



THE JAMES A. BAKER III INSTITUTE FOR PUBLIC POLICY
RICE UNIVERSITY

TESTIMONY BEFORE THE MEXICAN AMERICAN LEGISLATIVE CAUCUS OF
THE TEXAS HOUSE OF REPRESENTATIVES

MEETING OF THE TEXAS BORDER SECURITY TASK FORCE

JANUARY 31, 2008

BY

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FEBRUARY 2008

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TEXAS BORDER SECURITY
31 JANUARY 2008

Good morning.

My name is Joan Neuhaus Schaan. I am the fellow for Homeland Security and Terrorism Programs at the Baker Institute for Public Policy at Rice University, and I am also the executive director of the Houston-Harris County Regional Homeland Security Advisory Council. The Advisory Council serves as an independent third party on homeland security matters and advises the mayor of Houston, the county judge, City Council and Commissioners Court.

Per the request of the Border Security Task Force and the Mexican American Legislative Caucus, I have come today to offer comments with regards to Texas Border security. As the committee is well aware, security is a critical issue on the Texas–Mexican border, and increasingly in the metropolitan areas.

On the border there are several levels of crime — the crime associated with drug and human smuggling organizations; general crime outside of the smuggling operations in the form of kidnapping, burglary and theft; and national security threats posed by elements that choose to exploit the unique characteristics of our border.

First, let me comment on the smuggling organizations. Mexico is struggling to maintain civil authority against a potent adversary, and if not successful, the consequences will be dire. According to studies conducted in Mexico, alien smuggling profits are now approaching drug smuggling profits. The increased profitability has resulted in more professional and ruthless smuggling organizations that now resemble drug smuggling organizations and/or include drug smuggling organizations. As the more ruthless organizations take over increasing portions of the smuggling trade, anecdotal evidence indicates the prices are rising and operations are increasingly sophisticated. Currently the flow of illegal immigrants is of such proportions that it overwhelms immigration, law enforcement and the criminal justice systems of border states and their communities. Houston alone has an estimated 400,000 to 450,000 illegal immigrants.

From the point of view of civil authorities, the criminal organizations outman and outgun law enforcement; they have extremely effective intelligence gathering; brutal intimidation tactics (including beheadings, torture, burnings and threatened decapitation of children); and deep pockets for bribery. Allow me the opportunity to describe to you a phenomenon in the cycle of violence as experienced in other countries. As civil authorities struggle to maintain control and are approaching the tipping point of control, law enforcement officials, elected officials and judges are assassinated; police stations are attacked; organized crime influences and then controls elected officials, and the press is silenced. Once past the tipping point, the organizations control a community, and those that do not acquiesce to their activities must leave or face the consequences. In its most extreme form, civil authorities cede entire geographic regions, and the lawless organizations develop enclaves of autonomy, as has been the case in Colombia and Lebanon. In recognizing the severity of the situation in Mexico, President Calderon is taking unprecedented measures to combat organized crime.

Mexico is in the throws of this struggle as we speak, and in no place is it more evident than in Nuevo Laredo. The criminal organizations control the streets after midnight. Judges, police chiefs and city councilmen have been assassinated. Executions and firefights occur on a regular basis and have forced the American Consulate to close for as much as weeks at a time. Seventy percent of the businesses in Nuevo Laredo have closed in the last few years, though some of the shop space has been reoccupied. Mexican businessmen are desperate to live on the Texas side of the border, due to the multiple kidnappings a week. The local press has stopped reporting on crime after multiple attacks on their personnel and offices, and the *San Antonio Express News* and the *Dallas Morning Herald* have pulled their Laredo reporters due to concerns for their safety. In fact, Reporters Without Borders lists Mexico as the most dangerous country in the world — except for Iraq — for journalists. Last week, military elements arrived in Nuevo Laredo to take charge of security in the area, due to lost confidence in the public security officials in the area. On Tuesday, the Texas Department of Public Safety issued a warning against crossing the Mexican border.

The struggles Mexican authorities are facing are not dissimilar to what our counties and state are confronting as the phenomenon spills across the border. The menace of organized crime's

violence and corruption must be vigilantly guarded against at all levels of civil authority, as evidenced by multiple arrests in Texas the last year or two. Our law enforcement agencies are outmanned and outgunned. The criminal organizations are not only armed with advanced weaponry including assault rifles, grenades, and grenade launchers, but with rocket launchers capable of bringing down an airplane, machine guns, and explosives, such as Tovex, a highly explosive hydrogel. There are even suspicions the cartels assisted a Mexican militant group in the bombing of energy infrastructure. The organized criminal activity involves Texas and Texans. Arrests in Mexico regularly involve U.S. persons and U.S. vehicles. Students crossing from Juarez to El Paso are being targeted by drug traffickers. Recently, Mexican cartel members have ordered hits on persons in Texas.

As David V. Aguilar, chief of the U.S. Border Patrol has said, "The American public must understand that this situation is no longer about illegal immigration or narcotics trafficking. It is about criminals and smuggling organizations fighting our agents with lethal force to take over a part of American territory so they can conduct criminal activity."

As the volume of smuggling has increased, so have the incidents in the next level of crime — kidnapping, burglary and theft. Most kidnappings go unreported, even those involving American citizens, for fear of retribution. But the crime is not just occurring along the border. The city of Houston has seen an increase in kidnapping in the immigrant community, whether legal or illegal. At least one kidnapping ring was disrupted last year that preyed upon Hispanic immigrants. This may not be an unusual phenomenon along the border, but it is relatively new to Houston. One can easily envision the organizations moving beyond the immigrant population to more lucrative targets.

