

Combating Transnational Organized Crime: A DoD Support Mission

by

Colonel J. Frank Melgarejo Jr.
United States Army

Under the Direction of:
Dr. R. Evan Ellis



United States Army War College
Class of 2016

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REPORT DOCUMENTATION PAGE			Form Approved--OMB No. 0704-0188		
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1. REPORT DATE (DD-MM-YYYY) 01-04-2016		2. REPORT TYPE STRATEGY RESEARCH PROJECT		3. DATES COVERED (From - To)	
4. TITLE AND SUBTITLE Combating Transnational Organized Crime: A DoD Support Mission				5a. CONTRACT NUMBER	
				5b. GRANT NUMBER	
				5c. PROGRAM ELEMENT NUMBER	
6. AUTHOR(S) Colonel J. Frank Melgarejo Jr. United States Army				5d. PROJECT NUMBER	
				5e. TASK NUMBER	
				5f. WORK UNIT NUMBER	
7. PERFORMING ORGANIZATION NAME(S) AND ADDRESS(ES) Dr. R. Evan Ellis				8. PERFORMING ORGANIZATION REPORT NUMBER	
9. SPONSORING/MONITORING AGENCY NAME(S) AND ADDRESS(ES) U.S. Army War College, 122 Forbes Avenue, Carlisle, PA 17013				10. SPONSOR/MONITOR'S ACRONYM(S)	
				11. SPONSOR/MONITOR'S REPORT NUMBER(S)	
12. DISTRIBUTION / AVAILABILITY STATEMENT Distribution A: Approved for Public Release. Distribution is Unlimited. Please consider submitting to DTIC for worldwide availability? YES: <input checked="" type="checkbox"/> or NO: <input type="checkbox"/> (student check one) Project Adviser recommends DTIC submission? YES: <input checked="" type="checkbox"/> or NO: <input type="checkbox"/> (PA check one)					
13. SUPPLEMENTARY NOTES Word Count: 7,002					
14. ABSTRACT This strategic research project (SRP) analyzes the challenge of combating transnational organized crime in Central America's Northern Triangle. It then describes DoD programs and authorities which best support U.S. and partner nation CTOC efforts on the land domain. To determine the combination of DoD programs and authorities that could best support CTOC efforts, the SRP defines TOC; describes the Northern Triangle and its environment; reviews U.S. CTOC policies and supporting strategies; analyzes current DoD CTOC authorities and offers examples of how such authorities can be leveraged; and finally recommends how DoD can best support CTOC on the land domain in Central America's Northern Triangle.					
15. SUBJECT TERMS CARSI, CTOC Policy, DoD Counter-Drug Authorities					
16. SECURITY CLASSIFICATION OF:			17. LIMITATION OF ABSTRACT	18. NUMBER OF PAGES 34	19a. NAME OF RESPONSIBLE PERSON
a. REPORT UU	b. ABSTRACT UU	c. THIS PAGE UU			19b. TELEPHONE NUMBER (w/ area code)

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(7,002 words)

Abstract

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Combating Transnational Organized Crime: A DoD Support Mission

On 12 March 2015, during his final testimony before the Senate Armed Services Committee, General John F. Kelly (former Commander of the United States Southern Command) explained “the enduring importance of U.S. Southern Command’s mission of protecting the U.S. southern approaches.”¹ In his testimony, he methodically laid out the multidimensional security threats that challenge countries in Latin America: poverty, lack of education, weak institutions, and transnational organized crime. As part of his testimony, General Kelly provided the members of the Senate Armed Services Committee (SASC) with a disturbing assessment of the vulnerability of the U.S. southern border:

[T]he relative ease with which human smugglers moved tens of thousands of people to our nation’s doorstep also serves as another warning sign: these smuggling routes are a potential vulnerability to our homeland. As I stated last year, terrorist organizations could seek to leverage those same smuggling routes to move operatives with intent to cause grave harm to our citizens or even bring weapons of mass destruction into the United States.²

General Kelly’s testimony unequivocally affirms the importance of protecting our southern approaches from illicit traffic. Drug trafficking organizations (DTOs), transnational criminal organizations (TCOs), gangs and their facilitators (i.e. *transportistas*) exploit poverty, weak government institutions, lack of education, and corruption in Latin America to move illicit products and people into the United States. “TCOs can move anything and will for a price. Major crime groups such as Mexican DTOs [i.e. Sinaloa and the Zetas] ...contract with smaller, local criminal organizations or *transportistas* (transporters) to move goods from one country to the next.”³ The Illicit movement of people and products into the U.S. by transnational criminal organizations constitutes a threat to national security.

