



# U.S.-Mexican Security Cooperation: The Mérida Initiative and Beyond

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## Summary

Brazen violence perpetrated by drug trafficking organizations (DTOs) and other criminal groups is threatening citizen security and governance in some parts of Mexico, a country with which the United States shares a nearly 2,000 mile border and \$460 billion in annual trade. Although the violence in Mexico has generally declined since late 2011, analysts estimate that it may have claimed more than 60,000 lives over the last six years. The violence has increased U.S. concerns about stability in Mexico, a key political and economic ally, and about the possibility of violence spilling over into the United States. Mexican DTOs dominate the U.S. illicit drug market and are considered the greatest drug trafficking threat facing the United States.

U.S.-Mexican security cooperation has increased significantly as a result of the development and implementation of the Mérida Initiative, a counterdrug and anticrime assistance package for Mexico and Central America first funded in FY2008. Whereas U.S. assistance initially focused on training and equipping Mexican counterdrug forces, it now places more emphasis on addressing the weak institutions and underlying societal problems that have allowed the drug trade to flourish in Mexico. The Mérida strategy now focuses on (1) disrupting organized criminal groups, (2) institutionalizing the rule of law, (3) building a 21<sup>st</sup> century border, and (4) building strong and resilient communities. As part of the Mérida Initiative, the Mexican government pledged to intensify its anticrime efforts and the U.S. government pledged to address drug demand and the illicit trafficking of firearms and bulk currency to Mexico.

Mexican President Enrique Peña Nieto has vowed to continue U.S.-Mexican security cooperation, albeit with a new focus on reducing violent crime in Mexico. Peña Nieto has reformed the structure of Mexico's security apparatus, placing the Federal Police and intelligence services under the authority of the Interior Secretary. He also intends to create a gendarmerie (militarized police) to gradually replace military forces engaged in public security efforts and to help states form unified police commands. Peña Nieto's security strategy prioritizes crime prevention and human rights protection; it also seeks to advance judicial reform. As the Peña Nieto government adjusts Mexico's security strategy, bilateral efforts and U.S. programs may need to be adjusted. Mexico's new administration also supports efforts to enact gun control in the United States.

The 113<sup>th</sup> Congress is likely to continue funding and overseeing the Mérida Initiative and related domestic initiatives, but may also consider supporting new programs. From FY2008 to FY2012, Congress appropriated \$1.9 billion in Mérida assistance for Mexico, roughly \$1.1 billion of which had been delivered as of November 2012. The Obama Administration asked for an additional \$234.0 million in Mérida assistance for Mexico in its FY2013 budget request. Congress has also debated how to measure the impact of Mérida Initiative programs, as well as the extent to which Mérida has adequately evolved to respond to changing security conditions in Mexico. Another issue of congressional interest has involved whether Mexico is meeting the human rights conditions placed on Mérida Initiative funding.

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## Introduction

Violence perpetrated by warring criminal organizations has threatened citizen security and governance in parts of Mexico and overwhelmed the country's justice sector institutions. While the illicit drug trade has been prevalent in Mexico for decades, an increasing number of drug trafficking organizations (DTOs) are fighting for control of smuggling routes into the United States and resisting the Mexican government's efforts against them. This violence likely resulted in more than 60,000 deaths in Mexico between December 2006 and November 2012.<sup>1</sup>

Targets of the violence in Mexico have often included rival criminal organizations, but also included Mexican security forces and public officials, journalists, and civilians, including Americans. In February 2011, two U.S. Immigration and Customs Enforcement (ICE) agents were shot, one fatally, while driving to Mexico City. This marked the first death of a U.S. law enforcement agent in Mexico since 1985.<sup>2</sup> On August 24, 2012, two Central Intelligence Agency (CIA) employees and a Mexican naval officer were wounded as their vehicle came under heavy fire from Mexican Federal Police, raising concerns about the competency and corruptibility of Mexican law enforcement.<sup>3</sup>

The violence in northern Mexico and the potential threat of spillover violence along the Southwest border have focused congressional concern on the efficacy of the Mérida Initiative and related domestic efforts in both countries. Between FY2008 and FY2012, Congress provided more than \$1.9 billion for Mérida Initiative programs in Mexico (see **Table 1**). Over that period, Mexico invested some \$46.6 billion of its own resources on security and public safety.<sup>4</sup> While bilateral efforts have yielded some positive results, the weakness of Mexico's criminal justice system has hindered the effectiveness of anti-crime efforts, and border modernization and community building programs have received less attention than other programs.<sup>5</sup>

Mexican President Enrique Peña Nieto has vowed to reduce violence in Mexico and called for a review of the current U.S.-Mexican security strategy (see "The Peña Nieto Administration and the Future of the Mérida Initiative" below). As Mexico's security strategy changes, Congress may need to examine how those priorities align with U.S. interests. When considering the Obama Administration's FY2014 budget request, Congress may analyze how Mérida and related funds

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<sup>1</sup> According to Mexican government data, organized crime-related violence resulted in more than 47,500 deaths in Mexico between December 2006 and September 2011. Since the government has not released official statistics since that time, analysts have used various data sources to estimate the number of additional organized crime-related deaths. Final estimates for the Calderón Administration are not yet available from the Trans-Border Institute (TBI) at the University of San Diego. Lantia Consultants, another source, estimates that close to 64,000 such deaths occurred. Email from Eduardo Guerrero of Lantia Consultores, November 30, 2012. See CRS Report R41576, *Mexico's Drug Trafficking Organizations: Source and Scope of the Rising Violence*, by June S. Beittel.

<sup>2</sup> In 1985, Drug Enforcement Administration agent, Enrique (Kiki) Camarena was kidnapped and killed in Mexico. For more information, see [http://www.justice.gov/dea/ongoing/red\\_ribbon/redribbon\\_history.html](http://www.justice.gov/dea/ongoing/red_ribbon/redribbon_history.html).

<sup>3</sup> Mexico's Attorney General's Office is still investigating the motive behind the attack. Thus far, 14 Federal Police officers have been charged with attempted murder and five commanders are being investigated for allegedly ordering those officers to lie about the circumstances surrounding the incident. "Mexico Focus on Police Commanders in CIA Shooting," *Associated Press*, November 19, 2012.

<sup>4</sup> Government of Mexico, "Mexico's Fight for Security: Strategy and Main Achievements," June 2011. Figure for Mexico's 2012 budget for security and public safety is from Mexico's Chamber of Deputies.

<sup>5</sup> Shannon K. O'Neil, *Refocusing U.S.-Mexico Security Cooperation: Policy Innovation Memorandum No. 27*, Council on Foreign Relations, Dec. 2012, <http://www.cfr.org/mexico/refocusing-us-mexico-security-cooperation/p29595>.

have been used and the degree to which U.S.-funded programs in Mexico complement other U.S. counterdrug and border security efforts. Compliance with Merida's human rights conditions is likely to be closely monitored to ensure that anticrime efforts are carried out in a way that respects human rights and the rule of law. Oversight of U.S. domestic pledges under the Mérida Initiative may also continue, particularly those aimed at reducing weapons trafficking. Congress could also explore how the use of new tools—such as aerial drones that monitor criminal activity in the border region—might bolster current security cooperation efforts under Mérida.

This report provides a framework for examining the current status and future prospects for U.S.-Mexican security cooperation. It begins with a brief discussion of the scope of the threat that drug trafficking and related crime and violence now pose to Mexico and the United States, followed by an analysis of the development and implementation of the Mérida Initiative. It then analyzes key aspects of the current U.S.-Mexican security strategy and raises policy issues that may affect bilateral efforts. The report concludes with an outline of the Peña Nieto government's stated security policies and what they might portend for bilateral security cooperation.

## Concerns About Drug Trafficking-Related Violence

### Drug Trafficking and Violence in Mexico<sup>6</sup>

Mexico is a major producer and supplier to the U.S. market of heroin, methamphetamine, and marijuana and the major transit country for more than 95% of the cocaine sold in the United States.<sup>7</sup> Mexico is also a consumer of illicit drugs, particularly in northern states where criminal organizations have been paying their workers in product rather than in cash. Illicit drug use in Mexico increased from 2002 to 2008, and then remained relatively level from 2008 to 2011.<sup>8</sup> According to the 2011 *National Drug Threat Assessment*, Mexican drug trafficking organizations and their affiliates “dominate [in] the supply and wholesale distribution of most illicit drugs in the United States” and are present more than one thousand U.S. cities.<sup>9</sup>

The violence and brutality of the Mexican DTOs has escalated as they have battled for control of lucrative drug trafficking routes into the United States and local drug distribution networks in Mexico. U.S. and Mexican officials now often refer to the DTOs as transnational criminal organizations (TCOs) since they have increasingly branched out into other criminal activities, including human trafficking, kidnapping, armed robbery, and extortion. From 2007 to 2011, kidnapping and violent vehicular thefts increased at even faster annual rates than overall homicides in Mexico.<sup>10</sup> The expanding techniques used by the DTOs, which have included the

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<sup>6</sup> For background, see CRS Report R41576, *Mexico's Drug Trafficking Organizations: Source and Scope of the Rising Violence*, by June S. Beittel.

<sup>7</sup> U.S. Department of State, *International Narcotics Control Strategy Report (INCSR)*, March 2012, <http://www.state.gov/j/inl/rls/nrcrpt/2012/vol1/184100.htm#Mexico>. Hereinafter *INCSR*, March 2012.

<sup>8</sup> According to data from Mexico's National Survey of Addictions, the prevalence of illicit drug use in Mexico increased from 0.8% of the population in 2002 to 1.4% in 2008, but remained relatively stable at 1.5% in 2011. Ruth Rodríguez, “Alcohol, Principal Adicción en el País,” *El Universal*, October 30, 2012.

<sup>9</sup> U.S. Department of Justice, National Drug Intelligence Center, *National Drug Threat Assessment: 2011*, August 2011, <http://www.justice.gov/ndic/pubs44/44849/44849p.pdf>.

<sup>10</sup> From 2007 to 2011, the homicide rate per 100,000 people in Mexico increased by an annual average of 15.4%. During that same period, kidnappings increased at an average annual rate of 23.5% and armed vehicular robberies by (continued...)

use of car bombs and grenades, have led some scholars, U.S. officials, and Members of Congress to liken DTOs' tactics to those of armed insurgencies.<sup>11</sup>

The Felipe Calderón Administration (December 2006-November 2011) made combating drug trafficking and organized crime its top domestic priority.<sup>12</sup> Government enforcement efforts, many of which were led by Mexican military forces, took down leaders from all of the major DTOs, either through arrests or deaths during operations to detain them. The pace of those takedowns accelerated beginning in late 2009, partly due to increased intelligence-sharing between the U.S. and Mexican governments. In 2009, the Mexican government identified the country's 37 most wanted criminals, and by October 2012, at least 25 of those alleged criminals had been captured or killed, including the head of the Gulf DTO and of Los Zetas.<sup>13</sup> The Calderón government extradited record numbers of criminals to the United States, including 93 in 2011 (see **Figure 2**); however no top DTO leaders captured were tried and convicted in Mexican courts.<sup>14</sup> The government's focus on dismantling the leadership of the major criminal organizations contributed to brutal succession struggles, shifting alliances among the DTOs, and the replacement of existing leaders and groups with ones that are even more violent.<sup>15</sup>

Analysts estimate that drug trafficking-related violence in Mexico may have resulted in some 60,000 deaths over the course of the last six years; another 25,000 individuals reportedly went missing over that period.<sup>16</sup> Several sources have reported that violence peaked in 2011, before falling in 2012, perhaps by as much as 20%.<sup>17</sup> Although the violence has primarily taken place in contested drug production and transit zones, the regions of the country most affected by the violence have shifted over time, to include large cities (such as Monterrey, Nuevo León) and tourist zones (Acapulco, Guerrero). In 2011, approximately 80% of drug trafficking-related deaths occurred in 168 of Mexico's 2,456 municipalities (less than 7% of the total municipalities), with the percentage of violence occurring in northern border states declining as compared to prior years.<sup>18</sup> Still, as seen in **Figure 1**, there have been incidents of violence across the country, with

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(...continued)

19.7%. Mexico Evalúa, *Indicadores de Víctimas Visibles e Invisibles de Homicidio*, Mexico, D.F., November 2012, available at: [http://mexicoevalua.org/descargables/413537\\_IVVI-H.pdf](http://mexicoevalua.org/descargables/413537_IVVI-H.pdf).

<sup>11</sup> See, for example, U.S. Department of State, "Interview With Denise Maerker of Televisa, Interview, Hillary Rodham Clinton, Secretary of State," Guanajuato, Mexico, January 24, 2011 wherein Secretary Clinton likened some of the tactics used by the DTOs to those of insurgent groups. Some Members of Congress have gone further. On December 15, 2011, the House Committee on Foreign Affairs, Subcommittee on the Western Hemisphere favorably reported H.R. 3401. This bill would, among other things, require the Secretary of State to submit a detailed counterinsurgency strategy "to combat the terrorist insurgency in Mexico waged by transnational criminal organizations."

<sup>12</sup> The Calderón Administration's security strategy focused on: (1) carrying out joint police-military operations to support local authorities and citizens; (2) increasing the operational and technological capacities of the state (such as the Federal Police); (3) initiating legal and institutional reforms; (4) strengthening crime prevention and social programs; and (5) strengthening international cooperation (such as the Mérida Initiative). Government of Mexico, *Mexico's Fight for Security: Strategy and Main Achievements*, June 2011.

<sup>13</sup> "Mexico's Drug Lords: Kingpin Bowling," *The Economist*, October 20, 2012.

<sup>14</sup> William Booth, "Mexico's Crime Wave has Left About 25,000 Missing, Government Documents Show," *Washington Post*, November 29, 2012.

<sup>15</sup> Patrick Corcoran, "What to Keep, What to Throw Away from Calderon Presidency," *Insight Crime Organized Crime in the Americas*, November 30, 2012.

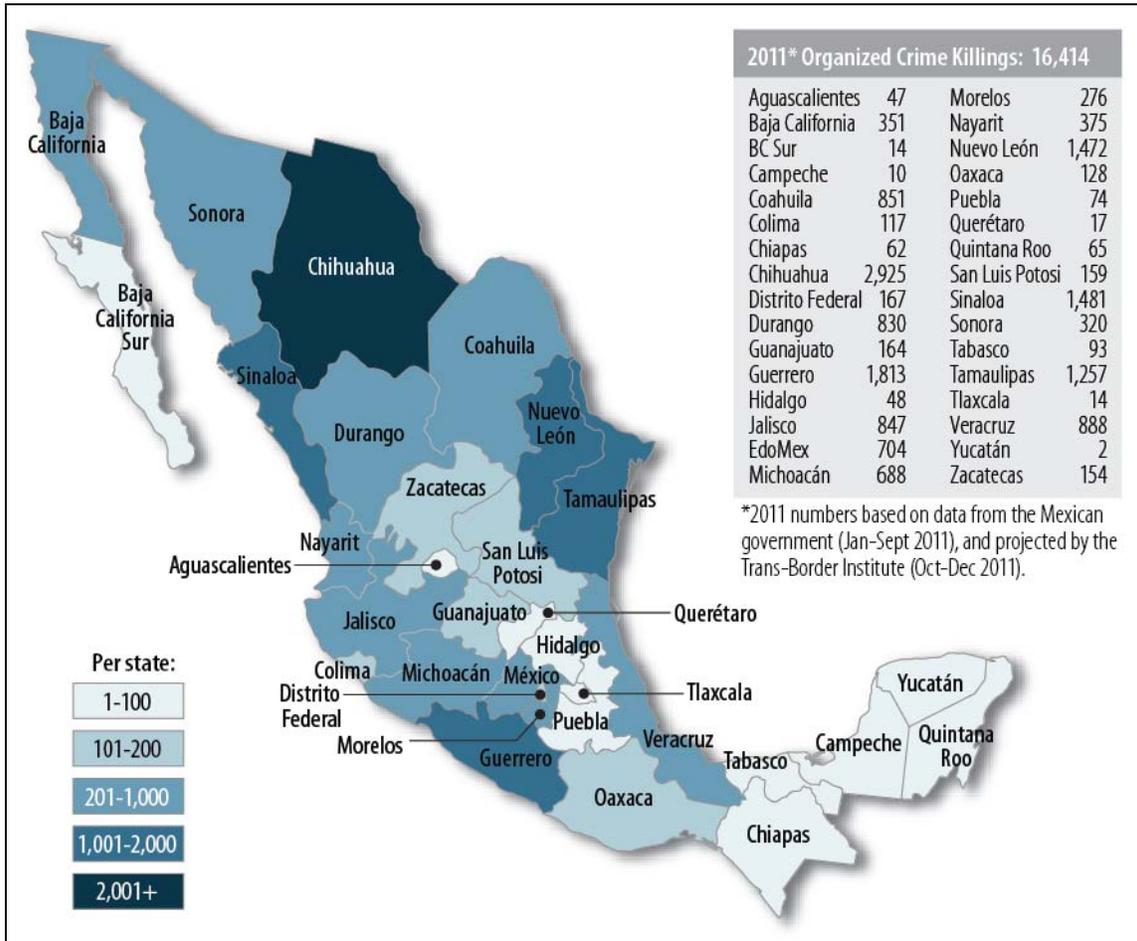
<sup>16</sup> Email from Eduardo Guerrero of Lantoria Consultores, November 30, 2012. Booth op. cit.

