

**AN END TO IMPUNITY: INVESTIGATING THE 1993
KILLING OF MEXICAN ARCHBISHOP JUAN JESUS
POSADAS OCAMPO**

HEARING

BEFORE THE

SUBCOMMITTEE ON AFRICA, GLOBAL HUMAN
RIGHTS AND INTERNATIONAL OPERATIONS

OF THE

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THURSDAY, APRIL 6, 2006

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON AFRICA, GLOBAL HUMAN RIGHTS
AND INTERNATIONAL OPERATIONS,
COMMITTEE ON INTERNATIONAL RELATIONS,
Washington, DC.

The Subcommittee met, pursuant to notice, at 2:10 p.m. in room 2200, Rayburn House Office Building, Hon. Christopher H. Smith (Chairman of the Subcommittee) presiding.

Mr. SMITH OF NEW JERSEY. The Subcommittee will come to order, but I wanted to say that most of our Members are in a markup right now. In about 5 to 10 minutes we will be having a vote, maybe even a little longer, in 2172 on the Palestinian legislation.

But I thought we would start, Mr. Payne and I would give our opening statements, and then come back, reconvene, and then hear our distinguished witnesses.

Good afternoon. The purpose of today's hearing is to examine the circumstances surrounding the 1993 killing of Cardinal Juan Jesus Posadas Ocampo, Archbishop of Guadalajara, Mexico, as well as the subsequent four investigations by the Mexican Attorney General. As we all know, the case is still open today.

The facts of the case at first seem relatively straightforward. On May 24, 1993, at the Guadalajara Airport, Cardinal Posadas and six others were shot and killed. The Cardinal, dressed in full clerical garb, was shot 14 times at close range in his car. One gunman, Jesus Alberto Ballardo Robles, was arrested that day for the murder.

But beyond these basic facts, there are more unresolved than resolved issues. The anomalies in the case indicate that we have not yet gotten to the bottom of the murder.

For example, later in the day of the slaughter, a Tijuana-bound flight was ordered delayed for 20 minutes, allowing eight of the gunmen to board the plane, and yet none of them were arrested upon their return in Tijuana.

Second, the Mexican Government's initial investigation concluded in July 1993 that Cardinal Posadas was the victim of mistaken identity, despite the fact that the Cardinal was a portly, gray-haired man dressed in clerical vestments, and the man he was al-

legedly mistaken for, drug kingpin Chapo Guzman, was a slight, dark-haired man 24 years his junior.

Cardinal Posadas was an outspoken opponent of the narco-trafficking rings, which had a chokehold on the Mexican society at the time. He had been directly threatened, allegedly, by high-level officials of the Salinas Government. His phones had been tapped; he had been stalked outside his home prior to his death.

Upon reopening the investigation by the Administration of President Vicente Fox in 2001, it was discovered that over 900 pages were missing from the case files, including the statement of the Papal Nuncio. In the 12 years since the Cardinal's murder there have been criminal homicide and conspiracy charges filed against 51 people, and yet not a single person has been convicted for the homicide.

The actions of the Mexican Government following the murder raise many disturbing questions about the apparent disinterest, and even obstruction, of key government officials in ensuring a transparent and thorough investigation of the incident, and in bringing those responsible for this heinous crime to account.

Some might be questioning why this Subcommittee is focusing on a case that is more than a decade old, and which has not been in the forefront of the news in this country, others might think this body should be looking at other human rights issues in Mexico or elsewhere, and especially those that affect a broader number of people. My response to that is threefold.

First, Cardinal Posadas' case is emblematic of severe shortcomings in Mexico's justice system and its respect for the rule of law. As Joy Olson of the Washington Office of Latin American will explain later in the hearing, Mexico's criminal justice system, rather than solve and punish crimes, contributes to confusion, cover-up, and impunity through widespread negligence, inefficiency, and abuse. As a result, Mexico's criminal justice system suffers from an almost lack of credibility.

The State Department's County Reports for Human Rights Practices for 2005, released just last month, stated the following concerning Mexico's human rights records, and I quote:

"The government generally respected and promoted human rights at the national level. However, violations persisted at the state and local level. The government investigated, prosecuted, and sentenced several public officials and members of security forces involved in criminal acts; however, impunity in corruption remained a problem.

"There was a marked increase during the year in narcotics trafficking-related violence, especially in the northern border region. Government efforts to improve the respect for human rights were offset by a deeply entrenched culture of impunity and corruption."

The report lists just a few of the following human rights problems related to Mexico's criminal justice system and respect for the rule of law: Unlawful killings by security forces, vigilante killings, kidnappings including by police, corruption, inefficiency, and lack of transparency in the judicial system, statements coerced through torture permitted as evidence in trials, trafficking in persons alleg-

edly with official involvement, criminal intimidation of journalists leading to self-censorship and corruption at all levels of government.

The second reason why it is important to uncover the truth about Cardinal Posadas' death is that finding and holding those responsible for his murder will have a wide-ranging political and human rights implication for Mexico.

People often wonder whether the most effective way to attack the corrosive and insidious effects of corruption is to work at the grass-roots level, or to arrest it at the top. But I say, along with Edmund Burke, that all that is needed for evil to triumph is for good men to do nothing, and good women.

In this country we have not stopped our national obsession with those who killed President Kennedy over 40 years after the fact, and up to a point nor should we if there are relevant facts uncovered that cause us to reevaluate certain conclusions in that matter.

Mexican citizens will go to the polls on July 2 to elect a new President. Mexico has made significant progress toward a multi-party system after the 70-year reign of the PRI (Institutional Revolutionary Party), which ended with the election of Vicente Fox in 2000, giving Mexican citizens a genuine choice from among three political parties.

Third, let me just make the point that justice is still undone in this case. Regardless of how many years have passed since the Cardinal's death, the families of all six of the victims and the Catholic Church are owed an explanation and deserve to see an end to the impunity.

Similarly, I was at the forefront of pushing for a commission to study the terrorist bombers of September 11, 2001, even though among some quarters it was not all that popular. Because I believe, and still believe, we need to thoroughly examine all the facts in order to ensure that such a tragedy does not happen again.

Let me just interrupt this proceeding for one moment. Mr. Payne and I do have to rush downstairs for a quick vote, so we will stand subject to the call of the Chair. But we will be right back.

Thank you.

[The prepared statement of Mr. Smith of New Jersey follows:]

PREPARED STATEMENT OF THE HONORABLE CHRISTOPHER H. SMITH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY AND CHAIRMAN, SUBCOMMITTEE ON AFRICA, GLOBAL HUMAN RIGHTS AND INTERNATIONAL OPERATIONS

Good afternoon. The purpose of today's hearing is to examine the circumstances surrounding the 1993 killing of Cardinal Juan Jesus Posadas Ocampo, Archbishop of Guadalajara, Mexico, as well as the subsequent *four investigations* by the Mexican Attorney General. The case is still open today.

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But beyond these basic facts, there are more unresolved than resolved issues. Disturbing anomalies in the case indicate we have not yet gotten to the bottom of this murder.

- Later in the day of the slaughter, a Tijuana-bound flight was ordered delayed for 20 minutes, allowing eight of the gunmen to board the plane, and yet none of them were arrested upon their arrival in Tijuana.
- The Mexican government's initial investigation concluded in July 1993 that Cardinal Posadas was the victim of mistaken identity, despite the fact that

the Cardinal was a portly, gray-haired man dressed in clerical vestments and the man he was allegedly mistaken for, drug kingpin Chapo Guzman, was a slight, dark-haired man 24 years his junior.

- Cardinal Posadas was an outspoken opponent of the narco-trafficking rings which had a chokehold on Mexican society at the time. He had been directly threatened, allegedly by high-level officials of the Salinas administration. His phones had been tapped. He had been stalked outside his home prior to his death.
- Upon re-opening the investigation by the administration of President Vicente Fox in 2001, it was discovered that over 900 pages were missing from the case files, including the statement of the Papal Nuncio.
- In the 12 years since the Cardinal's murder, there have been criminal homicide and conspiracy charges filed against 51 people, and yet not a single person has been convicted for the homicide.

The actions of the Mexican government following the murder raise many disturbing questions about the apparent disinterest and even obstruction of key government officials in ensuring a transparent and thorough investigation of the incident, and in bringing those responsible for this heinous crime to account.

Some might be questioning why this Subcommittee is focusing on a case more than a decade old and which has not been in the forefront of the news in this country. Others might think this body should be looking at other human rights issues in Mexico that affect a broader number of people. My response to those objections is three-fold.

First, the Posadas case is emblematic of severe shortcomings in Mexico's justice system and its respect for the rule of law. As Joy Olson of the Washington Office on Latin America will explain later in the hearing, "Mexico's criminal justice system, rather than solve and punish crimes . . . contributes to confusion, cover-up, and impunity through widespread negligence, inefficiency and abuse. . . . As a result, Mexico's criminal justice system suffers from an almost absolute lack of credibility."

The State Department's *Country Reports on Human Rights Practices for 2005*, released just last month, stated the following concerning Mexico's human rights record:

"The government generally respected and promoted human rights at the national level; however, violations persisted at the state and local level. The government investigated, prosecuted, and sentenced several public officials and members of security forces involved in criminal acts; however, impunity and corruption remained a problem. . . . There was a marked increase during the year in narcotics trafficking-related violence, especially in the northern border region. . . . Government efforts to improve respect for human rights were offset by a deeply entrenched culture of impunity and corruption."

The *Report* lists the following human rights problems related to Mexico's criminal justice system and respect for the rule of law:

- unlawful killings by security forces
- vigilante killings
- kidnappings, including by police
- corruption, inefficiency, and lack of transparency in the judicial system
- statements coerced through torture permitted as evidence in trials
- criminal intimidation of journalists, leading to self-censorship
- corruption at all levels of government
- trafficking in persons, allegedly with official involvement.

The second reason why it is important to uncover the truth about Cardinal Posadas' death is that finding and holding those responsible for his murder will have wide-ranging political and human rights implications for Mexico. People often wonder whether the most effective way to attack the corrosive and insidious effects of corruption is to work at the grass-roots level or to arrest it at the top. But I say (along with Edmund Burke) that all that is needed for evil to triumph is for good men to do nothing. In this country, we have not stopped our national obsession with who killed President Kennedy over 40 years after the fact, and up to a point, nor should we if there are relevant facts uncovered that cause us to re-evaluate certain conclusions in the matter.

Mexico citizens will go to the polls on July 2 of this year to elect a new President. Mexico has made significant progress towards a multi-party system after the 70-

year reign of the Institutional Revolutionary Party (PRI) ended with the election of Vicente Fox in 2000, and Mexican citizens will have a genuine choice from among three political parties. This choice is significant, as violence among warring drug cartels is increasing, killing 64 people in Nuevo Laredo and 60 in Ciudad Juarez so far this year. Journalists, particularly those reporting on crime and narco-trafficking, continue to be at risk. It is my hope that all three Presidential candidates will demonstrate their commitment to promoting and defending the rule of law by pledging to get to the bottom of the Posadas case.

Third, justice is still undone. Regardless of how many years have passed since the Cardinal's death, the families of all six of the victims, and the Catholic Church, is owed an explanation and deserves to see an end to the impunity. Similarly, I was at the forefront of pushing for a commission to study the terrorist bombings of September 11, 2001, because I believed and still believe that we need to thoroughly examine all of the facts in order to ensure that such a tragedy does not happen again.

In this regard, in January I wrote to the U.S. Department of Justice regarding three Mexican nationals, Jesus Alberto Bayardo Robles ("El Gori"), Everardo Arturo Paez Martinez ("El Kitty Paez"), and Juan Garcia Abrego, whom Mexican Attorney General Daniel Cabeza de Vaca has petitioned the U.S. Department of Justice to interrogate regarding the Posadas case. All three are currently imprisoned in the United States on narco-trafficking related charges, and may have information about the circumstances of Cardinal Posadas' death that could be critical in concluding a thorough and transparent investigation. At least two of these men are said to have provided statements relevant to the Posadas case to U.S. authorities.