The 2010 National Security Strategy places particular emphasis on the challenge of transnational criminal threats and illicit trafficking networks to U.S. national security. “Criminal threats continue to expand dramatically in size, scope, and influence. They pose significant challenges to the United States and our partner nations.”⁴ The 2015 National Security Strategy, the 2015 National Military Strategy, and the 2014 Quadrennial Defense Review all speak to the seriousness of transnational organized crime. Additionally, these national strategy documents address the link between TCOs and political and socio-economic instability. Moreover, the 2011 President’s Strategy to Combat Transnational Organized Crime (CTOC) and the 2011 Department of Defense Counternarcotics and Global Threats Strategy both address the security threat that TOC poses not only to Mexico and Central America, but also to the United States. Both documents cite “TOC ... [as] a significant, multilayered, and asymmetric threat to [U.S.] national security.”⁵

Combating transnational organized crime is a challenge found in Geographic Combatant Commands (GCCs). Every GCC has transnational criminal elements, groups, or organizations that operate within the same space and time in which GCCs conduct operations, missions, exercises, and activities. TOC networks present a threat to U.S. foreign policy objectives in virtually every country from Afghanistan to Zimbabwe. Consequently, CTOC involves more than just countering the flow of cocaine from Colombia to the United States, Europe, or Africa. CTOC must stem all forms of illicit flows. “[TCOs] have diversified their portfolios and adapted their approaches. TCOs have expanded to other illicit commodities such as small arms and explosives (including improvised explosive devices), precursor chemicals, people, and illicitly-

gained and laundered money.”⁶ Bribery, intimidation, and assassinations are other activities that TCOs can add to their repertoire.⁷ TOC networks are intensifying insecurity in Latin America; they are threatening sovereign states within the Western Hemisphere.⁸

This strategic research project (SRP) analyzes the challenge of combating transnational organized crime in Central America’s Northern Triangle. It then describes DoD programs and authorities which best support U.S. and partner nation CTOC efforts on the land domain. To determine the combination of DoD programs and authorities that could best support CTOC efforts, the SRP defines TOC; describes the Northern Triangle and its environment; reviews U.S. CTOC policies and supporting strategies; analyzes current DoD CTOC authorities and offers examples of how such authorities can be leveraged; and finally recommends how DoD can best support CTOC on the land domain in Central America’s Northern Triangle.

Transnational Organized Crime (TOC)

“For over 20 years, the National Security Strategy ... identified the risk of transnational threats to the nation’s security.”⁹ However, not until the 2015 National Security Strategy did national strategy specifically identify transnational organized crime as a top strategic risk to national interests.¹⁰ The 2015 U.S. National Military Strategy reported that “the U.S. military is supporting interagency efforts with Latin American and Caribbean states to promote regional stability and counter transnational criminal organizations.”¹¹ This assistance is offered because “in many locations,

violent extremist organizations (VEOs) coexist with transnational criminal organizations, where they conduct illicit trade and spread corruption, further undermining security and stability.”¹² Likewise, the 2014 Quadrennial Defense Review noted that “threats [in the Western Hemisphere] stem from the spread of narcotics and other forms of transnational organized crime..”¹³

The nation’s strategic documents continue to assert the underlying threat of TOC to U.S. security interests. However, they do not precisely define TOC: “There is no universally accepted definition of transnational organized crime.”¹⁴ Further, “although neither the United Nations nor U.S. statute formally defines TOC;”¹⁵ the 2011 Strategy to Combat Transnational Organized Crime describes it as:

[T]hose self-perpetuating associations of individuals who operate transnationally for the purpose of obtaining power, influence, monetary and/or commercial gains, wholly or in part by illegal means, while protecting their activities through a pattern of corruption and/or violence, or while protecting their illegal activities through a transnational organizational structure and the exploitation of transnational commerce or communication mechanisms.¹⁶

Significantly, TOC “poses a growing threat to national and international security, with dire implications for public safety, ... democratic institutions, and economic stability across the globe.”¹⁷ This threat is increasing because “criminal networks [are] expanding [and] ... diversifying their activities, resulting in the convergence of threats..”¹⁸ This convergence is evident in TOC’s “penetration of state institutions, corruption, and threats to governance; threats to the economy, U.S. competitiveness, and strategic markets; a [TOC]/terror/insurgency nexus; expansion of

drug trafficking; human smuggling; trafficking in persons; weapons trafficking; intellectual property theft; and cybercrime.”¹⁹

The most likely threat TOC poses to our national security and that of our partner nations is its power to corrupt and further weaken state institutions through the vehicle of its enormous flows of wealth. How much wealth? “Illicit trafficking is a \$6 trillion industry.”²⁰ According to United Nations Office on Drugs and Crime (UNODC) “the smuggling of persons from Latin America to the United States and from Africa to Europe is estimated to generate \$6.75 billion annually in illicit proceeds for human smuggling networks.”²¹ Moreover, “The White House estimates in its 2011 Strategy to Combat Transnational Organized Crime that money-laundering accounts for \$1.3 trillion to \$3.3 trillion—or between two and five percent of the world’s gross domestic product.”²²

Additionally:

Bribery from TOCs adds close to \$1 trillion to that amount, while drug-trafficking generates an estimated \$750 billion to \$1 trillion, counterfeited and pirated goods add another \$500 billion, and illicit firearms sales generate from \$170 billion to \$320 billion. This totals some \$6.2 trillion—10 percent of the world’s GDP, placing it behind only the United States and the European Union, but well ahead of China, in terms of global GDP ranking.²³

Moreover, “other estimates of global criminal proceeds range from a low of about 4% to a high of 15% of global GDP.”²⁴ To put the amount of revenue created from illicit flows in Latin America in perspective, “the value of [the] cocaine trade alone to criminal networks in Latin America is more than the gross domestic product of every country in the region except Brazil.”²⁵ These estimates are from 2011 and 2012, but “trends show ... [TOC] and [their] networks have been growing in power and wealth since these figures were published.”²⁶

The most dangerous threat to U.S. national security is a TOC/terrorist/insurgency nexus that uses the same TOC smuggling routes that facilitate human smuggling, drug trafficking, trafficking in persons, etc. to smuggle a weapon of mass destruction into the United States. And, “what particularly worries the U.S. [government] is the potential for TCOs to develop [such] connections with terrorist organizations, foreign states, and foreign intelligence agencies.”²⁷ Although, this nexus has not yet appeared in Central America, General Kelly’s testimony to the SASC warns of its potential.