<sup>17</sup> TBI, Justice in Mexico Project, *News Monitor: December 2012*.

<sup>18</sup> Cory Molzahn, Viridiana Ríos, and David A. Shirk, *Drug Violence in Mexico: Data and Analysis Through 2011*, Trans-Border Institute, March 2012, <http://justiceinmexico.files.wordpress.com/2012/03/2012-tbi-drugviolence.pdf>.

the security situation in particular areas sometimes changing rapidly. For example, violence spiked dramatically in Ciudad Juárez, Chihuahua, in 2008 and remained at extremely high levels through mid-2011, before falling rapidly since that time. A recent State Department Travel Warning cited security concerns in parts of 19 of Mexico’s 32 states and urged U.S. citizens to “defer non-essential travel” to Chihuahua, Coahuila, Durango, and Tamaulipas entirely.<sup>19</sup>

**Figure 1. Organized Crime-Related Killings in Mexico in 2011 by State**



**Source:** Map created by CRS using data from the Trans-Border Institute (TBI), University of San Diego.

**Notes:** Mexican government and TBI data drawn from presentation in Cory Molzahn, Viridiana Ríos, and David A. Shirk, *Drug Violence in Mexico: Data and Analysis Through 2011*, Trans-Border Institute, March 2012.

Congress has expressed serious concerns about the impact that drug trafficking-related violence has had on governability in Mexico, a neighbor and key U.S. ally. Congress has analyzed how the violence has affected U.S. interests in Mexico, paying particularly close attention to the safety of U.S. citizens in Mexico. The 111th and 112th Congress held several hearings on the violence in Mexico, efforts by the Mexican and U.S. government to address the situation, and implications of the violence for the United States. More recently, Congress has also taken an interest in the

<sup>19</sup> U.S. Department of State, Bureau of Consular Affairs, *Travel Warning: Mexico*, November 20, 2012, available at: [http://travel.state.gov/travel/cis\\_pa\\_tw/tw/tw\\_5815.html](http://travel.state.gov/travel/cis_pa_tw/tw/tw_5815.html).

effects of the violence, and government efforts to suppress it, on the quality of democracy and respect for human rights in Mexico.

## **Potential “Spillover” Violence in the United States<sup>20</sup>**

The prevalence of drug trafficking-related violence within and between the DTOs in Mexico—and particularly in those areas of Mexico near the U.S.-Mexico border—has generated concern among U.S. policy makers that this violence might spill over into the United States. U.S. officials deny that the increase in drug trafficking-related violence in Mexico has resulted in a significant spillover of violence into the United States, but they acknowledge that the prospect is a serious concern.<sup>21</sup> For instance, in April 2010, the Department of Homeland Security (DHS) issued a safety alert to law enforcement officers in the El Paso area warning that DTOs and associated gangs may target U.S. law enforcement.<sup>22</sup> This alert came at a time when the Mexican DTOs had begun to direct more of their violence at Mexican authorities and to use new forms of weaponry, including sniper rifles, grenades, and car bombs.

Congress faces several policy questions related to potential or actual spillover violence. The first question involves whether the increasing violence between the drug trafficking organizations in Mexico affects either the level or nature of drug trafficking-related violence in the United States. Of note, violent drug trafficking-related crimes have previously existed and continue to exist throughout the United States. However, data currently available on these crimes do not allow analysts to determine whether or how these existing levels of drug trafficking-related violence in the United States have been affected by the surge of violence in Mexico.

If there were evidence of such spillover violence, Congress may be confronted with the issue of whether altering current drug or crime policies may aid in reducing drug trafficking-related violence in the United States. If there were not significant spillover violence, policy makers may debate best practices to prevent the possibility of future spillover violence. As such, another question involves whether U.S. support to Mexico via the Mérida Initiative will be effective not only in reducing drug trafficking-related violence in Mexico but in preventing this violence from reaching the United States.

## **Development and Implementation of the Mérida Initiative**

### **Evolution of U.S.-Mexican Counterdrug Cooperation**

The United States began providing Mexico with equipment and training to eradicate marijuana and opium poppy fields in the 1970s, but bilateral cooperation declined dramatically after Enrique

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<sup>20</sup> For background, see CRS Report R41075, *Southwest Border Violence: Issues in Identifying and Measuring Spillover Violence*, coordinated by Kristin M. Finklea.

<sup>21</sup> See for example, Department of Homeland Security, “Remarks by Secretary Napolitano on Border Security at the University of Texas at El Paso,” press release, January 31, 2011.

<sup>22</sup> “Department of Homeland Security (DHS): Mexican Assassin Teams Targeting U.S. Law Enforcement,” *Homeland Security Newswire*, April 6, 2010.

Camarena, a U.S. Drug Enforcement Administration (DEA) agent, was assassinated in Mexico in 1985. From the mid-1980s through the end of the 1990s, bilateral cooperation stalled due to U.S. mistrust of Mexican counterdrug officials and concerns about the Mexican government's tendency to accommodate drug leaders.<sup>23</sup> At the same time, the Mexican government was reluctant to accept large amounts of U.S. assistance due to its opposition to U.S. drug certification procedures<sup>24</sup> and to concerns about sovereignty. The Mexican government also expressed opposition to the DEA and other U.S. agencies carrying out operations against drug trafficking organizations in Mexican territory without authorization. Mexican military officials proved particularly reticent to cooperate with their U.S. counterparts due to deeply held concerns about past U.S. interventions in Mexico.<sup>25</sup>

U.S.-Mexican cooperation began to improve and U.S. assistance to Mexico increased after the two countries signed a Binational Drug Control Strategy in 1998. U.S. assistance to Mexico, which totaled \$397 million from FY2000 to FY2006, supported programs aimed at interdicting cocaine; combating production and trafficking of marijuana, opium poppy, and methamphetamine; strengthening the rule of law; and countering money-laundering. In 2007, the Government Accountability Office (GAO) found that while U.S. programs had helped improve Mexico's counterdrug efforts, drug seizures in Mexico remained relatively low, and corruption continued to hinder bilateral efforts.<sup>26</sup>

## **Developing Cooperation Through the Mérida Initiative**

The Mérida Initiative developed in response to the Calderón government's historic request for increased U.S. support and involvement in helping Mexico combat drug trafficking and organized crime. In October 2007 the United States and Mexico announced the Mérida Initiative, a new package of U.S. assistance for Mexico and Central America that would begin in FY2008 and last through FY2010.<sup>27</sup> The Mérida Initiative, as it was originally conceived, sought to (1) break the power and impunity of criminal organizations; (2) strengthen border, air, and maritime controls; (3) improve the capacity of justice systems in the region; and (4) curtail gang activity and

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<sup>23</sup> Under this system, arrests and eradication took place, but due to the effects of widespread corruption, the system was "characterized by a working relationship between Mexican authorities and drug lords" through the 1990s. Francisco E. González, "Mexico's Drug Wars Get Brutal," *Current History*, February 2009.

<sup>24</sup> Beginning in 1986, when the U.S. President was required to certify whether drug producing and drug transit countries were cooperating fully with the United States, Mexico usually was criticized for its efforts, which in turn led to increased Mexican government criticism of the U.S. assessment. Reforms to the U.S. drug certification process enacted in September 2002 (P.L. 107-228) essentially eliminated the annual drug certification requirement, and instead required the President to designate and withhold assistance from countries that had "failed demonstrably" to make substantial counternarcotics efforts.

<sup>25</sup> Craig A. Deare, "U.S.-Mexico Defense Relations: An Incompatible Interface," *Strategic Forum*, Institute for National Strategic Studies, National Defense University, July 2009.

<sup>26</sup> U.S. Government Accountability Office (GAO), *U.S. Assistance Has Helped Mexican Counternarcotics Efforts, but the Flow of Illicit Narcotics into the United States Remains High*, 08215T, October 2007, available at: <http://www.gao.gov/new.items/d071018.pdf>.

<sup>27</sup> In FY2008 and FY2009, the Mérida Initiative included U.S. assistance to Mexico and Central America. Beginning in FY2010, Congress separated Central America from the Mexico-focused Mérida Initiative by creating a separate Central American Regional Security Initiative (CARSI). For historical information on the Mérida Initiative, see: CRS Report R40135, *Mérida Initiative for Mexico and Central America: Funding and Policy Issues*. For information on CARSI, see: CRS Report R41731, *Central America Regional Security Initiative: Background and Policy Issues for Congress*, by Peter J. Meyer and Clare Ribando Seelke.

diminish local drug demand. Initial funding requests for the Initiative focused on training and equipping Mexican security forces.

In March 2010, the Obama Administration and the Mexican government agreed to a new strategic framework for security cooperation under the Mérida Initiative.<sup>28</sup> The four pillars of the new strategy are (1) disrupting organized criminal groups; (2) institutionalizing the rule of law; (3) building a 21<sup>st</sup> century border; and (4) building strong and resilient communities. The strategy has involved gradually shifting U.S. efforts from the federal to the state and local levels, including police assistance and community development programs. The Administration has requested less funding to provide equipment for Mexican security forces and more funding for training and technical assistance programs aimed at strengthening justice sector institutions in Mexico. By FY2012, funds requested for pillar two of the Mérida Initiative dwarfed all other aid categories.

U.S. and Mexican officials have often described the Mérida Initiative as a "new paradigm" for bilateral security cooperation. The Mérida Initiative signaled a major diplomatic step forward for bilateral counterdrug cooperation as the Mexican government put sovereignty concerns aside to allow extensive U.S. involvement in its domestic security policies. While cooperation can always be improved, the Mérida Initiative has resulted in increasing communication between U.S. and Mexican officials at all levels through the establishment a multi-level working group structure to design and implement bilateral security efforts. On September 18, 2012, U.S. and Mexican cabinet-level officials met for the fourth time to review the results of five years of Mérida cooperation, reaffirm their commitment to its strategic framework, and pledge "to build on and institutionalize the cooperation the Mérida Initiative has established."<sup>29</sup> Perhaps most importantly for Mexico, as part of the Mérida Initiative, both countries accepted a *shared responsibility* to tackle domestic problems contributing to drug trafficking and crime, including U.S. drug demand.

## **Funding the Mérida Initiative**

Congress has played a major role in determining the level and composition of Mérida funding for Mexico. From FY2008 to FY2012, Congress appropriated more than \$1.9 billion for Mexico under the Mérida Initiative (see **Table 1** for Mérida appropriations and **Table A-1** in **Appendix A** for overall U.S. assistance to Mexico). In the beginning, Congress included funding for Mexico in supplemental appropriations measures in an attempt to hasten the delivery of certain equipment. Congress has also earmarked funds for specific purposes in order to ensure that certain programs are prioritized, such as efforts to support institutional reform in Mexico.

Congress has sought to influence human rights conditions and encourage efforts to combat abuses and impunity in Mexico by placing conditions on Mérida-related assistance. Congress directed that 15% of certain assistance provided to Mexican military and police forces would be subject to certain human rights conditions. The conditions included in the FY2012 Consolidated Appropriations Act (P.L. 112-74) are slightly different than in previous years (see "Human Rights Concerns and Conditions on Mérida Initiative Funding"). In H.Rept. 112-331 accompanying P.L. 112-74, the conferees directed the Secretary of State to provide a report within 90 days of the enactment of the act detailing how U.S. programs are helping to achieve judicial and police

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<sup>28</sup> U.S. Department of State, "Joint Statement of the Mérida Initiative High-Level Consultative Group on Bilateral Cooperation Against Transnational Organized Crime," March 29, 2010.

<sup>29</sup> U.S. Department of State, "Joint Statement of the Mérida Initiative High-Level Consultative Group on Bilateral Cooperation Against Transnational Organized Crime," September 18, 2012. Hereinafter: State Department, Sept. 2012.

reform in Mexico. They also called upon the State Department to develop and implement a coordinated border security strategy with Mexico.

**Table 1. FY2008–FY2013 Mérida Funding for Mexico by Aid Account and Appropriations Measure**

(\$ in millions)

<b>Account</b>	<b>FY2008 Supp. (P.L. 110- 252)</b>	<b>FY2009 (P.L. 111- 8)</b>	<b>FY2009 Supp. (P.L. 111- 32)</b>	<b>FY2010 (P.L. 111- 117)</b>	<b>FY2010 Supp. (P.L. 111- 212)</b>	<b>FY2011 (P.L. 112- 10)</b>	<b>FY2012 Estimate (P.L. 112- 74)</b>	<b>Account Totals</b>	<b>FY2013 Request</b>
ESF	20.0	15.0	0.0	15.0 <sup>a</sup>	0.0	18.0	33.3	<b>101.3</b>	35.0
INCLE	263.5	246.0	160.0	190.0	175.0	117.0	248.5	<b>1,400.0</b>	199.0
FMF	116.5	39.0	260.0	5.3	0.0	8.0	Not applicable <sup>b</sup>	<b>428.8</b>	Not applicable
<b>Total</b>	<b>400.0</b>	<b>300.0</b>	<b>420.0</b>	<b>210.3</b>	<b>175.0</b>	<b>143.0</b>	<b>281.8</b>	<b>1,930.1</b>	<b>234.0</b>

**Sources:** U.S. Department of State, *Congressional Budget Justification for Foreign Operations FY2008-FY2012*, *FY2013 Executive Budget Summary: Function 150 & Other International Programs*.

**Notes:** ESF=Economic Support Fund; FMF=Foreign Military Financing; INCLE=International Narcotics Control and Law Enforcement.

- a. \$6 million was later reprogrammed for global climate change efforts by the State Department.
- b. Beginning in FY2012, FMF assistance is not included as part of the Mérida Initiative.

There appears to be strong support in both the Senate and House for maintaining U.S. support to Mexico provided through Mérida Initiative accounts. The Administration’s FY2013 budget request asked for \$234 million in Mérida assistance for Mexico: \$199 million in the International Narcotics and Law Enforcement (INCLE) account and \$35 million in the Economic Support Fund (ESF) account. The Senate Appropriations Committee’s version of the FY2013 foreign operations appropriations measure, S. 3241 (S.Rept. 112-172), would have met the request for INCLE and provided \$10 million in additional ESF for economic development projects in the border region. S. 3241 included restrictions on aid to the Mexican military and police.<sup>30</sup> The House Appropriations Committee’s version of the bill, H.R. 5857 (H.Rept. 112-494), would have increased INCLE funding by \$49 million to match the FY2012 enacted level for that account and met the request for ESF. H.R. 5857 would have required the State Department to submit a report within 45 days of the enactment of the act containing an assessment of the strength of the transnational criminal groups in Mexico, recommendations on how to better combat their operations and financing mechanisms, and information on the implementation of Mérida Initiative programs to date.

