U.S. PRISONERS IN BORDER PRISONS
IN TAMAULIPAS, MEXICO

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Introduction

There is little systematic analysis of U.S. citizens held in Mexican prisons. The current high numbers of U.S. citizens in Mexican prisons appears to be directly related to Mexico’s role in...
U.S. drug interdiction efforts. In 1971, United State (U.S.) President Richard M. Nixon declared “War on Drugs” (Wiesheit, 1990). One of the current efforts in this war has been drug interdiction, or the attempt to seize drugs and drug smugglers on their way to the U.S. from source countries such as Mexico. Mexico is an important link in interdiction efforts in that it has become the main gateway for the importation of the three major illegal drugs; i.e., cocaine, heroin and marijuana (Reuter, 1988).

Under Mexican President Carlos Salinas de Gotari, Mexico has allegedly cooperated in U.S. interests and taken an active role in detecting and arresting drug producers and smugglers in Mexico. Questions can be raised as to why Mexico would take part in U.S. drug intervention efforts. For example, Mexico has no significant indigenous drug problem and there has been no great increase in domestic drug use in the last several years (Reuter, 1988).

Mexico’s participation may have been inspired by considerations less attached to a concern for drugs, than for financial gain. To begin with, Mexico holds a large foreign debt as the result of loans. The Salinas administration has worked closely with the Bush administration in the effort to renegotiate Mexico’s foreign debt, receiving some satisfaction. Secondly, Mexico, some contend, may appear to be headed towards political crisis, with the first serious challenges to the Institutional Revolutionary Party (Mexico’s dominant political party), some insurrection among rural peasants, the possibility of remnants of armed leftist guerrillas, and opposition labor unions. In the past, such problems have been handled or met with military and police repression which include killings and tortures (Americas Watch, 1990).

Out of the positive relationship between Bush and Salinas, in 1990, Mexico received $249,000 U.S. dollars for International Military Education and Training. In 1991, this figure was to increase to $400,000 dollars. Mexico also received 15 million U.S. dollars for drug interdiction in 1990. This was also to increase to 18.3 million dollars in 1991 (Americas Watch, 1990). In essence, then, it is possible to argue that while the U.S. receives Mexican support for interdiction efforts, the Mexican government fortifies its implements of repression assisted by funds from the U.S.
To lead the charge in Mexico’s war against drugs, President Salinas appointed an elite squad from the Federal Judicial Police. According to human rights activists, many members of the squad were formerly involved in repressive public security units and are widely reputed to having involvement in drug trafficking themselves. Further, the federal narcotics police are held accountable for a large number of the cases of murder, torture and abuse of due process today. These atrocities are virtually ignored by the Mexican government and seldom if ever draw prosecution (Americas Watch, 1990; Monge and Ramirez, 1989).

Drug possession, attempting to possess drugs, or drug trafficking have long been associated with U.S. citizens in Mexican jails and prisons (Flanders and Price, 1979; Fogelnest et al. 1984; Price, 1973; Peterson, 1979; Serrill, 1978; Vagts, 1977). For example, in 1982, there were 973 criminal charges officially reported to be filed against 841 U.S. citizens in Mexico. Out of these, 26% (N=255) were charged with drug offenses. This was the largest offense category, followed by offenses such as illegal importation of electrical appliances (Fogelnest et al., 1984).

One of the means used to detect illegally imported electrical appliances was roadblocks on highways which led from the U.S.-Mexican border, to the interior of Mexico. The Federal Judicial Police simply reversed these stops to check vehicles coming from the interior of Mexico to the north (Americas Watch, 1990). These and other efforts have been successful in capturing drug traffickers from both Mexico and the U.S.. The present research indicates that the result has been a recent overcrowding of Mexican prisons along the border. This article outlines issues involved with U.S. citizens housed in these facilities.

Previous Conditions in Mexican Prisons

In 1966, for the first time in its history, Mexico established standards for prisons, including selection and training of prison personnel, appropriate installations, post-institutional assistance, etc. These standards were based upon United Nations’ Minimum Standards for the Prevention of Crime and Treatment of Prisoners and were applied to state prisons. In 1971 prison reform on the federal level was carried out (Galindo, 1979). The policy for
prisons in Mexico was decidedly humanitarian (Cuaron, 1977). Galindo (1979:101) reports that:

The general Mexican policy for the prevention of crime and the treatment of offenders has been directed along the lines of profound humanitarianism, which has eliminated the death sentence and is to replace the concept of a sentence as punishment, retribution, and repression with one of rehabilitation, readaptation, and resocialization.