The premise of a TOC/terrorist/insurgency network in Central America is elusive.²⁸ There are two thoughts on the subject. The first inductively contends, since there is no consistent information or evidence that supports the existence of a TOC/terrorist network, one does not exist.²⁹ And the second contends, because these networks are clandestine in nature it is difficult to identify relationships or map their transactions.³⁰ “What we do know is that, TCOs and terrorists are using the same methods and in some cases, the same individuals to sustain their organizations, make money and support their activities.”³¹ Because of the convergence in activities a nexus could possibly exist.³²

While there is no consensus among scholars and practitioners on the issue of a TOC/terrorist nexus, as suggested by this section, there is enough evidence to establish that a risk of such a nexus could exist. For example,

[T]here is ...evidence to support that Mexican transnational drug cartels are connected to terrorist organizations. The arrest of Jameel Nasr in 2010 puts that notion to an end. Nasr, an international Hezbollah operative who resided in Tijuana, Mexico, at the time of his arrest, was tasked with the responsibility of setting up a South America base to carry out operations against Israeli and Western targets. ³³

Moreover, the FARC in Colombia and Hezbollah in the Tri-Border Area of Brazil, Argentina, and Paraguay represent a TOC-terrorist nexus. However, within Central America and more specifically the Northern Triangle, a TOC/terrorist nexus has yet to be confirmed. Feasibly, TOC networks are not forging formal ties with terrorist organizations because such actions would bring unwanted attention from U.S. law enforcement agencies and DoD. Such unwanted attention in the region could be an increase in intelligence, surveillance, and reconnaissance (ISR) assets; an increase in the number of U.S. law enforcement agents; visa revocations; asset seizures; increase border security; and possibly the design and execution of a DoD named operation. All of these actions would be bad for business. Such a relationship would inductively increase the risk of doing business and decrease the ability of TCOs to generate wealth. Instead, TCOs, such as those in El Salvador, Guatemala, and Honduras are employing a business model that concentrates on obtaining power, influence, monetary and commercial gains through wholly or in part by illegal means. TOC networks are currently not forging alliances with terrorist organizations, but instead are "...forging alliances with corrupt elements of national governments [in order to] use [that] power and influence...to further their criminal activities."³⁴

Lastly, TOC groups are not only endemic to Latin America. "Among the most notorious [TOC] groups in the world are the Russian Mafia; La Cosa Nostra [in Italy]; Yakuza [in Japan]; Fuk Ching, Triad, and Heijin [in China]; Jao Pho [in Thailand]; and Red Wa [in Thailand and Burma] ..."³⁵ In Latin America, perhaps the most notorious and publicized in the last five years are Los Zetas, the Sinaloa Federation, and the FARC

(Revolutionary Armed Forces of Colombia). For the purposes of this SRP, only TOC groups that operate in the Northern Triangle of Central America will be discussed.

The Northern Triangle

In order to understand the dynamics and challenges of TOC in the Northern Triangle, a brief introduction of some of the salient characteristics of the region is helpful to understand why combating TOC is important to our national security.

The Northern Triangle of Central America comprises Honduras, Guatemala, and El Salvador. Although distinct and sovereign countries with their own customs and traditions, they share geographic borders, similar cultures, language, and religion. Unfortunately, they also share the same political and socio-economic problems and insecurity caused by weak institutions. Poverty, unemployment, and crime have all led to large numbers of their citizens feeling disenfranchised and abandoned by their respective governments.

The current environment in the Northern Triangle is bleak. The lack of social and economic stability in the region is pushing a large segment of the population to seek illicit forms of employment and opportunities. The inability to find legal employment and to earn a living wage leads young men and women to seek employment in criminal activities. Weak state institutions, a culture of corruption in government and police organizations, and the state's inability to provide basic services (e.g. sanitation, water, education, and health care) fuels the acceptance of TOC. Crime, violence, drugs, and corruption further strengthens TOC in the Northern Triangle.

In Congressional testimony to the Senate Armed Services Committee on 15 February 2015, Director of National Intelligence (DNI) James R. Clapper offered a disheartening description of the Northern Triangle: "Weak institutions, poor economic

prospects, and the growing strength of criminal gangs will probably limit the ability of the governments of Central America's northern tier – El Salvador, Guatemala, and Honduras – to improve rule of law, job opportunities, and citizen security..³⁶ He further described “an environment of ineffective legislatures, political instability, and elite interests [that] prevent improving ... high rates of poverty.³⁷ The DNI also emphasized how in Northern Triangle socio-economic conditions continue to worsen:

[A]bout 25 percent of El Salvador's population has emigrated during the past two decades...because of lack of economic opportunities and widespread insecurity. [Moreover,] Guatemala's weak fiscal position will undermine efforts to ameliorate extreme poverty, particularly in rural areas. Honduras is struggling to make headway against ineffective [and] corrupt institutions. [It] has the world's highest rate of homicides per capita, despite a reported modest decline in 2014, and criminal gangs are forcibly recruiting youth and extorting businesses and individuals.³⁸

The actors responsible for the deteriorating security conditions in the Northern Triangle are Los Zetas, Los Cachiros, the Sinaloa Federation, Marra Salvatrucha (MS-13), and the 18th Street Gang. Collectively these groups have taken advantage of weak state institutions, government and police corruption, and poverty to strengthen their criminal enterprise.