<sup>30</sup> Per those restrictions, 15 percent of assistance for Mexican military and police forces could have only been obligated if the Secretary of State reported in writing to appropriators that the Mexican government: has reformed the military justice system to require that military and police personnel who are credibly alleged to have violated human rights are being investigated and prosecuted in the civilian justice system; is enforcing prohibitions against torture and the use of testimony obtained through torture; and is ensuring that military and police are immediately transferring detainees to the custody of civilian judicial authorities and are cooperating with those authorities.

In the absence of a final FY2013 foreign appropriations measure, Congress passed a continuing resolution, H.J.Res. 117, to fund most foreign aid programs—including assistance to Mexico—at FY2012 levels plus 0.6% through March 27, 2013.

## **Implementation**

Over the past few years, Congress has maintained an interest in ensuring that Mérida-funded equipment and training is delivered in the most efficient way possible. There has been concern in Congress about what some have deemed slow delivery of assistance. Congress has convened numerous oversight hearings on the Mérida Initiative and commissioned a series of GAO reports<sup>31</sup> on implementation of the Mérida Initiative. The 2009 GAO report identified several factors that had initially slowed Mérida implementation.<sup>32</sup>

The delivery of Mérida-funded equipment and training has accelerated considerably since the release of the GAO reports. As of November 2012, some \$1.1 billion worth of assistance had been provided to Mexico. That total includes roughly \$873.7 million in equipment and \$146.0 million worth of training. Aerial equipment deliveries thus far have included four CASA 235 maritime surveillance aircraft, nine UH-60 Black Hawk helicopters, and eight Bell 412 helicopters.<sup>33</sup> Other significant deliveries have included a case management system for the Mexican Attorney General's Office and more than \$97 million worth of non-intrusive inspection equipment. Despite progress in accelerating the delivery of Merida assistance, Congress has retained an interest in ensuring that Mérida-funded equipment and training are delivered in a timely manner. In H.Rept. 112-494, House appropriators maintain that Congress “continues to be concerned with the delivery of assistance to Mexico” and urge agencies to “use all appropriate means necessary to ensure the prompt delivery of equipment and training.”

U.S. assistance provided under the Merida Initiative has shifted away from providing expensive equipment, like aircraft and information technology equipment, toward a focus on institution-building through training and technical assistance. This assistance supports training courses offered in new academies that are either currently in operation or are being established for customs personnel, corrections staff, canine teams, and police (federal, state, and local). Some of that training is designed according to a “train the trainer” model in which the academies train instructors who in turn are able to train their own personnel. As of September 2012, some 4,400 federal police investigators and 5,000 penitentiary staff had completed U.S.-funded courses; another 7,500 federal and 19,000 state justice sector personnel had received training on their roles in Mexico's new accusatorial justice system.<sup>34</sup> Mérida assistance is also supporting Mexican institutions like the National Public Security System (SNSP), which sets police standards and

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<sup>31</sup> See GAO, *Status of Funds for the Mérida Initiative*, 10-253R, December 3, 2009, <http://www.gao.gov/new.items/d10253r.pdf>; GAO, *Mérida Initiative: The United States has Provided Counternarcotics and Anticrime Support but Needs Better Performance Measures*, 10-837R, July 21, 2010, <http://www.gao.gov/new.items/d10837.pdf>.

<sup>32</sup> The GAO attributed initial delays in Mérida implementation to “(1) statutory conditions on the funds, (2) challenges in fulfilling administrative procedures [required for obligation and expenditure of the funds], and (3) the need to enhance institutional capacity on the part of both recipient countries and the United States to implement the assistance.” GAO 10-253R.

<sup>33</sup> The only pending aircraft delivery is an Intelligence Surveillance, and Reconnaissance (ISR) Dornier 328-JET aircraft that has been contracted for the Federal Police.

<sup>34</sup> State Department, Sept. 2012.

provides grants to states and municipalities for police training, and the National Institute of Criminal Sciences (INACIPE), which provides training to judicial sector personnel.

## **U.S. Efforts to Complement the Mérida Initiative**

In the 2007 U.S.-Mexico joint statement announcing the Mérida Initiative, the U.S. government pledged to “intensify its efforts to address all aspects of drug trafficking (including demand-related portions) and continue to combat trafficking of weapons and bulk currency to Mexico.”<sup>35</sup> Although not funded through the Mérida Initiative, the U.S. government has made efforts to address each of these issues. When debating future support for the Mérida Initiative, Congress may consider whether to simultaneously provide additional funding for these or other domestic activities that would enhance the United States’ abilities to fulfill its pledges.

### **Drug Demand**

Drug demand in the United States fuels a multi-billion dollar illicit industry. In 2011, about 22.5 million individuals were current (past month) illegal drug users, representing 8.7% of individuals aged 12 and older.<sup>36</sup> Administration officials and experts alike have acknowledged that U.S. domestic demand for illegal drugs is a significant factor driving the global drug trade, including the drug trafficking-related crime and violence that is occurring in Mexico and other source and transit countries.<sup>37</sup>

In August 2012, the Administration released its 2012 National Drug Control Strategy, which continues to emphasize the need to reduce U.S. drug demand. The Strategy furthers the goal of cutting drug use among youth by 15% by 2015.<sup>38</sup> Drug policy experts have praised the Administration’s focus on reducing consumption, but criticized the Administration for requesting relatively modest budget increases in funding for treatment programs.<sup>39</sup> Some have questioned whether the federal government allocates enough of the drug budget to adequately address the demand side; the FY2013 drug budget continues to spend a majority of funds on supply reduction programs including drug crop eradication in source countries, interdiction, and domestic law

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<sup>35</sup> U.S. Department of State and Government of Mexico, “Joint Statement on the Mérida Initiative: A New Paradigm for Security Cooperation,” October 22, 2007.

<sup>36</sup> See the National Survey on Drug Use and Health, an annual survey of approximately 67,500 people, including residents of households, non-institutionalized group quarters, and civilians living on military bases. The survey is administered by the Substance Abuse and Mental Health Services Administration of the U.S. Department of Health and Human Services and is available at <http://www.samhsa.gov/data/NSDUH/2k11Results/NSDUHresults2011.htm>.

<sup>37</sup> See, for example, testimony of R. Gil Kerlikowske, Director, Office of National Drug Control Policy, before the U.S. Congress, House Committee on Oversight and Government Reform, Subcommittee on National Security and Foreign Affairs, *Transnational Drug Enterprises (Part II): U.S. Government Perspectives on the Threat to Global Stability and U.S. National Security*, 111<sup>th</sup> Cong., 2<sup>nd</sup> sess., March 30, 2010. See also “U.S. Secretary of State Hillary Rodham Clinton Remarks With Mexican Foreign Secretary Patricia Espinosa After Their Meeting,” March 23, 2010.

<sup>38</sup> That strategy is available at <http://www.whitehouse.gov/ondcp/2012-national-drug-control-strategy>. For more information on the National Drug Control Strategy and the Office of National Drug Control Policy (ONDCP), see CRS Report R41535, *Reauthorizing the Office of National Drug Control Policy: Issues for Consideration*, by Lisa N. Sacco and Kristin M. Finklea.

<sup>39</sup> See, for example, Testimony of John T. Carnevale, President, Carnevale Associates, before the House Oversight and Government Reform Subcommittee on Domestic Policy, April 14, 2010.

enforcement efforts.<sup>40</sup> In addition to federal efforts, however, many state, local, and nonprofit agencies also channel funds toward demand reduction.

## **Firearms Trafficking<sup>41</sup>**

Illegal firearms trafficking from the United States has been cited as a significant factor in the drug trafficking-related violence in Mexico. To address this issue, the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) stepped up enforcement of domestic gun control laws in the four Southwest border states under an agency-wide program known as “Project Gunrunner.” ATF has also trained Mexican law enforcement officials to use its electronic tracing (eTrace) program, through which investigators are sometimes able to trace the commercial trail and origin of recovered firearms. In the past, ATF has periodically released data on firearms traces performed for Mexican authorities. Although substantive methodological limitations preclude using trace data as a proxy for the larger population of “crime guns” in Mexico or the United States, trace data have proven to be a useful indicator of trafficking trends and patterns. In June 2009, GAO recommended to the Attorney General that he should direct ATF to update regularly its reporting on aggregate firearms trace data and trends.<sup>42</sup> For the last two years, however, ATF has only released limited and arguably selected amounts of trace data.

In February 2011, ATF came under intense congressional scrutiny for a Phoenix, AZ-based Project Gunrunner investigation known as Operation Fast and Furious, when ATF whistleblowers reported that suspected straw purchasers<sup>43</sup> had been allowed to acquire relatively large quantities of firearms as part of long-term gun trafficking investigations.<sup>44</sup> Some of these firearms are alleged to have “walked,” or been trafficked to gunrunners and other criminals, before ATF moved to arrest the suspects and seize all of their contraband firearms. Two of those firearms were reportedly found at the scene of a shootout near the U.S.-Mexico border where U.S. Border Patrol Agent Brian Terry was shot to death.<sup>45</sup> Questions have also been raised about whether a firearm that was reportedly used to murder ICE Special Agent Jamie Zapata and wound Special Agent Victor Avila in Mexico on February 15, 2011, was initially trafficked by a subject of a Houston, TX-based Project Gunrunner investigation.<sup>46</sup> While it remains an open question whether ATF or other federal agents were in a position to interdict the firearms used in these deadly attacks before they were smuggled into Mexico,<sup>47</sup> neither DOJ nor ATF informed their Mexican

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<sup>40</sup> Office of National Drug Control Policy, *FY2013 Budget and Performance Summary*, April 2012.

<sup>41</sup> For background, see CRS Report R40733, *Gun Trafficking and the Southwest Border*, by Vivian S. Chu and William J. Krouse as well as CRS Report RL32842, *Gun Control Legislation*, by William J. Krouse.

<sup>42</sup> GAO, *Firearms Trafficking: U.S. Efforts to Combat Arms Trafficking to Mexico Face Planning and Coordination Challenges*, GAO-09-709, June 2009, p. 59.

<sup>43</sup> A “straw purchase” occurs when an individual poses as the actual transferee, but he is actually acquiring the firearm for another person. In effect, he serves as an illegal middleman. Straw purchases can be prosecuted under two provisions of the Gun Control Act of 1968, as amended (18 U.S.C. 922(a)(6) and 18 U.S.C. §924(a)(1)(A)).

<sup>44</sup> James v. Grimaldi and Sari Horwitz, “ATF Probe Strategy Is Questioned,” *Washington Post*, February 2, 2011.

<sup>45</sup> *Ibid.*

<sup>46</sup> *Ibid.*

<sup>47</sup> Operation Fast and Furious was launched in November 2009. It was approved as an Organized Crime and Drug Enforcement Task Force (OCDETF) investigation in February 2010. As an OCDETF investigation, it was then directed largely by the U.S. Attorney’s Office in Phoenix. While ICE and Internal Revenue Service (IRS) agents were also part of this investigation, so far their role in this operation has not generated public or congressional scrutiny.

counterparts about these investigations and the possibility that some of these firearms could be reaching Mexico.<sup>48</sup>

Legislators in both the United States and Mexico have voiced ongoing concerns about Operation Fast and Furious.<sup>49</sup> Repeated congressional inquiries prompted U.S. Attorney General Eric Holder to direct his Inspector General to conduct a third evaluation of Project Gunrunner, which was delivered to Congress in September 2012.<sup>50</sup> In addition, in July 2011, the Office of Management and Budget (OMB) approved an ATF multiple rifle sales reporting requirement for a three-year period.<sup>51</sup> Under this reporting requirement, federally licensed gun dealers in Southwest border states are required to report to ATF whenever they make multiple sales or other dispositions of more than one rifle within five consecutive business days to an unlicensed person.<sup>52</sup>

### **Money Laundering/Bulk Cash Smuggling**

It is estimated that between \$19 billion and \$29 billion in illicit proceeds flow from the United States to drug trafficking organizations and other organized criminal groups in Mexico each year.<sup>53</sup> Much of the money is generated from the illegal sale of drugs in the United States and is laundered to Mexico through mechanisms such as bulk cash smuggling. While bulk cash smuggling has been a prominent means by which criminals move illegal profits from the United States into Mexico, they have increasingly turned to stored value cards to move money. With these cards, criminals are able to avoid the reporting requirement under which they would have to declare any amount over \$10,000 in cash moving across the border. Current federal regulations regarding international transportation only apply to monetary instruments as defined under the Bank Secrecy Act.<sup>54</sup> Of note, stored value cards are not considered monetary instruments under current law.

The Financial Crimes Enforcement Network (FinCEN)<sup>55</sup> has issued a final rule, defining “stored value” as “prepaid access” and implementing regulations regarding the recordkeeping and

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<sup>48</sup> Richard A. Serrano, “U.S. Embassy Kept in Dark as Guns Flooded Mexico,” *Salt Lake Tribune*, July 25, 2011.

<sup>49</sup> Dennis Wagner, “Gun Shop Told ATF Sting Was Perilous,” *Arizona Republic*, April 15, 2011, p. A1.

<sup>50</sup> United States Department of Justice, Office of the Inspector General, *Statement of Michael E. Horowitz, Inspector General, U.S. Department of Justice before the House Committee on Oversight and Government Reform Concerning Report by the Office of the Inspector General on the Review of ATF’s Operation Fast and Furious and Related Matters*, September 20, 2012, <http://www.justice.gov/oig/testimony/t1220.pdf>.

<sup>51</sup> Office of Management and Budget, Office of Information and Regulatory Affairs, *Reviews Completed in the Last 30 Days, DOJ-ATF, Report of Multiple Sale or Other Disposition of Certain Semi-Automatic Rifles*, OMB Control Number: 1140-0100.

<sup>52</sup> This reporting requirement is limited to firearms that are (1) semiautomatic, (2) chambered for ammunition of greater than .22 caliber, and (3) capable of accepting a detachable magazine.

<sup>53</sup> DHS, *United States-Mexico Bi-National Criminal Proceeds Study*, June 2010.

<sup>54</sup> 31 U.S.C. §5312 defines a monetary instrument as “(A) United States coins and currency; (B) as the Secretary may prescribe by regulation, coins and currency of a foreign country, travelers’ checks, bearer negotiable instruments, bearer investment securities, bearer securities, stock on which title is passed on delivery, and similar material; and (C) as the Secretary of the Treasury shall provide by regulation for purposes of sections 5316 and 5331, checks, drafts, notes, money orders, and other similar instruments which are drawn on or by a foreign financial institution and are not in bearer form.”

<sup>55</sup> FinCEN, under the Department of the Treasury, administers the BSA and the nation’s financial intelligence unit. FinCEN also supports law enforcement, intelligence, and regulatory agencies by analyzing and sharing financial intelligence information. For more information, see [http://www.fincen.gov/about\\_fincen/wwd/strategic.html](http://www.fincen.gov/about_fincen/wwd/strategic.html).

suspicious activity reporting requirements for prepaid access products and services.<sup>56</sup> This rule does not, however, directly address whether stored value or prepaid access cards would be subject to current regulations regarding the international transportation of monetary instruments. A separate proposed rule would amend the definition of “monetary instrument,” for the purposes of BSA international monetary transport regulations, to include prepaid access devices.<sup>57</sup> Even if FinCEN were to issue a final rule and implement regulations requiring individuals leaving the United States to declare stored value, the GAO has identified several challenges that would remain.<sup>58</sup> These challenges relate to law enforcement’s ability to detect the actual cards and to differentiate legitimate from illegitimate stored value on cards; travelers’ abilities to remember the amount of stored value on any given card; and law enforcement’s ability to determine where illegitimate stored value is physically held and subsequently freeze and seize the assets.