Yesterday, I received a response to my request stating that the U.S. Justice Department had reviewed its files and assured me it had taken "all appropriate steps" in response to any request from the Mexican Attorney General for mutual legal assistance in criminal matters. Such a response does not inspire confidence that we are close to a breakthrough or that we will see justice anytime soon.

It is an honor to have such distinguished witnesses appear before the Subcommittee today, including Cardinal McCarrick, whom I greatly respect and admire, and Fernando Guzman, Member of the Mexican Parliament from the state of Jalisco, who has tirelessly worked to see justice accomplished in this matter. I am eager to hear the testimony of our witnesses today, and sincerely hope that this hearing will provide a spur for both of our governments to move beyond the status quo. We owe our neighbors to the South no less.

Mr. PAYNE. Thank you very much. In order to proceed along, I will give my statement, and perhaps the vote will be over. I will try to get down. But I know all of you are busy, and the vote in Committee will have to come to the Floor again anyway. And we are so pleased to have such a distinguished group here, especially His Eminence Theodore McCarrick, who we sorely miss in Newark, New Jersey. But your elevation here to Washington, DC, certainly makes your expertise more readily available to a larger number of people, so it is good to see you again, Archbishop.

Mr. Chairman, thank you for calling this hearing to investigate the 1993 killing of Cardinal Posadas. I have several concerns about human rights abuses in Mexico, and impunity among Mexican institutions. And I am glad that the Chairman talked about some of the other issues in Mexico, because that is where I will make several comments in regard to Mexico in general.

I believe a lot of these problems occurred as a result of the need for reform, specifically in the criminal justice system and the police force. I have specific concerns about the 1993 assassination of Cardinal Posadas and six others in Guadalajara, and I call on President Vicente Fox's Government to hold those responsible for this horrible crime accountable.

I think that the Chairman went through much of the details about what happened on that infamous day. And that although it was 13 years ago, that it is still as important today as it was then, and we have to really bring the perpetrators to justice.

But in addition, I have increasingly serious concerns about other human rights abuses in Mexico. And we see them very close to our own border.

We must work to prevent and punish crimes against women, particularly in the Ciudad Juarez area, where, according to the Washington Office on Latin America, over 370 women have been killed in Ciudad Juarez since 1993, many after suffering sexual abuse and torture. And murders showing similar characteristics have spread to the city of Chihuahua. This is absolutely an unacceptable trend. And some of our Congresspeople from that area, Hilda Solas, has a special group, and I will be visiting that area with her to press the government about this horrible issue, 370 women since 1993.

Women and young girls from all parts of Mexico have moved to Juarez in hope of finding work, including jobs at American-owned businesses. Many of these jobs involved late hours, so that women traveling home in the dark, alone, leaves them vulnerable to attacks. Many of the bodies have been found in abandoned or desolate areas, showing signs of rape, torture, and mutilation.

Last year a 7-year-old girl was kidnapped, raped, and brutally murdered. Another girl just 10 years old was raped, killed, and set on fire in her own home. This must stop. We have brought this specific attack on women to the Government of Mexico, and they seem to whitewash it, say we are looking at it, we are disturbed with it, but we see very little results.

However, few of the perpetrators of this violence have been prosecuted, or even found. The Fox Government simply has to do more to protect women, prevent vicious attacks of violence and violations of human rights against women and children, and all people, particularly the most vulnerable, in Mexico.

Also, according to the WOLA, the Mexican military has been directly involved in serious human rights violations during counterinsurgencies and counternarcotics activities, and impunity is the norm. This, too, is unacceptable.

We must support work of those involved in ending impunity, provide leadership in the areas of accountability, and provide relief to victims of human rights abuses, whether it is in Mexico, Ethiopia, Sudan, or anywhere else in the world.

Actually, as an African-American, I was also very disturbed about the depiction of a character called Memin Pinguin that was issued by the government last year, and the marginalization of Mexicans of African descent. The character was similar to one that I had to see when I was an elementary school child in the first book I was presented, which was *Little Black Sambo*. And *Little Black Sambo*, if you were Black, you knew about him: Thick lips, big eyes, very stupid-acting.

And it was a sort of stereotype that I lived with during much of my early years in school. There were only two or three African-Americans in the class, but all of us knew about Little Black Sambo.

And actually the Mexican Government—and we contacted President Fox about this stamp that was being depicted last year, and he said that this was a very important symbol for Mexico; that everyone loved this Memin Pinguin, and that they were certainly not

going to do anything but continue to sell them. As a matter of fact, they said well, they would not take it off because they were all going to be sold.

But I think that the insensitivity to many of these issues in the government, I would hope that at another meeting we can, in addition to keeping the pressure on in this particular case, really deal with a number of the problems. I am one who welcomes people coming to our country. However, perhaps if we start looking at what is wrong with Mexico in addition just to the economics, then maybe so many people wouldn't want to leave. I think it is endemic of the problem there. It is more than economic freedom; it is the manner in which the government treats its own fledgling people who have little protection.

So people are concerned about their children's education, access to health care, economic challenges. These are burdens shared by all citizens in Mexico, African-Mexicans and others who have been discriminated against. So we must push the United States's ally, President Fox, to uphold the rights of all Mexicans—women, children, African descendants, indigenous, and other vulnerable communities in particular. Impunity must end.

I look forward to hearing the testimony of the witnesses.

Mr. SMITH OF NEW JERSEY. Thank you, Mr. Payne. Let me just conclude and then yield to Dan Burton, Chairman of the Western Hemisphere Subcommittee for our Full Committee, if he has any comments he would like to make, as well as my good friend from Ohio, Mr. Chabot.

Let me finally say in January I wrote to the U.S. Department of Justice regarding three Mexican nationals, Jesus Alberto Bayardo Robles, Everardo Arturo Paez Martinez, and Juan Garcia Abrego, whom the Mexican Attorney General has petitioned the U.S. Department of Justice to be able to interrogate regarding Cardinal Posadas' case. All three are currently imprisoned in the United States on narco-trafficking-related charges, and may indeed have information about the circumstances of the Cardinal's death that would be critical in concluding a thorough and transparent investigation. At least two of these men are said to have provided statements relevant to the Posadas case to U.S. authorities.

Yesterday I received a response to my request stating that the United States Justice Department had reviewed its files, and assured me it had taken "all appropriate steps in response to any requests from the Mexican Attorney General for mutual legal assistance in criminal matters." Frankly, such a response does not inspire confidence at all that we are close to a breakthrough, or that we will see justice any time soon. And we will further act upon the seemingly non-response that we received from the Department of Justice.

Let me just turn to my friend and colleague, Dan Burton.

Mr. BURTON. All I want to say, Mr. Chairman, is I think you are to be congratulated on having this hearing. And I am anxious to hear from the witnesses. And I will refrain from giving an opening statement, and maybe question the witnesses after I hear from them.

Mr. SMITH OF NEW JERSEY. Mr. Chabot.

Mr. CHABOT. Thank you very much, Mr. Chairman. I will be very brief, too.

I want to thank you for holding this hearing. Unfortunately, I have several hearings going on at the same time, so I may not be able to stay for the entire time. But I will read the testimony of all the witnesses. And thank you again for holding this.

Mr. SMITH OF NEW JERSEY. Thank you so much. And especially given Chairman Chabot's position on the Judiciary Committee, I think it is important that he be here as a Subcommittee Chairman. So thank you for being here.

Let me first introduce our distinguished panel, beginning first of all with Cardinal Theodore McCarrick, who was installed as Archbishop of Washington in January 2001. He is also Chancellor of the Catholic University of America for the Vatican. He serves on several councils, including the Pontifical Council for Justice and Peace, and the Pontifical Commission for Latin America.

In December 2000 the President of the United States presented him with the Eleanor Roosevelt Award for Human Rights. In April 2005 Cardinal McCarrick was one of 115 Cardinals who participated in the very famous conclave that elected Pope Benedict XVI as successor to Pope John Paul II.

And let me just say, having known the Cardinal for most of my life, I just have the highest respect and admiration for the tremendous work he does on religious freedom, human rights, and of course as a great pastor to so many of the Catholic religion, of which I am a member.

Then we will hear from Fernando Antonio Guzman, who is a member of the Mexican Parliament. Congressman Guzman has been a member of the Parliament since 2003, representing the people of the Jalisco State. Previously he served as the General Secretary of the Government of that State, and as a Congressman in the State Parliament.

He is a founder and Vice President of the Mexican Commission on Human Rights, and a member of the Mexican Bar of Lawyers.

We will then hear from Ms. Joy Olson, is the Executive Director of the Washington Office on Latin America. In addition, she has founded the Just the Facts project, and co-authored three books on United States military programs in Latin America.

And then we will hear from Mr. Jose Antonio Ortega, who is a representative of His Eminence, Juan Iniguez. Mr. Ortega serves as the representative of the Cardinal and the President of the Citizen Advisement for Public Security and Criminal Justice. As an attorney he served in the investigations of kidnappings and homicides. Previously he served as the President of the Mexican Commission for Human Rights.

Cardinal McCarrick, if you could proceed.

**STATEMENT OF HIS EMINENCE THEODORE McCARRICK,
ARCHBISHOP OF WASHINGTON**

Cardinal McCARRICK. Mr. Chairman, thank you for this opportunity, and thank you for your leadership, sir, in calling these hearings. This is a question in which not only our brothers in the Mexican hierarchy, but in the United States as well, have really great interest and great concern.

And I am grateful to the Members who have taken the time, a busy time right before a break, to be with us and to listen to what I believe is very important testimony, and something which our country needs to become involved in.

Mr. Chairman and Members, I am pleased and honored to offer some words on the terrible murder 13 years ago this May of the Cardinal Archbishop of Guadalajara, Mexico, His Eminence Juan Jesus Cardinal Posadas Ocampo.

Let me first say that I do not possess specific knowledge of the circumstances surrounding that ghastly assassination. As with others, I followed the press on this issue, and have had conversations with leaders of the Church in Mexico, including especially the present Archbishop of Guadalajara, the successor of Cardinal Posadas, Cardinal Juan Sandoval.

And while the Bishops in Mexico have, in general, been more skeptical of the official government's finding in the case, no one has been more outspoken and more persistent in searching for the truth of Cardinal Posadas' assassination than Cardinal Sandoval himself. We have spoken about it many times. I know his concern, and I know his great hope, that we in our country may be helpful to them in solving this.

It is in my strong impression, and it is certainly that of Cardinal Sandoval of Guadalajara, that a travesty of justice was committed when the initial inquiry concluded that Cardinal Posadas was simply caught in the crossfire of a shootout between rival narcotics gangs. The amount of circumstantial evidence pointing to a very different scenario seems overwhelming.

That the assassination of the Cardinal was drug-related appears abundantly clear. But the Cardinal was not just in the wrong place at the wrong time; he was known nationwide as a fierce critic of the scourge of drug trafficking, denouncing not only the traffickers, but those in authority, as well, who either turned a blind eye, or were themselves complicit in this plague that devastates so much of our society today. We who live in this great city of Washington know all too well that same devastation that Cardinal Posadas fought so courageously in his city and in his country, and you can say fought to the death, a martyr in the war against the drugs.

In many ways the drug trade and the assassination of Cardinal Posadas are signs of the culture of death that our beloved late Pope John Paul II decried. The Cardinal's courageous rejection of the drug culture and the culture of death was a sign of the culture of life that we all seek to build.

We have recently learned that as of February 17 of this year, the Supreme Court of the State of Jalisco has nullified the sentences of some 13 persons involved in the killing. Those sentences were nullified over technicalities, and I understand that these individuals can still be charged when new evidence is brought forward.

Most importantly, this decision of the State Supreme Court opens the way for a thorough and unbiased examination of this case. It is my hope and prayer—and I speak for, I know, the other Cardinals in the United States—it is our hope and prayer, that with the reopening of this investigation, the truth about this unprecedented crime may finally emerge.

If called upon by competent Mexican authorities, I am sure that the appropriate agencies of our own government will be willing to lend their expertise in the common search for the truth. And I am so grateful to the Chairman for having pursued this in different areas of our own government.

