of Representatives
U.S. Capitol
Washington, DC 20515

Dear Speaker Johnson

For over a year, our Task Force to Combat the Mexican Drug Cartels has worked tirelessly in its mission to accomplish three primary objectives: First, identify the “blue force picture.” Meaning, who within the USG is doing what against the cartel threat? Second, what is the nature of the threat posed by the cartels, and what areas should we focus on? And specifically, what are the obstacles in policy and/or funding that are preventing us from tackling these problems effectively? Third, what are the legislative solutions in the form of funding and/or authorities that we can realistically pass? And what are the policy changes that must occur within the Executive branch?

This has not been the simple tasking that many believe it is. And yet, we have done an immense amount of work despite having no additional staff or funding. We have held over 30 briefings with former and current government officials; federal, state, and local law enforcement; foreign governments; outside experts and academics; and even a former member of the Sinaloa Cartel. The Task Force went on a CODEL to Mexico City to meet with US and Mexican government officials and Chairman Crenshaw travelled coast-to-coast and internationally with the Intel Committee to focus on the threat the cartels pose.

The Blue Force Picture

As to the first question, the blue force picture is vast, with many government agencies dedicated to the cartel threat and taking it on with the seriousness it deserves. From the DEA, FBI, and DHS to the NSA, CIA, and DIA, and their partners in Treasury, there are many offices working diligently on this problem set. But these efforts are disjointed, especially because the cartel threat spans across the portfolios of both law enforcement and national security. There is no single lead agency, and it is not even clear whether that lead agency should be led by law enforcement or by non-law enforcement. Should the Attorney General’s office be the lead? Former AG Bill Barr certainly thinks so. But this implies that we should be building cases and prosecuting our way through the cartel’s power structure. Is that even a feasible goal? Or should this be led by the DOD, given we face a threat that is far more similar to the insurgencies we have confronted in the past? For that to be an option, the government of Mexico (GOM) would have to fully embrace this concept, as the Colombian government did long ago with “Plan Colombia.”¹ So far, they have been unwilling to do so. Or should we be focused on the “third options” associated with Title 50 programs?

There is no good answer to any of these questions. The truth is that it will continue to be an “all of the above” approach. But key to our future success is this: we must have an executive level office that coordinates strategies

¹ Plan Colombia was a United States foreign aid, military aid, and diplomatic initiative aimed at combating Colombian drug cartels and left-wing insurgent groups. The plan was originally conceived in 1999 by the administrations of Colombian President Andrés Pastrana and U.S. President Bill Clinton and signed into law in the United States in 2000.

across the different agencies. Right now, that interagency cooperation and deconfliction actually happens in the US Embassy in Mexico City, and to be fair to them, it happens quite effectively. But this occurs at a very *tactical* level. There is a total lack of *strategic* coordination at the level needed: the White House.

One would think that a key player in this fight is U.S. Northern Command (NORTHCOM), but our findings were that NORTHCOM actually has a very small role, except for lending analytical support to law enforcement agencies via Joint Task Force-North in El Paso. Why? Primarily because the GOM won't allow a closer relationship between the US military and the Mexican military. There are some in Congress who believe Mexico should be categorized within SOUTHCOM to fix this problem, but it would have no effect, because it's the GOM that doesn't want the cooperation. We do *some activities* on a military-to-military basis. We do regular joint training exercises with Mexican Special Operations, but not nearly at the scale one might assume is necessary to build real capacity in a country as important to our own security as Mexico. We have requested that NORTHCOM provide us a report on what capabilities could be brought to bear against the cartels if only the door was opened by GOM.

One question was always asked of any agency briefing the Task Force: what additional authorities or funding do you need to more effectively target the cartels? To our surprise, we rarely got answers. Aside from a few issues (we will list them below), the answer was often 'we have what we need.' Well then why aren't we defeating the cartels with overwhelming force? The simple answer is this: we do not have a willing partner at the highest levels of the GOM. This is the fundamental problem and has been for at least a decade.

It's worth spending a moment on this. First of all, one must understand that populist politics in Mexico necessitate a strong stance against the "*gringos*" and a fierce protection of Mexican national sovereignty. This is the complete opposite dynamic of our relationship with the Colombians, who have long embraced American security cooperation. But for Mexican elites, they remember 1848 like it was yesterday. As I discovered when I introduced the Authorized Use of Military Force (AUMF) to target the cartels, many in the media will twist bilateral operations to mean "an American invasion of Mexico" as opposed to what we really mean, which is more akin to the security cooperation design of Plan Colombia. This cultural misunderstanding between our two countries is one that can only be solved diplomatically, and requires experienced State Department led efforts to turn the tide. Luckily, we believe that the new Sheinbaum Administration will be more open to security cooperation than the previous GOM administration under President Obrador.

