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RESEARCH IN BRIEF  
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188876

## State and Local Law Enforcement, Transnational Criminality, and Illegal Immigration: The Changing Boundaries of Law Enforcement

The new openness of the world together with international travel, migration and communication have substantially increased the threat of criminality that transcends international borders. In response the United States government and the international community are building networks of law enforcement cooperation. In 1998 President Clinton announced the country's first international crime control strategy. It calls for the creation of a seamless web of cooperating law enforcement agencies, foreign and domestic, federal, state and local.<sup>1</sup>

The American federal role in addressing transnational criminality began to escalate in the 1970s as international drug trafficking by organized crime grew. Its role in regard to the control of illegal immigration has expanded greatly since the late 1980s in response to the crisis in illegal immigration.

This Research in Brief presents findings from an exploratory survey regarding how state and local law enforcement agencies have responded to transnational crime and illegal immigration. It addresses such fundamental questions as:

To what extent and in what ways are state and local law enforcement agencies reaching beyond the limits of their geographic jurisdiction to prevent crime and enforce law?

How often do state and local law enforcement agencies conduct foreign operations?

What networks of transnational law enforcement cooperation in which state and local law enforcement agencies participate already exist?

What is the nature of the federal, state and local law enforcement relationships with respect to addressing transnational criminality in general and illegal immigration in particular; and how have these relationships changed in recent years?

### Transnational Law Enforcement Cooperation History

Although the federal government has assumed the primary responsibility for addressing criminality that crosses international borders, local and state law enforcement officials long

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preceded federal efforts in this field and have never completely deferred to the federal government regarding transnational matters. Today, while most local law enforcement officials normally refer transnational matters to federal agencies for handling, some local and state agencies have transnational operations of their own. Some of these are wholly independent of federal involvement. Others operate with the advice and cooperation of federal agencies.

These operations represent parallel networks supplementing those established by federal agencies and providing alternative routes for accomplishing similar objectives. Most notable are the networks developed by state and local law enforcement agencies in the southwest through which criminals who have fled to Mexico and Central America are being prosecuted without recourse to extradition.

Additionally, state and local agencies have been linked to transnational criminality through the many federal, state and local task forces created since the 1960s and through the traditional route of referring international matters to federal agencies.

In contrast to the persistence and growth of the role of state and local law enforcement agencies regarding the pursuit of transnational criminality, local law enforcement agencies have abandoned the role they once played in controlling illegal immigration.

#### Early Transnational Police Cooperation Efforts

American local law enforcement leaders began constructing means for cooperating with other law enforcement agencies in 1871. They convened a conference to establish ways of using the telegraph and other means to exchange photographs and other information about transient criminals. At the time the federal government had no general law enforcement or investigative capacity beyond the U.S. Marshals whose purpose was to serve the federal courts. The U.S. Department of Justice was not authorized to establish a bureau of investigation until 1908.<sup>2</sup>

In 1893 American local law enforcement officials signaled the international scope of their cooperative aspirations by renaming their national organization, the International Association of Chiefs of Police (IACP). The change reflected the presence of Canadians in the association and their desire to be linked to the network. Three years later IACP set up a national clearinghouse for criminal identification records. In 1924 the record system was transferred to the federal government and together with federal records became the basis of the FBI's record system.<sup>3</sup>

In Europe initiatives to establish transnational law enforcement cooperative networks occurred sporadically throughout the 19th century prompted by reactionary governments seeking to control the political threat of liberals and revolutionaries as well as counterfeiters and smugglers. Regional networks were established in 1819 and 1851 among the police agencies of German states.<sup>4</sup> Calls for the establishment of international police networks resulted in a series of meetings of limited success among officials from mostly European states between 1898 and

1914.<sup>5</sup>

At a conference in 1923 participants agreed to establish an international police network providing for communication among police agencies. Known as the International Criminal Police Commission, it was headquartered in Vienna; taken over by the Nazis during the war; resurrected after the war to meet the dire need of police agencies in different countries to be able to communicate with each other; and renamed the International Criminal Police Organization (INTERPOL) in 1956. Americans did not participate in the European gatherings until the 1923 meeting at which the Chief of the New York Police Department was present.<sup>6</sup>

Fearful of the terrorist activities of the mid-1970s, concerned about the threat of illegal immigration and organized crime, and critical of INTERPOL services, the European Community established its own regional, supranational police force (EUROPOL) in 1994.<sup>7</sup>

## International Networks

### The LEGAT System

The United States has federal law enforcement agents stationed as legal attachés at embassies and consulates around the world. Criminal matters with foreign dimensions referred to the federal government by state and local agencies are often routed to legal attaches for handling. They use contacts they have developed with host governments and other sources to obtain information or cooperation.

## INTERPOL

INTERPOL is a police-to-police communication system which allows local police to communicate with foreign counterparts and central records systems of various countries including the U.S. They can post international arrest warrants or check vehicle identification numbers (VINs). For example, the police at the Polish border are able to check VINs posted in the American criminal records system, the National Criminal Identification Center.

The United States joined INTERPOL in 1938 with the endorsement of J. Edgar Hoover. It established a National Central Bureau (NCB) (point of contact for the country) in 1962, providing it with an office and staff of three in 1969. During the 1970s the American NCB averaged only about 300 cases a year. Since the 1980s the American INTERPOL network usage has grown substantially.<sup>8</sup> By July 1999 there were 95 employees on staff at the U.S. NCB; all fifty states plus New York City, Washington, D.C., and the territories had their own state-level central points of contact; and the NCB was handling 1200 new cases per month plus message traffic on open cases.