Mr. Chairman, I commend you for holding these hearings. I want to assure you of the abiding interest of the Archdiocese of Washington, and indeed of the entire Catholic Church in the United States, in finding ways to combat and lessen the terrible scourge of illicit drugs in our time. Together we must find a way to replace the culture of death with the culture of life. And finding the answer to the terrible assassination of Cardinal Posadas may be one step in that journey.

Thank you very much, sir.

[The prepared statement of Cardinal McCarrick follows:]

PREPARED STATEMENT OF HIS EMINENCE THEODORE MCCARRICK, ARCHBISHOP OF
WASHINGTON

I am pleased and honored to offer some words on the horrific murder 13 years ago this May of the Cardinal Archbishop of Guadalajara, Mexico, His Eminence Juan Jesús Cardinal Posadas Ocampo.

Let me first say that I do not possess special knowledge of the circumstances surrounding that ghastly assassination. As with others, I have followed the press on this issue and have had conversations with leaders in the Church in Mexico, including the present Archbishop of Guadalajara, Cardinal Juan Sandoval.

And while the Bishops of Mexico have in general been more than skeptical of the official government findings in the case, no one has been more outspoken or more persistent in searching for the truth of Cardinal Posadas' assassination than Cardinal Sandoval himself.

It is my strong impression, and it is certainly that of Cardinal Sandoval, that a travesty of justice was committed when the initial inquiry concluded that Cardinal Posadas was simply caught in the cross-fire in a shoot out between rival narcotics gangs. The amount of circumstantial evidence pointing to a very different scenario seems overwhelming.

That the assassination of Cardinal Posadas was drug-related appears abundantly clear. But the Cardinal was not just at the wrong place at the wrong time. He was known nation-wide as a fearless critic of the scourge of drug trafficking, denouncing not only the traffickers but those in authority as well who either turned a blind eye or were themselves complicit in this plague that devastates so much of our society today. We in this wonderful city of Washington know all too well the same devastation that Cardinal Posadas fought so courageously in his city and his country. And fought to the death, we might say; a martyr in the war against drugs.

In many ways the drug trade and the assassination of Cardinal Posadas are signs of the "culture of death" that our beloved Pope John Paul II decried. The Cardinal's courageous rejection of the drug culture and the culture of death was a sign of the culture of life that we all seek to build.

We have recently learned that, as of February 17th of this year, the Supreme Court of the State of Jalisco has nullified the sentences of some 13 persons involved in the killing. The sentences were nullified over technicalities and I understand that these individuals can still be charged when new evidence is brought forward.

Most importantly, this decision of the State Supreme Court opens the way for a thorough and unbiased examination of the case. It is my hope and prayer that, with re-opening the investigation, the truth about this unprecedented crime may finally emerge. If called upon by the competent Mexican authorities, I am sure that appropriate agencies of our own government will be willing to lend their expertise in the common search for the truth.

Mr. Chairman, I commend you for holding these hearings. I want to assure you of the abiding interest of the Archdiocese of Washington, and indeed of the entire Catholic Church, in finding ways to combat and lessen the terrible scourge of illicit drugs in our day. Together we must work to replace a culture of death with a culture of life. Thank you.

Mr. SMITH OF NEW JERSEY. Cardinal McCarrick, thank you so very much for your testimony, and for helping to bring this to the attention of this Congress.

Congressman Guzman.

STATEMENT OF THE HONORABLE FERNANDO ANTONIO GUZMAN, MEMBER OF THE MEXICAN PARLIAMENT FOR THE JALISCO STATE

Mr. GUZMAN. Thank you very much to the distinguished Members of this Committee on Africa, Global Human Rights, and International Operations.

My testimony is the result of my experience as the representative of the victim, and a participant in the various investigations which followed.

On May 24, 1993 the Cardinal of Guadalajara, at 3:45 p.m. Cardinal Juan Jesus Posadas Ocampo and his chauffeur, Pedro Perez Hernandez, and five other people were shot to death in the Airport of Guadalajara, Alizco, Mexico.

More than 12 years have elapsed since the murder took place, and the investigation carried out by the Attorney General's Office in Mexico has not yet produced satisfactory results. Mexican society remains concerned, and is demanding that the facts surrounding the event be clarified, and that all the people suspected of the murder be tried in court.

The Attorney General's Office presented the public with different hypothetical explanations of the murders. These explanations have changed with the public's persistent demand that this case be resolved. At first it was stated that Cardinal Posadas died in cross-fire; that is, his car was caught in the middle of two drug-trafficking gangs firing at each other.

Later it was said that Cardinal Posadas was by chance present at the airport when he was mistaken for drug lord Chapa Guzman. Then it was said that he was mistaken for one of Chapa Guzman's bodyguards. And still a subsequent version was that it had been his car which had been mistaken for Guzman's car.

The hypothesis that was presented was that the Cardinal had perished in the crossfire between two gangs of drug traffickers.

Dr. Mario Rivas Souza, forensic physician of the State of Jalisco, who examined the Cardinal's body, stated the day of the assassination that Cardinal Posadas was shot 14 times at such close range, less than three feet away, that the shots left a stain of gunpowder on the Cardinal's chin.

The Cardinal's car was stationary. He was shot repeatedly as he was exiting the vehicle. His driver, Pedro Perez Hernandez, was shot 10 times, and the vehicle they were in took 52 bullets fired from less than three feet away.

The investigation performed after the assassination by the General Prosecutor's Office of Mexico and that of Jalisco was hurried, deficient, manipulated, and steered from the beginning toward the conclusion that the Cardinal had been killed by mistake.

We are witnessing a crime of state, where concealment, serious defects in the investigation, and irregularities in the procedures have been allowed to occur. In addition, there are power groups in complicity with the murderers. These groups have acted to keep

the guilty parties from punishment, and the truth from reaching public light.

Six years later in 1999, both the Federal Prosecutor's Office and the State Prosecutor's Office concluded, after apparently analyzing the evidence available, that the attack against Cardinal Posadas Ocampo had indeed been directed at him, and carried out at very close range.

Additionally, the possibility that the Cardinal's car had been caught in the middle of two warring gangs firing at each other was discarded, thus discarding their initial longstanding explanations to the crimes.

From the first day of the investigation and the preliminary inquiries, numerous irregularities took place which the authorities did not care to resolve. In spite of the evidence that proved these irregularities occurred, the authorities showed no interest in learning why they had occurred, and in identifying those responsible.

The lack of interest by the investigating authority—namely, the prosecutor's office—further encouraged the impunity of their authors.

Several of these irregularities were committed during the term of the then-Attorney General of Mexico, Jorge Carpizo. One extremely serious irregularity stands out. Mr. Carpizo failed to take any action to arrest drug lord Ramon Arellano Felix, who was at the time wanted by the authorities, even though he received information about the drug trafficker being present at the Apostolic Nunciature in December 1993. This information was provided by President Carlos Salinas de Gortari himself, who received it, in turn, from Nuncio Girolamo Prigione.

Twenty-one representatives of the State Congress of Jalisco filed the pertinent charges against the former Attorney General at the Attorney General's Office in Mexico City.

The Attorney General's Office of Mexico resolved to finalize the investigation on these charges, although it recognized that offenses against the administration of justice had been committed. A petition for amparo was filed before the Federal Amparo Appeals Criminal Court. An amparo in Mexico is a court order that stops a questionable and potentially damaging government action. It is injunctive relief applied against the state.

The amparo was granted, and the judge ordered the Attorney General to proceed with the investigation. After a statement made by former President Carlos Salinas de Gortari, the then-Attorney General Jorge Carpizo, in another maneuver to block the investigation, petitioned for a reexamination of the amparo ruling.

In February 2006, a collegiate tribunal ordered the revocation of the amparo order, without any substantive evaluation, arguing that the representatives who had filed the case had no standing to appeal the termination of the investigation started by the Attorney General, because they lacked any direct legal interest in the case.

Twelve years after the murder, no convictions of material authors have been made. On February 3, 2006, the High Court of Justice of Jalisco announced the sentence of one of the alleged material authors of the crime, returning the case to the lower court on the grounds that the proceedings had been plagued with irregularities and legal violations.

The first suspect arrested in the case, Jesus Alberto Bayardo Robles, also known as El Gory, has still not been tried in these legal proceedings.

The current Attorney General, Daniel Cabeza de Vaca Hernandez, is an honest man without links to mafias and organized crime. He intends to continue with the investigation, and consequently he has already sent two petitions to the United States Department of Justice requesting authorization to question Juan Garcia Abrego and Everardo Arturo Paez Martinez, also known as Kitty Paez.

It is important to emphasize that the most probable reason why Cardinal Posadas was murdered is that he possessed information about prostitution and drug-trafficking networks that included in their payrolls some high-profile politicians in Mexico. The Cardinal was able, or would be able to pass this information on to the Vatican, or expose it in other international circles.

In the days prior to his homicide, the Cardinal was being followed. His telephones had been tapped. He was under surveillance by persons in the street. And he appeared to be under severe stress because of the actions of people who would eventually murder him.

Knowing the truth about the assassination of such an important person would indeed contribute to strengthening the credibility of the institutions of Mexico. Otherwise, such confidence would be weakened.

If the Cardinal is deprived of his life and the real criminals are not found, in spite of all the numerous petitions filed to our authorities by Cardinals worldwide, and even by Pope John Paul II, impunity will prevail. And the expectations of thousands of ordinary Mexicans who daily suffer from crime will be demolished.

On these grounds, we petition the authorization to question and take statements, as requested by the Mexican Attorney General's Office, of the U.S. Department of Justice. We also call for the return of Jesus Alberto Bayardo Robles to Mexico so that he may be tried. These steps will greatly contribute to the cause of justice and human rights in our country.

We hope that the Committee of the House of Representatives of the United States will make representations to the Ministry of Justice in order to assure this purpose.

[The prepared statement of Mr. Guzman follows:]

PREPARED STATEMENT OF THE HONORABLE FERNANDO ANTONIO GUZMAN, MEMBER
OF THE MEXICAN PARLIAMENT FOR THE JALISCO STATE

On May 24, 1993, at around 15:45, Cardinal Juan Jesus Posadas Ocampo, his chauffeur Pedro Pérez Hernández and five other people were shot to death in the airport of Guadalajara, Jalisco, Mexico.

More than 12 years have elapsed since the facts and the investigation accomplished by the Attorney General's Office of Mexico has so far not been satisfactory for the Mexican society. Instead, a feeling of concern for the complete clarification of the facts and for a fair trial of the people involved in the murder remains in the nation.

The Attorney General's Office of Mexico has handled various hypotheses which have been changed every time that the community has demanded the clarification of the facts. At first it was declared that Cardinal Posadas died in a crossfire, that is, that his car was caught the middle of two drug trafficking gangs firing at each other. Afterwards the agency maintained that the Cardinal was murdered after being coincidentally mistaken for drug lord "Chapo" Guzmán; a third hypothesis was that the Cardinal had supposedly been mistaken for Guzmán's bodyguard, and

still a subsequent one that it had been his car which had been mistaken for Guzmán's car.

The last hypothesis was described by the prosecutor's office as follows: "A circumstantial homicide due to chaos and confusion generated by a confrontation between drug trafficking bands".

Doctor Mario Rivas Souza, forensic physician of the State of Jalisco who examined the Cardinal's body, stated since the day of the assassination that Cardinal Posadas had received 14 impacts at very close range (less than a meter or three feet) so that the shooting even left a stain of gunpowder on his chin due to the short distance.

The Cardinal's car was stopped and the Cardinal was exiting the vehicle when he was shot repeatedly; his driver Pedro Pérez Hernández received 10 impacts and the vehicle was hit with 52 bullets shot at a distance of less than one meter.

The investigation accomplished after the assassination by the General Prosecutor's office of Mexico and by the General Prosecutor's office of the State of Jalisco was hurried, deficient, manipulated and guided from the beginning to provide evidence on the thesis of confusion.

We are witnessing a real state crime, since there has been concealment and serious defects in the investigation, as well as irregularities in the process. In addition to that, there exist groups of power in complicity with the murderers, groups that continue acting so that these facts remain unpunished and the truth never reaches the public light.

In 1999, the then General Prosecutor's office of Mexico and the General Prosecutor's office of the State of Jalisco concluded, after analyzing the evidence on the case, that the attack against Cardinal Posadas Ocampo was indeed direct and at close range, and that its vehicle was not in the middle of crossfire by two gangs, thus discarding the hypothesis maintained for six years.