The Problem

The cartels operate as any business does, doing deals with various other "businesses" in the supply chain. The cocaine producers in Colombia are not part of the Sinaloa Cartel, but they do have deals with them in place. The drug dealers on American streets are not card-carrying members of the Sinaloa Cartel, they are American criminals. The man driving a truck across the southern border is often a US citizen who specializes in just that: driving across the border and hiding illicit drugs. Thus, we must not only target the core leadership of the cartel, but their associates as well. And each one carries with it its own challenges.

Let's be clear about what the cartels are: they are an insurgency. This implies many things. They operate both in and out of government, and in many areas of Mexico they act as the governing authority. They have a military. They have businesses that expand well beyond the drug trade. They are not ideological revolutionaries seeking to overthrow the government, but they certainly seek to control it, especially at the local and state level. The federal

GOM has been largely immune from their threats but also unwilling to truly take on the cartels meaningfully since the days of President Vicente Fox.

Another question often comes up: should we label them a Foreign Terrorist Organization (FTO)? This was a key question for our Task Force, and ultimately the answer is about assessing trade-offs. We found that there is little legal benefit, if any, to labeling them as an FTO. There are no new authorities for any of our government agencies just because they become FTO's. To the extent that there are, we can easily write legislation to open up those authorities without actually designating them FTO's. Why would we do that? Because there are also downsides to the FTO designation. First of all, it would be a major diplomatic blow to Mexico's ego, and could lead to less cooperation, not more. Second, it will surely complicate our current problem with asylum seekers at our southern border. How can we say Mexico is a safe third country while also suggesting it is filled with terrorists? Asylum seekers and their lawyers will surely take advantage of this and potentially make our immigration problem worse. Our final assessment is that the FTO designation makes little sense, except perhaps sending a "message" to the cartels. The most accurate way to describe cartels is this: they are an insurgency willing to engage in terrorist activities when necessary.

We must look at the problems associated with the cartels through two lenses. One is short term, the other is long term. In the short term, we want to save American lives which means stopping deadly fentanyl production and exportation. In the long term, we want to help the GOM rid itself of this cartel insurgency that has a stranglehold on its country. America obviously has an interest in a safe and prosperous Mexico.

Stopping fentanyl production is an achievable goal. Why? Because thus far it has remained tightly controlled by two cartels in particular: Sinaloa and Jalisco New Generation Cartel (CJNG). Fewer targets mean we can focus our efforts. Also, these cartels are business-minded and make their profits with diverse portfolios – from cocaine to human smuggling to extortion to legitimate businesses they control. Our goal should be this: make it clear that fentanyl production is simply not worth the risk to the cartels, and incentivize them to not only abandon it, but forcibly prevent anyone else from doing it. There is already evidence that targeting the cartel leadership can have this effect, as was the case after the high-profile arrest (and epic gunbattle that ensued) of Ovidio Guzman, the head of the *Chapitos*, a faction of the Sinaloa cartel. After the Culiacan raid in January 2023, they not only reportedly stopped fentanyl production, but actively targeted anyone else who would produce fentanyl in their territory. Now, was this mostly a PR stunt? Yes. They probably moved production elsewhere. But we don't know for sure. And it stands to reason that our policies can have the immediate effect of changing the incentives of cartels, as they deem the fentanyl business to be too risky for the perceived benefit.

Many wrongly believe that we can follow the money and target the problem easily that way. We wish this were true. Our findings were that the cartels are using a variety of sophisticated money laundering schemes, especially trade-based money laundering through Chinese brokers. This means the money never moves, which makes it hard to track. They also use cryptocurrency extensively. We can track that, but we need more analysts working the problem with specific software (see more on this in the solutions section). Furthermore, there simply isn't enough effort dedicated to the problem set at the Department of Treasury. They only have so many resources and could benefit from more dedicated resources and willingness to pursue complicit businesses and banks in Mexico and China that are active participants in the fentanyl trade. This is both a resourcing problem and a problem of political will. Our findings were that Treasury has all the authorities it needs to tackle this problem, but lacks will in some cases.