The adoption of this program has been hampered in the past by economic conditions in Mexico. By 1979, 35% of Mexico’s prisons had been transformed according to the policies and goals of 1971 (Galindo, 1979).

In 1973, Price (1973), a U.S. anthropologist performed an ethnographic study of La Mesa Penitenciaria, near Tijuana, in the state of Baja California (a U.S.-Mexican border prison). The researchers concluded that the U.S. could learn from Mexican prison organization. Instead of a highly disciplined program for prisoners, as was the case in the U.S., Canada and Europe, the Mexicans allowed for a much more open system without negative consequences for most prisoners. Mexican prison officials allowed prisoners fairly unreserved access to their families, including conjugal visits, and large quantities of goods brought by relatives of prisoners inside the prison. The result was a self policing free enterprise market economy, without major violence or parasitical homosexual relationships commonly found in U.S. prisons (Braswell et al., 1985; Lockwood, 1980).

These positive attributes were somewhat offset, however, by the prison officials who did little in regard to a rehabilitative program or caring for prisoners. Instead, prison officials were bribable and took gratuities for allowing breaches in the law. Unfortunately, under this system prisoners who were too poor or sick to work barely survived. Further, officials also allowed prisoners to engage in drug use and sales, including heroin. Price concluded that Mexican prison officials could learn from the prison system in the U.S. However, he also stated that U.S. officials could benefit from adopting Mexico’s policies involving conjugal visits, retained family ties and the allowance of an inmate economy.
Wilkinson (1990) reporting upon a Mexican border prison almost two decades after that of Price (1973) essentially found a similar situation. He found that prisoners had access to a wide range of material goods and their own food, could carry money to spend as they wished, and had visits from friends and family including conjugal visits. He concluded that life inside of Mexican prisons was neither brutal nor harsh. Moreover, the prison was not an unusually severe place within which to be confined. Unfortunately for our analysis here, Wilkinson made no reference to U.S. prisoners present in the prison.

**U.S. Prisoners in Mexican Prisons in the 1970s and 1980s**

Data on U.S. prisoners and the conditions in Mexican prisons during the 1970s and 1980s are then in conflict. Some works have portrayed Mexican prisons or the conditions for U.S. citizens in Mexican prisons in a favorable light. Moreover, they describe a Mexican prison experience in a similar fashion to that of Price (1973) or Wilkinson (1990).

Stirewalt (1981), a U.S. federal prisoner, formerly incarcerated at Tapachula Prison in Chiapas, Mexico, wrote that the Mexican prison system should be emulated by the U.S.. He stated that his transfer under the U.S.-Mexico Prisoner Exchange Treaty was in the hopes of earlier release and an ignorance of how poor the U.S. prison experience was. In a similar fashion, Serrill (1978 (B)) reported upon a Mexican citizen who was happy to transfer out of the U.S. and into Mexican prison under the exchange.

Both researchers, Stirewalt (1981) and Serrill (1978 (B)), essentially report similar experiences and arrangements inside of Mexican prisons. Praise for Mexico’s prison system over that of the U.S. centered upon several elements. Stirewalt and Serrill mutually commented on the positive aspects surrounding Mexico’s allowance of women and families inside the prison and found this aspect superior to the system in the U.S. Similarly, Burke (1981:34-35) reporting on the central role families play in Mexican prisons stated that:

The most attractive feature of the Mexican prison system, however, is its determination to preserve family ties during incarceration. Whereas American institutions regard visits as
part privilege, part nuance, and typically afford prisoners one or two visits a month in crowded rooms offering little privacy, the Mexican system treats family visits as an integral part of prison life. Prisoners have visitors once a week or more; fully a third of the compound is designed for family activities.

Mexican prisoners, whether married or not, have long been allowed conjugal visits. Evans (1975) concluded that Mexican prison policy in this regard helped ensure family stability and reduced homosexual encounters in prison.

However, there is also evidence that did not extol the virtues of the prison system in Mexico versus that of the U.S. For example, Burke (1981) found that Mexico’s attempt at reform had not totally eliminated abuses to prisoners. Prisoner abuses had continued despite attempts to upgrade the staff. Incidents of guard brutality and prisoner shakedowns persisted. Furthermore, gang violence, homosexual attacks, and drug abuse remained prevalent among young single male prisoners, who represented the majority of every prison population.

In 1976, 600 U.S. citizens were incarcerated in Mexican prisons. The release of the film Midnight Express, which concerned the abuses suffered by a U.S. citizen in a Turkish prison piqued media attention to U.S. citizens incarcerated in Mexico. Peterson (1979) reported that the deplorable conditions claimed to exist in Mexican prisons by U.S. prisoners—through the emphasis of the media—led to an articulate protest in the U.S. to the State Department and Congress.