About 70% of traffic handled by the U.S. NCB is incoming requests from foreign agencies. The balance is outgoing American requests. NCB officials have found that only about

half of the American police they have surveyed know about INTERPOL; and most are unaware that its services are available to them. NCB officials are aggressively promoting the use of INTERPOL and expect to see continued growth in usage by American police.

#### The Law Enforcement Intelligence Network

In 1956 the Los Angeles and San Francisco Police Departments convened a meeting of state and local law enforcement agencies interested in establishing a network for sharing law enforcement intelligence among themselves independent of federal control. The group established the Law Enforcement Intelligence Unit (LEIU), housed in the California Department of Justice. Because of the sensitive nature of intelligence information, membership in the network is controlled by an executive board and agencies are dropped for improper handling of information.<sup>9</sup>

As of 1999, 260 police agencies are members of LEIU. Seven are Canadian plus agencies from Australia, Great Britain and South Africa. LEIU asserts that it is "the premier intelligence organization in the United States"; that it is rapidly expanding in the international community; and that it has "taken the lead in providing the law enforcement community with the first international link, via computer, to network criminal intelligence files and information."<sup>10</sup>

#### Regional Information Sharing Systems

In 1974 Congress provided state and local law enforcement with the resources to reach beyond their boundaries by funding six Regional Information Sharing Systems (RISSs). These projects provide state and local law enforcement with several services: information sharing; analytic support; telecommunications; and investigative support, equipment and training.<sup>11</sup>

The Middle Atlantic-Great Lakes Organized Crime Law Enforcement Network (MAGLOCEN) is one of the six RISS projects. Its membership grew from 11 agencies in 1981 to 473 in 1996. Its service area spans the border with Canada to include the provinces of Ontario and Quebec. Ten Canadian law enforcement agencies are members.<sup>12</sup>

As of December 1996 the MAGLOCEN Criminal Information Database contained information pertaining to more than 162,000 known or suspected criminals. Canadian activity with respect to the database involved 165 inquiries and 1,049 submissions.<sup>13</sup>

#### The International Association of Chiefs of Police

The International Association of Chiefs of Police (IACP) does not serve as a direct operational network for the handling of particular cases. Its international objective is to "enhance the quality of law enforcement and policing at the international level...by facilitating the exchange of ideas, procedures, and specific information for professional leadership and management within police agencies."<sup>14</sup>

When IACP was founded its membership was overwhelmingly from the United States and Canada. In 1999 IACP had members from 108 countries. The number of foreign countries represented increased by 17% in one year and is expected to continue to grow. IACP holds two international conferences a year; and has two world regional offices (Stockholm and New Delhi). In 1997 it began an international law enforcement executive exchange program expected to bring 300 foreign officers to the U.S. for training.<sup>15</sup>

### The World Wide Web

Law enforcement agencies at the federal, state and local levels, at home and abroad are using INTERNET technology and the World Wide Web to post high tech versions of wanted notices in cyberspace. Numerous law enforcement web sites with photographs and descriptions of wanted criminals exist and are being linked together by still other sites. Private organizations associated with television programs such as America's Most Wanted operate sites that network these sites together. They have even created a site known as the "World's Most Wanted".<sup>16</sup>

### International Law Enforcement Cooperation at the Borders

State and local law enforcement agencies rarely allow their officers to personally cross international borders in conducting police business. The principal exception to this is in jurisdictions along the borders with Canada and Mexico. In border locations, local matters are international matters. Communications and exchanges among neighboring law enforcement agencies which would be considered unremarkable anywhere else have potential international implications.

#### The U.S. - Canada Border

The nature of transnational law enforcement cooperation at the American borders is a tale of two substantially different borders. Federal, state and local law enforcement with Canadian agencies is virtually seamless. It is highly institutionalized allowing for cooperative exchanges without relying upon personal friendships or specialized liaison units; and with little fear of compromise by corrupt officials.

Canadian law enforcement agencies are as fully integrated into American law enforcement networks as any American agency. They are given access of American police intelligence and provide Americans with access to their intelligence. They are members of binational regional law enforcement task forces and participate in regular multi-agency American discussion meetings, such as the law enforcement coordinating committees. There is even an informal, binational group known as the Canadian American Law Enforcement Organization that sponsors social events as well as professional conferences.

#### The U.S. - Mexico Border

Law enforcement cooperation across the U.S.- Mexico border is not well institutionalized. It operates through networks based upon personal ties and professional friendships which must be regularly cultivated. The networks are fragile and subject to rupture with personnel changes or political events. American agencies usually appoint certain officers to devote all or much of their time to nourishing the networks. Some designated as Mexican liaison officers spend much of their time in Mexico tracking information about stolen vehicles, fugitives, witnesses, child abductions and other police business.

Cooperation often rests upon exchanges of information, services and goods as well as the granting of professional favors, such as allowing American officials to interrogate suspects held by Mexican officials or checking American criminal records system for information needed by Mexican officials. American agencies donate equipment, training and investigative expertise to their Mexican counterparts and participate in law enforcement social rituals such as graduation ceremonies at the police academy.

Obstacles to cooperation are substantial. The border divides two countries with differences in language, legal and cultural traditions, economic development, and degrees of law enforcement resources, training and professionalism. Nevertheless some American local law enforcement officials describe the cooperation with Mexican officials as "excellent" within certain limits.

There have been some notable improvements in U.S. - Mexico law enforcement at the level of state and local law enforcement concerns other than drug trafficking control over the past two decades. They have occurred as the result of a convergence of independent efforts at federal, state and local levels on both sides of the border.

At the federal level two factors have improved cooperation between the two countries: federal level initiatives resulting in a host of binational institutions for finding solutions to shared problems and the promulgation of the North American Free Trade Agreement (NAFTA) in 1993.