Aside from bulk cash smuggling and stored-value cards, Mexican traffickers move and launder money by using digital currency accounts, e-businesses that facilitate money transfers via the Internet, online role-playing games or virtual worlds that enable the exchange of game-based currencies for real currency, and mobile banking wherein traffickers have remote access—via cell phones—to bank and credit card accounts as well as prepaid cards.<sup>59</sup> The proceeds may then be used by DTOs and other criminal groups to acquire weapons in the United States and to corrupt law enforcement and other public officials.

Countering financial crimes—including money laundering and bulk cash smuggling—is one effort outlined by the National Southwest Border Counternarcotics Strategy (SWBCS).<sup>60</sup> To curb the southbound flow of money from the sale of illicit drugs in the United States, the SWBCS includes several goals: stemming the flow of southbound bulk cash smuggling, prosecuting the illegal use of MSBs and electronic payment devices, increasing targeted financial sanctions, enhancing multilateral/bi-national collaboration, and empirically assessing the money laundering threat.<sup>61</sup>

In 2005, ICE and CBP launched a program known as “Operation Firewall,” which increased operations against bulk cash smuggling in the U.S.-Mexico border region. This operation was re-initiated in January 2010, and between January 2010 and April 2011, Operation Firewall resulted in eight arrests and the seizure of \$6 million in U.S. currency.<sup>62</sup> U.S. efforts against money laundering and bulk cash smuggling are increasingly moving beyond the federal level as well, as

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<sup>56</sup> Department of the Treasury, Financial Crimes Enforcement Network, “Bank Secrecy Act Regulations—Definitions and Other Regulations Relating to Prepaid Access,” 76, No. 146 *Federal Register* 45403-45420, July 29, 2011.

<sup>57</sup> Department of the Treasury, “Bank Secrecy Act Regulations Definition of “Monetary Instrument,” 76 *Federal Register* 64049, October 17, 2011.

<sup>58</sup> GAO, *Moving Illegal Proceeds: Challenges Exist in the Federal Government’s Effort to Stem Cross Border Smuggling*, October 2010, pp. 48–49.

<sup>59</sup> Douglas Farah, *Money Laundering and Bulk Cash Smuggling: Challenges for the Merida Initiative*, Woodrow Wilson Center’s Mexico Institute, Working Paper Series on U.S.-Mexico Security Cooperation, May 2010, p. 161, available at <http://www.wilsoncenter.org/topics/pubs/Farah.pdf>.

<sup>60</sup> ONDCP, *National Southwest Border Counternarcotics Strategy*, 2011, available at [http://www.whitehousedrugpolicy.gov/publications/swb\\_counternarcotics\\_strategy11/swb\\_counternarcotics\\_strategy11.pdf](http://www.whitehousedrugpolicy.gov/publications/swb_counternarcotics_strategy11/swb_counternarcotics_strategy11.pdf). Herein after, SWBCS, 2011. The SWBCS is implemented by the Director of National Drug Control Policy, in conjunction with the DHS Office of Counternarcotics Enforcement as well as the DOJ Office of the Deputy Attorney General.

<sup>61</sup> *Ibid.*, pp. 31-36.

<sup>62</sup> U.S. Embassy, “Fact Sheet: Combating Money Laundering,” April 2011.

experts have recommended.<sup>63</sup> In December 2009, for example, ICE opened a bulk cash smuggling center to assist U.S. federal, state, and local law enforcement agencies track and disrupt illicit funding flows. Still, the GAO has identified several ways in which CBP outbound inspections and other U.S. efforts against bulk cash smuggling, particularly those aimed at combating the use of stored value cards, might be improved.<sup>64</sup>

The United States and Mexico have created a Bilateral Money Laundering Working Group to coordinate the investigation and prosecution of money laundering and bulk cash smuggling. A recent Bi-national Criminal Proceeds Study revealed that some of the major points along the Southwest border where bulk cash is smuggled include San Ysidro, CA; Nogales, AZ; and Laredo, McAllen, and Brownsville, TX.<sup>65</sup> Information provided from studies such as these may help inform policy makers and federal law enforcement personnel and assist in their decisions regarding where to direct future efforts against money laundering.

## **The Four Pillars of the Mérida Initiative**

The strategy behind the Mérida Initiative has evolved over time. That initial strategy was designed in response to the Calderón Administration's request for specific forms of U.S. equipment, training, and technical assistance to help Mexico combat drug trafficking and organized crime. In 2009, U.S. and Mexican officials began to revise the strategic framework underpinning bilateral efforts in order to seek to address some of the deeper causes of criminality in the country— institutional weakness, corruption, and a weak social fabric.<sup>66</sup> The new strategy focuses more on institution-building than on technology transfers and broadens the scope of bilateral efforts to include economic development and community-based social programs, areas where Mexico had not previously sought significant U.S. support. It also includes increased support for Mexican states and municipalities. The strategy is likely to further change and evolve based on the priorities of the Peña Nieto Administration (see “The Peña Nieto Administration and the Future of the Mérida Initiative”).

### **Pillar One: Disrupting the Operational Capacity of Organized Crime**

For the last six years, Mexico has focused much of its efforts on dismantling the leadership of the major DTOs. U.S. assistance appropriated during the first phase of the Mérida Initiative (FY2008-FY2010) enabled the purchase of equipment to support the efforts of federal security forces engaged in anti-DTO efforts. That equipment included \$590.5 million worth of aircraft and helicopters, as well as forensic equipment for the Federal Police and Attorney General's respective crime laboratories. As the DTOs continue to employ new weapons, new types of training and/or equipment may be needed to help security officials combat those new threats. As

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<sup>63</sup> Farah, op. cit.

<sup>64</sup> GAO, *Moving Illegal Proceeds: Challenges Exist in the Federal Government's Effort to Stem Cross Border Smuggling*, GAO-11-73, October 2010, available at <http://www.gao.gov/products/GAO-11-73>.

<sup>65</sup> DHS, *United States - Mexico Bi-National Criminal Proceeds Study*, 2010.

<sup>66</sup> The Obama Administration formally announced the strategy at the Mérida High-Level Consultative Group meeting in Mexico City on March 23, 2010.

the Peña Nieto government moves to establish a National Gendarmerie, assistance may be requested to assist that entity, as well as existing federal forces.

The Mexican government has increasingly been conceptualizing the DTOs as for-profit corporations. Consequently, its strategy, and U.S. efforts to support it, has begun to focus more attention on disrupting the criminal proceeds used to finance DTOs' operations.<sup>67</sup> In August 2010, the Mexican government imposed limits on the amount of U.S. dollars that individuals can exchange or deposit each month. In October 2012, the Mexican Congress approved an anti-money laundering law establishing a financial crimes unit within the Attorney General's office (PGR), subjecting industries vulnerable to money laundering to new reporting requirements, and creating new criminal offenses for money laundering. Future Mérida assistance could be used to provide additional equipment and technical assistance to units within the Finance Ministry and the PGR that are investigating money laundering cases.

As mentioned, the DTOs are increasingly evolving into poly-criminal organizations, perhaps as a partial result of drug interdiction efforts cutting into their profits. As a result, some have urged both governments to focus more on combating other types of organized crime, such as kidnapping and alien smuggling. Some may therefore question whether the funding provided under the Mérida Initiative is being used to adequately address all forms of transnational organized crime.

Intelligence-sharing and cross-border law enforcement operations and investigations (such as those that have occurred in areas around Nogales, AZ)<sup>68</sup> have been suggested as possible areas for increased cooperation. U.S. law enforcement and intelligence officials are reportedly supporting Mexican intelligence-gathering efforts in northern Mexico.<sup>69</sup> U.S. drones are also now patrolling the U.S.-Mexico border and reportedly sharing some of the intelligence information gathered with Mexican officials.<sup>70</sup> Despite the risks involved, policy makers may consider channeling more Mérida assistance to support these bilateral intelligence-sharing and law enforcement efforts.

A more general question that may arise for policy makers as they review the Administration's budget requests for the Mérida Initiative is whether proposed funding would be used to expand existing bilateral partnerships (described in **Appendix B**), or whether it would be used to establish new partnerships. This may depend on the effectiveness of current partnerships, as well as whether new partnerships are needed to address emerging law enforcement challenges. And, as U.S. assistance increasingly flows to state-level law enforcement, policy makers may consider if and to what extent those forces should participate in bilateral law enforcement partnerships.

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<sup>67</sup> The Embassy of Mexico in Washington D.C., "Fact Sheet: National Strategy for Preventing and Fighting Money Laundering and the Financing of Terrorism," December 2011.

<sup>68</sup> CBP and the Mexican Federal Police within the Secretariat for Public Security (SSP) have been conducting parallel patrols along the Arizona border since September 2009. On February 18, 2010, DHS Secretary Napolitano signed an agreement to expand that type of cooperation with the SSP. In addition, ICE, CBP, and the Mexican Attorney General's Office (PGR) have had an agreement in place that has enabled the PGR to prosecute drug smuggling cases that the U.S. Attorney's Office in Arizona declines to prosecute. That program has been extended to El Paso, Texas as well.

<sup>69</sup> Ginger Thompson, "U.S. Widens Role in Battle Against Mexican Drug Cartels," *New York Times*, August 6, 2011.

<sup>70</sup> Mary Beth Sheridan, "Mexico Confirms Use of U.S. Drones in Drug War," *Washington Post*, March 16, 2011.

## **Pillar Two: Institutionalizing the Rule of Law in Mexico**

Reforming Mexico's corrupt and inefficient criminal justice system is widely regarded as a crucial for combating criminality, strengthening the rule of law, and better protecting citizen security and human rights in the country.<sup>71</sup> Due to concerns about the corruption and ineffectiveness of police and prosecutors, less than 13% of all crimes are reported in Mexico.<sup>72</sup> Even so, recent spikes in violence and criminality have overwhelmed Mexico's law enforcement and judicial institutions, with record numbers of arrests rarely resulting in successful convictions. Increasing cases of human rights abuses committed by authorities at all levels, as well as Mexico's inability to investigate and punish those accused of abuses, are also pressing concerns.

Federal police reform got underway during the Calderón Administration, although recent cases of police misconduct have highlighted lingering concerns about federal forces. Serious questions also remain as to when and how the National Gendarmerie will take over the anti-drug functions currently being carried out by the Mexican military. President Peña Nieto has indicated that the military will remain engaged in public security functions for the foreseeable future. Another major challenge will be to expand police reform efforts to the state and municipal level, possibly through the establishment of state level unified police commands. Some Mérida funding is being used to extend U.S.-funded federal police training and prison reform efforts to the states of Chihuahua, Nuevo León, Sonora, and Puebla.

With impunity rates hovering around 82% for homicide and even higher for other crimes,<sup>73</sup> experts maintain that it is crucial for Mexico to implement the judicial reforms passed in the summer of 2008 and to focus on fighting corruption at all levels of government. In order for Mexico to transition its criminal justice system to an accusatorial system with oral trials by 2016, many have argued that U.S.-funded judicial training programs need to be expanded. And, while U.S. assistance has helped federal prisons expand and improve, thousands of federal prisoners are still being housed in state prisons that are overcrowded and often extremely insecure.<sup>74</sup>

### **Reforming the Police**

Police corruption has presented additional challenges to the campaign against DTOs in Mexico. While corruption has most often plagued municipal and state police forces, in June 2012 corrupt Federal Police officers involved in running a drug smuggling ring out of the Mexico City airport killed three of their colleagues. Corrupt officials have also recently been dismissed from the PGR's organized crime unit, as well as its police force.<sup>75</sup>

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<sup>71</sup> David Shirk, *The Drug War in Mexico: Confronting a Shared Threat*, Council on Foreign Relations, March 2011, available at: <http://www.cfr.org/mexico/drug-war-mexico/p24262>.

<sup>72</sup> Gobierno Federal de Mexico, Instituto Nacional de Estadísticas y Geografía (INEGI), *2012 Encuesta Nacional de Victimización y Percepción sobre Seguridad Pública*.

<sup>73</sup> In other words, about 82% of perpetrators have not been brought to justice. Guillermo Zepeda, *Seguridad y Justicia Penal en los Estados: 25 Indicadores de Nuestra Debilidad Institucional*, Mexico Evalúa, March 2012.

<sup>74</sup> Federal prison reform in Mexico began in 2008. Since that time, the Mexican government has invested \$6.4 billion in prison reform and the U.S. government has provided \$23 million in Mérida assistance. U.S. training and equipment supported the establishment of a federal penitentiary academy in Veracruz; the expansion of federal prison capacity through the construction of nine new facilities; and the accreditation of eight of México's federal facilities by the American Correctional Association.

<sup>75</sup> "PGR Makes Internal Arrests," *Latin News Daily*, October 18, 2012; "Mexican Attorney General Shakes up Ranks," (continued...)

The Calderón Administration took steps to reform Mexico's police forces by dramatically increasing police budgets, raising selection standards, and enhancing police training and equipment at the federal level. It also created a national database through which police at all levels can share information and intelligence, and accelerated implementation of a national police registry. President Calderón initially proposed the creation of one unified federal police force under the Secretariat for Public Security (SSP), but two laws passed in 2009 created a Federal Police (FP) force under the SSP and a Federal Ministerial Police (PFM) force under the PGR, both with some investigative functions.<sup>76</sup> It took the Mexican government another year to issue regulations delineating the roles and responsibilities of these two police entities. It remains to be seen how the Peña Nieto government's placement of the SSP under the authority of the Interior Ministry and its plan to create a new militarized police force (gendarmerie) to gradually replace military forces engaged in public security efforts will affect bilateral efforts.

Whereas initiatives to recruit, vet, train, and equip the FP under the SSP rapidly advanced (with support from the Mérida Initiative), efforts to build the PGR's police forces have lagged behind. According to the State Department, Mérida funding supported specialized training courses to improve federal police investigations, intelligence collection and analysis, and anti-money laundering capacity, as well as the construction of regional command and control centers.<sup>77</sup> The Calderón government also sought U.S. technical assistance in developing in-service evaluations and internal investigative units to prevent and punish police corruption and human rights abuses, although experts maintain that much more could be done in that area. Mérida assistance has also begun to support the PFM as well as the FP, but the success of U.S.-funded efforts could be hindered without a clear division of labor between the two entities, particularly with respect to the roles that each will play in investigations. Additional U.S. training could be requested to bolster the PFM, as Peña Nieto has pledged to do, as well as to support the new FP units he intends to develop that will be dedicated to combating kidnapping and extortion.

Thus far, state and local police reform has lagged behind federal police reform efforts. A public security law codified in January 2009 established vetting and certification procedures for state and local police to be overseen by the National Public Security System (SNSP). Federal subsidies have been provided to state and municipal units whose officers meet certain standards. Nevertheless, as of November 2012, the head of the SNSP reported that only six states had complied with the 2009 law's requirement that all state and municipal police officers be vetted by January 2013; that deadline since has been extended. Still, concerns have been raised about the tests' reliability. And, even in states where vetting requirements have been met, a significant percentage of officers who failed the tests have remained on the job.<sup>78</sup>

The establishment of unified state police commands that could potentially absorb municipal police forces has been debated in Mexico for several years.<sup>79</sup> The Mexican Congress failed to

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CNN, July 22, 2011.

<sup>76</sup> Daniel Sabet, *Police Reform in Mexico: Advances and Persistent Obstacles*, Woodrow Wilson Center's Mexico Institute, Working Paper Series on U.S.-Mexico Security Cooperation, May 2010, available at <http://www.wilsoncenter.org/topics/pubs/Sabet.pdf>.

<sup>77</sup> U.S. Department of State, *FY2010 Mérida Initiative Spending Plan for Mexico*, June 10, 2010.

