

United States Senate  
Washington, DC 20510-1304

March 27, 2012

The Honorable Hillary Rodham Clinton  
Secretary of State  
U.S. Department of State  
2201 C Street NW  
Washington, DC 20520

Dear Secretary Clinton:

I am writing to ask that the State Department work with its Mexican counterpart to modify two outdated provisions of the U.S.-Mexico Extradition Treaty (the "Treaty"), which entered into force in 1980. These provisions, which limit extradition to cases that satisfy Mexico's statute of limitations and fall within a narrow list of crimes, have allowed criminal suspects from Illinois and other states to escape to Mexico and remain free.

Given that the original Treaty was executed over 30 years ago and only one protocol has been executed since then, the time is well overdue for the U.S. and Mexico to renegotiate and update the Treaty. While Mexico has made great strides in improving its extradition process and has proven to be a cooperative partner, the structural issues with the Treaty still restrict extradition in serious criminal cases. Because the Treaty is the primary tool to bring back international fugitives, we need to ensure that it encompasses the current realities and obstacles to extradition.

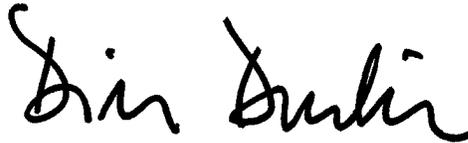
As you are probably aware, the Treaty requires that the statute of limitations for both the charging jurisdiction in the U.S. and Mexico be satisfied. Currently, there is no statute of limitations in the U.S. for murder charges, but Mexico has a 13-year limit, which risks foreclosing extradition in some of the most brutal murder cases. In contrast, our nation's recent extradition treaties do not bar extradition based on the statute of limitations of the requested country. See e.g., Extradition Treaty with United Kingdom, art. 6, entered into force April 26, 2007; Extradition Treaty with Bulgaria, art. 6, entered into force May 21, 2009. Because the U.S. and Mexico have vastly different statutes of limitations for certain serious crimes, the Treaty should be renegotiated to use this modern statute of limitations provision instead. These cases should not be barred from extradition, and I urge the State Department to address this issue.

In addition, the Treaty's dual criminality provision requires that extraditable offenses either be listed in the Treaty or fall within the definition of a "willful" felony criminal offense in both countries. As I understand it, the killing of another person while driving under the influence of

alcohol or drugs does not fit into either category, so individuals charged in the U.S. with reckless homicide or aggravated driving under the influence cannot be extradited. In contrast, our recent extradition treaties define extraditable offenses as those which are deemed felonies in both countries. See e.g., U.S.-U.K. Treaty, art. 2; U.S.-Bulgaria Treaty art. 2; Extradition Treaty with Malaysia, art. 2, entered into force June 2, 1997. This modern version is broader and should replace the existing provision in the Treaty, and I ask that you raise this issue with the Mexican government.

Thank you for considering this request. I look forward to your response.

Sincerely,

A handwritten signature in black ink, appearing to read "Dick Durbin". The signature is written in a cursive, slightly slanted style.

Richard J. Durbin  
United States Senator

cc: Attorney General Eric Holder