The federal initiatives began in 1981 with the establishment of the Binational Commission composed of U.S Cabinet members and their Mexican counterparts which meets yearly to develop solutions to shared problems. Since then additional binational subgroups and other mechanisms have been established to improve U.S. - Mexican relations. In 1986 the Attorney Generals of the U.S. and Mexican border states began meeting to develop better cooperation. As of 1999 the group had met 18 times.

In 1993 the Border Liaison Mechanism was established. It allows federal, state and local authorities at the border to resolve local incidents at the local level rather than becoming federal matters, such as a police officer entering the country while armed. In 1996 the High Level Contact Group began. It is intended to coordinate anti-narcotics efforts and promote closer law enforcement cooperation.<sup>17</sup>

In 1997 the New Border Vision was announced, a plan to transform bilateral cooperation at the border into an exemplary model of cooperation.<sup>18</sup> In June 1997 a Council for Public Safety in the San Diego-Tijuana Region was established under the aegis of the Border Liaison Mechanism. The Council is binational and is drawn from federal, state and local officials. It is to replace the improvised arrangements that had characterized cooperation at the border previously. It is to act as a linking mechanism connecting U.S. law enforcement to a newly created Mexican regional public safety council.

Independent of these federal initiatives, state and local governments have improved law enforcement cooperation with Mexico.

In 1976 the Texas Department of Community Affairs conducted fact-finding inquiries and convened the Juvenile Alien Borderlands Conference to explore ways of dealing with border areas affected by illegal activities of juvenile aliens. Representatives from four states and Mexico attended. They recommended that at the federal level the two countries should have binational meetings and institutions regarding alien issues.

They did not recommend increased cooperative efforts by police or border patrol officials because "there exists serious problems in this regard. First of all is the problem of insufficient funds on the Mexican side of the border.... Secondly, and probably just as important, is the general lack of cooperation and mutual distrust that exists between Mexican and American officials along much of the border."<sup>19</sup>

In 1978 the California Department of Justice began sponsoring a series of 11 annual binational conferences for law enforcement officials to discuss matters relating to "border crime." In 1983 the Calexico (CA) Chief of Police initiated similar binational border law enforcement meetings on a monthly basis.<sup>20</sup>

In 1993 the Arizona Supreme Court conducted the Arizona-Sonora Judicial Relations Project designed to increase understanding and cooperation between the judicial authorities of the two states.<sup>21</sup>

### Migrant Safety at the Border

Two developments arising out of state and local law enforcement efforts bear special mention: migrant protection and foreign prosecution.

In 1976 the San Diego Police Department placed a squad of undercover officers in the hills just inside the U.S. border in order to stop the killing, raping and robbing of migrants while they were attempting to enter the country illegally.<sup>22</sup> The banditry was suppressed temporarily but the unit was dissolved after some incursions into Mexican territory. Between 1984 and 1989 the San Diego Police fielded a similar unit. It shot 44 suspects killing 18 and was terminated but subsequently revived in mid-1989 and continues to operate in uniform.<sup>23</sup>



In 1989 while NAFTA was being negotiated and reforms were being promoted, the administrator of the Mexican immigration services in Tijuana, a reform-minded psychologist, Javier Valenzuela, was permitted to create a new Mexican law enforcement unit to protect migrants and reduce violence at the border. Known as Grupo Beta, the unit was composed of officers from the state judicial police, the federal immigration police and the Tijuana municipal police. They were screened psychologically, paid a salary of \$1,000 a month (two to three times more than other police) and trained.

Grupo Beta has received high marks from U.S. and Mexican officials for effectiveness and integrity. Murders at the border dropped from 10 in 1990 to none in 1991. In addition Grupo Beta has developed cooperative relations with American law enforcement agencies, sharing radio frequencies and training; and helping to stop the dangerous practice of "port running" by illegal immigrants through the port of entry into on-coming traffic.<sup>24</sup>

The Mexican government has created several other Beta Groups stationed along its border with the U.S. as well as at its southern border. Grupo Beta is also cooperating with the U.S. in cracking down on the smuggling of migrants, a crime under Mexican law.

#### Foreign Prosecution

Mexico and other civil law countries have procedure by which they can prosecute people who commit crimes abroad on behalf of the country where the crime occurred.<sup>25</sup> Unlike extraditions, "foreign prosecutions" are not governed by treaty and are not required to go through federal channels.

Mexico has been reluctant to extradite cases until the 1990s. Foreign prosecutions by Mexico had occurred sporadically in border locations for decades. In about 1980 the California Department of Justice's Mexican Liaison Officer learned about the procedure and with the assistance of Mexican officials produced a written set of guidelines for its use, distributed them throughout the state and began filing cases for prosecution in Mexico.

In 1984 the Los Angeles Police Department (LAPD) found that 100 of the 237 open murder warrants involved suspects believed to be in Mexico.<sup>26</sup> It adapted California DOJ's procedures and began filing cases.

At a meeting of the U.S. - Mexico Border States Attorneys General in 1991, the Texas Attorney General's Office was given a copy of the LAPD's foreign prosecution manual. In 1993 the Texas AG's Office established a foreign prosecution unit. The Arizona and New Mexico attorneys general have followed suit. In addition a few other county and city agencies in California have designated officers to handle these cases.

In 1990 the Mexican federal attorney general established an office to regulate and assist the increasing number of foreign prosecution cases filed by U.S. jurisdictions. He has also

stationed deputy attorneys general at three consulates in the United States in order to assist U.S. law enforcement agencies with the use of this procedure.