<sup>78</sup> "Mexico: the Tough Task of Cleaning up the Police," *Latin American Weekly Report*, November 15, 2012.

<sup>79</sup> Proponents of the reform maintain that it would improve coordination with the SSP and bring efficiency, standardization, and better trained and equipped police to municipalities. Skeptics argue that police corruption has been a major problem at all levels of the Mexican policing system and argue that there is a role for municipal police who are (continued...)

pass a constitutional reform proposal put forth by the Calderón government in October 2010 to establish unified state police commands. Nevertheless, President Peña Nieto is helping states move in that direction. In the meantime, all states have agreed to establish at least one accredited state police unit composed of roughly 422 officers and some states have moved forward with plans to do away with municipal forces.<sup>80</sup>

The outcome of the aforementioned reform efforts could have implications for U.S. initiatives to expand Mérida assistance to state and municipal police forces, particularly as the two federal governments determine how to organize and channel that assistance. Mérida funding has supported state-level academies in Chihuahua, Nuevo León, Puebla, and Sonora. Those academies may be turned into regional training hubs, an idea that President Peña Nieto has endorsed. It is also helping stand up intelligence task forces in several states, as well as accredited state police units. Training courses offered to state and municipal police might have a slightly different emphasis than those given to federal forces, but a focus on building investigatory capacity is likely to be needed in order for all police to function in the new accusatorial justice system.

In order to complement these efforts, analysts have maintained that it is important to provide assistance to civil society and human rights-related non-governmental organizations (NGOs) in Mexico in order to strengthen their ability to monitor police conduct and provide input on policing policies. Some maintain that citizen participation councils, combined with internal control mechanisms and stringent punishments for police misconduct, can have a positive impact on police performance and police-community relations. Others have mentioned the importance of establishing citizen observatories to develop reliable indicators to track police and criminal justice system performance, as has been done in some states.

## **Reforming the Judicial and Penal Systems**

The Mexican judicial system has been widely criticized for being opaque, inefficient, and corrupt. It is plagued by long case backlogs, a high pre-trial detention rate, and an inability to secure convictions. The vast majority of drug trafficking-related arrests that have occurred over the last six years have not resulted in successful prosecutions. The PGR has also been unable to secure charges in many high-profile cases involving the arrests of politicians accused of collaborating with organized crime, such as Gregorio Sanchez, the former mayor of Cancun.<sup>81</sup>

Mexican prisons, particularly at the state level, are also in need of significant reforms. Increasing arrests have caused prison population to expand significantly, as has the use of preventive detention. Those suspected of involvement in organized crime can be held by the authorities for 40 days without access to legal counsel, with a possible extension of another 40 days, a practice which has led to serious abuses by authorities.<sup>82</sup> Many inmates (perhaps 40%)<sup>83</sup> are awaiting

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trained to deal with local issues.

<sup>80</sup> CRS phone interview with State Department officials, November 8, 2012.

<sup>81</sup> Patrick Corcoran, "Mayor Goes Free, Mexico Fails Again to Prosecute 'Corrupt' Politicians," *In Sight Organized Crime in the Americas*, July 21, 2011.

<sup>82</sup> This practice, known as "*arraigo*" (pre-charge detention) first came into existence in the 1980s, and was formally incorporated into the Mexican Constitution through a constitutional amendment passed in 2008 as a legal instrument to fight organized crime. Its use has been criticized by several United Nations bodies, the Inter-American Commission for (continued...)

trials, as opposed to serving out sentences. As of July 2011, prisons were at 23% over-capacity.<sup>84</sup> Prison breaks are common in state facilities, many of which are controlled by crime groups.

In June 2008, then-President Calderón signed a judicial reform decree after securing the approval of Congress and Mexico's states for an amendment to Mexico's Constitution. Under the reform, Mexico has until 2016 to replace its trial procedures at the federal and state level, moving from a closed-door process based on written arguments to a public trial system with oral arguments and the presumption of innocence until proven guilty. In addition to oral trials, judicial systems are expected to adopt additional means of alternative dispute resolution, which should help make it more flexible and efficient, thereby relieving some of the pressure on the country's prison system. To implement the reforms, Mexico will need to revise federal and state criminal procedure codes (CPCs), build new courtrooms, retrain current legal professionals, update law school curricula, and improve forensic technology—a difficult and expensive undertaking.

Five years into the reform process, progress has stalled at the federal level. From the beginning, analysts had predicted that progress in advancing judicial reform was “likely to be very slow as capacity constraints and entrenched interests in the judicial system (including judges) delay any changes.”<sup>85</sup> Still, the Calderón government devoted more funding and political will towards modernizing the police than strengthening the justice system.<sup>86</sup> In addition, some of the tough measures for handling organized crime cases it included in the 2008 judicial reforms appear to run counter to the spirit of the reforms, which include protections for the rights of the accused.<sup>87</sup> Former President Calderón proposed a new federal CPC—a key element needed to guide reform efforts—in September 2011, but it was not enacted. President Peña Nieto has pledged to advance judicial reform and overhaul the PGR, but experts remain uncertain about how his proposal to introduce a unified code of criminal procedure that would cover the federal and state levels may affect reform efforts.

In contrast to this lack of progress at the federal level, the reform has moved forward in many Mexican states. As of December 2012, 22 of Mexico's 32 states had enacted new criminal procedure codes and 12 states had begun operating under the new system.<sup>88</sup> Reform states have seen positive initial results as compared to non-reform states: faster case resolution times, less pre-trial detention, and tougher sentences for cases that go to trial.<sup>89</sup> Still, daunting challenges

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Human Rights of the Organization of American States, and international and Mexican human rights organizations. For more, see Janice Deaton, *Arraigo and Legal Reform in Mexico*, University of San Diego, June 2010.

<sup>83</sup> U.S. Department of State, *2011 Country Report on Human Rights Practices: Mexico*, May 2012, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?dlid=186528>

<sup>84</sup> Ibid.

<sup>85</sup> “Mexico Risk: Legal and Regulatory Risk,” *Economist Intelligence Unit-Risk Briefing*, January 8, 2010.

<sup>86</sup> Andrew Selee and Eric L. Olson, *Steady Advances, Slow Results: U.S.-Mexico Security Cooperation After Two Years of the Obama Administration*, Woodrow Wilson Center's Mexico Institute, April 2011.

<sup>87</sup> For a discussion of these concerns and the reform process in general, see: David Shirk, “Criminal Justice Reform in Mexico: An Overview,” *Mexican Law Review*, vol. 2, no. 3 (January-June 2011).

<sup>88</sup> Matthew C. Ingram, *Criminal Procedure Reform in Mexico: Where Things Stand Now*, Woodrow Wilson Center's Mexico Institute, Working Paper, December 2012.

<sup>89</sup> USAID, Justice Studies Center of the Americas, and Coordination Council for the Implementation of the Criminal Justice System and its Technical Secretariat (SETEC); *Monitoring the Implementation of the Criminal Justice Reform in Chihuahua, the State of Mexico, Morelos, Oaxaca, and Zacatecas: 2007-2011*, November 2012.

remain, including the need to improve the investigative capacity of police and prosecutors, counter-reform efforts, and opposition from judges and other key justice sector operators.

The U.S. Agency for International Development (USAID) is concentrating most of its work in support of judicial reform at the state level. USAID had been supporting code reform, judicial exchanges, alternative dispute resolution, and Citizen's Participation Councils, as well as training justice sector operators in five Mexican states since 2004. USAID expanded its rule of law efforts with roughly \$104 million in FY2008-FY2012 Mérida assistance, a significant portion of which is supporting comprehensive judicial reform programs in seven of Mexico's 32 states. Although some have urged USAID to continue concentrating its efforts in key states, the agency plans to expand its programs into at least 13 other states, with assistance to each state tailored to the stage that it is at in the reform process.

The Department of Justice (DOJ) is supporting judicial reform at the federal level, including the adoption of a federal CPC. DOJ is administering some \$46 million in State Department funding. In 2012, DOJ's Office of Overseas Prosecutorial Development, Assistance, and Training (OPDAT) and International Criminal Investigative Training and Assistance Program (ICITAP) implemented an initiative known as *Plan Diamante* through which they trained instructors from among the prosecutors and police in the PGR about their roles in the new accusatory system. The Mexican instructors then replicated that training to their colleagues, reaching some 9,500 PGR staff, as well as SSP investigators. DOJ has also started a training program in Puerto Rico for Mexican federal judges.

Congress has expressed support for the continued provision of U.S. assistance for judicial reform efforts in Mexico in appropriations legislation, hearings, and committee reports. Congressional funding and oversight of judicial reform programs in Mexico is likely to continue for many years. Over time, Congress may consider how best to divide funding between the federal and state levels; how to sequence and coordinate support to key elements within the rule of law spectrum (police, prosecutors, courts); and how the efficacy of U.S. programs is being measured.

### **Pillar Three: Creating a "21<sup>st</sup> Century Border"**

Policy makers have questioned not only what it means to have a 21<sup>st</sup> century border, but specifically how this will enhance law enforcement's abilities to combat the drug trafficking organizations and reduce the related violence. In an increasingly globalized world, the notion of a border is necessarily more complex than a physical line between two sovereign nations. Consequently, the proposed 21<sup>st</sup> century border is based on (1) enhancing public safety via increased information sharing, screenings, and prosecutions; (2) securing the cross-border flow of goods and people; (3) expediting legitimate commerce and travel through investments in personnel, technology, and infrastructure; (4) engaging border communities in cross-border trade; and (5) setting bilateral policies for collaborative border management.<sup>90</sup>

On May 19, 2010, the United States and Mexico declared their intent to collaborate on enhancing the U.S.-Mexican border.<sup>91</sup> Twenty-First Century Border Bilateral Executive Steering Committee

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<sup>90</sup> U.S. Department of State, "United States - Mexico Partnership: A New Border Vision," press release, March 23, 2010.

<sup>91</sup> The White House, "Declaration by The Government Of The United States Of America and The Government Of The United Mexican States Concerning Twenty-First Century Border Management," press release, May 19, 2010. As (continued...)

(ESC) that met in December 2010 and again in December 2011 to develop bi-national action plans for the subsequent year.<sup>92</sup> The plans are focused on setting measurable goals within broad objectives: coordinating infrastructure development, expanding trusted traveler and shipment programs, establishing pilot projects for cargo pre-clearance, improving cross-border commerce and ties, and bolstering information sharing among law enforcement agencies.

Both the United States and Mexico spend significant funds—outside of Mérida—related to border security. Because border policies and practices have been different along the U.S. side of the Southwest border and the Mexican side, each country’s goals in further developing the border may necessarily differ as well. A related issue is whether funds appropriated under the revised Mérida Initiative should be divided equally or equitably between border initiatives on the U.S. and Mexican sides of the border.

While policy makers may generally question what constitutes a “21<sup>st</sup> century border,” they may more specifically question which aspects of this border will be mutually beneficial to both U.S. and Mexican efforts to combat the DTOs. Although a key goal of the Mérida Initiative is to combat the DTOs and their criminal activities, the U.S. border strategy does not discriminate between combating drug trafficking-related illicit activities and other illegal behaviors along the border. The current U.S. border strategy strives to secure and manage the U.S. border through obtaining effective control of the borders, safeguarding lawful trade and travel, and identifying and disrupting transnational criminal organizations.<sup>93</sup> As such, it remains to be seen whether enhancements to the border will specifically support the Mérida Initiative’s goal of combating the DTOs or whether the funds put toward border development will result in a general strengthening of the security of the border—and, as a byproduct, aid in disrupting drug trafficking activities.

### **Northbound and Southbound Inspections<sup>94</sup>**

One element of concern regarding enhanced bilateral border security efforts is that of southbound inspections of people, goods, vehicles, and cargo. In particular, both countries have acknowledged a shared responsibility in fueling and combating the illicit drug trade. Policy makers may question who is responsible for performing northbound and southbound inspections in order to prevent illegal drugs from leaving Mexico and entering the United States and to prevent dangerous weapons and the monetary proceeds of drug sales from leaving the United States and entering Mexico. Further, if this is a joint responsibility, it is unclear how U.S. and Mexican border officials will divide the responsibility of inspections to maximize the possibility of stopping the illegal flow of goods while simultaneously minimizing the burden on the legitimate flow of goods and preventing the duplication of efforts.

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mentioned, U.S. - Mexican security cooperation along the border did not begin with the Mérida Initiative. This ESC is one of the most recent developments in the bilateral cooperation.

<sup>92</sup> The 2010 Action Plan is available at <http://www.usembassy-mexico.gov/pdf/plan-eng.pdf>. The 2011 Action Plan is available at [http://photos.state.gov/libraries/mexico/310329/15dec11/Action-Plan\\_15\\_DIC.pdf](http://photos.state.gov/libraries/mexico/310329/15dec11/Action-Plan_15_DIC.pdf).

<sup>93</sup> For a fuller discussion of U.S. border security policies, see CRS Report R42138, *Border Security: Immigration Enforcement Between Ports of Entry*, by Marc R. Rosenblum. CRS was unable to locate an official Mexican border strategy for comparison with the U.S. border strategy.

<sup>94</sup> There is a dearth of open-source data that currently measures the extent of inbound and outbound inspections performed by both the United States and Mexico along the Southwest border. Rather, existing data tends to address seizures of drugs, guns, and money as well as apprehensions of suspects. Therefore, this section addresses current U.S. and additional initiatives to bolster cross-border inspections.

In addition to its inbound/northbound inspections, the United States has undertaken steps to enhance its outbound/southbound screening procedures. Currently, DHS is screening 100% of southbound rail shipments for illegal weapons, cash, and drugs. Also, CBP scans license plates along the Southwest border with the use of automated license plate readers (LPRs). In FY2010, CBP deployed 17 new mobile Non-Intrusive Inspection (NII) Systems and 22 more large-scale NII technology imaging systems to aid in inspection and processing of travelers and shipments.<sup>95</sup>

Historically, Mexican Customs had not served the role of performing southbound (or inbound) inspections. As part of the revised Mérida Initiative, CBP is helping to establish a Mexican Customs training academy to support professionalization and promote the Mexican Customs' new role of performing inbound inspections. Additionally, CBP is assisting Mexican Customs in developing an investigator training program and, as of May 2012, had donated 192 canines and trained 192 handlers to assist with the inspections.<sup>96</sup>

### **Preventing Border Enforcement Corruption**

Another point that policy makers may question regarding the strengthening of the Southwest border is how to prevent the corruption of U.S. and Mexican border officials who are charged with securing the border. On March 11, 2010, the Senate Committee on Homeland Security and Governmental Affairs, Subcommittee on State, Local, and Private Sector Preparedness and Integration held a hearing on the corruption of U.S. border officials by Mexican DTOs. According to testimony from the hearing, in FY2009, the DHS Inspector General opened 839 investigations of DHS employees. Of the 839 investigations, 576 were of CBP employees, 164 were of ICE employees, 64 were of Citizen and Immigration Services (CIS) employees, and 35 were of Transportation Security Administration (TSA) employees.<sup>97</sup> It is unknown, however, how many of these cases involve alleged corruption by Mexican DTOs or how many involve suspected corruption of DHS employees working along the Southwest border.

To date, the Administration's proposal for a 21<sup>st</sup> century border has not directly addressed this issue of corruption. Congress may consider whether preventing, detecting, and prosecuting public corruption of border enforcement personnel should be a component of the border initiatives funded by the Mérida Initiative. If the corruption is as pervasive as officials say,<sup>98</sup> resources provided for new technologies and initiatives along the border may be diminished or negated by corrupt border personnel. For instance, at the end of 2009, CBP was able to polygraph between 10% and 15% of applicants applying for border patrol positions, and of those who were polygraphed, about 60% were found unsuitable for service.<sup>99</sup> If this pattern holds true and 85%-

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<sup>95</sup> U.S. Customs and Border Protection, *Securing America's Borders: CBP Fiscal Year 2010 in Review Fact Sheet*, March 15, 2011, [http://www.cbp.gov/xp/cgov/newsroom/fact\\_sheets/cbp\\_overview/fy2010\\_factsheet.xml](http://www.cbp.gov/xp/cgov/newsroom/fact_sheets/cbp_overview/fy2010_factsheet.xml).