Congress also became interested in these individuals as the result of lobbying efforts on the part of such groups as the Committee of 1732, comprised of family members of U.S. citizens incarcerated in Mexican prisons (Fogelnest, et al., 1984; Narcotics Control Digest, 3/12/75). These families stated that U.S. citizens were being mistreated and that the conditions one suffered in Mexican prisons depended on the amount of money the prisoner was willing to give officials (U.S. Congress House Committee on the Judiciary, 1977). Moreover, there were reports that U.S. citizens were suffering from torture, extortion and discrimination (Corrections Digest, 2/5/75; Corrections Digest, 8/6/75; Narcotics
Control Digest, 4/30/75). Vagts (1977) reported that problems for U.S. prisoners included poor sanitary and dietary conditions, no families directly outside the prison walls to bring them food and other comforts, language barriers, little in common with guards or other prisoners, as well as extortion attempts.

The Treaty Between the United States of America and the United Mexican States on the Execution of Penal Sentences

In 1977, as the result of a treaty entitled, "Treaty Between the United States of America and the United Mexican States on the Execution of Penal Sentences," over 200 U.S. citizens were released from Mexican prisons and returned to the U.S. to serve the balance of their sentences. Of the 2,000 Mexican prisoners incarcerated in the U.S., 72 chose to return to Mexico to serve their sentences (Serrill, 1978). According to U.S. President Carter, the treaty was intended to:

- relieve the special hardships which fall upon prisoners incarcerated far from home and to make their rehabilitation more feasible and also to relieve diplomatic and law enforcement relations between the two countries of the strains that arise from the imprisonment of substantial number of each country's nationals in the institutions of the other. It constitutes part of an ongoing effort to improve the relations between the two countries. It is also part of various efforts to establish closer international cooperation in law enforcement activities (U.S. Congress House Committee on the Judiciary: 1977:7).

Apparently, the efforts of families of U.S. prisoners in Mexican prisons were successful, in conjunction with diplomatic strains between the U.S. and Mexico, in convincing the U.S. to agree to the trade.

In a similar fashion the Mexican government also found the treaty desirable. They argued that prisoners incarcerated in foreign countries resulted in harsher sentences than the same sentence to indigenous prisoners, due to a number of reasons including unfamiliar customs, a language they do not understand, etc. As such, they believed that prisoners in foreign prisons were suffering sentences which were not commensurate with their offenses.
Another theme in Mexican cooperation with the treaty was concern with placing their prisoners in facilities in home states, close to friends and families. Friends and family were felt to be necessary to achieve the goals of Mexican penology, i.e., rehabilitation and reintegration (Lepine, 1978).

Previous to agreeing to the treaty, there was considerable debate in the U.S. Senate as to the constitutionality of having U.S. citizens incarcerated in U.S. prisons for convictions in countries which do not follow the U.S. Bill of Rights, etc. (Fogelnest et al., 1984; Peterson, 1979; Serrill, 1978; U.S. Congress House Committee on the Judiciary, 1977; Vagts, 1977). A host of testimony on the constitutionality of the transfer was provided by legal experts. It was felt that the process was constitutional as long as transfer was the result of complete and knowing consent by each prisoners to be transferred (Serrill, 1978; U.S. Congress House Committee on the Judiciary, 1977).

Vagt (1977:22) grudgingly stated that, “It is predictable that prisoners who vociferously sought to be included in the treaty will go to court to challenge its legality the moment they are over the border.” Indeed, several legal challenges have been attempted. Most challenges center upon continued custody for crimes allegedly committed in Mexico, and cases in which the validity of voluntary consent (granted under supposed horrid conditions in which anything would have been said to get away) is questioned. International legal defense attorneys state that after much litigation, challenges to confinement on these bases have proved fruitless. Even if successful, there stands a chance that the offender would simply be returned to Mexico to serve his or her sentence. Basically, the courts have found that U.S. citizens in foreign countries are subject to their laws and are not entitled to all the constitutional protection granted U.S. citizens in the U.S. (Fogelnest et al., 1984).

There are several rules involved in transferring through the treaty. To be transferred to the U.S. the prisoner must be a U.S. citizen. They have to be convicted. The transfer recipient must not have any appeals pending concerning his or her conviction (Fogelnest et al., 1984). No data appears to exist as to whether prisoners are avoiding their appeals in order to transfer out of prison.
in Mexico or the U.S.. The prisoner must have at least six months remaining on his sentence. The prisoner must not be convicted of several types of offenses (immigration, military or political offenses), or living in Mexico for five years previous to arrest. He or she must be convicted of a crime, which is a crime in both countries. Finally, there must be consent from the U.S. government, the Mexican government, and the individual being transferred (Fogelnest et al., 1984).

