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Mexico's gun control laws: A model for the United States?

By David Kopel

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The most recent issue of the *Texas Review of Law and Politics* includes my article with the aforesaid title. This is the first law review article to examine in depth Mexican gun laws, and related empirical data.

The article begins with an examination of the right to arms in the Mexican Constitution, and of predecessor versions of that right. Former versions recognized a right to carry, but the current version recognizes only a right in the home. In practice, the Mexican government ignores the right.

The next part of the article details the operation of Mexico's federal gun control statute, which dates from 1972. The statute itself is very strict, and enforcement tends to be oppressive and corrupt. Accordingly, many Mexicans obtain firearms outside of the very narrow channels (only one legal gun store in the entire country) which the government permits. Fourteen percent of Mexican households have a firearm, including 50 percent of poor households in high violence areas. In many parts of Mexico, the government does not reliably protect citizens from violence, so citizens must protect themselves.

The final part of the article describes some of the past and present cross-border trade in arms between the United States and Mexico, and potential legal ramifications—such as the various fora where the Mexican government might bring a civil lawsuit against American gun manufacturers or sellers. Politicians such as President Obama, former Secretary of State Clinton, and various Mexican officials have asserted that 85-90 percent of Mexican crime guns come from the United States. But the actual figure is much lower. Jorge G. Castañeda, who served as Foreign Minister of Mexico from 2000 to 2003, and Rubén Aguilar, who served as the Press Secretary for the President of Mexico from 2000 to 2006, estimate that 18% of Mexican crime guns can be conclusively determined to have come from the United States. They argue that the higher figures are invented and used for domestic political purposes by Mexican government officials.

Whatever the exact percentage, it is incorrect to assert that purchases from American gun stores for the purposes of smuggling into Mexico are the prime source of American guns in Mexico. To the contrary, of the Mexican guns that are successfully traced to the U.S., the average firearms age is fifteen years, according to data compiled by the Bureau of Alcohol, Tobacco, Firearms & Explosives. The age of these guns is strong evidence that they were legal American guns that

were stolen and then sold into the black market—and not guns which were bought at a gun store as part of a plan for them to be immediately transported to Mexico.

Of course there are exceptions, including the “Fast & Furious” and “Wide Receiver” programs run by the Phoenix BATFE office, to facilitate the export of new American guns to Mexican drug trafficking organizations.

The Appendix of my article provides a English translation of the Mexican federal gun control statute. The Appendix also offers some explanatory footnotes to the statute when appropriate for better understanding.

Various officials in the Mexican government have urged that American gun laws be made more like Mexico’s, and President Obama at various times in his career has endorsed several proposals which would make American gun laws much more like Mexican ones. These proposals including banning almost all gun stores, universal gun registration, elimination of the right to bear arms, and the prohibition of many common firearms.

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