Since being institutionalized state and local law enforcement agencies have made increasing use of the foreign prosecution procedure. LAPD's unit has even begun filing cases in other Central American countries. The frequency of use is indicated in Tables 1- 6. The available records indicate that American law enforcement agencies have formally filed complaints in Mexico against 594 suspects since 1981. The *last stage of the criminal justice process* which these cases had reached for which information is known is as follows: for 228 arrest warrants were issued by Mexican judges and are waiting to be served; arrests were made in 174 cases (at least 17 in the U.S.); and 95 cases were sentenced in Mexico. These numbers underestimate the efficiency of the process.

Many of the sentenced offenders are serving time in Mexican prisons. Most of the cases involved murder or serious felonies. (See Table 7 for a sample of sentences in recent cases). These successes depended upon cooperation from judges, prosecutors and law enforcement officials in many different states in Mexico where the arrests are made and the cases prosecuted.

U.S. officials express gratitude and satisfaction with the outcomes of these cases which typically receive punishments equal to or longer than what might have happened if the cases were tried in the U.S.—except that Mexico does not have capital punishment. U.S. and Mexican officials regard the experience with respect to foreign prosecution as an indication of the growing improvement in bilateral law enforcement cooperation.

Table 1. American Requests for Prosecutions Processed  
Through the Mexican Federal Attorney General's Office  
September 1993 - May 1999

| Requestor  | Investigations | In Judicial Process | Guilty Verdicts | Not Guilty | Appealed Sentence | Cases Processed in USA |
|------------|----------------|---------------------|-----------------|------------|-------------------|------------------------|
| ARIZONA    | 6              | 1                   | 4               | 0          | 0                 | 0                      |
| CALIFORNIA | 51             | 19                  | 75              | 4          | 2                 | 7                      |
| COLORADO   | 0              | 0                   | 1               | 0          | 0                 | 0                      |
| GEORGIA    | 0              | 0                   | 1               | 0          | 0                 | 0                      |
| IDAHO      | 1              | 0                   | 1               | 0          | 0                 | 0                      |
| IOWA       | 0              | 0                   | 1               | 0          | 0                 | 0                      |

|              |    |    |     |   |   |   |
|--------------|----|----|-----|---|---|---|
| MICHIGAN     | 1  | 0  | 0   | 0 | 0 | 0 |
| NEVADA       | 1  | 1  | 0   | 1 | 0 | 0 |
| NEW YORK     | 0  | 0  | 1   | 0 | 0 | 0 |
| N. MEXICO    | 1  | 1  | 0   | 0 | 0 | 0 |
| OREGON       | 1  | 0  | 2   | 0 | 0 | 0 |
| PENNSYLVANIA | 0  | 0  | 0   | 1 | 0 | 0 |
| TENNESSEE    | 0  | 1  | 0   | 0 | 0 | 0 |
| TEXAS        | 29 | 3  | 15  | 0 | 1 | 0 |
| TOTALS       | 91 | 26 | 102 | 5 | 3 | 7 |

Source: Lic. Augustin de Pavia Iturralde, General Director of International Legal Affairs, Office of Attorney General of the Republic of Mexico, 18<sup>th</sup> U.S. - Mexico Border States Attorneys General Conference, June 2, 1999, San Antonio, TX.

Table 2  
Outcomes of Foreign Prosecution Cases Filed In Mexico:  
California Department of Justice  
April 19, 1981- Nov. 7, 1997

| Year | Cases Filed | Outcomes       |          |           |       |         |
|------|-------------|----------------|----------|-----------|-------|---------|
|      |             | Warrant Issued | Arrested | Sentenced | Other | Unknown |
| 1981 | 2           |                |          |           |       | 2       |
| 1982 | 7           | 2              | 2        | 0         | 1     | 2       |
| 1983 | 2           |                | 2        |           |       |         |
| 1984 | 8           | 1              | 2        | 2         | 2     | 1       |
| 1985 | 11          | 4              | 2        | 2         | 3     |         |
| 1986 | 9           | 3              |          | 4         | 2     |         |
| 1987 | 16          | 4              | 2        | 5         | 5     |         |
| 1988 | 18          | 4              | 3        | 4         | 7     |         |
| 1989 | 19          | 10             | 2        | 4         | 3     |         |

|      |    |   |   |   |   |   |
|------|----|---|---|---|---|---|
| 1990 | 24 | 7 | 5 | 8 | 4 |   |
| 1991 | 16 | 3 | 1 | 6 | 5 | 1 |
| 1992 | 17 | 4 | 1 | 3 | 2 | 7 |
| 1993 | 18 | 8 | 2 | 3 |   | 5 |
| 1994 | 11 | 6 | 3 |   |   | 2 |
| 1995 | 22 | 7 |   | 6 | 3 | 6 |
| 1996 | 13 | 2 | 2 | 4 |   | 5 |
| 1997 | 7  | 2 |   |   |   | 5 |

Source: California Department of Justice, Foreign Prosecutions Unit.

Table 2. Outcomes of Foreign Prosecution Cases Filed In Mexico:  
Los Angeles Police Department: 1985-1996

| Year | Cases Filed | Outcomes            |           |                   |           |       |
|------|-------------|---------------------|-----------|-------------------|-----------|-------|
|      |             | Warrant Outstanding | Arrested* | (Arrested in USA) | Sentenced | Other |
| 1985 | 12          | 4                   | 3         | 2                 | 5         | 0     |
| 1986 | 14          | 6                   | 5         | 1                 | 2         | 1     |
| 1987 | 17          | 7                   | 5         | 0                 | 5         | 0     |
| 1988 | 18          | 5                   | 6         | 3                 | 3         | 4     |
| 1989 | 28          | 14                  | 10        | 3                 | 3         | 1     |
| 1990 | 33          | 15                  | 14        | 1                 | 4         | 0     |
| 1991 | 22          | 11                  | 9         | 1                 | 2         | 0     |
| 1992 | 20          | 8                   | 10        | 5                 | 1         | 1     |
| 1993 | 17          | 12                  | 3         | 0                 | 1         | 1     |

|      |    |    |   |   |   |   |
|------|----|----|---|---|---|---|
| 1994 | 18 | 9  | 5 | 1 | 4 | 0 |
| 1995 | 14 | 7  | 4 | 0 | 2 | 1 |
| 1996 | 13 | 11 | 0 | 0 | 1 | 1 |

\* Source: Los Angeles Police Department, Foreign Prosecution Unit.