There is also a major problem with our ability to collect intelligence on the cartels. For our law enforcement to build a case, they do not want to rely on national collection assets that must remain classified and therefore must

be declassified in a court room. They rely on good old fashioned police work, which is increasingly difficult in the digital age. Why? Well, the classic “wiretap” doesn’t work anymore. No one makes regular phone calls anymore. Almost all communications are done on secure messaging apps, and law enforcement currently has no ability to request a warrant for that communication. The tech companies that created these apps (Apple, Meta, et al), claim they designed these apps so that not even the company itself has access. Without that capability, law enforcement is left to use tools such as Pegasus to access cartel phones, but the Biden Administration recently banned its use². This is a major question for Congress: how should we update the warrant process to both (1) require companies to create a digital backdoor and (2) allow access if a judge issues a warrant? At the very least, should the Trump Administration rescind the Biden Executive Order?

That being said, there is a substantial collection effort against the cartels from the Intelligence Community, spanning from CIA to DIA to NSA. The recently passed FISA reauthorization added a fourth category to FISA collection, allowing for collection on synthetic-opioid related targets. Many believe this is a substantial move in the right direction and when fully implemented will yield an unprecedented amount of new intelligence on the associates of the cartels and the businesses in China making precursor chemicals for fentanyl.

But the question will remain: *how do we action that intelligence?* Right now, the only viable option is through trusted military units in the Mexican military. That reality will never change. What *can* change is how much more intelligence we share with them and how many more resources we provide to them. Again, this would be easy if that were simply a matter of US policy decisions. *But it is the GOM that must embrace and accept that additional cooperation and those additional resources.*

What about focusing on the fentanyl precursors? That is surely a “single point of failure” in the fentanyl supply chain. The problem? These are Chinese companies selling legal chemicals. Furthermore, they can deliver relatively small quantities of these chemicals that can result in large quantities of fentanyl. In fact, it is so easy for them to hide that they ship much of it to Los Angeles International Airport (LAX) via air cargo. It is then trafficked south across the border to be mixed into fentanyl, pressed into pills, and then trafficked back north. It’s so easy to hide fentanyl due its small size that they usually just drive it through Ports of Entry. At LAX, it is up to a single Customs and Border Protection Task Force to try and find these needles within mountains of haystacks. Our Task Force also found that, even when they do prosecute a bad actor who has falsified a manifest, the penalty is only a \$5,000 fine. Hardly a deterrent at all, and something that Congress can change.

The next part of the fentanyl/drug supply chain question is one of interdiction. Can we interdict so many loads of drugs as to beat back the drug trade effectively? It seems from experience that the answer is no. The primary agency for this effort is the Coast Guard, which leads Joint Inter-Agency Task Force-South in Key West, FL. They do extraordinary work, and primarily interdict mass shipments of cocaine. This should of course be part of our solutions, but no one believes we can interdict our way out of this problem. On the Pacific side, other programs are in place that do incredible work on interdictions, partnering with GOM, Panama, and Colombia among other countries. In the end, there simply aren’t enough boats and helicopters to interdict every shipment that we are aware of. The US Navy is ill-equipped to interdict fast moving small vessels. Should we be supplying these partner countries with vastly more resources so that they can more effectively interdict shipments?

² On March 27, 2023, President Biden issued Executive Order 14093, titled “Prohibition on Use by the United States Government of Commercial Spyware That Poses Risks to National Security.” The EO prohibits the use or purchase of commercial spyware by government agencies engaged in law enforcement, defense, or intelligence activities.

What about the final part of the fentanyl supply chain, the drug dealer who sells it on American streets? Our Task Force found that the penalty for dealing fentanyl is simply not a deterrent to doing so. This can easily be addressed by increasing the penalty for such crimes.

What about the long term?

To address the long-term problem of the cartel insurgency, a much greater effort is required, one that closely resembles the largely successful Plan Colombia. Treating the cartels as an insurgency focuses our efforts on a clear-eyed strategy that already has well established Counter-Insurgency (COIN) doctrine to reference (think the COIN manual authored by General Petraeus). Our challenge is not defeating the cartels, but bringing the GOM along with us to do so. Mexico spends about 0.4% of its GDP on security, from police to the military. That's extraordinarily small. Colombia spends around 4%. The Mexican judicial system is broken, if it ever existed in the first place. Their prosecution rate is 2%, which is why they are reliant on extraditions to the US. They lack the prosecutors they need to do the job, and those that are willing to do the job are faced with very real threats on their lives. Should the US Department of Justice consider a much stronger capacity-building program with the GOM that both trains and protects prosecutors with physical security?

To fight an insurgency, you need an uncorrupted force that is willing to take territory, hold that territory, and then build trust within that community. With such a small security budget, one shouldn't be surprised that a small police force of 1,000 men cannot maintain law and order in a state of millions of people. The cartels offer "*plata o plomo.*" Lead or money. Take your pick. So, the GOM must make the decision to engage in a true Counter Insurgency campaign, and they must be willing to allow the US to help them do it. Unfortunately, this is Mexico's choice, not ours. But we can influence it with a clever mix of carrots and sticks. The incoming Trump Administration already has a history of success doing this, but we must do so methodically.