Serrill (1978) reported that the first U.S. citizens incarcerated in Mexico did not totally fit the image of the treaty’s intentions. Instead of young offenders, the average age of those transferred was 32 years of age. Further, instead of mere tourists who made the mistake of purchasing or attempting to purchase a small amount of drugs, most of the transferred offenders were major drug traffickers. Moreover, the transfer did nothing for abuses that allegedly took place before trial and conviction.

Methods
Research commenced with tours of prisons located in the Mexican state of Tamaulipas. In the process, the author has spent approximately 90 hours, during 1990 and 1991, inside the prison yard at Reynosa State Prison (a Mexican prison on the border of Mexico and the U.S.) observing prison operations and interviewing 19 of the 25 U.S. citizens (24 males and 1 female) incarcerated there. He has further interviewed Mexican prison officials (located both at Tamaulipas state regional headquarters at Ciudad Victoria and at Reynosa State Prison), prison guards, members of the U.S. and Mexican Consulates, former prisoners in Mexican prisons and family members of U.S. prisoners in Mexican prisons. All interviewees were assured anonymity and interviewed in private, in an effort to assure truthfulness.

Results
The “War on Drugs” has produced a crisis of sorts in border prisons in the Mexican state of Tamaulipas. Mexican officials at Ciudad Victoria, regional headquarters for the prisons in Tamaulipas, indicated that 90% of all offenders (Mexican, U.S., Colombian, etc.) in Tamaulipas prisons are there for drug
trafficking. Mexican officials at Reynosa indicated that 90% of the inmates there were charged with drug trafficking offenses. A look at the nature of U.S. citizens incarcerated at Reynosa State Prison corroborates the above figure. Of the 25 there, 19 were in prison for drug trafficking. There were also 3 prisoners charged with car theft and another 3 with weapons violations.

Wilkinson (1990), who visited the Reynosa facility in 1987, described a very different prison from the one that exists in 1991. He reported that 25% of the offenders were there for drug trafficking and made no mention of the presence of U.S. citizens. He found that the facility held 240 prisoners. Between 1987 and 1991, the population rose to 1,250 prisoners. As such, the situation has changed significantly.

Another border prison in Tamaulipas is located at Matamoros. In 1989, according to representatives of the U.S. State Department, Matamoros State Prison (also known as Matamoros Center for Social Readaptation or CERESO) held 22 U.S. citizens. In 1990, the U.S. population in this institution had risen to 93. Of these, 90% were federal prisoners charged with drug trafficking (Garza-Trejo, 1990).

Both Matamoros and Reynosa are grossly overcrowded. The Matamoros prison was constructed to house 250 prisoners. Currently, the facility holds from 1,000 to 1,500 inmates. Therefore, several hundred prisoners compete for 200 beds, 12 toilets and 12 showers (Garza-Trejo, 1990). The facility at Reynosa was designed to house 150 inmates. At the time of our research (1990-1991) there were 1,250 incarcerated at the prison. The prison was equipped with 10 showers and 10 toilets. A tarp had been extended over the prison yard, including the basketball court, to act as a sleeping shelter. According to officials at the American Embassy at Matamoros, all border prisons are suffering overcrowding. The reason for this overcrowding and increase in the presence of U.S. citizens was seen as being directly linked to Mexican President Salinas' participation in the "War on Drugs" (See also, Garza-Trejo, 1990).

The majority of those arrested for drug trafficking had been arrested at road blocks ("retenes stops") on highways leading out from the interior of Mexico. All but 2 of the respondents alleged
that they had been abused by Federal Judicial Police at the time of their arrests. Abuses included threats, extortion, theft, mineral water mixed with red peppers forced up their noses, plastic bags over the offender's head until unconsciousness occurred from lack of air, general beatings, and electrical cattle prods to testicles or other sensitive body areas. Representatives of the U.S. State Department indicate that they believe many of these allegations of abuse; however, vigorous protests to the Mexican government are apparently ignored.

Torture is explicitly prohibited by Article 22 of the Mexican Constitution. On top of this, the Mexican federal legislature, in 1986, passed the Federal Law to Prevent and Punish Torture. Under this law, a public servant who tortures a suspect may be punished by up to 8 years imprisonment. The law also voids any confession made as the result of torture. Moreover, Mexico also ratified the United Nations' Convention Against Torture and the Inter-American Convention to Prevent and Punish Torture. According to the Director of Legal Affairs of the National Executive Committee of the PRI (the Institutional Revolutionary Party) torture continues to be used in Mexico because of the ironic fact that the same people who are to uphold the laws against torture are also torturers themselves (Americas Watch, 1990; Mange and Ignacio, 1989).