<sup>96</sup> Embassy of Mexico, *Fact Sheet: The Mérida Initiative—An Overview*, May 2012.

<sup>97</sup> See testimony by Thomas M. Frost, Assistant Inspector General for Investigations, U.S. Department of Homeland Security before the U.S. Congress, Senate Committee on Homeland Security and Governmental Affairs, Ad Hoc Subcommittee on State, Local, and Private Sector Preparedness and Integration, *New Border War: Corruption of U.S. Officials by Drug Cartels*, 111<sup>th</sup> Cong., 1<sup>st</sup> sess., March 11, 2010.

<sup>98</sup> See testimony by Kevin L. Perkins, Assistant Director, Criminal Investigative Division, Federal Bureau of Investigation before the U.S. Congress, Senate Committee on Homeland Security and Governmental Affairs, Ad Hoc Subcommittee on State, Local, and Private Sector Preparedness and Integration, *New Border War: Corruption of U.S. Officials by Drug Cartels*, 111<sup>th</sup> Cong., 1<sup>st</sup> sess., March 11, 2010.

<sup>99</sup> See testimony by James F. Tomscheck, Assistant Commissioner, Office of Internal Affairs, Customs and Border Protection before the U.S. Congress, Senate Committee on Homeland Security and Governmental Affairs, Ad Hoc (continued...)

90% of current new hires were not subjected to a polygraph, anywhere between 51% and 54% of all CBP new-hires may not be found suitable for service. Further, between October 1, 2004, and March 11, 2010, 103 CBP officers were arrested or indicted on “mission-critical corruption charges including drug smuggling, alien smuggling, money laundering and conspiracy.”<sup>100</sup> Congress may decide to increase funding—as part of or separately from Mérida funding—for the vetting of new and current border enforcement personnel.

## **Pillar Four: Building Strong and Resilient Communities**

This pillar is a new focus for U.S.-Mexican cooperation, the overall goals of which are to address the underlying causes of crime and violence, promote security and social development, and build communities that can withstand the pressures of crime and violence. Pillar four is unique in that it has involved Mexican and U.S. federal officials working together to design and implement community-based programs in high-crime areas in municipalities near the U.S.-Mexico border. Pillar four seeks to empower local leaders, civil society representatives, and private sector actors to lead crime prevention efforts in their communities.

In January 2010, in response to a violent massacre of 15 youth with no apparent connection to organized crime in Ciudad Juárez, Chihuahua, the Mexican government began to prioritize crime prevention and community engagement. Responding to criticisms of its military-led strategy for the city, federal officials worked with local authorities and civic leaders to establish six task forces to plan and oversee a strategy for reducing criminality, tackling social problems, and improving citizen-government relations. The strategy, aptly titled “Todos Somos Juárez” (“We Are All Juárez”), was launched in February 2010 and has involved close to \$400 million in federal investments in the city.<sup>101</sup> While federal officials began by amplifying access to existing social programs and building infrastructure projects throughout the city, they later sought to respond to local demands to concentrate efforts in certain “safe zones.” At the same time, control over public security efforts in the city shifted from the Mexican military to the Federal Police, and finally to municipal authorities.<sup>102</sup>

Prior to the endorsement of a formal pillar four strategy, the U.S. government’s pillar four efforts in Ciudad Juárez involved the expansion of existing initiatives, such as school-based “culture of lawfulness”<sup>103</sup> programs and drug demand reduction and treatment services.<sup>104</sup> They also included

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Subcommittee on State, Local, and Private Sector Preparedness and Integration, *New Border War: Corruption of U.S. Officials by Drug Cartels*, 111<sup>th</sup> Cong., 1<sup>st</sup> sess., March 11, 2010.

<sup>100</sup> Ibid.

<sup>101</sup> Adam Thompson, “Troubled Juárez starts to breathe again,” *Financial Times*, October 11, 2012.

<sup>102</sup> Each of these forces has committed human rights violations and exhibited corruption. Despite concerns about his aggressive tactics, the current municipal police chief in Ciudad Juárez has won praise by some for reducing crime rates. William Booth, “In Mexico’s Murder City, the War Appears Over,” *Washington Post*, August 20, 2012; Damien Cave, “A Crime Fighter Draws Plaudits, and Scrutiny,” *New York Times*, December 23, 2011.

<sup>103</sup> Culture of Lawfulness (CoL) programs aim to combine “top-down” and “bottom-up” approaches to educate all sectors of society on the importance of upholding the rule of law. Key sectors that CoL programs seek to involve include law enforcement, security forces, and other public officials; the media; schools; and religious and cultural institutions. The U.S. government is supporting school-based “culture of lawfulness” programs, as well as “culture of lawfulness” courses that are being taught to federal and state police.

<sup>104</sup> U.S.-funded demand reduction programs are helping to create a network to connect Mexico’s 334 prevention and treatment centers, to develop curricula for drug counselors at the centers, and to help certify Mexican drug counselors.

new programs, such as support for an anonymous tip line for the police. USAID supported a crime and violence mapping project<sup>105</sup> that enabled Ciudad Juárez's municipal government to identify hot spots and respond with tailored prevention measures as well as a program to provide safe spaces, activities, and job training programs for youth at-risk of recruitment to organized crime. USAID also provided \$1 million in grants to local organizations working in the areas of social cohesion in Ciudad Juárez, with activities focused specifically on education, mental health, and at-risk youth, among others.

It may never be determined what role the aforementioned efforts played in the significant reductions in violence that has occurred in Ciudad Juárez since 2011.<sup>106</sup> Nevertheless, lessons can be gleaned from this example of Mexican and U.S. involvement in municipal crime prevention. Analysts have praised the sustained, high-level support Ciudad Juárez received from the Mexican and U.S. governments; community ownership of the effort; and coordination that occurred between various levels of the Mexican government. The work of the security task force (*Mesa de Seguridad*) proved crucial for developing trust between citizens and authorities, communication among authorities, and citizen oversight of government efforts.<sup>107</sup> The strategy was not well-targeted, however, and monitoring and evaluation of its effectiveness has been relatively weak.<sup>108</sup>

In April 2011, the U.S. and Mexican governments formally approved a bi-national pillar four strategy.<sup>109</sup> The strategy focuses on three objectives: (1) strengthening federal civic planning capacity to prevent and reduce crime; (2) bolstering the capacity of state and local governments to implement crime prevention and reduction activities; and (3) increasing engagement with at-risk youth.<sup>110</sup> U.S.-funded pillar four activities complement the work of the Mexico's National Center for Crime Prevention and Citizen Participation, an entity within the Interior Department that implemented projects in high crime areas in 237 cities in 2012 where local authorities were making similar investments in crime prevention.

In support of this new strategy, USAID launched a three-year, \$15 million Crime and Violence Prevention program in nine target communities identified by the Mexican government in Ciudad Juárez, Monterrey, Nuevo León, and Tijuana, Baja California. The program supports the

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<sup>105</sup> The project has gathered available data on where violence is occurring in the city. See <http://www.observatoriodejuarez.org/>.

<sup>106</sup> While many analysts credit the decline in violence to the end of a turf war between the Sinaloa and Juárez DTOs, federal and local officials have variously taken credit for the reduction. See, for example, "Looking Back on the Calderón Years," *The Economist*, November 22, 2012.

<sup>107</sup> Lucy Conger, "The Private Sector and Public Security: The Cases of Ciudad Juárez and Monterrey," in forthcoming volume: *Building Resilient Communities: Civic Responses to Violent Organized Crime in Mexico* (Woodrow Wilson Center's Mexico Institute and the Trans-Border Institute at the University of San Diego, Expected in 2013).

<sup>108</sup> Diana Negroponte, *Pillar IV of 'Beyond Merida': Addressing the Socio-Economic Causes of Drug Related Crime and Violence in Mexico*, Woodrow Wilson Center's Mexico Institute, May 2011, available at: <http://www.wilsoncenter.org/sites/default/files/Merida%20-%20Pillar%20IV%20Working%20Paper%20Format1.pdf>

<sup>109</sup> The State Department reprogrammed \$8.5 million in FY2010 funding and \$14 million in FY2011 funding to support pillar four projects. To date (FYs 2010, 2010 supplemental, 2011, 2012 and 2013), USAID has dedicated \$35.9 million in Economic Support Fund monies to pillar four.

<sup>110</sup> U.S. programs under the first objective may help refine the Mexican government's national crime prevention plan and support federal entities engaged in developing, monitoring, and evaluating municipal crime prevention efforts. Under the second objective, USAID may support the development and implementation of municipal crime prevention plans. Programs under the third objective may include helping communities build networks of resources for at-risk youth. See USAID-Mexico, "Pillar Four: Building Strong and Resilient Communities," <http://www.usaid.gov/mx/pillariveng.html>.

development of community strategies to reduce crime and violence in the target localities, including outreach to at-risk youth, improved citizen-police collaboration, and partnerships with private sector enterprises. More recently, USAID awarded \$10 million in local grants to six civil society organizations for innovative crime prevention projects that engage at-risk youth and their families. USAID also supports a \$1 million evaluation of crime in the target communities that will help the U.S. and Mexican governments understand the risk factors contributing directly to increased violence and enable both governments to identify successful models for replication.

Experiences in U.S. and Latin American cities have shown the importance that municipal-based crime prevention programs play in efforts to reduce violence. USAID has supported local prevention programs in Central America since the mid-2000s, and lessons learned can be drawn from that experience. Some may argue that similar programs in Mexico should be scaled up, while others may assert that Mexico, a middle-income country, has the capacity to pay for its own prevention programs. As a result, the U.S. government's pillar four programs were designed as pilots for future replication in other areas of Mexico with similar characteristics and vulnerabilities. Mexican participation and ultimate ownership and responsibility of these programs, as well as local civil society participation and oversight, will be crucial to sustaining these investments.

## Issues

### Measuring the Success of the Mérida Initiative

With little publicly available information on what specific metrics the U.S. and Mexican governments are using to measure the impact of the Mérida Initiative, analysts have debated how bilateral efforts should be evaluated.<sup>111</sup> How one evaluates the Mérida Initiative largely depends on how one has defined the goals of the program. While the U.S. and Mexican governments' long-term goals for the Mérida Initiative may be similar, their short-term goals and priorities may be different. For example, both countries may strive to ultimately reduce the overarching threat posed by the DTOs—a national security threat to Mexico and an organized crime threat to the United States. However, their short-term goals may differ; Mexico may focus more on reducing drug trafficking-related crime and violence, while the United States may place more emphasis on aggressively capturing DTO leaders and seizing illicit drugs. More information on the State Department's metrics for evaluating Mérida may eventually be made public now that it is establishing a monitoring and evaluation office in Mexico City.

One basic measure by which Congress has evaluated the Mérida Initiative has been the pace at which equipment has been delivered and trainings have been carried out. As mentioned, a December 2009 GAO report identified several factors that had slowed the pace of Mérida implementation.<sup>112</sup> It is unclear, though, whether more expeditious equipment deliveries to Mexico have resulted in a more positive evaluation of Mérida. Another means by which Mérida success has been measured is through the volume of training programs administered, including

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<sup>111</sup> See, for example, Andrew Selee, *Success or Failure? Evaluating U.S.-Mexico Efforts to Address Organized Crime and Violence*, Center for Hemispheric Policy- Perspectives on the Americas Series, December 20, 2010.

<sup>112</sup> GAO, 10-253R, December 3, 2009.

the number of individuals completing each course. This measure is imperfect, however, as it does not capture the impact that a particular training course had on an individuals' performance.

U.S.-funded antidrug programs in source and transit countries (of which Mexico is both) have also traditionally been evaluated by examining the number of DTO leaders arrested and the amount of drugs and other illicit items seized, along with the price and purity of drugs in the United States. The State Department has attributed increased arrests and certain drug seizures (i.e., cocaine and methamphetamine) to success of the Mérida Initiative.<sup>113</sup> U.S. officials have also highlighted the downward trend (since 2006) of cocaine availability and purity in the United States as evidence of the success of Mérida and other U.S.-funded antidrug efforts.<sup>114</sup>

However, a principal challenge in assessing the success of Mérida is separating the results of those efforts funded via Mérida from those efforts funded through other border security and bilateral cooperation initiatives. The data available do not allow U.S. officials or analysts to determine the success that can be directly attributed to Mérida. Changes in seizure data and drug prices may not be directly related to U.S.-Mexican efforts to combat the DTOs. It is equally difficult to parcel out the reasons for periodic fluctuations in drug purity in the United States.

President Enrique Peña Nieto has vowed to reduce drug trafficking-related violence. Should a decrease in drug trafficking-related deaths be used as an indicator of success for the Mérida Initiative, or is an imminent decline in the violence unrealistic given other countries' experiences combating entrenched organized criminal groups? If violence reduction is used as a measure of success, how should it be weighed against other measures?

In addition to a decline in drug trafficking-related violence, analysts have suggested that success in pillars two and four would be evidenced by, among other things, increases in popular trust in the police and courts. Measuring citizens' perceptions on crime and violence, on the one hand, as well as governmental effectiveness, on the other, could also prove useful.

Still others, including U.S. officials, have maintained that the success of the Mérida Initiative may be measured by a broad range of indicators that show increased bilateral cooperation. Some officials have stated that the increasing ability of U.S. and Mexican law enforcement to share information and "work together to prosecute transnational crime" may be a byproduct of Mérida.<sup>115</sup> For instance, the State Department has cited the arrests and killings of high-profile DTO leaders that have been made since late 2009 as examples of the results of increased bilateral law enforcement cooperation. Another example of Mérida success—in the form of bilateral cooperation—cited by the State Department is the high number of extraditions from Mexico to the United States. As illustrated in **Figure 2**, however, these extraditions may have been more a reflection of the Calderón government's commitment to combating the DTOs than of Mérida successes. Extraditions began to increase before the Mérida Initiative was authorized in October 2007 and before the first funds obligated for equipment and training were realized in Mexico.

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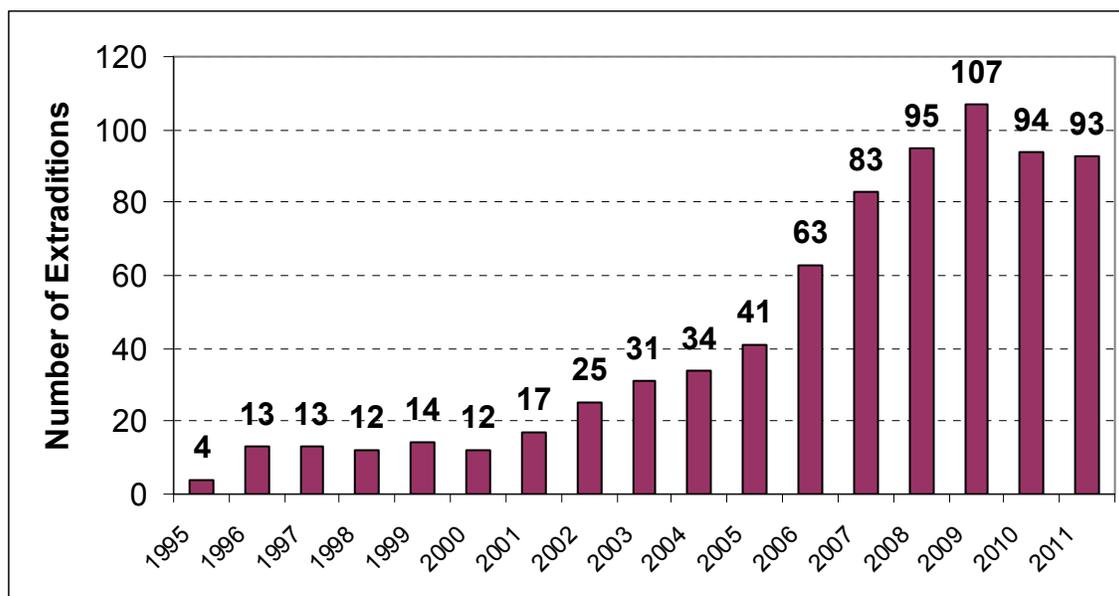
<sup>113</sup> U.S. Embassy in Mexico City, "Fact Sheet: Law Enforcement Achievements," press release, May 2011, <http://photos.state.gov/libraries/mexico/310329/16may/Law%20Enforcement%20May%202011%20Final.pdf>.