Arrested includes arrests that occurred in the USA but excludes arrests that resulted in sentences. Arrests in USA are a subset of the Arrests column. After removing Arrests in USA, row figures total to all Cases Filed.

Table 3. Outcomes of Foreign Prosecution Cases Filed in Mexico:  
San Diego (CA) District Attorney's Office

| Year | Cases Filed | Outcomes       |                       |
|------|-------------|----------------|-----------------------|
|      |             | Pending Arrest | In Custody/ convicted |
| 1986 | 4           | 2              | 2                     |
| 1987 | 6           | 2              | 4                     |
| 1988 | 5           | 2              | 3                     |
| 1989 | 12          | 6              | 6                     |
| 1990 | 14          | 4              | 10                    |
| 1991 | 6           | 1              | 5                     |
| 1992 | 6           | 3              | 3                     |
| 1993 | 8           | 2              | 6                     |
| 1994 | 5           | 2              | 3                     |
| 1995 | 7           | 3              | 4                     |
| 1996 | 1           | 1              | 0                     |
| 1997 | 2           | 2              | 0                     |

Source: Foreign Prosecution Unit, San Diego County District Attorney's Office, Oct. 11, 1998.

Table 4. Foreign Prosecution Cases Filed in Mexico:

Orange County (CA) District Attorney's Office

| Year    | Cases Filed | Outcomes             |         |           |         |
|---------|-------------|----------------------|---------|-----------|---------|
|         |             | Warrants Outstanding | Arrests | Sentenced | Other   |
| 1975    | 1           |                      |         | 1         |         |
| 1981    | 1           |                      |         |           | Unknown |
| 1982    | 2           |                      |         | 1         | 1       |
| 1984    | 1           |                      |         | 1         |         |
| 1985    | 4           | 3                    |         |           | 1       |
| 1986    | 1           | 1                    |         |           |         |
| 1987    | 1           | 1                    |         |           |         |
| 1989    | 2           | 1                    |         | 1         |         |
| 1990    | 2           | 1                    |         | 1         |         |
| 1991    | 1           |                      |         |           | 1       |
| 1992    | 5           | 1                    | 1       | 1         | 2       |
| 1993    | 5           | 3                    | 1       | 1         |         |
| 1994    | 3           | 3                    |         |           |         |
| 1995    | 1           | 1                    |         |           |         |
| undated | 4           |                      | 1       |           | 3       |

Source: Frank V. Lopez, Supervising Investigator, Orange County, District Attorney's Office, Aug. 18, 1998.

Table 5. Outcomes of Foreign Prosecution Cases Filed in Mexico:

Texas Attorney General's Office

| Year | Cases to be presented | Cases filed | Offenses             | Outcomes                                |
|------|-----------------------|-------------|----------------------|---|
| 1993 | na                    | 1           | murder               | acquitted, only eye witness died        |
| 1994 | na                    | 3           | murder               | -serving 30 yrs. in Mexican prison      |
|      |                       |             | rape, murder         | arrest warrant issued                   |
|      |                       |             | murder               | arrested, case pending                  |
| 1995 | na                    | 9           | murder               | -serving 15 yrs. in Mexican prison      |
|      |                       |             | murder               | -serving 15 yrs. in Mexican prison      |
|      |                       |             | vehic. murder        | sentenced to 2.5 yrs. in Mexican prison |
|      |                       |             | murder               | closed; arrested in TX; convicted; life |
|      |                       |             | kidnap, murder       | Mexican prosecutor needs more evidence  |
|      |                       |             | kidnap, murder       | Mexican prosecutor needs more evidence  |
|      |                       |             | kidnap, murder       | Mexican prosecutor needs more evidence  |
|      |                       |             | kidnap, murder       | Mexican prosecutor needs more evidence  |
| 1996 | na                    | 3           | kidnap               | arrested; awaiting trial                |
|      |                       |             | murder               | in jail; awaiting trial                 |
|      |                       |             | vehic. murder        | awaiting arrest warrant                 |
| 1997 | na                    | 0           |                      |   |
| 1998 | na                    | 2           | murder               | awaiting arrest warrant                 |
|      |                       |             | murder, sex. asstl.. | awaiting arrest warrant                 |
| 1999 | 8                     | 0           |                      |   |

Source: Foreign Prosecution Unit, Texas Attorney General's Office, May 20, 1999.

Table 6  
Outcomes of Foreign Prosecution Cases File in Mexico:

Arizona Attorney General's Office

| Year | Cases Filed | Outcomes        |                |          |           |
|------|-------------|-----------------|----------------|----------|-----------|
|      |             | Warrant Pending | Warrant Issued | Arrested | Sentenced |
| 1993 | 2           |                 | 1              | 1        |           |
| 1995 | 5           | 1               | 3              |          | 1         |
| 1997 | 2           |                 | 2              |          |           |
| 1998 | 2           | 2               |                |          |           |

Source: Foreign Prosecutions Unit, Attorney General's Office, State of Arizona, May 1998.