From the first day of the investigation there were numerous irregularities within the preliminary investigation, and none of the authorities involved was concerned about investigating about the person or persons who committed them and why, in spite of the evidence included in the proceedings that proved that these irregularities had indeed occurred. Neither was the investigating authority (the Public Ministry) interested in knowing the reason why these irregularities were committed; this deficiency of investigation further encouraged the impunity of their authors.

Several of these irregularities were committed in the investigation during Attorney General of Mexico Jorge Carpizo's term, who was also responsible for another extremely serious wrongdoing: he didn't undertake any action to arrest drug lord Ramón Arellano Félix (who was at the time wanted by the authorities) when he obtained information about the drug trafficker being in the Apostolic Nunciature in December 1993. This information was provided by the then President Carlos Salinas de Gortari, who had received it in turn from Nuncio Girolamo Prigione. Twenty-one Representatives of the State Congress of Jalisco filed the corresponding charges before the Attorney General's Office of Mexico.

The Attorney General's Office of Mexico resolved to close the proceedings on these charges in spite of the fact that it recognized that offenses against the Justice Administration had been committed. A Federal Penal Judge of Protection (Juez Penal Federal de Amparo) conceded an "amparo" (guarantee of protection against the action of law) against the closure, ordering the Attorney General's Office to go forward with the investigation. After a declaration by former president Carlos Salinas de Gortari, the then Attorney General Jorge Carpizo appealed for review. In February 2006, as an additional action among the maneuvers to block the investigation, a Collegiate Court revoked the guarantee of protection without further inquiry, arguing that the Congress Representatives could not file charges against the closure of the investigation on the Attorney General's Office behavior, since they didn't hold any direct legal interest in the case.

Twelve years after the murder there are no convicted material authors because on February 3rd 2006 the High Court of Justice of Jalisco annulled the sentence against the alleged material authors of the crime, ordering instead the reinstatement of the proceedings on grounds that the process was plagued with irregularities and legal violations. The first suspect arrested in the case, Jesus Alberto Bayardo Robles, a.k.a. "El Gory" has not been tried yet in these legal proceedings.

The current Attorney General Daniel Cabeza de Vaca Hernández is an honest man without any link to the mafias of organized crime. He intends to continue with the investigation, so he has already sent two petitions to the Department of Justice of the United States for the authorization to interrogate Juan García Abrego and Everardo Arturo Páez Martínez a.k.a. Kitty Páez.

It is important to emphasize that the most probable reason why Cardinal Posadas was murdered hints to the information in his hands about prostitution and drug

trafficking syndicates that included in their payrolls some high-profile politicians of our country, Mexico. The Cardinal would have then been able to pass this information to the Vatican or to other international instances.

In the days before his homicide the Cardinal was followed, his telephones were intercepted, there was surveillance (or rather stalking) outside his house and he himself was subjected to a severe condition of stress inflicted by the same people who would eventually murder him.

Knowing the truth about this murder and clarifying such a magnicide would indeed contribute to strengthening the credibility of the institutions in Mexico. Otherwise, such confidence would be weakened. If a Cardinal is deprived of his life and the real criminals are not found in spite of all the numerous petitions filed to our authorities by Cardinals worldwide and even by the Pope John Paul II, impunity will prevail and the expectations of thousands of ordinary Mexicans who daily suffer criminal activities will be demolished.

All the previous reasons encourage us to petition for the authorization to take the statements requested by the Attorney General's Office of Mexico from the Department of Justice. We also call for Jesus Alberto Ballardo Robles's return to Mexico to be tried, since these steps will greatly contribute to the cause of Justice and Human Rights in our country.

Mr. SMITH OF NEW JERSEY. Congressman Guzman, thank you very much.

And before going to Ms. Olson, let me just point out and ask unanimous consent to include the letter that I sent, as Chairman of this Subcommittee, on January 31 to Alberto Gonzales, making the very request that you just outlined in your testimony. And frankly, and also the letter we received back last night at about 8 o'clock p.m., right before this hearing was commenced today.

And we had requested the Department of Justice to brief us on these matters, and they have refused, which I find very—it almost begs the question as to why. It certainly does beg that question.

None of us can judge the validity or the lack of validity of this ongoing question that we have of whether or not they are valid if we are stymied in our attempt to get information that the Congress constitutionally is entitled to.

So what this hearing will help us to do is to establish base information, and to fill out the record. But this is the launching pad, rather than the end of our contact or participation in what may be, indeed, a significant cover-up.

So it is very disconcerting to me that we got this letter, dated April 5, last night at 8:00, that basically says—and I will repeat what I said in my opening comments: “We can assure you that all appropriate steps have been taken in response to any such requests.”

I mean, trust me, we will have to get further into this, and we will.

Ms. Olson.

[The information referred to follows:]

U.S. HOUSE OF REPRESENTATIVES,
U.S. CONGRESS,
Washington, DC, January 31, 2006.

Hon. ALBERTO R. GONZALES,
Attorney General of the United States
U.S. Department of Justice, Washington, DC.

DEAR MR. ATTORNEY GENERAL: I am writing in regard to the investigation of the murder of Cardinal Juan Jesus Posadas Ocampo, the Archbishop of Guadalajara, who was shot and killed at an airport in Guadalajara, Mexico on May 24, 1993. This case, being handled by the Office of the Attorney General of Mexico, remains open today.

Recently, I met with Mr. Fernando Guzman, a Member of the Mexican Parliament representing Jalisco state, where the killing occurred, and Mr. Jose Antonio Ortega, an attorney representing the current Archbishop of Guadalajara, Cardinal Juan Sandoval Iniguez. Both of these men have been active in the investigation of the Posadas killing for several years.

During our meeting, Mr. Guzman and Mr. Ortega discussed the disinterest and, at times, the obstruction with which their efforts to investigate this crime have been met. However, it now appears that three men currently imprisoned in the United States may have information about the circumstances of the Archbishop's death that could be critical in concluding a thorough and transparent investigation.

The three men, all Mexican nationals, are: Jesus Alberto Bayardo Robles, a.k.a "EI Gori"; Everardo Arturo Paez Martinez, a.k.a "EI Kitty Paez"; and Juan Garcia Abrego. At least two of these men are said to have provided statements relevant to the Posadas case to U.S. authorities.

On June 10, 2005, Mr. Ortega submitted formal appeals to the Attorney General of Mexico requesting that the U.S. Department of Justice be contacted in reference to this case, to allow for these three men to officially provide any information they may have on the Archbishop's killing to a Mexican judge and other Mexican authorities. Mr. Ortega and Mr. Guzman were told that this request was formally submitted to the U.S. Department of Justice shortly after their June, 2005 appeal, but there has since been no response.

I am extremely concerned by this case. Did the U.S. Department of Justice receive the aforementioned request from the Attorney General of Mexico? If so, what steps have been taken to address this matter? If indeed it was received, I would also ask that a copy of the request sent by the Attorney General of Mexico be provided to my office for our records.

The brutal killing of Cardinal Posadas has never been investigated adequately, apparently because of possible links to high-level officials of the former government of Mexico. However, it is a case with wide-ranging political and human rights implications. Therefore, it is of paramount importance that all evidence related to the case be made available to the Mexican authorities.

The attention of the Justice Department in this matter is vital, and I am anxious to learn what has been done to address this critical human rights concern. I look forward to your timely response. In the interim if you have any questions or need additional information, please contact me or Eleanor Nagy of my staff at (202) 226-7812.

Sincerely,

CHRISTOPHER H. SMITH, *Member of Congress.*



U.S. Department of Justice
Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, DC 20530

April 5, 2006

The Honorable Christopher H. Smith
Chairman
Committee on International Relations
Subcommittee on Africa, Global Human Rights
and International Operations
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

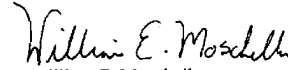
Thank you for your letter of January 31, 2006, regarding the Mexican investigation into the killing of Cardinal Juan Jesus Posadas Ocampo in May 1993, and Mexican requests for assistance from the United States.

The United States and Mexico use the Treaty on Cooperation Between the United States of America and the United Mexican States for Mutual Legal Assistance (the MLAT) as the basis for providing mutual legal assistance in criminal matters. Such requests are transmitted between the Coordinating Authorities designated by the treaty. For Mexico, that authority is the Office of the Mexican Attorney General. The Department of Justice's Office of International Affairs in the Criminal Division serves as the Coordinating Authority for the United States. The Office of International Affairs has reviewed its files to determine the status of any possible requests from Mexico concerning the investigation into the killing of Cardinal Posadas Ocampo, and we can assure you that all appropriate steps have been taken in response to any such requests.

Please note that the MLAT is reserved for use in the prevention, investigation and prosecution of crimes or any other criminal proceedings. Article 4(5) of the Treaty provides that, "the requested State shall keep confidential a request and its contents unless otherwise authorized by the Coordinating Authority of the requesting Party..." This provision is intended to safeguard against the premature disclosure of information developed in criminal investigations. In light of the sensitive, investigative nature of the information contained in MLAT requests, and the express confidentiality provisions of the treaty, we are sure you will understand that the Department of Justice cannot share copies of such requests.

If we can be of further assistance regarding this or any other matter, please do not hesitate to contact this office..

Sincerely,


William E. Moschella
Assistant Attorney General

cc: The Honorable Donald M. Payne
Ranking Minority Member

**STATEMENT OF MS. JOY OLSON, EXECUTIVE DIRECTOR,
WASHINGTON OFFICE ON LATIN AMERICA**

Ms. OLSON. First, Chairman Smith, thank you for this opportunity to be before you today. And thank you as well for the extensive work that you do on human rights issues.

My name is Joy Olson. I am the Executive Director of the Washington Office on Latin America, which is a non-governmental organization that promotes human rights, democracy, and social justice in Latin America, and in United States foreign policy toward the region.

We have monitored the human rights situation in Mexico for many years, working with colleagues in the Mexican human rights community to seek justice for serious human rights violations, and to promote change.

I would like to submit my written statement for the record, and only summarize it here.

Mr. SMITH OF NEW JERSEY. Without objection, so ordered.

Ms. OLSON. The doubt surrounding both the Posadas murder itself and the government's account of how it happened are emblematic of three things.

First, there is widespread impunity for high-profile crimes and human rights cases. This stems from serious flaws in the judicial system, and causes a lack of credibility.

Second, organized crime, in the form of the drug trade, is having an insidious impact on justice in Mexico.

And third, there is serious need for police and judicial reform.

Let me address these three issues. First, impunity continues to be a serious problem in Mexico, for both common crime and human rights abuses. The flaws and weaknesses of Mexico's criminal justice system have a lot to do with the 70 years of one-party rule.

While the PRI-dynasty ended with Fox's election in 2000, impunity has remained firmly rooted. Law enforcement agents have had little reason to develop the technical skills needed to conduct professional investigations. They too often resort to threats or torture to force confessions to solve crimes.

Under the current system, defendants are presumed guilty until proven innocent. Trials consist of a series of meetings where evidence is presented in written form. Confessions are often the only evidence, and the accused are not guaranteed access to legal counsel. Once a confession is obtained, it is almost impossible to invalidate, even if a defendant can prove that he or she was tortured.

Furthermore, the Judicial Branch's lack of independence leaves judges vulnerable to pressure to convict based on tainted confessions, or to allow the wealthy and well-connected to evade justice.

Police and prosecutors who engage in abusive tactics are rarely punished, propelling the cycle of abuse and impunity.

Because of widespread impunity, law enforcement and judicial institutions suffer an enormous credibility gap. Most crimes, as many as 88 percent, are not even reported to the police, because the victims have no faith that they will be seriously investigated.

When high-profile crimes do result in investigations, such as the murder of Cardinal Posadas or the Presidential candidate Luis Donaldo Colosio in 1994, or human rights attorney Digna Ochoa in 2001, there are so many questions about the validity of the evidence and the methods with which the evidence was obtained that people are never able to fully trust the official story.

Furthermore, the Mexican Government has a poor track record when it comes to special prosecutors. In fact, the term special prosecutor has become synonymous with, well, we will never know.