<sup>114</sup> ONDCP, 2011 National Drug Control Strategy, July 11, 2011.

<sup>115</sup> U.S. Department of State, "Preview of the Pathways for Prosperity/America's Competitiveness Forum in Cali, Colombia: Roberta S. Jacobson, Assistant Secretary, Bureau of Western Hemisphere Affairs," press release, October 18, 2012.

**Figure 2. Individuals Extradited from Mexico to the United States**

1995–2011



**Source:** 1995—2006 data from U.S. Embassy of Mexico, *U.S. - Mexico at a Glance: Law Enforcement at a Glance*, [http://www.usembassy-mexico.gov/eng/eataglace\\_law.html](http://www.usembassy-mexico.gov/eng/eataglace_law.html). Data for 2007—2008 from the Trans-Border Institute, *Justice in Mexico, News Report January 2009*, January 2009, Data for 2009 from the U.S. Department of State, “United States - Mexico Security Partnership: Progress and Impact,” press release, May 19, 2010, <http://www.state.gov/r/pa/prs/ps/2010/05/142019.htm>. 2010 and 2011 figures from the U.S. Department of Justice.

## Dealing with Drug Production in Mexico

Drug eradication and alternative development programs have not been a focus of the Mérida Initiative even though Mexico is a major producer of cannabis (marijuana), opium poppy (used to produce heroin), and methamphetamine. According to U.S. government estimates, marijuana and opium poppy cultivation in rural Mexico expanded significantly in 2009-2010, before declining in 2011 due to drought conditions in crop-growing regions and slight increases in eradication. At the same time, despite Mexican government import restrictions on precursor chemicals and efforts to seize precursor chemicals and dismantle clandestine labs, the production of methamphetamine appears to have continued at high levels.<sup>116</sup>

The Mexican government has engaged its military in drug crop eradication efforts since the 1930s, but personnel constraints have inhibited recent eradication efforts. Indeed, increases in drug production have occurred as the government assigned more military forces to public security functions, including anti-DTO operations, than to drug crop eradication efforts. Should Mexicans become increasingly wary of the government’s strategy of using the military to perform police functions, there may be calls for the troops to return to more traditional antidrug functions. Similarly, if drug production in Mexico further expands, particularly production of the potent and

<sup>116</sup> INCSR, March 2012.

dangerous “black tar” variety of heroin, U.S. policy makers may decide to direct some Mérida assistance to support eradication efforts in Mexico.

The Mexican government has not traditionally provided support for alternative development even though many drug-producing regions of the country are impoverished rural areas where few licit employment opportunities exist. Alternative development programs have traditionally sought to provide positive incentives for farmers to abandon drug crop cultivation in lieu of farming other crops, but may be designed more broadly to assist any individuals who collaborate with DTOs out of economic necessity. In Colombia, recent studies have found that the combination of jointly implemented eradication, alternative development, and interdiction is more effective than the independent application of any one of these three strategies.<sup>117</sup> Despite those findings, alternative development often takes years to show results and requires a long-term commitment to promoting rural development, two factors which may lessen its appeal as a policy tool for Mexico.

## **Human Rights Concerns and Conditions on Mérida Initiative Funding**

There have been ongoing concerns about the human rights records of Mexico’s military and police. For the past several years, State Department’s human rights reports covering Mexico have cited credible reports of police involvement in extrajudicial killings, kidnappings for ransom, and torture.<sup>118</sup> There has also been increasing concern that the Mexican military, which is less accountable to civilian authorities than the police, is committing more human rights abuses since it has been tasked with carrying out public security functions. A November 2011 Human Rights Watch (HRW) report maintains that cases of torture, enforced disappearances, and extrajudicial killings have increased significantly in states where federal authorities (police and military) have been deployed to fight organized crime.<sup>119</sup> According to Mexico’s Human Rights Commission (*Comisión Nacional de Derechos Humanos* or CNDH), complaints of human rights abuses by Mexico’s Department of Defense (SEDENA) increased from 182 in 2006 to a peak of 1,800 in 2009 before falling to 1,626 in 2011.<sup>120</sup> Complaints of abuses against the Secretariat of the Navy (SEMAR) increased by 150% from 2010 to 2011 as its forces became more heavily involved in anti-DTO efforts.<sup>121</sup> While troubling, only a small percentage of those allegations have resulted in the CNDH issuing recommendations for corrective action to SEDENA and SEMAR, which those agencies say they have largely accepted and acted upon.<sup>122</sup>

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<sup>117</sup> Vanda Felbab-Brown, Joel M. Jutkowitz, Sergio Rivas, et al. *Assessment of the Implementation of the United States Government’s Support for Plan Colombia’s Illicit Crop Reduction Components*, report produced for review by the U.S. Agency for International Development (USAID), April 17, 2009.

<sup>118</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2011*, Washington, DC, May 24, 2012, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>. Hereinafter: Country Report: Mexico, 2011.

<sup>119</sup> Human Rights Watch, *Neither Rights nor Security: Killings, Torture, and Disappearances in Mexico’s “War on Drugs,”* November 2011, available at: [http://www.hrw.org/sites/default/files/reports/mexico1111webwcover\\_0.pdf](http://www.hrw.org/sites/default/files/reports/mexico1111webwcover_0.pdf). Hereinafter HRW, November 2011.

<sup>120</sup> The Trans-Border Institute found that the number of abuses by SEDENA forces that have been investigated and documented by CNDH has also declined since 2008-2009, particularly in areas where large-scale deployments have been scaled back. Catherine Daly, Kimberly Heinle, and David A. Shirk, *Armed with Impunity: Curbing Military Human Rights Abuses in Mexico*, Trans-Border Institute, 2012, available at: [http://justiceinmexico.files.wordpress.com/2012/07/12\\_07\\_31\\_armed-with-impunity.pdf](http://justiceinmexico.files.wordpress.com/2012/07/12_07_31_armed-with-impunity.pdf), P. 21.

<sup>121</sup> Benito Jiménez, “Acumula Marina Quejas por Abusos,” *Reforma*, March 5, 2012.

<sup>122</sup> In 2011, for example, the 1,695 complaints filed with CNDH against SEDENA resulted in 25 recommendations.

In addition to expressing concerns about current abuses, Mexican and international human rights groups have criticized the Mexican government for failing to hold military and police officials accountable for past abuses. They fault the government for not taking further steps to comply with rulings by the Inter-American Court of Human Rights (IACHR) and decisions by Mexico's Supreme Court affirming that cases of military abuses against civilians should be tried in civilian courts. While a few dozen cases have been transferred to civilian jurisdiction, most cases are still being processed in the military justice system.<sup>123</sup>

In 2008, Congress debated whether human rights conditions should be placed on Mérida assistance beyond the requirements in Section 620J of the Foreign Assistance Act (FAA) of 1961. That section was re-designated as Section 620M and amended by the Consolidated Appropriations Act of 2012 (P.L. 112-74). It states that an individual or unit of a foreign country's security forces is prohibited from receiving assistance if the Secretary of State receives "credible evidence" that an individual or unit has committed "a gross violation of human rights."

The FY2008 Supplemental Appropriations Act (P.L. 110-252), which provided the first tranche of Mérida funding, had less stringent human rights conditions than had been proposed earlier, largely due to Mexico's concerns that some of the conditions would violate its national sovereignty. The conditions required that 15% of INCLE and Foreign Military Financing (FMF) assistance be withheld until the Secretary of State reports in writing that Mexico is taking action in four human rights areas:

1. improving transparency and accountability of federal police forces;
2. establishing a mechanism for regular consultations among relevant Mexican government authorities, Mexican human rights organizations, and other relevant Mexican civil society organizations, to make consultations concerning implementation of the Mérida Initiative in accordance with Mexican and international law;
3. ensuring that civilian prosecutors and judicial authorities are investigating and prosecuting, in accordance with Mexican and international law, members of the federal police and military forces who have been credibly alleged to have committed violations of human rights, and the federal police and military forces are fully cooperating with the investigations; and
4. enforcing the prohibition, in accordance with Mexican and international law, on the use of testimony obtained through torture or other ill-treatment.

Similar human rights conditions were included in FY2009-FY2011 appropriations measures that funded the Mérida Initiative.<sup>124</sup> However, the first two conditions are not included in the 15%

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<sup>123</sup> For background, see: Maureen Meyer, *Recent Developments on the Use of Military Jurisdiction in Mexico*, WOLA, January 31, 2012.

<sup>124</sup> In P.L. 110-252, the human rights conditions applied to 15% of the funding for INCLE and FMF, or approximately \$57 million dollars. In the FY2009 Omnibus Appropriations Act (P.L. 111-8), the 15% conditions applied all of the funding accounts but excluded amounts for judicial reform, institution building, anti-corruption and rule of law activities, which were earmarked at not less than \$75 million. The total aid withheld was \$33.4 million. In the FY2009 Supplemental (P.L. 111-32), the conditions effectively only applied to the \$160 million in the INCLE account, or roughly \$24 million, because the \$260 million in FMF funds was excluded from the 15% withholding requirement. In the FY2010 Consolidated Appropriations Act (P.L. 111-117), the 15% withholding applied to all of the accounts but excluded assistance for judicial reform, institution building, anti-corruption and rule of law activities. The total aid withheld was some \$12 million. In the FY2010 Supplemental Appropriations Act (P.L. 111-212), the conditions (continued...)

withholding requirement in the FY2012 Consolidated Appropriations Act (P.L. 112-74). As previously mentioned, Congress has yet to pass a final FY2013 appropriations measure. It remains to be seen whether an omnibus bill would include the conditions on aid to Mexico that are in the Senate Appropriations Committee's version of the FY2013 foreign operations appropriations measure S. 3241 (S.Rept. 112-172). Those conditions would retain the condition related to torture, as well as require the State Department to report that Mexico has reformed its military justice code and is requiring police and military officials to immediately transfer detainees to civilian judicial authorities.

Thus far, the State Department has submitted three 15% progress reports on Mexico to congressional appropriators (in August 2009, September 2010, and August 2012) that have met the statutory requirements for FY2008-FY2012 Mérida funds that had been on hold to be released. Nevertheless, the State Department has twice elected to hold back some funding pending further progress in key areas of concern. In the September 2010 report, for example, the State Department elected to hold back \$26 million in FY2010 supplemental funds as a matter of policy until further progress was made in the areas of transparency and combating impunity.<sup>125</sup> Those funds were not obligated until the fall of 2011.

In the August 2012 report, the State Department again decided to hold back all of the FY2012 funding that would have been subject to the conditions (roughly \$18 million) as a matter of policy until it can work with Mexican authorities to determine steps to address key human rights challenges. Those include improving the ability of Mexico's civilian institutions to investigate and prosecute cases of human rights abuses; enhancing enforcement of prohibitions against torture and other mistreatment; and strengthening protection for human rights defenders.<sup>126</sup>

The State Department has established a high-level human rights dialogue with Mexico, provided human rights training for Mexican security forces (at least eight hours for every course offered), and implemented a number of human rights-related programs. For example, USAID has provided \$1.3 million to the U.N. Office of the High Commissioner for Human Rights to help civil society groups monitor abuses by security forces and to improve how security agencies respond to those abuses. In 2011, USAID launched a \$5 million program being implemented by Freedom House to improve protections for Mexican journalists and human rights defenders. Human rights groups

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(...continued)

applied to 15% of the INCLE appropriated or roughly \$26 million. The same conditions that were included in P.L. 111-117 applied to assistance provided in the FY2011 Department of Defense and Full-Year Continuing Appropriations Act (P.L. 112-10). According to the State Department, the FY2011 funds on hold totaled approximately \$3.5 million. Email from State Department official, January 24, 2012.

<sup>125</sup> In the September 2010 15% report, the State Department urged the Mexican Congress to approve pending legislation that would strengthen the power of the CNDH and the Calderón government to submit legislation to reform the Military Justice Code so that military officials accused of human rights crimes against civilians would be tried in civilian courts. The Mexican Congress approved a series of reforms that elevate human rights conditions in international treaties signed by Mexico to the level of the constitution and strengthen the power of the CNDH and state-level human rights commissions. The reforms were promulgated in June 2011. A reform of Article 57 of the military justice code was submitted by President Calderón in October 2010 mandating that at least certain human rights violations be investigated and prosecuted in civilian courts. A more comprehensive proposal that required that all cases of alleged military human rights violations be transferred to the civilian justice system was approved by the Mexican Senate's Justice Commission in April 2012; however, the bill was subsequently blocked from coming to a vote. In September 2012, another proposal to reform Article 57 was presented in the Mexican Senate as it began its first period of sessions with its new members.

<sup>126</sup> U.S. Department of State, *Mexico- Merida Initiative Report ("15 Percent" Report)*, August 30, 2012.

have acknowledged these discrete efforts, but have criticized the U.S. government more broadly for failing to enforce Mérida's human rights restrictions and for backing Mexico's military-led security strategy.

Congress may choose to augment Mérida Initiative funding for human rights programs, such as ongoing human rights training programs for military and police, or newer efforts, such as support for human rights organizations through ESF funds. Human rights conditions in Mexico, as well as compliance with conditions on Mérida assistance, are also likely to continue to be important oversight issues as well. Policy makers may closely follow how the Peña Nieto moves to punish past human rights abuses and prevent new abuses from occurring.

## **Role of the U.S. Department Of Defense in Mexico**

In contrast to Plan Colombia, the Mérida Initiative does not include an active U.S. military presence in Mexico, largely due to Mexican concerns about national sovereignty stemming from past conflicts with the United States.<sup>127</sup> The Department of Defense (DOD) did not play a primary role in designing the Mérida Initiative and is not providing assistance through Mérida aid accounts. However, DOD administers assistance provided through the FMF account, which was part of Mérida until FY2012. As an implementing agency, DOD's role largely involved overseeing the procurement and delivery of Mérida equipment for Mexican security forces.

Despite its limited role in the Mérida Initiative, DOD assistance to Mexico has been increasing, as has military cooperation between the two countries and Mexican participation in DOD training programs in the United States. These trends that have accelerated since then-President Calderón deployed the military to confront the DTOs.<sup>128</sup> For example, according to press reports, in response to a request from the Mexican government, DOD has begun sending unmanned aerial vehicles into Mexico to gather intelligence on criminal organizations.<sup>129</sup> In December 2011, DOD and DHS announced that the mission for National Guard troops on the U.S.-Mexico border would shift from serving in law enforcement support roles to providing aerial surveillance support for the Border Patrol. That mission will continue in 2013.<sup>130</sup>

Apart from the Mérida Initiative, DOD has its own legislative authorities to provide certain counterdrug assistance. DOD programs in Mexico are overseen by the U.S. Northern Command (NORTHCOM), which is located at Peterson Air Force Base in Colorado. DOD can provide counterdrug assistance under guidelines outlined in Section 1004 of P.L. 101-510, as amended through FY2014, and can provide additional assistance to certain countries as provided for in Section 1033 of P.L. 105-85, as amended through FY2013. DOD counternarcotics support to Mexico totaled roughly \$34.2 million in FY2009, \$89.7 million in FY2010, and \$84.7 million in

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<sup>127</sup> See testimony of Roderic Ai Camp before the Congressional Policy Forum, "Role of Military to Military Cooperation and the Implications and Potentials Risks to Civil-Military Relations," May 9, 2008.