At the time of their arrests, ten of the participants stated that they were held incommunicado in police detention for up to one week. Americas Watch (1990) reported that it is at these incommunicado detention sites that police torture of suspects commonly occur. This practice violates Article 20, Section II, of the Mexican Constitution, which requires that arrestees be brought before a judge within 24 hours of arrest (Americas Watch, 1990). None of the prisoners we interviewed had been tried. All had been in prison for over a year and a half. This was in violation of the Mexican Constitution (Article 19, Section 8) which requires a trial within one year of arrest if the maximum penalty for the charge is greater than two years (Fitzgerald, 1968). Chief Consul at the American Embassy at Matamoros stated that the backlog in cases to go to court was the result of successes in the "War on Drugs" (Garza-Trejo, 1990).
In spite of their experiences previous to incarceration, none of the participants experienced life in prison to be unduly harsh, brutal or severe, outside of overcrowded and unsanitary conditions. Only 2 prisoners were concerned for their well being. One had anxieties about the possibility of a riot. The other had a medical condition and did not believe that he was receiving adequate treatment for his illness. In contrast to Burke’s (1981) report, none of the prisoners were concerned with homosexual rape or had homosexual advances from other prisoners. All seemed to enjoy the presence of personal property, women (wives, girlfriends, prostitutes, etc., could remain in the prison all night) and other amenities provided in the prison. None of the U.S. inmates believed that they were being discriminated against or treated in any way different than Mexican inmates. Many stated that absent the problems associated with overcrowding (including poor sanitation and cleanliness), they would prefer Mexican prisons to those of the U.S.

All but one of the prisoners interviewed indicated that they would transfer to the U.S. as soon as they were convicted. This was similar to when the treaty was enacted in 1976, a minority of prisoners decided to remain in Mexican prisons. In that instance, the reasons for remaining included Mexican wives and girlfriends, the wish to not have a criminal record in the U.S., or the ability to live comfortably inside of Mexican prisons (Serrill, 1976). The general reason for the Reynosa prisoners wishing to transfer was the belief that they would serve less time in prison in the U.S.

Conclusion

The history of Mexican prison life has been marked by a lack of programming found in the U.S. prisons (regimentation, forced labor, etc.), and an emphasis on the offender retaining his or her ties to friends and family. In fact, rather loose barriers allowing goods and visitors into Mexican prisons, has produced a microcosm of open society within Mexican prisons. U.S. offender reaction to this situation has been mixed. Stories of brutality, extortion and corruption motivated the U.S. to embark upon a prisoner exchange treaty. Mexican motivation for participation in the treaty included concerns surrounding the
offender’s adjustment to incarceration and the need to retain family ties. The constitutionality of this treaty in the U.S. was at question from its inception. Basically, efforts to challenge the constitutionality of the treaty in the U.S. have gone unrewarded.

The present research found that U.S. experience behind Mexican prison walls is not seen by most prisoners as being unduly harsh, brutal or severe. Abuses allegedly occur, for the most part, previous to incarceration. The treaty only applies to convicted offenders. As such, the treaty may serve the unintended function of allowing U.S. offenders to spend less time in prison than their Mexican counterparts with similar offenses.

An answer to abuses may entail a U.S. financed legal defense foundation which would represent U.S. prisoners in Mexican courts. The foundation could file the “juicio de amparo,” (similar to the U.S. writ of habeas corpus) in instances of torture induced confessions, and other violations of Mexican constitutional rights. Diplomatic pressure, etc., may be successful in maintaining Mexican constitutional guarantees for U.S. citizens charged with crimes in Mexico.

Finally, the “War on Drugs” in the U.S. has had an impact upon border prisons in Mexico. Mexican law enforcement officials have been successful in interdicting drugs on their way from the interior of Mexico to the U.S.-Mexican border. This success has led to an increased presence of U.S. citizens in Mexican border prisons in the state of Tamaulipas. Further, this success has produced major overcrowding in these prisons as officials manage to capture both Mexican and U.S. offenders.

In essence, the Mexican government has exhibited a cooperative effort with the U.S. in regard to drug interdiction. That this cooperation pays dividends towards Mexico’s foreign debt has been suggested. It is safe to say that Mexico has received significant funds from the U.S. to substantiate their drug interdiction efforts and more drug traffickers are being captured as a result.
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