Burglary and theft has increased with the general level of smuggling in border communities. I have spoken with many Texans from rural communities who are fearful in their own homes and who do not leave their home unattended, because when they return, there are strangers in their home. This is particularly difficult on couples living alone, because they no longer can leave their home together or at the same time, even to go to the grocery store, for fear their home will be burglarized or occupied when they return. In one specific case, an older rancher, who operated a ranch on the Rio Grande that had been in his family for generations, made the difficult decision

to sell the ranch, but he is having difficulty finding a buyer that is not associated with organized crime. The effects of this crime also are felt in Houston, where approximately 1,250 Ford F-250 and F-350 trucks were stolen last year, many of which were later found to be involved in smuggling operations along the border.

Turning to the national security implications of the border environment, extremists are well-aware of the United States' inability to control its borders, and use of the border is mentioned not infrequently in extremist chat rooms in the context of discussing tactics and logistics. Extremists have had their own smuggling operations in Mexico, and unaffiliated smuggling organizations have expressed a willingness to assist extremists willing to pay the price. A 2005 DEA (Drug Enforcement Administration) report outlines an ongoing scheme in which multiple Middle Eastern drug-trafficking and terrorist cells operating in the United States fund terror networks overseas, aided by established Mexican cartels with highly sophisticated trafficking routes.

This is of particular concern to the metropolitan areas, such as Houston. From an illegal activity perspective, the nature of the city provides a great operating environment for criminals and terrorists — anonymity, ease of entry and exit, readily available resources, robust commercial trade. From a terrorist perspective, Houston provides not only a good operating environment, but it is considered one of the top five economic targets in the United States. Terrorist associates and sympathizers are known to have been active in the Houston area and are believed to have well-established networks. Their organizations have shown the means, knowledge, capabilities and motivation to carry out terrorist operations.

These circumstances beg the question of what can be done to protect Texans from security threats and assist them in dealing with the threats. Besides the obvious need for additional funding and manpower, several ideas come to mind.

First, landowners and property owners need protection from perpetrators' lawsuits when they assist law enforcement. Currently, landowners that allow law enforcement officers on to their property are being sued by those involved in the criminal activity and claim injuries incurred while on the property, particularly if caused during their pursuit and/or arrest. While customs and

border patrol have statutory authority to enter property within predefined distances of the border, the same is not true for other law enforcement agencies and greater distances from the border. Lawsuits in the last few years have been brought against landowners in rural areas, however the same legal theory, if left unchecked, could apply to law enforcement in metropolitan areas as well.

Second, to the extent persons wishing to do harm to our nation enter our border and are present in our communities, the ability of the threat to be handled would be enhanced by a state terrorism law. The state of Texas does not have any statutes criminalizing terrorist activities prior to the terrorist attack, to include being a terrorist or a member of a foreign terrorist organization, aiding and abetting terrorism or promoting terrorism. There are several Texas laws referring to terrorism, but these references do not provide the necessary predicate for state and local law enforcement to pursue a terrorist investigation prior to the terrorist incident, unless other illegal activity is involved. (Most increase criminal penalties for harm to persons or property.) Although some jurisdictions may broadly interpret the organized crime laws to allow for investigation of suspicious terrorist activity, this is not uniformly applied. As a result, there may be no clear authority for state and local law enforcement to investigate, collect and analyze information on a possible terrorist matter, and the sole ability to do so lies with federal authorities enforcing the Patriot Act and other federal laws. At a time when federal resources are overtaxed, the state and local authorities do not have the opportunity to step in and pursue lower-level cases, as they do in with narcotics and other crimes. This ability to pursue local threats can be invaluable in supporting federal agencies and the national defense. Other states, such as New York, do have terrorism statutes. With Texas serving as a primary gateway for illegal immigration, as a base for persons associated with foreign terrorist organizations, and as a home to many critical infrastructure facilities that are vital to national security, criminalizing terrorist activities would appear logical.

Third, in many cases, prosecuting criminal activity starts with a suspicious activity report. Good intelligence is the most effective weapon against criminal enterprises and in stopping nefarious activities. There are two sources of reporting that currently exist and could be further developed in a security strategy. One is the Crime Stoppers organizations around the state that provide a

mechanism for anonymous reporting by those that fear retribution. Another is the private security industry with its tens of thousands of guards around the state. In the past I have testified at the Private Security Bureau about the need for basic terrorism training, the need to promote suspicious activity reporting and a rule change requiring that private security guards report illegal activity. Private investigators already have an obligation to report illegal activity, and a provision for security guards will assist in the enforcement against criminal activities in general and against those criminal enterprises that establish related security guard companies in order to guard their illegal enterprises. Efforts could also be pursued to improve coordination of private security with law enforcement. Currently there is a lack of cooperation, coordination and training between law enforcement and private security, due to the liability assumed by law enforcement agencies involved with private security. The impediment could be removed by following the precedent of the Concealed Handgun Law.

Fourth, several reports have referenced the fact that many foreigners from the Middle Eastern countries involved with illicit activities have changed their names to Hispanic names, in an attempt to blend in with the population. One law enforcement official was quoted as saying approximately 20 cases occur each week in Travis County. There may be value for all criminal investigations in having a central repository or database that holds all name changes.

Thank you for allowing me the opportunity to address your esteemed committee today. At this time I would be happy to take any questions.