Los Zetas, “are an extremely violent drug cartel based in Mexico that operates across Central America and the United States. They are involved in drug trafficking, human smuggling [and] trafficking, and money laundering.”³⁹ “Los Cachiros, are Honduras' largest group of [transportistas, and] have a net worth close to \$1 billion... The organization has become a major player in the movement of cocaine between Colombian and Mexican organizations [such as the Sinaloa Federation].”⁴⁰ The Sinaloa Federation is “perhaps the most powerful Mexican drug cartel. This is partly due to it having the largest nationwide and global presence. The Sinaloa Federation utilizes a

...decentralized organizational structure that employs as many as 100,000 operatives [such as the Cachiros in Honduras to move illicit flows into Mexico].⁴¹ MS-13 and M-18 are gangs that primarily operate in El Salvador, Guatemala, and Honduras.⁴² They number, according to UNODC, around 54,000 and are responsible for a large percentage of homicides committed in the Northern [Triangle].⁴³ Additionally, “MS-13 and M-18 are involved in extortion; kidnaping; and drug, auto, and weapons smuggling.”⁴⁴ Likewise, both MS-13 and M-18 are becoming involved in drug trafficking either directly with DTOs such as Los Zetas or the Sinaloa Federation, or with brokering transactions on behalf of DTOs with transportistas to move product into Mexico.⁴⁵ Moreover, “MS-13 [and perhaps as well M-18] gangs are being hired for revenge killings by Mexican DTOs on an ad-hoc basis.”⁴⁶ Regrettably, these groups are part of the landscape in El Salvador, Guatemala, and Honduras, and continue to grow in strength.

Lastly, in 2015, President Juan Orlando Hernández of Honduras termed socio-economic conditions of crime, unemployment, poverty, lack of education, etc. in the Northern Triangle as “push factors.”⁴⁷ These push factors contribute to the marginalization of populations and problematic behaviors which reflect their hopelessness and desperation.⁴⁸ These young men and women join gangs or drug trafficking organizations, or they take the dangerous journey across the U.S. border. Yet others become hired guns (sicarios) or turn to prostitution or other criminal activities within the major urban centers of the Northern Triangle. According to President Hernandez, currently: “57% of the population [in the Northern Triangle] lives in poverty, of which a significant proportion lives on less than \$1.25 a day. Thirty percent of ...youth aged 14-25 neither study nor work, and pregnancy rates for girls between the ages of

15 and 19 is 91 per 1000 – nearly twice the average for medium and low income countries.”⁴⁹ Unfortunately, this is the current situation in the Northern Triangle. An environment where citizen security and state stability is at risk.

CTOC Policy and Strategy Review

Having examined the conditions that enable TOC in the Northern Triangle, this section reviews the President’s CTOC policy in order to determine the effectiveness of its approach towards combating TOC. For the purposes of this article, effectiveness is defined as the ability to synchronize U.S. CTOC activities amongst stakeholders. If U.S. stakeholders can synchronize CTOC activities across a region, then the approach is considered effective.

The U.S. government has set the following objectives for its policy to combat transnational organized crime:

1. Protect Americans and our partner nations from the harm, violence, and exploitation of transnational criminal networks.
2. Help partner countries strengthen governance and transparency, break the corruptive power of transnational criminal networks, and sever state-crime alliances.
3. Break the economic power of transnational criminal networks and protect strategic markets and the U.S. financial system from TOC penetration and abuse.
4. Defeat transnational criminal networks that pose the greatest threat to national security by targeting their infrastructures, depriving them of their enabling means, and preventing the criminal facilitation of terrorist activities.
5. Build international consensus, multilateral cooperation, and public-private partnerships to defeat transnational organized crime.⁵⁰

In order to achieve U.S. CTOC policy a strategy is required. Strategy attains policy by synchronizing the instruments of national power. The USG’s strategy focuses on

“[building, balancing, and integrating] the ...[instruments] of American power to combat TOC...⁵¹ The overarching goal of the strategy is “to reduce [TOC] from a national security threat to a manageable public safety problem in the United States and in strategic regions around the world.”⁵²

DoD’s strategy to combat TOC in the Western Hemisphere follows the same paradigm – reducing U.S. national security threats posed by transnational criminal organizations throughout the world to a level where such threats can be managed by partner nations.⁵³ In the Western Hemisphere, the strategy that achieves the President’s CTOC policy is building partner nation capacity to combat TOC in key countries and sub regions challenged by it, such as Mexico, Central America, Colombia, and Peru.⁵⁴

Within the Western Hemisphere, DoD has set four specific objectives for Latin America in its Counternarcotics and Global Threats Strategy. Objective one is to support a U.S. whole-of-government effort to reduce the amount of illicit drugs entering the U.S. from Mexico and Central and South America.⁵⁵ Objective two is to counter the flow of weapons and bulk cash from the United States to Mexico.⁵⁶ Objective three is to disrupt the flow of drugs and DTOs in Mexico, Central America, Colombia, and Peru; to support partner nations’ security forces to counter the flow of drugs from South America through Central America and Mexico into the United States; and to build partner nation capacity to secure their borders and strengthen the rule of law.⁵⁷ Finally, Objective four is to work with U.S. interagency partners to build partner nation capacity to deny TCOs the use of air, land, and sea domains.⁵⁸ The four objectives for Latin America support achieving the President’s CTOC policy within El Salvador, Guatemala, and Honduras.