Solutions

Before getting to specifics, two things are clear. First, our legislation must be bipartisan. This must be a law-making exercise, not strictly a messaging and therefore virtue signaling exercise. Thus far, all of our solutions have bipartisan support. The Task Force has operated in a remarkably bi-partisan fashion. Second, the only way to make progress in defeating the cartels is through a diplomatic breakthrough with the GOM. We can and must encourage the GOM to drastically increase security cooperation with the US, and set aside grievances that have thus far prevented such cooperation. This will require deft leadership on our part. First of all, we must listen to the concerns of Mexico. Their primary retort is often "you Americans are the users of drugs that fuel our cartel problem and you also supply them with weapons from your gun stores that are then trafficked south."

They aren't wrong, of course. The work of the Task Force does not touch the problem of drug use in America. That is a separate public health problem for a different Task Force. But we should acknowledge the fact that guns are trafficked south in immense quantities and used by the cartels. A new administration should drastically shift the focus of the ATF from targeting law-abiding US citizen's gun rights and instead focus the full weight of the agency toward weapons trafficking at our southern border. Furthermore, we should be using Non-Intrusive Inspection (NII) technology at our Ports of Entry (POE) going from north to south. As we replace older NII at northbound POE's with newer technology, we can use the old units at southbound POE's. This would open the door for more sensible conversations with the GOM as we show them that we care about issues that are important to them. This is an example of the "carrot."

We also have other tools at our disposal to encourage cooperation, among them are the “sticks”:

- (1) the threat of tariffs
- (2) policy reform on remittances back to Mexico
- (3) Threat of withholding visas to the elites who live, shop, and send their children to school in the United States

Assuming we do have a diplomatic breakthrough, what do we do with it? I originally proposed a simple AUMF to authorize military force against the cartels. The intent of this idea can be reformatted a number of ways that is amenable to both Democrats and the GOM. We can accomplish the same goal by simply calling this a “Security Cooperation Agreement.” This would look like a “Plan Colombia-Plus” and also bare similarities to the Ukraine Security Assistance Initiative model, using Foreign Military Financing and Presidential Drawdown authorities to give Mexico the military assets they need to effectively fight and defeat the cartels. Implicit within that would be the authority for “advise and assist” missions by US Special Operations Forces (SOF) alongside Mexican SOF, should the GOM allow it. *It will be without question that Mexican sovereignty is respected.* Only through such a diplomatic breakthrough can we truly engage in the COIN operations necessary to ultimately defeat the cartels.

There are other “low hanging fruit” solutions that we can legislate as well.

Here is a list of amendments Chairman Crenshaw was able to include in the House passed FY2025 NDAA:

1. H.Amdt.970, to H.R.8070: To prioritize law enforcement organizations with an annual budget of less than \$200M within 100 miles of the border under the 1033 Program, which provides law enforcement with excess defense articles, to increase their counter drug surveillance and interdiction capabilities.
2. Amendment #33, included in an en bloc (H.Amdt.960 to H.R.8070): Requires a report from SECDEF on Mexican military action against Mexican drug cartels, Mexican military capabilities, and DOD operational plans to defeat Mexican drug cartels with varying degrees of coordination and cooperation from the Mexican government.

Here is a list of bills Chairman Crenshaw has introduced in the 118th Congress or is the Republican lead:

1. H.J.Res.18, *Authorization for the Use of Military Force to Combat, Attack, Resist, Target, Eliminate, and Limit Influence Resolution or the AUMF CARTEL Influence Resolution*: This joint resolution authorizes the President to use the Armed Forces against foreign nations, foreign organizations, or foreign persons affiliated with foreign organizations that the President determines are involved in trafficking fentanyl or fentanyl-related substances into the United States. The joint resolution also authorizes the use of force against those determined to have used force or violence in specified ways, such as engaging in violence or intimidation to control territory to be used for illicit means. The joint resolution deems nine named cartels as having met the criteria for the President to use force against them. Force authorized by this joint resolution may only be used against organizations and persons located outside of the United States. The authority expires five years after the date of this joint resolution's enactment.
2. H.R.713, *Declaring War on the Cartels Act of 2023*³: This bill enhances the term of federal imprisonment for members of certain transnational criminal cartels (i.e., Mexican cartels) who are repeat offenders. It

³ This bill is the answer to the FTO designation debate. This bill gives us all the benefits of FTO designation without any of the downsides mentioned above.