Mexican authorities tend to create special prosecutors for difficult high-profile cases. They promise a lot, and deliver very little.

For example, the special prosecutor in the Posadas case came to conclusions that continue to be doubted today. The Federal Attorney General's Office conceded that there were errors in the investigation, but continues to insist that their conclusions were correct.

The credibility problem is seen in other cases given to other special prosecutors, as well. There is a general rejection of the theory that human rights attorney, Digna Ochoa, shot herself in the thigh, and then in the head, as the special prosecutor for that case concluded.

Similarly, despite the creation of a special prosecutor for the dirty war, no official has been held accountable for the massacres or disappearances during that repressive campaign. The Federal special prosecutor for the Ciudad Juarez murders, the murders of young women there, which Congressman Payne mentioned earlier, issued several reports, but did not actually investigate or prosecute a single case.

Finally, organized crime is having an impact on human rights and the rule of law in Mexico. The drug trade is having an insidious impact on Mexico's police and justice institutions. Corruption is a major problem. Thriving criminal organizations, which find it in their interest to undermine law enforcement and judicial institutions, severely compromise the government's ability to promote and protect human rights and the rule of law.

The cases of the young women of Ciudad Juarez once again are a good example. We don't know who is responsible for the young women's murders, but we believe that the impunity for the murders can largely be attributed to the corruption caused by the drug trade. Drug trafficking has so thoroughly corroded police and judi-

cial institutions in the border region that instead of investigating the women's murders, authorities at best often look the other way.

In November 2001, the bodies of eight women were found in downtown Juarez. Almost immediately the police arrested two bus drivers, and claimed that they had confessed to the killings. When brought before a judge, the men argued that they were innocent, and had been tortured into confessing.

Two lawyers mounted a strong defense in their case. In February 2002, one of the lawyers was gunned down by the police. But that murder was never seriously investigated. A judge later exonerated the police, arguing that they had acted in self-defense.

One of the bus drivers then died under questionable circumstances while in prison. And earlier this year, the remaining lawyer was ambushed and killed by unknown assailants.

All this sounds pretty bleak, but we can't stop here. The road to reform is a long and difficult one. The United States Government can play an important role in encouraging and assisting justice reform efforts in Mexico. USAID has been engaged in this work in several states.

However, these programs are now at risk because Congress has prohibited economic support funds, the funding mechanism used to support these programs for countries like Mexico, who have been unwilling to sign Article 98 agreements with the United States.

By the way, the irony that the U.S. is suspending funds to improve justice systems to countries taking a strong stand on an international human rights issue is lost to no one outside of Washington.

Furthermore, the U.S. emphasizes police training in ethics and investigative techniques. While important, their impact will not be felt unless justice institutions are fundamentally changed.

The U.S. Government should encourage more broad-based police and justice reform. One important contribution would be to support efforts to make the police and the Attorney General's offices more transparent and accountable.

Impunity and lack of credibility in the justice system are serious problems in Mexico. But we shouldn't leave here today with the impression that nothing can be done. Helping Mexico overcome these problems is possible, and definitely worth the investment. Doing so will be immensely beneficial to both the people of Mexico and to the United States.

Thank you.

[The prepared statement of Ms. Olson follows:]

PREPARED STATEMENT OF MS. JOY OLSON, EXECUTIVE DIRECTOR, WASHINGTON
OFFICE ON LATIN AMERICA

The Washington Office on Latin America (WOLA) is a non-governmental organization that promotes human rights, democracy and social justice in Latin America and in U.S. foreign policy toward the region.

We have monitored the human rights situation in Mexico for many years, working with colleagues in the Mexican human rights community to seek justice for serious human rights violations that have occurred there.

This work has given WOLA first-hand knowledge about the failures of Mexico's criminal justice system to adequately and credibly solve crimes, whether common delinquency, human rights abuses, or high-profile assassinations.

What we have discovered is that too often Mexico's criminal justice system, rather than solve and punish crimes—quite the contrary—contributes to confusion, cover-up, and impunity through widespread negligence, inefficiency, and abuse. And as a

result, Mexico's criminal justice system suffers from an almost absolute lack of credibility—which undermines the system in the rare cases that it is working properly.

The doubts surrounding both the Posadas murder itself and the government's account of how it happened are emblematic of three things:

1. Widespread impunity for high-profile crimes and human rights cases—and lack of credibility in the government's investigation of them—stemming from serious flaws in the criminal justice system;
2. The insidious impact of organized crime—particularly the drug trade—on the justice system, the rule of law, and respect for human rights;
3. The need for serious reform of Mexican police and judicial institutions.

I would like to address each of these issues in more detail with you.

MEXICO'S FLAWED JUSTICE SYSTEM

The Roots of Impunity

Impunity continues to be a serious problem in Mexico, for common crimes and human rights abuse alike. The flaws and weaknesses of Mexico's criminal justice system that lead to such impunity are rooted in the system's authoritarian history.

In the wake of the Mexican Revolution, the Institutional Revolutionary Party (PRI) kept control of the government for more than 70 years. One-party rule severely crippled Mexico's institutions and justice system, breeding a culture of authoritarianism and impunity. Power was concentrated in the executive branch, with the president exercising near-total control over every aspect of government.

In this context, the Mexican justice system evolved not to establish the rule of law, but to preserve the power of the powerful—from local political bosses all the way to the president.

This situation stunted the creation of professional and effective law enforcement and judicial institutions, fostered serious human rights abuses by the military and the police, and created the perfect environment for corruption to flourish.

Law enforcement agents had little reason to develop the technical skills needed to conduct professional investigations based on solid evidence. When called on to solve crimes, they too often resorted to threats or torture to force confessions from suspects or convenient scapegoats. This option was especially attractive when police had little desire to find, or were discouraged from finding, the real criminals—in other words, when the criminals were their associates or local business and political elites.

Complicating matters further, Mexico's criminal justice system actually provides incentives for human rights abuses like illegal detention and torture. This is because, among other flaws in the system, defendants are presumed guilty until proven innocent, trials consist of a series of meetings (that not even the judge attends) where evidence is presented in written form, confessions are often the only evidence, and the accused are not guaranteed access to legal counsel. Once a confession is obtained, it is almost impossible to invalidate it, even if a defendant can prove he or she was tortured. The judicial branch's lack of independence leaves judges vulnerable to pressure to convict based on tainted confessions or to allow the wealthy and well connected to evade justice. Police and prosecutors who engage in abusive tactics are rarely punished for it, propelling the cycle of abuse and impunity.

The Credibility Gap

Because of the widespread impunity generated by the criminal justice system's flaws, law enforcement and judicial institutions suffer from an enormous credibility gap.

Most crimes—as many as 88 percent, according to the Citizen's Institute for the Study of Insecurity—are not even reported to the police, because the victims have no faith that they will be seriously investigated.

When crimes, usually high-profile ones, do result in investigations—such as the murders of Cardinal Posadas in 1993, of presidential candidate Luis Donaldo Colosio in 1994, or of human rights attorney Digna Ochoa in 2001—there are so many questions about the validity of the evidence and the methods by which that evidence was obtained that the victims' friends and family members, as well as society at large, are never able to fully trust the official version of events.

This is true even in cases where the alleged perpetrators are behind bars. For example, with respect to the murders of hundreds of women in Ciudad Juárez and Chihuahua since 1993, the local authorities claim that 177 investigations have resulted in convictions. Yet the way the investigations were handled—crime scenes were not preserved, witnesses were not interviewed, forensic tests were shoddy,

DNA tests to identify the victims were inconclusive and contradictory, families were harassed and threatened—has made it impossible for the families to believe them. In some of those cases, law enforcement and judicial agents exacerbated the problem by detaining and torturing scapegoats while letting the real killers go free. Meanwhile, families and society see no progress in the investigations into the substantial number of cases that have not, even according to the authorities, been resolved.

The pain and uncertainty caused by impunity doesn't disappear over time. It remains an open sore, and victims and their families will continue to clamor for truth and justice. This is the lesson from Mexico's most egregious human rights violations—such as the forced disappearances of hundreds of leftist dissidents during the so-called “dirty war” of the 1970s and 1980s. Families would not rest in their efforts to uncover the truth about these events and seek justice for their missing and murdered loved ones, prompting President Fox to appoint a special prosecutor to investigate these 30-year-old crimes.

However, the Mexican government has a poor track record when it comes to special prosecutors. In fact, the term “special prosecutor” has almost become a code word for “we'll never know.” The Mexican authorities, at the federal and state levels, tend to create special prosecutors for difficult, high-profile cases. They promise a lot and deliver little, except for added frustration with the inability of the justice system to solve and prosecute crimes. Cases that get sent to the special prosecutor are often condemned to unsatisfactory conclusion or no conclusion at all. It almost seems like a delaying tactic until the statute of limitations runs out.

For example, the special prosecutor for the Cardinal Posadas killing came to conclusions that continue to be doubted today, prompting inquiries by the Mexican legislature and this subcommittee. The federal attorney general's office conceded that errors were made in the investigation, but continues to insist that their conclusions were correct.

Why should the public believe that these errors did not lead to false conclusions? Their doubts are understandable; in fact, these kinds of doubts are all too common.

That lack of credibility has been borne out by many other special prosecutors' offices in Mexico. There is general rejection of the theory that human rights attorney Digna Ochoa shot herself first in the thigh and then in the head, as the special prosecutor for that case concluded. Similarly, despite the creation of the special prosecutor for the “dirty war,” no official has been held accountable for the massacres or disappearances during that repressive campaign. The federal special prosecutor for the Ciudad Juárez murders issued several reports during her tenure but did not actually investigate or prosecute a single case, nor did her explanations of the Juárez murders differ greatly from those offered by discredited local authorities.

Sadly, because of the government's poor handling of these investigations, all criminal investigations are in doubt. Even if the authorities conduct the most scientific and professional investigation possible, is hard for the public to overcome their doubts about the outcome.

THE IMPACT OF ORGANIZED CRIME ON HUMAN RIGHTS AND THE RULE OF LAW

Compounding this problem is the insidious impact of the drug trade on Mexico's police and judicial institutions. Corruption is a major problem in Mexico, leading to even less certainty about the trustworthiness of the justice system.

Thriving criminal organizations, which must undermine law enforcement and judicial institutions in order to avoid accountability for their crimes, severely compromise the government's ability to promote and protect human rights and the rule of law.

We have come to see this clearly in our work around the brutal murders of women in Ciudad Juárez, where we believe that impunity for the murders is a consequence of the drug trade.

The links between police and drug traffickers in Juárez are exposed with such regularity that they fail to shock. When twelve men's bodies were unearthed in January 2004 from the backyard of a middle-class home, no one was surprised to find out that the assassins were a group of policemen working for the Juárez cartel. Shortly after, then-attorney general Jesús José Solís Silva resigned amid accusations that he was protecting traffickers.

We do not know who is responsible for the women's murders, but we believe that impunity for the murders can largely be attributed to widespread corruption caused by the thriving drug trade. Drug trafficking has so thoroughly corroded police and judicial institutions that instead of investigating the women's murders, the authorities look the other way.

The case that most exemplifies this relationship between organized crime and impunity is the murky investigation into the murders of eight women whose bodies

were found together in a lot in downtown Juárez in early November 2001. Almost immediately, the police arrested two bus drivers and claimed they had spontaneously confessed to the killings. As soon as they were brought before a judge, the men argued they were innocent and had been tortured into confessing to the crimes. Two lawyers mounted a strong defense, taking every opportunity to publicly denounce the torture their clients suffered. In February 2002, one of the lawyers was gunned down by police—the same police implicated in his client’s detention and torture—but the murder was never seriously investigated; a judge exonerated the police, arguing they had acted in self defense. One of the bus drivers died under questionable circumstances in prison. And earlier this year, the remaining lawyer was ambushed and killed by unknown men in Juárez.

In other words, the two lawyers most likely to link Juárez police to the murders of women, or at the very least to their cover up, ended up dead—one at the hands of the police themselves.