Table 7 Sentences Imposed by Mexican Courts in Article IV Prosecutions

January - May 1999

| Accused                             | Source     | Offense                                    | Jurisdiction        | Proceso Penal | Sentence           |
|-------------------------------------|------------|--|---------------------|---------------|--------------------|
| 1. Antero Ayala Hernandez           | Arizona    | Homicidio Calificado                       | 1 Dto. Edo. De Mex. | 152/951       | 35 years           |
| 2. David Alex Alvarez, (a) "Spooky" | California | Homicidio Calificado                       | 4 Dto. D.F.         | 91/98         | 50 years           |
| 3. David Alex Alvarez, (a) "Spooky" | California | Homicidio Calificado en Grado de Tentativa | 11 Dto. D.F.        | 14/98         | 33 years, 4 months |
| 4. Martin Avalos Tescucano          | California | Homicidio Calificado                       | 4 Dto. D.F.         | 32/98         | 45 years           |



|                                   |            |                      |                     |       |                    |
|-----------------------------------|------------|----------------------|---------------------|-------|--------------------|
| 5. Marco Antonio Flores Hernandez | California | Homicidio Calificado | 1 Dto. Jalisco      | 51/90 | 14 years           |
| 6. Jose Eustaquio Chavez Laines   | Texas      | Homicidio            | 1 Dto. Edo. De Mex. | 53/97 | 17 years, 6 months |

Source: Lic. Augustin de Pavia Iturralde, General Director of International Legal Affairs, Office of Attorney General of the Republic of Mexico, 18<sup>th</sup> U.S. - Mexico Border States Attorneys General Conference, June 2, 1999, San Antonio, TX.

## Illegal Immigration and State and Local Law Enforcement

### Early History

For much of American history local law enforcement played a substantial role in controlling immigrants. Immigration was regulated by the states until 1876 when state regulations were held unconstitutional and the federal government gradually assumed responsibility for controlling the borders. The first federal restriction was the law of 1875 excluding convicts and prostitutes. Over the next several decades additional restrictions were added and a federal agency to enforce the immigration restrictions was created.

In 1924 the Border Patrol was established subsuming the work of "the Mounted Watch" established in 1904 to patrol the southwest border to prevent smuggling and the entry of Chinese. In 1929 illegal entry was made a misdemeanor punishable by a fine or imprisonment and reentry after deportation was made a felony punishable by a fine or imprisonment.<sup>27</sup> The federal agency became the Immigration and Naturalization Service. It was transferred to the Justice Department in 1940 for national security reasons.<sup>28</sup>

State and local law enforcement routinely enforced federal immigration law in both border and interior locations. In 1930 the New York Police Department formed a Criminal Alien Bureau to round up and investigate all aliens with criminal records with an eye towards deportation.<sup>29</sup> In southwest border states where large numbers of Mexican workers had entered legally and illegally, state and local law enforcement officials routinely held suspected illegal aliens for the INS. They also assisted the INS with area roundups and the mass deportation sweeps of the 1930s, '40s and '50s. As recently as the early 1970s the policy common to many police departments in regions with substantial illegal immigrant populations was to stop and detain aliens upon reasonable suspicion of violating federal immigration laws.<sup>30</sup>

## Local Police Get Out of Immigration Law Enforcement

Mexican Americans had often complained about being challenged by local police to prove their citizenship solely on the basis of physical appearance. After the civil rights revolution of the 1960s these objections carried greater weight. Moreover, the rate of illegal immigration increased rapidly after the guest-worker program with Mexico ended in 1964. The size of the illegal immigrant population in some communities mushroomed confronting the police with a difficult choice.

Enforcing immigration law would consume substantial resources and appeared to serve no purpose as the border was not under control. Deportees or replacements would be right back to take their place. Also, if the police enforced immigration law, they alienated not only the illegal immigrants but also the families and friends that supported them. This made it more difficult to get the necessary cooperation from the public to solve conventional crimes. Finally, the philosophy of community policing was emerging and placing an even greater emphasis upon the cultivation of positive police community relations.

In 1979 after intense community pressure and a law suit for cooperating too closely with the INS, the Los Angeles City Council at the urging of Chief Daryl Gates issued Special Order 40. It generally prevented any officer from questioning anyone about their immigration status or checking on it with the INS or turning suspects accused of minor crimes over to the INS. Over the next decade many other local or state governments directed their police to restrict the nature of their cooperation with the INS and to not enforce immigration law. Some of this was the result of the "sanctuary movement," a protest movement to protect refugees from the war in Central America. By 1994 twenty-six cities reported in a survey that their police did not inform the INS of illegal immigrants who turn up in the course of routine law enforcement activities.<sup>31</sup>

## The Restructuring of the Federal, State and Local Partnership

Since the 1986 several congresses and administrations have moved to control illegal immigration. The INS has been given an enormous infusion of resources. Blockades have been established along the U.S. Mexico border. The procedures for deporting and excluding aliens has been streamlined. A special category of alien who qualifies for deportation or exclusion based on his criminal record ("aggravated felon") was created and expanded. The penalty for reentry after deportation was increased up to twenty years in prison.<sup>32</sup>

Current immigration policy emphasizes: controlling the border; removing criminal aliens and cracking down on smugglers of aliens. In reconfiguring the partnership among federal, state and local law enforcement policymakers have taken two approaches. One is provide the police with the option of being authorized to enforce immigration law. The other is to incorporate state and local law enforcement into the federal effort to remove criminal aliens by linking them to the effort through task forces and through a new immigration record searching program to identify criminal aliens during the booking process.