Likewise, the National Security Council (NSC) staff has a similar strategy for reducing TOC in Central America. The NSC's U.S. Strategy for Engagement in Central America calls for developing "an economically integrated ...[region] that is fully democratic; provides economic opportunities to its people; enjoys more accountable, transparent, and effective public institutions; and ensures a safe environment for its citizens."⁵⁹ Efforts identified by the NSC staff for Central America support the President's CTOC policy, and support a specific strategy for the Northern Triangle.

The Department of State's Central America Regional Security Initiative (CARSI) also supports the President's strategy by employing a framework that leverages diplomacy and development.⁶⁰

CARSI is designed to reduce the push factors, as reflected in its five goals:

1. Create safe streets for the citizens of the region;
2. Disrupt the movement of criminals and contraband to within, and between the nations of Central America;
3. Support the development of strong, capable, and accountable Central American governments;
4. Re-establish effective state presence, services and security in communities at risk; and
5. Foster enhanced levels of coordination and cooperation between the nations of the region, other international partners, and donors to combat regional security threats.⁶¹

"Since FY2008, the U.S. Department of State (DoS) appropriated nearly \$1.2 billion for Central America through CARSI. As of the end of FY2015, \$457 million of the funds allocated to CARSI had been expended."⁶² These funds supported efforts to build the capacity of all seven countries within the region to strengthen citizen security, to promote rule of law and good governance, to reduce corruption, and to provide

economic and social programs for at-risk youth.⁶³ All of these efforts enable the USG's CTOC strategy.

In January 2016, the Administration received Congressional approval for another \$750 million in CARSI funding. The authorization provides the following:

[U]p to \$299 million in Development Assistance; \$222 million in International Narcotics Control and Law Enforcement funding towards the Central America Regional Security Initiative (CARSI); \$184 million in Economic Support Funds for CARSI and regional prosperity, economic opportunity, and governance programs; \$26 million in Foreign Military Financing; and \$4 million in International Military Education and Training, in addition to funds for global health, demining, and other programs, including the Overseas Private Investment Corporation.⁶⁴

CARSI is the primary instrument of the U.S. government to mitigate insecurity and complement CTOC efforts in Central America.

Lastly, the U.S. Chiefs of Mission (CoM) in the region have built their respective country strategies to support combating TOC and reducing the push factors by leveraging CARSI. Chiefs of Mission are focusing on activities that increase citizen security, improve rule of law, increase economic opportunity, reduce corruption, improve government transparency, strengthen border security, reduce violence, and counter transnational organized crime. All of these activities support achieving CTOC policy objectives and mitigating the push factors in the Northern Triangle.

However, something is wrong. Since CARSI's inception the security situation in the Northern Triangle has not improved. On the contrary, it seems to have deteriorated. This is evident by the large number of unaccompanied children that fled Honduras, Guatemala, and El Salvador to the U.S. in 2014. They are fleeing from threats of violence from gangs such as the 18th Street gang (M-18) and Mara Salvatrucha (MS13); from high levels of crime; and from the lack of educational opportunities. Likewise, the

“Northern Triangle is dealing with escalating homicides and generalized crime committed by DTOs, gangs, and other criminal groups.”⁶⁵ For example, “in 2013, the homicide rate per 100,000 people in Mexico stood at 18.9, a rate exceeded by those of El Salvador (39.8), Honduras (84.3) and...Guatemala (39.3).”⁶⁶ And lastly, “common crime is [so] widespread [that] ...nearly a fifth of Salvadorans, Hondurans, Nicaraguans, and Guatemalans had been victims of a crime within the past year.”⁶⁷ Why has this happened?

The relative alignment of CTOC policy and strategy illustrated in previous paragraphs suggests that the shortcomings in U.S. CTOC activities are due to other factors. These factors are an ineffective approach, the absence of a U.S. government agency identified as the CTOC lead, and the lack of a U.S. regional plan for the Northern Triangle.

The approach is ineffective because it does not synchronize U.S. CTOC activities amongst U.S. stakeholders. Presently, there is no mechanism that provides a common operating picture of all U.S CTOC activities in the region. There is specific agency oversight, but there is little interagency oversight that can prioritize activities to determine how activities should be phased over time and space to achieve a desired effect or outcome. Furthermore, CARSI as the USG’s primary instrument to reduce the push factors and combat TOC does not synchronize the 3Ds (Diplomacy, Development, and Defense) in its approach to the problem. Although, DoD supports CARSI through the GCC’s Security Cooperation programs (Title 10); it was not integrated into the design and execution of CARSI as were DoS and USAID. Perhaps this was due to

different agency interests and organizational cultures that do not support interagency CTOC cooperation.