also establishes penalties for U.S. banks and foreign governments that support or otherwise have dealings with these cartels. Specifically, cartel members are subject to an additional 10 to 20 years imprisonment if they are convicted of certain federal crimes (e.g., crimes of violence, fraud, or sexual exploitation) and have been previously convicted of similar crimes (including at the state or local level) within the last five years. Any U.S. national who is convicted as an accessory to such crimes is also subject to up to 15 years of additional imprisonment. The bill also prohibits cartel members from using U.S. banks to conduct business and subjects any related assets to federal seizure. Banks that intentionally do business with cartel members are subject to civil penalties. Additionally, the bill (1) bars noncitizen cartel members and their immediate family from admission into the United States, (2) authorizes sanctions against foreign governments and persons (individuals or entities) that support cartel activity, and (3) requires certain federal agencies to work with foreign governments on combatting cartels. The bill applies to members of the following cartels:

- The Sinaloa Cartel,
 - The Jalisco New Generation Cartel,
 - The Beltran-Leyva Cartel,
 - The Gulf Cartel,
 - The Los Zetas Cartel,
 - The Tijuana Cartel, and
 - The La Familia Michoacána/Knights Templar Cartel.
3. H.R.9667, the *Enhancing Southbound Inspections to Combat Cartels Act*: Require the hiring of 500 new CBP officers for outbound inspection, preemptively addressing manpower issues. Requires the purchase of 50 new Non-Intrusive Inspection (NII) systems dedicated to outbound lanes at ports of entry. Require 500 new ICE HSI agents to primarily assist with currency and gun smuggling investigations. Establish minimum inspection requirement of 10% of outbound traffic. Requires DHS reporting on additional resources needed for outbound inspections and review of inspections and encounters. Requires quarterly reporting on southbound currency and gun seizures.

Here is a list of bills that have been written to near completion and are pending edits and introduction.

1. *Increased Penalties on Fentanyl Precursor Suppliers Act*: This bill would amend 19 USC §1584(a) to increase the penalty for a falsified manifest to conceal fentanyl precursors. Currently, the penalty for a false manifest is \$5000, this bill would increase the penalty when fentanyl precursors are involved to \$500,000. On subsequent instances of a carrier having a falsified manifest concealing fentanyl the fine would double from the previous fine.
2. *Operation Hydra Crypto Licenses*: This bill would authorize \$1M for cryptocurrency transaction analysis software to track crypto purchases of fentanyl precursors. It would also require reporting on hiring of crypto exchange analysts by ICE HSI. This is a main effort for Hydra to monitor and interdict transactions.
3. *Increased Penalties for Fentanyl Trafficking*: This will use crack sentencing guidelines as a model to increase sentencing guidelines for fentanyl traffickers.

There are other solutions that must be considered more in depth:

1. We must seriously consider legislation that allows for LE to obtain warrants on communication on secured apps.
2. We must task the DOJ with assessing the feasibility of a capacity building effort within the Mexican judicial system.

3. The FBI is tasked with prosecuting foreign corruption cases but focuses very little on Mexico. Why? Because they know their investigations will not yield cooperation from the GOM. We might consider funding additional agents to work specifically on this and therefore give ourselves the ability to “call out” corrupt officials when deemed appropriate.
4. We found that there is a lack of resources and political will at the Treasury to sanction individuals and businesses associated with the cartels. This is potentially a funding issue for Congress, but certainly requires a shift in focus from the administration itself.

The final solution, however, is this: the United States Executive and the US Congress must actively centralize our strategy against the cartels into one place. For the Executive, we offer no specific recommendation as to where this office would be, nor which agency or person might lead it. That should be up to the President.

But for Congress, the answer is clear. We must turn the Task Force into a Select Committee.

Why? For one, the Task Force has never been funded or staffed. It is remarkable that we have done so much with so little. We require the staffing power to properly research and write these complex pieces of legislation. Only a Select Committee can provide that. Furthermore, even our limited number of solutions potentially span across nine different committees of jurisdiction, making a comprehensive legislative initiative all but impossible. Only a Select Committee can overcome these obstacles and prove to the American people that the US House is indeed serious about taking on this grave threat to our national security. President Trump has made it clear that this will be a priority for his administration, and the US Congress should do the same.

In service,



Dan Crenshaw
Chairman, Task Force to Combat Mexican Drug Cartels



Vicente Gonzalez
Ranking Member, Task Force



Andy Biggs
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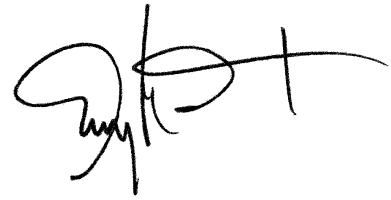
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