## Special Authorization to Enforce Immigration Law

Some policymakers had hoped to reverse the movement of the police away from enforcing immigration law and thereby reenlist the enormous resources of state and local law enforcement in the effort to control illegal immigration. In the 1996 immigration reform laws Congress prohibited state and local governments from restricting in any way their law enforcement agencies from communicating with the INS regarding the immigration status of aliens.<sup>33</sup> It also provided that local law enforcement agencies could be authorized by the Attorney General to enforce immigration law.<sup>34</sup>

These laws have not restored the police to their former role as immigration law enforcers. As of August, 1999 no local law enforcement agency has been authorized under these provisions. Less than a dozen are known to have even considered doing so. What is more, policies restricting police communications with the INS such as LAPD's Special Order 40 have been reconsidered but not changed.<sup>35</sup> The one city that looked into requesting the authorization, Salt Lake City Police Department, chose not to do so after Latinos testified at public hearings regarding their experiences and fears of being harassed by the police exercising such authority.<sup>36</sup> A few other localities have expressed interest in the authorization to enforce immigration law but have not obtained it.<sup>37</sup>

## The Police and Mass Immigration Emergencies: Florida

The State of Florida has experienced mass immigrations from Cuba and from Haiti. After more than 20,000 Haitian boat people fled there in 1994, Florida sought ways to meet such crises in the future. In October 1998 the INS and the state of Florida signed a Memorandum of Understanding under which Florida agreed to provide law enforcement support to the federal government at the request of the INS in times of mass immigration emergencies. Local law enforcement officers would receive training in immigration law and the state would be reimbursed for authorized expenses. However, this authorization of local police to enforcement immigration is not under the provisions of the 1996 law intended for police in general immigration control. It was for emergency circumstances only.<sup>38</sup>

## Multi-Agency Task Forces

In the past the INS occasionally joined local police in task forces targeting criminal activities involving aliens.<sup>39</sup> In 1988 Congress directed the INS to participate in multi-agency task forces with federal, state and local law enforcement agencies to combat illegal alien involvement in drug trafficking and violent crime. As of January 1994 the INS was involved in 257 investigations of the Organized Crime Drug Enforcement Task Force plus joint efforts through the Violent Gang Task Force formed in 1992. It works with police in 16 cities. It is makes available to them the power to deport as a weapon in the fight against the growth of "alien gangs."<sup>40</sup>

When local police team together with the INS there is risk of political and legal consequences arising from antagonizing immigrant and ethnic groups, particularly Mexican Americans. This is likely to happen if adequate precautions are not taken to ensure that ethnic citizens are not discriminated against or unduly imposed upon or that the operation appears to be a mere pretext for achieving immigration control purposes.

#### San Diego, California

When the school year began in 1986 the Border Patrol in San Diego received a half dozen or more calls about immigrants "extorting" lunch money from school children. Public concern about the immigrants continued to mount. Residents perceived a change in the kind of immigrant workers in the neighborhoods. The new ones were younger and seemed more threatening and more numerous. There was also a malaria scare that some people believed was linked to the immigrants.

A parents association held a meeting and expressed fear for the safety of their children. The news media reported the incidents. Local politicians discussed the problem. In mid-October the Border Patrol and the north county police and sheriff's officers conducted a sweep of illegal aliens netting about 3,000 who were deported. After the local election the controversy cooled off. Some residents regretted the episode and felt their children had learned the wrong lesson.<sup>41</sup>

#### Simi Valley, California

In California many police agencies invited Border Patrol officers to join them on raids directed at gangs. In Simi Valley, a homogeneous community north of Los Angeles, there had been 11 raids at 140 homes resulting in 102 arrests, 19 for felonies and 83 on suspicion of being an illegal alien most of whom were deported. The homes were selected either because of gang activity or because someone in the home was on probation. But the police also expected to find illegal immigrants because of complaints by neighbors of large numbers of people living there. The Border Patrol participated in seven raids. Building code and health inspectors also participated in some.<sup>42</sup>

One such raid that resulted in newspaper coverage of a politician who accompanied it sparked a protest by Latino activists who threatened to sue if joint raids continued.<sup>43</sup> The INS revised its policy. It continues to participate in such raids but only in ones in which its agents selected the houses based upon probable cause that a criminal illegal alien was there based on its own investigation.<sup>44</sup>

#### Chandler, Arizona

The Chandler Police Department invited the Border Patrol to participate in an operation to round up and deport illegal aliens who tended to gather in the old center of the city which was about to undergo urban renewal. The number of illegal immigrants had been increasing. They

were believed to be responsible for an increase in crime and some residents had complained about "naked aliens" wandering around and others trying to lure schoolgirls into sexual liaisons.<sup>45</sup>

In July 1997 the two agencies rounded up and deported 432 aliens. But many Mexican American citizens were offended at being questioned. They filed multiple law suits. A state investigation criticized the operation for lack of proper training and supervision, and failure to get authorization to enforce immigration law as provided by the 1996 immigration act.<sup>46</sup>

#### Dalton (Whitfield County), Georgia

Dalton, Georgia is a prosperous carpet manufacturing community (pop. 23,000 plus 85,000 in Whitfield County) that has attracted illegal immigrants. Immigrants have been replacing locals in the work place; causing tensions over cultural differences and have been involved in some minor crime and two murders. When the INS was unable to open a full time local office because of budget constrains, the local county and city officials funded the office themselves. The Criminal Alien Task Force began in September 1995 with two Dalton Police Officers, a bilingual secretary and two part-time INS investigators.

The Task Force targets criminal aliens for deportation and conducts training for employers so they can identify fraudulent documents. As of March 1999 the Task Force had placed about 975 illegal immigrants in deportation proceedings resulting from six plant raids plus an additional 80 people (including legal permanent residents) based on a review of probation files. The Task Force members have not been authorized to enforce immigration law under the 1996 law. They report that there is ample legal grounds for dealing with immigrants without special authority.