The absence of a lead federal agency (LFA) to synchronize USG efforts to combat TOC negatively affects policy implementation. A Presidential Policy Directive (PPD) or other instrument that designates a U.S. government agency to coordinate, synchronize, implement, and evaluate CTOC activities would facilitate strategy implementation. Presently, each Chief of Mission directs his or her team to develop its own plan for combatting TOC within his or her respective country. Without a LFA to synchronize these activities and events, and evaluate how such activities and actions support strategy; U.S. efforts will continue to be disparate across borders and within regions.

The need for a regional implementation plan is therefore critical to achieving U.S. CTOC policy objectives in the Northern Triangle. Presently, there is no regional U.S. CTOC plan for El Salvador, Guatemala, and Honduras. A regional plan is needed to de-conflict and prioritize U.S. efforts to combat TOC. U.S. efforts in the region to marginalize TCOs are ineffective because whatever U.S. Country Team A does to combat TCOs in Country X will undoubtedly effect U.S. Country Team B in Country Y. This example is commonly referred to as the balloon effect.

The 'balloon effect' is a well-worn analogy used by drug policy analysts to illustrate the process by which drug production is displaced across national borders in order to evade eradication and interdiction efforts. Squeezing one end of the balloon forces the air to the other side – clamping down on cocaine production and trafficking in one area... simply pushes it into another region or country.⁶⁸

Although, the balloon analogy is often used to assess U.S. counter-drug efforts, it applies just as well to U.S. CTOC efforts. The lack of a regional plan pushes TOC

across borders and prevents policy implementation. Inductively, a regional plan would better support partner nation CTOC efforts. Additionally, the lack of a PPD that identifies the lead federal agency for CTOC, and the absence of a regional plan that prioritizes activities prevents the coordination and synchronization of U.S. effort. Feasibly, deteriorating conditions in the Northern Triangle could be attributed to a lack of unity of effort among U.S. stakeholders. For example, CARSI has yet to holistically achieve its five goals of improving security and reducing TOC in all seven countries within Central America. Conceivably, if CARSI was developed into a phased plan and had a lead identified, it could perhaps better counter TOC within the region.

In 2009, a similar argument about coordinating and synchronizing U.S. efforts was made by then president of the Center for a New American Security Michele A. Flournoy. Mrs. Flournoy stated, “The U.S. government lacks the mechanisms necessary to coordinate and integrate the actions of its various agencies at all levels – in Washington, within regions, and in the field.”⁶⁹ At a minimum, the mechanisms needed to assist combating TOC in the Northern Triangle are an identified lead and a regional plan.

The Authorities

Having examined the current situation, conditions, policy and strategy that drive CTOC efforts in the region, this section now reviews DoD programs and authorities to determine how well they support U.S. interagency and partner nation CTOC efforts.

Title 10, U.S. Code Section 1004 of the National Defense Authorization Act (NDAA) is conceivably the most inclusive authority at DoD’s disposal to support U.S. interagency and partner nation efforts to counter transnational organized crime. §1004

authorizes DoD support to U.S. and partner nation law enforcement counterdrug operations. Permissible types of support include:

Maintenance, repair, upgrade of equipment; transportation of personnel, supplies, and equipment; establishment and operation of bases and training facilities; counterdrug related training and associated support costs; detection, monitoring, communication of sea and land traffic; establishment of Command, Control, Communications, Computers, and Intelligence (C4I) networks for improved integration; linguist and intel analyst services; and aerial and ground reconnaissance.⁷⁰

As of FY15, §1004 authorities now include language that supports combating transnational organized crime (CTOC). Because of this change, DoD can now provide assistance to partner nations and U.S. law enforcement agencies (Federal Bureau of Investigation, Homeland Security Investigations, Customs Border Patrol, etc.) to counter all illicit flows such as bulk cash, weapons, trafficking in persons, theft of intellectual property, cybercrime, money laundering, and even support to countering illegal immigration. The change in legislative language provides DoD the flexibility to better support a U.S. whole of government effort to reduce TOC. An example of how this authority can enable CTOC efforts is the provision of DoD helicopter support to transport U.S. and partner nation law enforcement agents to conduct legal interdictions of illicit goods. Such U.S. and partner nation law enforcement operations can range from confiscating bulk cash and weapons to disrupting smuggling networks. Also under §1004, DoD linguists and intel analysts could provide assistance to U.S. law enforcement agencies. §1004 may also be used to establish operational and training bases to support partner nation counter drug efforts. However, before DoD can provide any such support in Latin America, it must receive Chief of Mission (CoM) concurrence, U.S. law enforcement sponsorship, and the partner nation must officially request U.S.

assistance through the Senior Defense Official or through the Office of Security Cooperation.

Title 10, U.S. Code Section 1033 of the NDAA “authorizes DoD to provide additional non-lethal support for counter-drug activities of partner nations.”⁷¹ This authority does not support CTOC activities or efforts. The authority exclusively supports counter-drug activities. Types of non-lethal assistance include: “riverine patrol boats; non-lethal protective and utility personnel equipment; non-lethal specialized equipment such as night vision systems, navigation, communications, photo, and radar equipment.”⁷² Additionally, other forms of 1033 support include: “non-lethal components, accessories, parts, hardware, and software for aircraft or patrol boats, and related repair equipment; and maintenance and repair equipment that is used for counter-drug activities.”⁷³ Currently 33 countries are eligible to receive 1033 assistance – El Salvador, Guatemala, and Honduras are included in this list of countries that can receive assistance.⁷⁴ An example of how this authority supports counter-drug efforts is the purchase of go-fast boats for partner nations or refurbishing partner nation boats to help interdict the flow of drugs from source countries in South America to transit countries in Central America. Along with the purchase of boats, other equipment such as radios, night vision goggles, and even life jackets can be purchased. And under §1004, DoD could provide training on radios and night vision goggles. Again without CoM approval DoD cannot provide the purchases or the training.