One of the rare accomplishments of the special prosecutor for the Juárez murders was the compiling of a list of 170 state justice officials who she believed to be administratively or criminally negligent in their handling of the investigations. In one of her reports, she described a situation of “notorious inactivity and negligence . . . that led to the loss of evidence and inadequate protection of crime scenes” and forensic tests that were “riddled with grave problems of validity and trustworthiness.”¹ She described these officials’ conduct as “incorrect, negligent, or outright ommissive” and noted that “as a result of these serious deficiencies . . . , some of the homicide investigations will be practically impossible to solve.”² She urged the local authorities to punish these officials because “due precisely to [their] negligent or ommissive attitude, it will be extremely difficult to capture the killers . . .”³

This sad state of affairs is not the result of mere incompetence. It is the result of organized crime’s corrosion of the state’s law enforcement and judicial institutions. Horrific murders go unpunished, their killers go free, and the very people whose job it is to bring them to justice are instead protecting them.

THE NEED FOR REFORM

Although the PRI’s “perfect dictatorship” ended with the election of Vicente Fox in July 2000, the inherent flaws and weaknesses of Mexico’s criminal justice system are proving difficult to overcome, despite some reform efforts at the federal and state levels.

The road to reform is a long and difficult one. The Fox administration proposed some important changes to the justice system, but those have floundered in Congress. Some of Mexico’s 31 states are engaged in justice reform efforts, which are at varying levels of implementation.

The U.S. government can play an important role in encouraging and assisting justice reform efforts in Mexico, and USAID has been engaged in this work in several states. However, these programs are at risk because Congress has prohibited Economic Support Funds (ESF) for Mexico and other governments that do not sign Article 98 agreements with the United States. While USAID is reprogramming these funds for Mexican NGOs, this particular kind of grant was intended to help strengthen government institutions and its impact will be greatly reduced if they cannot be direct beneficiaries.

Respect for human rights and due process should be a central component of any U.S. support for justice reform efforts in Mexico. So should an emphasis on accountability for justice officials who have been implicated in human rights abuse.

The U.S. policy emphasis continues to be largely on training police in ethics and investigative techniques. These are undeniably important values and skills, but their impact will not be felt unless the justice system and institutions themselves are fundamentally changed. Well trained police that enter a corrupt agency will find it hard to employ their skills for the public good, if the messages they are receiving from their colleagues and superiors are telling them to do exactly the opposite, and if no one gets held accountable for corruption or abuse. The U.S. government should encourage broad-based police and justice reform—particularly by making the police and attorney general’s office more transparent and accountable—in addition to efforts to impart specialized skills.

¹ Procuraduría General de la República, Suprocuraduría de Derechos Humanos, Atención a Víctimas y Servicios a la Comunidad, “Palabras de la Licenciada María López Urbina, Fiscal Especial, Fiscalía Especial para la Atención de Delitos Relacionados con los Homicidios de Mujeres en el Municipio de Juárez, Chihuahua,” 3 June 2004.

² *Ibid.*, p. 26.

³ *Ibid.*, p 76–77.

Impunity and lack of credibility in the justice system are serious problems in Mexico, but we shouldn't leave here today with the impression that nothing can be done. Helping Mexico overcome these problems is possible, and it is worth the investment. Doing so will be immensely beneficial to the people of Mexico as well as to the United States.

Mr. SMITH OF NEW JERSEY. Ms. Olson, thank you so very much for your testimony.

Mr. Ortega, please.

STATEMENT OF MR. JOSE ANTONIO ORTEGA, REPRESENTATIVE OF HIS EMINENCE JUAN SANDOVAL INIGUEZ, ARCHBISHOP OF GUADALAJARA, MEXICO

Mr. ORTEGA. Thank you very much, Congressman, for this invitation I have been given.

I have spent more than 8 years helping the prosecutor's office in the investigation of the Posadas murder.

We have come here to ask your cooperation and influence so that the American authorities will support and collaborate with the Mexican ones. Although the U.S. Department of Justice has not responded to the request for information you addressed to it; nonetheless, in view of the cause which we espouse—namely, that of casting the light of justice over the murder of Cardinal Posadas Ocampo—we think it is worthwhile to persist.

And there are specific ways in which this goal can be accomplished; namely, through the eliciting of testimony from Everardo Arturo Paez Martinez, known as Kitty Paez, and Juan Garcia Abrego. And likewise, that Alberto Bayardo, also known as El Gory, be returned to our country, Mexico.

The purpose for bringing him to the United States has already been accomplished. And on the other hand, his evidence is urgently necessary in order to solve the case of Cardinal Posadas Ocampo, as well as to put him on trial for his numerous offenses.

Another statement that would be of vital importance is one made by Juan Garcia Abrego, currently jailed in the high-security Centennial Correctional Facility in Canyon City, Colorado.

At the time of the murder of Cardinal Posadas, Garcia Abrego was the leader of the Gulf cartel, and enjoyed the protection of certain Mexican authorities and politicians. The proceedings of the case include testimony to the effect that Garcia Abrego knows who ordered the killing of the Cardinal, and why.

Likewise, the evidence is urgently required of Everardo Arturo Paez Martinez, also known as Kitty Paez, who has already provided testimony on the murder of Cardinal Posadas Ocampo for U.S. authorities. Among other things, he stated that after the homicide, the Arellano Felix brothers paid \$10 million American dollars to Rodolfo Leon Aragon, who at the time of the murders was the Director General of the Federal Judicial Police of Mexico.

Furthermore, there are witnesses who place Rodolfo Leon at the Guadalajara Airport directing the homicide operations at the time of the assassination, and who say he is the person who summoned Ramon Arellano Felix to the airport the day of the crime.

Apparently the idea behind this was for Ramon Arellano Felix to organize a shootout in which the Cardinal would be killed apparently by mistake.

There are persons belonging to drug-trafficking rings secretly embedded in law enforcement agencies in our country, Mexico. They have participated in one way or another in these events, either directly or by concealing a crime, and they continue to participate directly in organized crime in some instances from positions of power, thus damaging our country in the most serious way. It is precisely these people who could be damaged the most by the testimonies accusing or involving them that might be obtained from witnesses currently being held by the United States.

We believe that these testimonies can offer new leads that will help the ongoing proceedings into the murder of the Cardinal. We are also convinced that even though Attorney General Daniel Cabeza de Vaca is extremely busy with all the crime afflicting our country, such as drug trafficking, executions, small-scale drug trafficking, kidnappings, and other harmful organized crime activities, his participation, together with that of the Attorney General and his staff, United States authorities and law enforcement authorities, and our own cooperation as third-party plaintiffs can reduce the impunity that sometimes prevails in our country, and can provide our people with hope that Mexican authorities, in cooperation with United States authorities, can and will enforce the law to help build a more prosperous society under the rule of law, and help deliver the security that both of our nations demand.

Thank you very much for this opportunity to address you. And we encourage you to insist on obtaining information from the U.S. Department of Justice, despite the disappointing results of your first inquiries, because we believe that this is the key to discovering the truth about the murder of the Cardinal Posadas Ocampo.

[The prepared statement of Mr. Ortega follows:]

PREPARED STATEMENT OF MR. JOSE ANTONIO ORTEGA, REPRESENTATIVE OF HIS
EMINENCE JUAN SANDOVAL INIGUEZ, ARCHBISHOP OF GUADALAJARA, MEXICO

On May 24th 1993, in the airport of Guadalajara, Jalisco, Mexico, Cardinal Juan Jesús Posadas Ocampo, his chauffeur Pedro Pérez Hernández, Martín Alejandro Aceves Rivas, Juan Manuel Vega Rodríguez, Francisca Rodríguez Cabrera, Ramón Flowers and José Rosario Beltrán Medina were murdered at approximately 15:45 by firearm.

The event provoked indignation in Mexico and all over the world.

More than 12 years have elapsed since the facts and the investigation accomplished by the Attorney General's Office of Mexico has so far not been satisfactory for the Mexican society. Instead, a feeling of concern for the complete clarification of the facts and for a fair the trial of the people involved in the murder remains in the nation.

The Attorney General's Office of Mexico has handled various hypotheses which have been changed every time that the community has demanded the clarification of the facts. These hypotheses, which have in fact been forwarded to conceal rather than reveal the truth of the facts, are the following:

- The first hypothesis was that Cardinal POSADAS died in a crossfire, that is, his car was caught the middle of two drug trafficking gangs firing at each other;
- Another hypothesis was that Cardinal POSADAS was murdered after being coincidentally mistaken for drug lord JOAQUÍN GUZMÁN LOERA;
- The third one was that Cardinal POSADAS was again coincidentally mistaken for drug lord JOAQUÍN GUZMÁN LOERA aka "El Chapo Guzmán"'s bodyguard;
- The fourth hypothesis was yet again that the Cardinal's car was coincidentally mistaken by the murderers for El Chapo Guzmán's car;

- The last hypothesis was described by the prosecutor's office as follows: "A circumstantial homicide due to chaos and confusion generated by a confrontation between drug trafficking bands".

These hypotheses have been changed each time new data or elements appeared in the preliminary investigation, so previous hypotheses have been discarded in turn. Nevertheless, we have not perceived any serious or resolute effort to find the truth about who murdered Cardinal JUAN JESUS POSADAS OCAMPO as far as previous Prosecutors have been concerned.

Immediately after the facts the Attorney General of Mexico, Jorge Carpizo Mcgregor, appeared before the media and provided a careful explanation about what had happened in the airport. He stated that two rival drug trafficking gangs commanded respectively by the Arellano Félix brothers and by "El Chapo Guzmán" had engaged in a crossfire in the airport and that the Cardinal and six other persons had been shot and killed. He also affirmed that an important evidence of this conclusion had been the statement by Jesús Alberto Bayardo Robles a.k.a. "El Gori", arrested afterwards and who had declared under the influence of drugs, "what facilitated his spontaneous confession."

The intention of the murderers was not only to destroy Cardinal POSADAS physically but also morally, since they intended to involve him in drug trafficking.

Jesús Alberto Bayardo Robles has been imprisoned in this country since 1996, as the Mexican Government handed him to the American Department of Justice so that could collaborate with his testimony against San Diego Logan Heights drug traffickers. In spite of the fact that he did collaborate, he has not been returned to the Mexican authorities, so his trial in Mexico is still pending. This is why our first petition is for the return of Jesús Alberto Bayardo Robles to Mexico, so he can declare and be tried there. It is deeply paradoxical that, although being the first person arrested on the very same day of the facts, his trial has not been given due course in Mexico. As far as it is known, his stay in the United States is only related to his role as a witness, since he has no charges pending in this country, so in fact he is presently being held in prison due to offenses committed in Mexico.

Doctor Mario Rivas Souza, forensic physician of the State of Jalisco, expressed his dissent with Attorney General Carpizo's thesis, warning that the shots received by Cardinal POSADAS were shot directly and at very close range.

Cardinal Juan Jesús Posadas Ocampo received 14 impacts, while his chauffeur Pedro Pérez Hernández received 10. The vehicle in which both arrived to the airport and where they were murdered had more than 52 shots carried out at a distance of less than a meter or three feet.

The investigation accomplished after the facts by the General Prosecutor's office of Mexico and by the General Prosecutor's office of the State of Jalisco was hurried, deficient, manipulated and guided from the beginning to provide evidence on the thesis of confusion.

We are witnessing a real state crime, since there has been concealment and serious defects in the investigation, as well as irregularities in the process. In addition to that, there exist groups of power in complicity with the murderers, groups that continue acting so that these facts remain unpunished and the truth never reaches the public light.

The hypothesis of the crossfire that the General Prosecutor's office of Mexico wanted to impose was immediately discarded by the forensic doctors of the State of Jalisco, who led by the 40-year old professional experience of doctor Mario Rivas Souza, expressed their disagreement, warning that the 14 shots received by the Cardinal POSADAS were shot directly and at close range, even leaving a stain of gunpowder on the Cardinal's chin due to the short distance of the fire. These statements were disclosed after having observed and analyzed the Cardinal's body on the day of the crime.

In 1999 the General Prosecutor's office of Mexico and the Government of the state of Jalisco concluded, after analyzing all the evidence, that the attack against Cardinal Posadas Ocampo was indeed direct and at very short distance, as well as that his car was not caught in the middle of two groups firing at each other, thus rejecting the hypothesis that had been held for six years.