#### Marietta, Georgia's 'Soft' Enforcement Policy

Illegal immigrant day laborers became a problem in Marietta, Georgia. Gas station owners and other local business people complained that the crowds of Latino workers intimidated customers and blocked parking lots. The City Council passed an ordinance banning such gatherings because the employers stopping to pick up workers were creating a safety hazard. The Marietta Police announced they did not plan any mass arrests. They were getting good results from bicycle patrols. Meanwhile, businessmen offered to let the workers gather on their property.<sup>47</sup>

#### Expediting the Removal of Criminal Aliens

In 1994 the INS began operating the Law Enforcement Support Center (LESC), a new program to increase the efficiency of the process of identifying and expelling criminal aliens.<sup>48</sup> LESL is able to provide local law enforcement officials with a rapid check of immigration records to determine whether an arrestee is an alien and has outstanding deportation orders

against him. This determination can usually be made during the booking process thereby allowing expedited deportation of criminal aliens. Thus the local police serve as an early filtering mechanism for the policy of deporting criminal aliens--which includes legal as well as illegal aliens. The INS has gradually expanded the number of jurisdictions. As of March 1999 LESC served all jurisdictions in 31 states and some jurisdictions in five other states.<sup>49</sup>

## Methodology

It is based on interviews with over 250 American, Mexican and Canadian federal, state and local law enforcement officials; field observations with law enforcement agencies along the U.S. Mexican border in San Diego, California; and Laredo, and McAllen-Brownsville, Texas; participation in four meetings of the U.S.-Mexico Border States Attorneys General Conference; and eight conferences/working groups of experts addressing the problems and potential solutions regarding either or both of these two master problems. It is also based on an in-depth, historical review of the literature as well as an analysis of immigration news with the news-clipping service of the Center for Immigration Studies (CIS).

Respondents for interviews were chosen on a non-random, judgmental basis. The three primary criteria for selecting respondents were: location; newsworthiness regarding immigration issues; or relation to a special policy. Law enforcement agencies along the northern and southern borders of the United States and in major ports of entry were surveyed by phone interviews. Law enforcement and other officials representing organizations which were mentioned in selected news items included in national coverage tracked by CIS were contacted. Officials involved in special policies or operations related to the two topics were interviewed.

## Issues and Findings

Discussed in this Brief: An NIJ-funded exploratory survey of how state and local law enforcement agencies have responded to transnational crime and illegal immigration.

Key Issues: Transnational criminality and illegal immigration have become key policy concerns. The federal government has primary responsibility for responding to these issues but can not do it alone. This study explored the ways in which state and local law enforcement agencies were responding to these two issue areas. The research suggests that state and local law enforcement agencies are making an independent contribution to the effort against transnational criminality but are only willing to play a supportive and primarily criminal law enforcement role in dealing with immigration issues.

Key findings:

- \* State and local law enforcement agencies are increasingly involved in addressing transnational criminality both through federal agencies and directly through their own personal and technological networks.
- \* Generally American police refer international matters to federal agencies, particularly the FBI, or work on the cases directly as part of multi-agency task forces. The communication traffic through INTERPOL between American police and police agencies of the rest of the world has been increasing rapidly in the past decade. Yet, many American police are unaware that INTERPOL services or their availability. About 70% of INTERPOL traffic is incoming requests from foreign agencies.
- \* State and local agencies maintain an international police intelligence network independent of federal control.
- \* Many state and local law enforcement operate worldwide web sites with photographs and information regarding wanted criminals. A "World's Most Wanted" web site exists.
- \* Except in border locations, state and local law enforcement agencies rarely allow their officers to travel abroad in connection with criminal investigations.
- \* Law enforcement cooperation at the federal, state and local levels between the U.S. and Canadian agencies is virtually seamless. Cooperation is highly institutionalized including allowing agencies to access each other's intelligence systems and participating in joint planning and policy review discussions to maximize regional enforcement coverage.
- \* Law enforcement cooperation at the state and local levels between the U.S. and Mexico is not well institutionalized. In most places it is fragile and dependent upon personal and professional friendships and subject to disruption or cooling with personnel changes or political events. However, signs of real progress in improving and institutionalizing that cooperation exist.
- \* Federal initiatives have created binational institutions which begun to improve cooperation.
- \* State and local law enforcement agencies in California and other border states with the cooperation and assistance of the Mexican government have institutionalized the use of the foreign prosecution procedure available under the law of Mexico whereby criminals who commit crime in the U.S. and flee to Mexico can be prosecuted in Mexico by Mexican authorities. Since 1981 state and local law enforcement agencies have formally filed complaints in Mexican courts against at least 594 suspects. The *furthest stage* in the criminal justice process which these cases reached for which information *is known* is: 228 arrest warrants issued; 174 arrests made; 95 cases sentenced. U.S. officials familiar with these foreign prosecutions regard them as a valuable and

effective means of getting justice done in cases that might have ended in impunity.

\* Mexico has established a set of elite law enforcement agencies (Beta Groups) whose mission is to protect migrants. The original Grupo Beta has won praise from U.S. officials not only for a record of crime suppressing effectiveness and professional integrity but also for its cooperation with U.S. law enforcement efforts at the border.

\* State and local law enforcement agencies once played a substantial and direct role in the enforcement of immigration law by arresting or holding suspected illegal aliens. That function has been largely abandoned and has not been restored. No local law enforcement agency has been authorized to enforce immigration law under the provisions of the 1996 immigration legislation.

\* State and local law enforcement is assisting the federal government with immigration enforcement through participation in multi-agency task forces and by checking the immigration records of arrestees through an INS record checking program begun in 1994 and being expanded.



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