Title 10, U.S. Code Section 1022 of the NDAA authorizes DoD to establish joint DoD task forces to provide support to U.S. law enforcement agencies that are conducting counter drug (CD), counter transnational organized crime and counter-

terrorism activities.⁷⁵ Currently, this is only an authorization and eligible countries are determined by the Secretary of Defense.⁷⁶ There are no such joint task forces in Latin America today that operate under this authority.

Title 10, U.S. Code Section 2282 of the NDAA provides DoD the authority to build the capacity of a country's "national military forces [or security forces] to conduct counterterrorism operations; participate in or support on-going allied or coalition military or stability operations that benefits U.S. national security interests."⁷⁷ The authority also allows DoD to "build the capacity of a country's maritime security or border security forces to conduct counterterrorism operations; and build the capacity of a country's national-level security forces that have among their functional responsibilities a counterterrorism mission in order for such forces to conduct counterterrorism operations."⁷⁸ The authority as written does not support to CTOC efforts.

Assessment

DoD has the ends, ways, and means (although limited) to support an integrated U.S. government approach towards combating TOC. However, the preponderance of applicable DoD programs and legal authorities are insufficient to support the President's CTOC strategy. Except for Section 1004, DoD authorities as written do not support U.S. or partner nation CTOC efforts unless a counter drug nexus can be established. Having to rely on establishing a counter-drug nexus to use relevant DoD authorities reduces flexibility and creates tension among U.S. stakeholders. Tension surfaces because counter-drug funds are used to fund combating TOC. Therefore, money appropriated for counter-drug efforts such as interdiction is now used to also fund confiscating counterfeited and pirated goods. This creates tension because funding is finite, so what funds combating TOC is no longer available to fund counter-drug operations – it is a

zero-sum gain. If CTOC was included into the narrative of DoD counter-drug authorities, it would help to better align DoD support to USG CTOC efforts, and perhaps create a different CTOC funding stream.

Relevant programs and their respective legal authorities include Counter Drug Assistance (Section 1004, National Defense Authorization Act for 1991, as amended); Authority to Provide Additional Support for Counter-Drug Activities of Other Countries (Section 1033, National Defense Authorization Act for Fiscal Year 1998, as amended); Joint Task Forces to provide Support to Law Enforcement Agencies to Counter Transnational Organized Crime to Support Law Enforcement Agencies Conducting Counter-Terrorism Activities (Section 1022 for the National Defense Authorization Act for Fiscal Year 2004); and Building Capacity of Foreign Security Forces (Section 2282, National Defense Authorization Act for Fiscal Year 2006, as amended).

Section 1004 supports CTOC efforts in the region. This authority is the most expansive of the four. In the past, it was used to support Operation Morazán in Honduras – a collaborative effort by Honduran security forces to mass in areas most affected by organized crime.⁷⁹ This authority supported the transport of Honduran security forces to conduct airfield cratering missions. Airfields cratered were clandestine landing strips used by TCOs to bring in illicit drugs into Honduras. Section 1004, has also been used to support Operation Community Shield in Central America. Community Shield is the Department of Homeland Security, Immigration and Customs Enforcement (ICE) international law enforcement initiative to combat the growth and proliferation of transnational criminal street gangs by tracing and seizing cash, weapons and other assets derived from criminal activities. ...”⁸⁰

Section 1033 does not support combatting TOC – it remains an authority focused solely on supporting counter drug efforts. Expanding the authority to include support to combating TOC would enhance DoD’s capability to support U.S. and partner nation efforts to prevent illicit flows from entering Central America, Mexico, and the United States. In the past, this authority has been used to purchase vehicles such as pick-ups radios, and radar equipment for partner nation security forces involved in conducting counter drug operations.

Section 1022 is not currently leveraged in Latin America, and with the current trend of reduced budgets and the Budget Control Act of 2011, looming overhead, there is probably not much appetite for leveraging this authority to establish such a Joint Task Force. Yet, there is a DoD Joint Task Force (JTF) in Central America that supports U.S. and partner nation CTOC efforts, as well as, Humanitarian Assistance and Disaster Relief (HA/DR) operations. That JTF is Joint Task Force-Bravo, located in Soto Cano Air Base, Honduras. JTF-Bravo’s current authorities do not fall under Section 1022; therefore, it is not designed to support U.S. law enforcement agencies that are conducting counter drug (CD), counter transnational organized crime and counter-terrorism activities on a persistent basis.

Section 2282 of the NDAA does not support combating TOC. The authority supports building partner nation capacity (BPC) to conduct counterterrorism operations and participate in or support on-going allied or coalition military or stability operations. If this authority included CTOC language it could support building the capacity of security forces in El Salvador, Guatemala, and Honduras to conduct CTOC operations. For example, it could be used to train and equip partner nations security forces to disrupt

and deter human and weapons trafficking networks at key border crossing sites within the Northern Triangle.