The second hypotheses handled by the General Prosecutor's office of Mexico was the "confusion hypothesis", that is, that the Cardinal had been mistaken for "El Chapo Guzmán" or his bodyguard.

This confusion between "El Chapo Guzmán" and Cardinal Posadas Ocampo was also quickly rejected. On May 24th 1999, the General Prosecutor's office of Mexico and the Government of the state of Jalisco, after analyzing the tests of the proceedings concluded on the following: "according to the evidence provided during the investigation, the hypothesis of the confusion of persons is legally unsustainable;

Cardinal Juan Jesús Posadas Ocampo could not possibly be confused with drug lord Joaquín Guzmán Loera, known as “El Chapo Guzmán”.

It is besides duly sustained that in fact Ramón Arellano Félix and several other hit men and gunmen arrived to Guadalajara from Tijuana in order to murder “El Chapo Guzmán.”

Various testimonies state that the mentioned band unsuccessfully sought “El Chapo Guzmán” for five days in the city of Guadalajara. On May 24th 1993 these gunmen were ordered to buy plane tickets to return to Tijuana, since they had been unable to find their target. These tickets were purchased to return to Tijuana in Aeroméxico flight 110 at 16:00 of the same day.

The case record includes evidence and testimonials that prove that when Ramón Arellano’s gunmen arrived at the airport they were not carrying their weapons, since they had already left them in secure fortified houses used by drug dealers in the city.

These gunmen, hired by Ramón Arellano, arrived at the airport, checked in, approached the plane and came back to Tijuana, except for Jesús Alberto Bayardo Robles, who was not allowed to board the plane on the grounds that he was intoxicated.

The shots in the parking lot that murdered the Cardinal and the other five persons started when Ramón Arellano’s gunmen were divided between the plane and the shuttle from the terminal to the plane, while Bayardo Robles remained under the supervision of Aeroméxico ground crew.

The evidence provided strength to the statements made by the gunmen, which agreed with the statements made by the ground crew of Aeroméxico and the air crew of the flight 110 to Tijuana.

In the time that elapsed between the moment when Ramón Arellano’s gunmen arrived at the airport on this day and the moment when they boarded their plane (allowing for time for them to park their cars, check in themselves and their luggage) no confrontation of any kind took place in the parking lot or the terminal of the airport.

Aeroméxico flight 110, which was to be boarded by Ramón Arellano’s gunmen in order to travel to Tijuana, had the departure time set at 16:00 hours. On the other hand, Aerolitoral flight to Puerto Vallarta, which Joaquín Guzmán Loera was going to board, had its departure time set for later than 16:00.

Some of “El Chapo Guzmán”’s bodyguards and gunmen arrived before him at the airport to check in themselves and their baggage.

In spite of the fact that both Ramón Arellano Félix’s and “El Chapo Guzmán”’s gunmen were at the airport at the same time, there was not any confrontation before the arrival of Cardinal Posadas Ocampo. In fact, it is duly sustained by statements and expert testimonies that “El Chapo Guzmán” and his gunmen did not fire their weapons in the airport of Guadalajara on the day of the event.

General Jesús Gutiérrez Rebollo, (chief of the Fifth Military Region at the time and currently in prison), declared in the Federal Prison La Palma that in order to find the Cardinal’s murderers it is necessary to investigate who had summoned the drug trafficking bands at the airport of Guadalajara on the very same day and at the same time for them to start a shoot-out and to have in the middle of this cross-fire a third group whose aim would be to execute Cardinal Posadas.

He also declared that after the facts and in the middle of the reigning confusion, President Salinas President ordered him to take control of the situation in his hands and to ‘arrange things’. He affirmed that “in my personal opinion I did not like the famous “Nintendo”¹; the first thing I thought was that if it was going to be changed, it was necessary to give the versions or the possibilities that could have existed in this attack . . .”

Captain Horacio Montenegro Ortiz (currently serving sentence in the federal prison of La Palma and personal assistant to General Jesús Gutiérrez Rebollo) declared that “following the National Defense Secretary’s orders, in direct agreement with the then Attorney General of Mexico Jorge Carpizo, we intervened in a more direct form, including a presidential order; but after approximately 25 days we withdrew from the investigations.”²

¹The “Nintendo” refers to an animated computer presentation used by the Federal Prosecutor in order to recreate the events happened at the airport according to the wrong hypothesis of a crossfire between rival gangs and the arrival of Cardinal Posadas’ car in the middle of the shoot-out, which allegedly provoked his incidental death.

²This means that the Mexican Army illegally took over the case, exceeding its jurisdiction, when it arrested and took the statements of the suspects allegedly involved. Afterwards these suspects were delivered to the judicial authorities alongside their records already prepared.

From the first day of the investigation there were numerous irregularities within the preliminary investigation, and none of the authorities involved was concerned about investigating about the person or persons who committed them and why, in spite of the evidence included in the process that proved that these irregularities occurred. Neither was the investigating authority (the Public Ministry) interested in knowing the reason why these irregularities were committed, therefore this lack of investigation encouraged the impunity of their authors. I would like to highlight some of these irregularities in order to show all of this lack of interest and action by the authorities:

1.—On the day of the murders, immediately after they took place, the pectoral cross that Cardinal Juan Jesús Posadas Ocampo was wearing at the moment of his death was stolen; to date the Public Ministry has not undertaken any investigation to determine who and why such cross was stolen.

2.—On the same day different authorities inappropriately collected evidence at the scene of the crime, such as cartridges, bullets, plates and others; they also seized the entry tickets of the vehicles parked inside the parking of the airport of Guadalajara, exactly where Cardinal Posadas and his chauffeur Pedro Pérez Hernández were executed. This made impossible to determine when the raid that would eventually conclude with the assassination of Cardinal Posadas began, since after the removal of the tickets it was impossible to know the times of arrival of all the vehicles that carried weapons, ammunitions, military uniforms, General Prosecutor's office uniforms, communication devices, scanners, cellular telephones and others. To date the Public Ministry has not undertaken any investigation about who stole the entry tickets of the parking and why.

3.—On January 2nd 1995 the process was purged by the Federal Public Ministry agent ERICK ROBERTO GOMEZ RODRIGUEZ. According to the evidence found in the preliminary investigation, such purge was conducted as follows: the preliminary investigation 1132/93, in five volumes, provided by Lawyer ROMAN IBARRA ENCISO, Chief of the First Board of Preliminary Investigations depending on the General Prosecutor's office in the Jalisco Delegation, was deprived of some of its contents until being reduced to only three volumes. The reason mentioned was that "by virtue of the fact that it contains repeated interventions and that it doesn't follow a chronological order; the final version of the case only occupies three volumes distributed as follows: Volume I 398 folios, Volume II 651 folios, Volume III 261 folios." To date it is unknown which of the actions undertaken by the authorities were erased or where these actions are to be found if any possible check is performed to corroborate that in fact they were not unduly left out of the Preliminary Investigation. The investigation accomplished by the Public Ministry of the Federation determined that this action (the purge of the process) could be considered a case of criminal conduct, but even though it recognized that such offenses were committed, it declared that they had expired and barred by statute of limitations. A judicial procedure (Consulta del No Ejercicio de la Acción Penal, Inquiry against Criminal Action) is underway, preventing access to such investigation in spite of the fact that the result affects the investigation of the homicide of Cardinal Juan Jesús Posadas Ocampo, his chauffeur Pedro Pérez Hernández and five other persons.

4.—Irregularities committed in the investigation during Attorney General of Mexico Jorge Carpizo's term in office, as well as another extremely serious wrongdoing: he didn't undertake any action in order to arrest drug lord Ramón Arellano Félix (who was at the time wanted by the authorities) when he obtained information about the drug trafficker being in the Apostolic Nunciature in December 1993. This information was provided by the very President Carlos Salinas de Gortari, who had received it in turn from Nuncio Girolamo Prigione. Twenty-one Representatives of the State Congress of Jalisco filed the corresponding charges against the former Attorney General before the Attorney General's Office of Mexico.

The Attorney General's Office of Mexico resolved to close the proceedings on these charges in spite of the fact that it recognized that offenses against the Justice Administration had been committed, since it considered that the time for procedures had already expired (although the condition for limitation of power to prosecute applicable in such cases must not be pronounced by the Attorney General's Office of Mexico, that is to say, the Public Ministry, but by the judge intervening in the case). A Federal Penal Judge of Protection (Juez Penal Federal de Amparo) conceded an "amparo" (guarantee of protection against the action of law) against the closure, ordering the Attorney General's Office to go forward with the investigation. After a declaration by former president Carlos Salinas de Gortari, the then Attorney General Jorge Carpizo appealed for review. In February 2006, as another action among the maneuvers to block the investigation, a Collegiate Court revoked the guarantee of protection without further inquiry, arguing that the Congress Representatives

could not file charges against the closure of the investigation on the Attorney General's Office behavior, since they didn't hold any direct legal interest in the case.

During the 12 years since the crime was committed, the Attorney General's Office of the State of Jalisco pressed criminal charges against 51 persons on charges of homicide and conspiracy; to date there are 14 persons under proceedings before a common jurisdiction Criminal Judge of Guadalajara, Jalisco. In spite of the fact that the Judge ruled against them holding them guilty for the homicide of Cardinal Posadas, his chauffeur Pedro Pérez Hernández and 5 other persons, the Supreme Court of the State of Jalisco resolved to repeal such ruling in February 2006 and to return the proceedings to the Judge, on grounds that countless serious irregularities had been found in the investigation. As a result of all these actions today, after almost 13 years since the homicide, there is not a single person convicted of the homicide of Cardinal Posadas.

The intervention of the undersigned, José Antonio Ortega and Federal Congressman Fernando Guzmán, as co-plaintiffs cooperating with the Public Ministry, entitle us to legal personality attested in the proceedings, therefore we enjoy access to such proceedings, are able to provide evidence and participate in the presentation of other evidence pursuant to Mexican Law.

In the second semester of 2001 and the first months of 2002, the investigation made considerable progress thanks to the impulse given by Under General Attorney Maria de la Luz Lima Malvado. In the course of the investigation we found the originals of the logbooks of the official planes of the Attorney General's Office of Mexico that flew between Mexico City and Guadalajara in the day of the homicide. According to what we found, on this day three different airplanes flew to Guadalajara in order to investigate the homicide BEFORE it was committed, according to the official documents attached to the investigation.

For instance, according to its logbook, the plane known as XCPGR, manned by military pilots and allocated to Attorney General Carpizo, arrived in Guadalajara an hour before the homicide took place and returned to Mexico hardly 20 minutes before, returning again afterwards with all the personnel assigned to investigate the facts.

This findings encouraged former Attorney General Rafael Macedo de la Concha to begin a persecution against Cardinal Juan Sandoval and us with the collaboration of former Attorney General Jorge Carpizo (First Attorney General in charge of the case), without the necessary legal elements required by law. Jorge Carpizo filed against us an accusation consisting of a 26-page anonymous and unsigned document that included accusations against Cardinal Posadas, Cardinal Sandoval, the Pope Paul VI and the Latin American Episcopal Conference for links with drug trafficking and for receiving money from Colombian drug lord Pablo Escobar and other drug lords.

We were investigated during 8 months and the final resolution included evidence to the fact that there were no such links with the drug trade, money laundering or any other illicit activity, thus exonerating us. Still, Jorge Carpizo's and General Macedo de la Concha's intention was to interrupt the investigation in the Posadas case and to divert the public opinion's attention.

The current Attorney General Daniel Cabeza de Vaca Hernández is an honest man without any link to the mafias of organized crime. He intends to continue with the investigation, so he has already sent two petitions to the Department of Justice of the United States for the authorization to interrogate Juan García Abrego and Everardo Arturo Páez Martínez a.k.a. Kitty Páez.

It is important to emphasize that the most probable reason why Cardinal Posadas was murdered hints to the information in his hands about prostitution and drug trafficking syndicates that included in their payrolls some high-profile politicians of our country, Mexico. The Cardinal would have then been able to pass this information to the Vatican or to other international instances.

Cardinal Posadas tried indeed to make President Carlos Salinas de Gortari intervene in this matter. In the days before his homicide the Cardinal was followed, his telephones were intercepted, there was surveillance (or stalking) outside his house and he himself was subjected to a severe condition of stress inflicted by the same people who would eventually murder him.

All of this provides further importance to the statement by JUAN GARCÍA ABREGO, who is currently imprisoned in the high security prison Centennial Detention Facility, in Rate City, Colorado, since at the time of the crime he was the leader of the Gulf Cartel and enjoyed protection provided by some Mexican authorities and politicians. There are testimonies in the proceedings where it is clearly stated that he knows indeed who ordered and executed the murder of Cardinal POSADAS and the reasons why this homicide was committed.

EVERARDO ARTURO PÁEZ MARTÍNEZ, alias "Kitty Páez" has in turn made a statement before the American authorities about the homicide of Cardinal Posadas Ocampo. Among other things, he declared that the Arellano Félix brothers paid US\$10 million to Rodolfo León Aragón after the homicide. Rodolfo León was the General Director of the Federal Judicial Police at the time of the murder, and there exist other testimonies stating the fact that he was present at the time of the assassination in the airport of Guadalajara, personally directing the operations for the execution of the Cardinal. Other testimonies attest to the fact that Rodolfo León Aragón was the person who summoned Ramón Arellano Félix to be present at the airport on the day of the crime.

There are persons belonging to the drug trafficking rings encroached in some law-enforcing agencies of our country. They participated in one way or another in the facts, either directly or by concealing the crime, and they straightforwardly continue participating in organized crime from their positions in some instances of power, thus damaging our country in the most serious way. It is precisely these people who could be damaged the most by the testimonies accusing or involving them that may be obtained from witnesses currently being held in the United States.

We consider that these testimonies can offer new investigation leads related to the ones already included in the proceedings. We are also convinced that, although Attorney General Daniel Cabeza de Vaca is already tremendously busy with all the crime problems that afflict our country, such as drug trafficking, drug retail, kidnappings and all other organized crime operations, his participation and the involvement of staff of the Attorney General's Office, the US Authorities and law enforcement agencies and our own collaboration as complainants cooperating with the Fiscal can lead to lowering impunity in our country and providing our people with hope that Mexican powers can, with the cooperation of the US authorities, enforce the law on any offenders.

During the almost 13 years of the investigation we have received the support of all the American cardinals, who have sent letters requesting the clarification of the facts to the previous President Ernesto Zedillo Ponce de León and to the current President Vicente Fox Quesada.

Some Latin American Cardinals have as well supported us in this task, and even the Pope Juan Pablo II was interested and informed on the progresses of the investigation. He also took diplomatic steps by means of the Secretariat of the State of the Vatican before the Mexican government to request the clarification of the facts.

The Mexican Episcopal Conference has also held meetings with the Mexican presidents and it has sent five different letters to President Fox alone asking for the investigation to continue, in order that it can eventually offer the truth of the facts to the Mexican people.

The Mexican, American and World Catholic Churches, as well as the people of Mexico, have a great interest for the truth to be finally revealed, since this would contribute to the strengthening of the credibility of the institutions in Mexico. Otherwise, such confidence would be weakened. If a Prince of the Church is deprived of his life and the real criminals are not found, thus letting impunity prevail in spite of all the pressure exerted on our authorities from many different instances, what could ordinary Mexicans who daily suffer criminal activities expect?

We have appealed to the Inter-American Commission of Human Rights, asking for some precautionary measures when General Rafael Macedo de la Concha prosecuted us, and informing this agency about all the wrongdoings existing in the proceedings of the homicide of Cardinal Juan Jesús Posadas Ocampo. Nevertheless, we are aware of the fact that at this time the IACHR cannot intervene in the case, since we have not yet appealed to all the possible instances in the national level. On the other hand, we wanted to inform this international organism on the legal action and its background just in case we had to appeal to it in the future.

Mr. SMITH OF NEW JERSEY. Mr. Ortega, thank you very much. I would like to yield to Chairman Burton.

Mr. BURTON. Mr. Fortenberry and I both have to leave. But first of all, in addition to this being a horrible atrocity against the Archbishop, you have given us a lot of information about Mexican law enforcement and justice down there that is very disconcerting.

I was not aware that 80 percent plus of the crimes that are committed aren't even reported. It amazes me. And I want to congratulate Mr. Ortega and Congressman Guzman for being brave enough to come up here and talk to us. I mean, I know that you have got

to be at risk for bringing this to our attention, and I congratulate you on that.

I told Chairman Smith that I will join with him in contacting our Justice Department in urging them to give us a complete report on this from their files. The letter that they sent to him is totally inadequate. I don't know, is anybody here from Justice? Anybody here from the Justice Department? If you are, hold your hand up. See, we don't have anybody here from Justice.

I will do my best, Chris, to make sure that we get that information.

It is very difficult for the Government of the United States to work with law enforcement in Mexico if these figures that you have given us are accurate. Something has got to be done about that. And I pledge to you that I will work with Chris Smith to do everything we can to solve this problem, Cardinal, and to try to see if we can't make the situation a lot better.

Thank you, Chris, for having this hearing.

Mr. SMITH OF NEW JERSEY. Chairman Burton, thank you so much.

Let me just go to a few questions, and then anything else you would like to add.

Let me just say to Cardinal McCarrick that I have been in Congress now 26 years, and spend much of my time working on human rights and humanitarian issues and travel to countries all over the world. I remember going to Nicaragua and meeting with Abunde Abravo, who very bravely spoke out for human rights and justice in Nicaragua.

I have been to the Peoples Republic of China, where I met briefly with a Bishop Shu of Baoding, who was then rearrested, has now not been seen for about 27 years total time in the Chinese Laogai. And some of the reports we have is that he has been beaten, and beaten severely, at least one eyewitness account. And what is his crime? He speaks out for human rights and fundamental freedoms.

Eleanor Nagy and I were just in Vietnam and met with Cardinal Mann in Ho Chi Minh City, and also with Archbishop Kiet. And they are absolutely standing steadfast for religious freedom, for aid and assistance, especially to those suffering from HIV/AIDS. And it is just remarkable, everywhere you go.

We met with Cardinal Wamala in Uganda, and he, too, is speaking out for freedom, fundamental rights, and significant humanitarianism for everyone, regardless of their religious beliefs, that we are all God's children. So the church has been a bulwark against human rights abuse all over the world. I saw the same thing in the Eastern Bloc, and I can go on and on with specific names. And it has always inspired me profoundly.

And then when you find a man who not only speaks out against narco-trafficking and prostitution, such as Cardinal Posadas, and then is gunned down, and then there seems to be just one coverup after another, it raises serious questions that our Subcommittee now, and Subcommittees with the Western Hemisphere joining us now, will continue to look into. And we have you to thank for raising that to this Congressional level.

I had heard about this in the past; however, I was not that well-briefed until you brought it to the attention of the Subcommittee.

For that we are extremely grateful. So is there anything you would like to add before I go to any other questions?

Cardinal McCARRICK. Mr. Chairman, no. I am very grateful for your calling this hearing. I am grateful for your receiving the testimony of these gentlemen and Ms. Olson. I truly believe that your pursuing this with the Department of Justice together with Chairman Burton will be very, very important to its resolution. So I thank you for that.

Mr. SMITH OF NEW JERSEY. I appreciate that. And we will enlist the support of Members of the Judiciary Committee, as well. We had one Subcommittee Chair here earlier, but I can assure you, we will expand our request and our demand.

We had asked, as I said before, for a classified briefing. We would love to have it all out, but if there is something there that can't be brought out in open testimony, fine. And we were refused by the U.S. Department of Justice. And that is just not the way the system of checks and balances works, so we will pursue that, as well.

Let me just ask Congressman Guzman and Mr. Ortega, and Ms. Olson, if you will speak to it, as well, whether or not you have confidence in the new investigation, the new inquiry that has occurred, or is in the process of being done. How many people are tasked to do it? Do they have enough investigative firepower, investigators, and the right mandate to really get to the bottom of this, so that no stone is left unturned? And what is the status of the Mexican Attorney General's request to the United States Government for the interview of those three gentlemen, as well as the return of at least two of them to Mexico?

Congressman Guzman?

Mr. GUZMAN. The information we have from the prosecutor's office in Mexico City is that this petitioner's request has been made, and we are awaiting a reply.

With regards to the extradition of El Gory, Bayardo Robles, it seems that his extradition has been requested already twice, and no satisfactory reply has been received. However, we didn't bring a copy of this petition specifically. And we don't know whether the request has already reached the United States Department of Justice by the intermediation of the Mexican Ministry of Foreign Affairs.

However, as far as we know, there are no charges against this man in the United States, so there don't seem to be any formal obstacles to his return to Mexico.

Mr. SMITH OF NEW JERSEY. Mr. Ortega, you stated in your testimony that former Attorney General Rafael Macedo de la Concha began a prosecution against Cardinal Juan Sandoval, yourself, and Mr. Guzman, which included accusations against Pope John Paul II and the Latin American Episcopal Conference, that you had received money from the Colombian drug lord Pablo Escobar. All of these charges were subsequently dropped—all of these ridiculous charges, I might add—after an 8-month investigation.

Can you give the Subcommittee your thoughts on why these accusations were brought forth 10 years after Cardinal Posadas' death?

Mr. ORTEGA. Yes, Mr. Chairman. Yes, I believe that these false charges brought by Dr. Jorge Carpizo were intended to distract attention from the investigation which is really in Mexico's interest; namely, the investigation which is really of vital interest to Mexico is who murdered Cardinal Posadas Ocampo, and why.

Dr. Carpizo claimed that he had received an anonymous note, without any signature, claiming that Cardinal Sandoval, Cardinal Posadas, and even His Holiness, the Pope, and other distinguished clerics were involved in drug trafficking. And that they would use their ill-gotten gains from drug trafficking, after having laundered them, to build churches with.

So Mr. Macedo, when he was a prosecutor, on the basis of this note, caused criminal proceedings to be brought against the Deputy Guzman, myself, and Cardinal Juan Sandoval. And despite the evident absurdity of the accusations, we were followed, investigated, questioned. And naturally they found nothing, because there was nothing to find.

After the end of that investigation, we published this book, which is called, *On the Track of the Murderers*. And here we explain how the magnacides of Cardinal Posadas and his henchmen defame the victims and wind up accusing them of crimes, in order to distract attention from the true criminals, defame us, who are carrying out an honest investigation, and finally causing such confusion that people cease to believe in any investigation at all.

Mr. Chairman, I would like to present this book to you which explains, among other things, the lack of substance of Mr. Jorge Carpizo's claims.

Mr. SMITH OF NEW JERSEY. Thank you. If you have anything else further to add, any of our distinguished witnesses. If not, let me just thank you. Our Committees will continue seeking truth, accountability, and justice in this heinous crime.

And let me just again thank Cardinal McCarrick for bringing this to the attention of the Subcommittees. And we will not let go. We will join you in seeking that truth, justice, and accountability.

Mr. GUZMAN. Once again, we would like to thank the Subcommittee, and encourage you to persist, as Mr. Ortega has already said. Because human rights should be defended all over the world, and justice knows no borders.

Mr. SMITH OF NEW JERSEY. Ms. Olson

Ms. OLSON. I would just like to thank you, as well, and say that I do believe that this is an emblematic case. And one of the things that we are trying to look at, and I am hoping the Committee will as well, is this question of what happens when drug trafficking and other kinds of organized crime so infiltrate state structures that they, in some ways, represent interests other than those of the state.

And in places where that happens, the consequences for human rights abuses are extreme. We hope this is a broader issue that the Committee will dedicate itself to, as well.

Mr. SMITH OF NEW JERSEY. Thank you. Great discussion. Mr. Ortega.

Mr. ORTEGA. I, too, Mr. Chairman, would like to thank you and commend you for your courage and your commitment to justice and truth. And I am certain that thanks to your persistence, we will

eventually manage to obtain the evidence we have here requested.
Thank you.

Mr. SMITH OF NEW JERSEY. Thank you so much. The hearing is
adjourned.

[Whereupon, at 3:29 p.m., the Subcommittee was adjourned.]