Additionally, there are other programs under Security Assistance and Security Cooperation that can complement CTOC efforts. These programs are Foreign Military Financing (FMF), Foreign Military Sales (FMS), International Military Education and Training (IMET), Combined Exercises, Joint Exercise Program, and Joint Combined Exchange Training (JCET). If these programs are linked and coordinated to support U.S. law enforcement and partner nation CTOC goals and objectives, they could enable an integrated U.S. whole of government approach that better supports the President's CTOC strategy.

However, three obstacles may prevent DoD from exercising expanded CTOC authorities within the Northern Triangle. Obstacle one, "human rights organizations from Central America, Mexico, and the United States see the USG's regional security policy as promoting militarization to address organized crime."⁸¹ Additionally, opponents of the policy "see the surge in U.S. security assistance [coinciding] with a notable... increase in the militarization of law enforcement activities [within Central America]."⁸² Since 2008, countries in the Northern Triangle have seen an increase in the number of military troops deployed onto the streets of San Salvador, Guatemala City, and Tegucigalpa.⁸³ These troop deployments sometimes outnumber the civilian police forces assigned in areas where troops are deployed.⁸⁴ Furthermore, partner nation efforts to build the capacity of their military to "support" civilian policing efforts are seen as detracting resources that could be leveraged to train and professionalize civilian police forces. Therefore, expanding DoD CTOC authorities may not be a welcomed course of action

from the viewpoint of domestic and foreign civil society organizations. This may result in U.S. diplomatic missions not supporting expanded DoD authorities or assistance because of the apparent militarization of civilian institutions and society.

Obstacle two, even if authorities were amended to include combating TOC, it does not automatically result in additional funding being appropriated to combat TOC. DoD is still constrained by the Budget Control Act of 2011. So DoD may not be able to fund an increased demand for CTOC support from U.S. interagency partners and partner nations.

And obstacle three, amending authorities cited in the NDAA requires U.S. Congressional approval. The legislative review process may not be amenable to any additional changes to current authorities that expand DoD operations and increased funding for Central America during an election year.

Recommendations

The Department of Defense is challenged to ensure all stakeholders at the U.S. Country Team level appreciate the difference between counter-drug and combating TOC authorities. In order to mitigate this challenge, DoD at the U.S. country team level could better informally explain these authorities to the Deputy Chief of Mission, the Political Affairs officer and U.S. embassy law enforcement attaches. Part of this socialization would entail explaining how authorities support both partner nation military and partner nation police forces in order to lessen the militarization argument. Also, concerned individuals must be informed that DoD cannot provide combating TOC or counter-drug assistance to partner nation security forces without Chief of Mission concurrence.

The following recommendations stem from this paper's review and analysis of the current situation, conditions, policy and strategy that drive CTOC efforts in the Northern Triangle. In order to enable a U.S. whole of government approach to combat TOC, this paper recommends the following actions:

1. Designate a lead federal agency as the responsible organization to develop the regional U.S. CTOC plan for the Northern Triangle and Central America. Task the Department of State's Bureau of Western Hemisphere Affairs (WHA) for this action, and for producing an annual assessment on the effectiveness of the plan. The annual assessment would be presented to the Under Secretary of State for Political Affairs and to other interested U.S. stakeholders.
2. Task the Geographic Combatant Command to develop a specific DoD supporting strategy for combating TOC in the Northern Triangle and Central America.
3. Task the Joint Staff and the Office of the Secretary of Defense to work with the House and Senate Armed Services Committees to amend Sections 1033 and 2282 of the NDAA to include support for combating TOC.
4. Reassess Joint Task Force-Bravo's authorities and mission. JTF-Bravo is not currently manned, equipped, or resourced to persistently support U.S. and partner nation CTOC efforts in Central America. Title 1022 authorities, may posture JTF-Bravo to better support combined law enforcement CTOC efforts within the region.

5. Provide the Geographic Combatant Command with a distinct funding line to support CTOC operations. Such funding would be distinct and separate from counternarcotics funding that is earmarked specifically for supporting counter-drug activities such as drug interdiction. This specific funding would resource the GCC's ability to support U.S. CTOC efforts.

Conclusion

Current DoD authorities are outdated for supporting U.S interagency efforts to combat TOC. The preponderance of relevant DoD authorities that could support combating TOC are aligned to support counterdrug efforts. Although relevant, these authorities go back circa the late 1980s and 1990s when cocaine trafficking was a dominant concern for the United States. Today, transnational organized crime is an important national security threat; however, DoD authorities have not kept up with the changing operational environment. This causes tension among U.S interagency partners, who through no fault of their own, lack an appreciation for what DoD can support under counter-drug authorities vis-a-vis what DoD can support under combating TOC authorities. This lack of clarity is disturbing because it demonstrates the absence of knowledge among U.S. interagency partners about respective authorities and missions each perform to combat TOC. Again, it emphasizes the ineffective U.S. approach towards reducing TOC.

The President's strategy to combat TOC was released in 2011, as was DoD's Counternarcotics and Global Threats Strategy. Both of these documents, and more recent national strategy documents provide DoD with the guidance to support both U.S. and partner nation efforts to combat TOC. DoD should leverage these national strategy documents to support the argument for modifying current authorities. Reducing TOC to

a manageable public security problem is achievable, but it requires an effective approach.

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