<sup>128</sup> Roderic Ai Camp, *Armed Forces and Drugs: Public Perceptions and Institutional Challenges*, Woodrow Wilson Center, Working Paper Series on U.S.-Mexico Security Collaboration, May 2010; Richard D. Downie, "Critical Decisions in Mexico: the Future of U.S./Mexican Defense Relations," *Strategic Issues in U.S.-Latin American Relations*, vol. 1, no. 1 (July 2011).

<sup>129</sup> Ginger Thompson and Mark Mazzetti, "U.S. Drones Fly Deep in Mexico to Fight Drugs," *New York Times*, March 16, 2011.

<sup>130</sup> DHS, "DHS and DOD Announce Continued Partnership in Strengthening Southwest Border Security," press release, December 20, 2011. "Guard Troops' Border Mission Extended," *Arizona Star*, December 6, 2012.

FY2011. DOD is using some \$50 million in FY2011 per Section 1033 of P.L. 105-85 funds to improve security along the Mexico-Guatemala-Belize border. Total DOD support to Mexico in stood at \$100.4 million in FY2012 and may exceed \$75.3 million in FY2013.<sup>131</sup>

While DOD is unlikely to provide Mexico with the same amount of funds it has provided to Colombia, the same variety of programs may be funded. Future training programs may focus on how to work with police forces to conduct intelligence-driven operations and investigations. The future of the U.S.-Mexican defense relationship may depend on what role President Peña Nieto envisions for the armed forces to play in Mexico's future counterdrug and anticrime efforts.

Since DOD counterdrug assistance is obligated out of global accounts and the agency is not required to submit country-specific requests to Congress for its programs, obtaining recent data on DOD programs and plans for Mexico may be difficult. Regardless, policy makers may want to receive periodic briefings on those efforts in order to guarantee that current and future DOD programs are being adequately coordinated with Mérida Initiative efforts. They may also want to ensure that DOD-funded programs are not inadvertently reinforcing the militarization of public security in Mexico. Experts have urged the United States "not to focus too much on military assistance and neglect other, more effective forms of aid ... [such as assistance for] the development, training, and professionalization of Mexico's law enforcement officers."<sup>132</sup>

## **Balancing Assistance to Mexico with Support for Southwest Border Initiatives**

The Mérida Initiative was designed to complement domestic efforts to combat drug demand, drug trafficking, weapons smuggling, and money laundering. These domestic counter-drug initiatives are funded through regular and supplemental appropriations for a variety of U.S. domestic agencies. As the strategy underpinning the Mérida Initiative expands to include efforts to build a more modern border (pillar three) and to strengthen border communities (pillar four), policy makers may consider how best to balance the amount of funding provided to Mexico with support for related domestic initiatives.<sup>133</sup>

Regarding support for law enforcement efforts, some would argue that there needs to be more federal support for states and localities on the U.S. side of the border that are dealing with crime and violence originating in Mexico. Of those who endorse that point of view, some are encouraged that the Obama Administration has increased manpower and technology along the border, whereas others maintain that the Administration's efforts have been insufficient to secure

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<sup>131</sup> FY2009-FY2010 figures are from a DOD response to CRS request, March 21, 2011. FY2011-FY2013 figures are from a DOD response to CRS request, February 17, 2012. These data reflect non-budget quality estimates of DOD counternarcotics support provided or efforts in these nations/regions; DOD does not budget counternarcotics programs by regions/countries, but by program. These figures reflect both "direct" support to those countries (e.g., training, equipment, information sharing, infrastructure and other categories) and "indirect" support via DOD and other U.S. Government counterdrug operations with regard to those countries (e.g., transportation, communications, intelligence analysis, radar, air and maritime patrol, liaison personnel, and other categories) as well as operation of Cooperative Security Locations.

<sup>132</sup> Robert C. Bonner, "The New Cocaine Cowboys: How to Defeat Mexico's Drug Cartels," *Foreign Affairs*, vol. 89, no. 4 (July/August 2010).

<sup>133</sup> The SWBCS, 2011 includes a new chapter on U.S. efforts to promote strong communities by, in part, increasing crime prevention efforts and drug prevention and treatment programs in U.S. border communities.

the border.<sup>134</sup> In contrast, some maintain that it is impossible to combat transnational criminal enterprises by solely focused on the U.S. side of the border, and that domestic programs must be accompanied by continued efforts to build the capacity of Mexican law enforcement officials. They maintain that if recent U.S. efforts are perceived as an attempt to “militarize” the border, they may damage U.S.-Mexican relations and hinder bilateral security cooperation efforts. Mexican officials from across the political spectrum have expressed concerns about the construction of border fencing and the effects of border enforcement on migrant deaths.<sup>135</sup>

With respect to pillar four of the updated strategy, as previously mentioned, Mexico and the United States are launching programs to strengthen communities in Ciudad Juárez, Monterrey, and Tijuana. In targeting those communities most affected by the violence, greater efforts will necessarily be placed on community-building in Ciudad Juárez and Tijuana than on their sister cities in the United States. However, if the U.S. government provides aid to these communities in Mexico, some may argue that there should also be federal support for the adjacent U.S. border cities. For example, initiatives aimed at providing youth with education, employment, and social outlets might reduce the allure of joining a DTO or local gang. Some may contend that increasing these services on the U.S. side of the border as well as the Mexican side could be beneficial.

## **Integrating Counterdrug Programs in the Western Hemisphere<sup>136</sup>**

U.S. State Department-funded drug control assistance programs in the Western Hemisphere are currently undergoing a period of transition. Counterdrug assistance to Colombia and the Andean region is in decline after record assistance levels that began with U.S. support for Plan Colombia in FY2000 and peaked in the mid-2000s. Conversely, antidrug funding for Mexico, Central America, and the Caribbean is significantly higher now than in the mid-2000s as a result of the Mérida Initiative, which began in FY2008, and two related programs that received initial funding in FY2010, the Central American Regional Security Initiative (CARSI)<sup>137</sup> and the Caribbean Basin Security Initiative (CBSI).

The Obama Administration has taken steps to coordinate the aforementioned country and regional antidrug programs and to ensure that U.S.-funded efforts complement the efforts of partner governments and other donors. The Administration has appointed a coordinator within the State Department (the Principal Deputy Assistance Secretary of State for Western Hemisphere Affairs) to oversee the planning and implementation of the aforementioned security assistance packages. The Office of National Drug Control Policy (ONDCP) and the National Security Council conduct annual reviews of counterdrug efforts in the Americas. ONDCP and the State Department use a high-level committee process to oversee programming and planning. The Administration is encouraging countries that have received U.S. assistance in the past—particularly Colombia—to share technical expertise with other countries in the region, a strategy that analysts have recommended. One area in which closer cooperation between the United States, partner

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<sup>134</sup> For a fuller discussion of U.S. border enforcement efforts, see: CRS Report R42138, *Border Security: Immigration Enforcement Between Ports of Entry*, by Marc R. Rosenblum.

<sup>135</sup> See, for example, Marc R. Rosenblum, *Obstacles and Opportunities for Regional Cooperation: the U.S.-Mexico Case*, Migration Policy Institute, April 2011.

<sup>136</sup> This section is drawn from CRS Report R41215, *Latin America and the Caribbean: Illicit Drug Trafficking and U.S. Counterdrug Programs*, coordinated by Clare Ribando Seelke.

<sup>137</sup> CRS Report R41731, *Central America Regional Security Initiative: Background and Policy Issues for Congress*, by Peter J. Meyer and Clare Ribando Seelke.

governments, and other donors will likely be necessary in efforts to better secure the porous Mexico-Guatemala and Mexico-Belize borders.

## **The Peña Nieto Administration and the Future of the Mérida Initiative**

On November 27, 2012, President Obama and then-President-elect Enrique Peña Nieto pledged to continue security cooperation as part of a broader reform agenda. Peña Nieto emphasized, however, that his government's top security priority will be to "reduce the violence situation" in Mexico, a shift in emphasis towards focusing on citizen security that is likely to affect the future direction of bilateral efforts.<sup>138</sup> He also expressed a desire to boost economic ties between Mexico and the United States, having previously pledged to invest in infrastructure and technology to make the border more efficient, a key goal of pillar three (creating a 21<sup>st</sup> century border) of the Mérida strategy. As a result of these policy shifts, while the broad four-pillar strategy for the Mérida Initiative may remain in place, at least for now, the specific types of assistance and the depth of U.S. involvement requested by the Peña Nieto government may change.

Upon his inauguration, President Peña Nieto announced a reformist agenda with specific proposals under five broad pillars: reducing violence; combating poverty; boosting economic growth; reforming education; and fostering social responsibility. Two of the thirteen priority proposals he mentioned included introducing a constitutional reform to establish a unified code of criminal procedure for the country to advance judicial reform and launching a national crime prevention plan. Somewhat surprisingly, leaders from the conservative National Action Party (PAN) and leftist Party of the Democratic Revolution (PRD) signed on to President Peña Nieto's "Pact for Mexico," an agreement aimed at advancing the reform agenda.

On December 17, 2012, President Peña Nieto outlined a strategy that aims to achieve a "Mexico in Peace" where human rights are respected and protected by implementing a "State" security policy that involves binding commitments from all levels of government and civic participation. The six pillars of the strategy include (1) planning; (2) prevention; (3) protection and respect of human rights; (4) coordination; (5) institutional transformation; and (6) monitoring and evaluation.<sup>139</sup> Although President Peña Nieto has told U.S. media outlets that his government will "in no way abandon the fight"<sup>140</sup> against organized crime, the primary goal of his security strategy is to improve security conditions inside Mexico. Its success will be measured in reductions in homicides and other crimes, rather than in drugs seized or DTO leaders arrested.

In order to better plan, integrate, and evaluate security efforts, President Peña Nieto secured congressional approval of a reform that places the Secretariat of Public Security (Federal Police) and intelligence functions under the authority of the Interior Ministry. That ministry will now become the focal point for security collaboration and intelligence-sharing with the United States, as well as with coordination with state and municipal authorities. The states will in turn be

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<sup>138</sup> The White House, Office of the Press Secretary, "Remarks of President Obama and President-Elect Peña Nieto of Mexico Before Bilateral Meeting," press release, November 27, 2012.

<sup>139</sup> The strategy is outlined in some detail in Spanish on the Mexican Presidency's website: <http://www.presidencia.gob.mx/articulos-prensa/ii-sesion-extraordinaria-del-consejo-nacional-de-seguridad-publica>.

<sup>140</sup> Katherine Corcoran, "AP Interview: Mexico Leader to Continue Drug Fight," *AP*, December 11, 2012.

divided into five geographic regions and will be encouraged to stand up unified state police commands to coordinate with federal forces. Critics are concerned that too much power will now be concentrated in the Interior Ministry.

In addition to strengthening the role of the Interior Ministry in security efforts, the Peña Nieto government envisions a revamped and modernized Attorney General's Office. Peña Nieto's security strategy calls for accelerated implementation of the judicial reforms passed in 2008, a key priority of pillar two (institutional reform) of the Mérida Initiative. It also calls for a reduced usage of preventive detention and prison reform based on rehabilitation and reinsertion into society.

Peña Nieto's security strategy explicitly prioritizes crime prevention, citizen participation, and human rights; this could portend an increase in bilateral efforts under pillar two and pillar four (building resilient communities). The strategy mentions the establishment of a national prevention program with a \$9 billion budget in 2013 and the creation of a national fund for crime prevention projects. Though laudable, many of the projects it suggests supporting (drug treatment, urban renewal, and culture of lawfulness programs) also received funding during the Calderón government. In the area of human rights, Peña Nieto's strategy pledges to increase victims' assistance and to create a national human rights program, protocols for the use of force, and policies for handling enforced disappearances and finding missing persons. Human rights groups and U.S. policy makers are likely to closely monitor how those pledges are translated into concrete actions.

Many details of Peña Nieto's security strategy that will have implications for U.S.-Mexican cooperation under pillars one and two of Mérida still need to be fleshed out. For example, the strategy envisions a continued role for the Mexican military in public security efforts through at least 2015; whether and how the role of the military will be different than under the Calderón government still needs to be clarified. Peña Nieto also plans to reform, rather than dismantle, the Federal Police, but how it will be reconfigured to focus on investigations and combating key crimes (such as kidnapping and extortion) remains to be seen. In addition to a reconfigured Federal Police, President Peña Nieto also proposes to create a new militarized police entity, the National Gendarmerie, whose forces will likely be drawn from the military but placed under the control of the Interior Ministry.<sup>141</sup> The strategy envisions the Gendarmerie, rather than the Federal Police, replacing military forces currently charged with assisting municipalities overwhelmed by violence and guarding border crossings, ports, and airports. It is as yet unclear what type of arrest authority the force would have.

As President Peña Nieto implements his security strategy, the 113<sup>th</sup> Congress may examine how the Mexican government's priorities align with U.S. interests. Congressional approval will be needed should the State Department seek to reprogram some of the \$800 million already in the pipeline for Mérida, or shift new funding to better align with Mexico's new priorities. And, should conflicts occur between Mexican and U.S. priorities, Congress may choose to weigh in on how those conflicts should be resolved. For example, President Peña Nieto has said that the success of his strategy will be measured in reductions in homicides and other crimes, rather than in drugs seized or kingpins arrested. This shift could potentially create some tension with U.S.

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<sup>141</sup> The Gendarmerie is to begin with roughly 10,000 forces, largely drawn from the military, and is expected to be operational by 2015. It may expand, however, to include some 40,000 officers. Questions remain, however, about how responsibilities would be divided between the Federal Police and the Gendarmerie, including whether the gendarmes would only operate in rural areas (as they customarily have in many countries), or in urban zones as well.

efforts to combat Mexico's transnational criminal organizations. Any move by the Peña Nieto government to negotiate with criminal groups, as the Salvadoran government has done,<sup>142</sup> and/or legalize certain drugs would likely prompt congressional concerns.

Possible questions for oversight may include the following: Five years in, what have been the results of the Mérida Initiative thus far? How is the State Department measuring the efficacy of Mérida programs? How are Mérida programs being affected by the Peña Nieto government's new security strategy? Do the Mexican government's priorities complement U.S. policy goals? How is coordination going with the new government? To what extent is the Mexican government moving judicial and police reform efforts forward?

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<sup>142</sup> CRS Report RS21655, *El Salvador: Political and Economic Conditions and U.S. Relations*, by Clare Ribando Seelke.

## Appendix A. U.S. Assistance to Mexico

**Table A-1. U.S. Assistance to Mexico by Account, FY2007-FY2013**  
(U.S. \$ millions)

Account	FY2007	FY2008 <sup>a</sup>	FY2009 <sup>b</sup>	FY2010	FY2011	FY2012 (est.)	FY2013 (req.)
<b>INCLE</b>	36.7	242.1	454.0 <sup>c</sup>	365.0 <sup>d</sup>	117.0	248.5	199.0
<b>ESF</b>	11.4	34.7	15.0	15.0	18.0	33.3	35.0
<b>FMF</b>	0.0	116.5	299.0 <sup>e</sup>	5.3	8.0	7.0	7.0
<b>IMET</b>	0.1	0.4	0.8	1.0	1.0	1.6	1.5
<b>NADR</b>	1.3	1.4	3.9	3.9	5.7	5.4	4.0
<b>GHCS<sup>f</sup></b>	3.7	2.7	2.9	3.5	3.5	1.0	0.0
<b>DA</b>	12.3	8.2	11.2	10.0	25.0	33.4	23.0
<b>TOTAL</b>	<b>65.4</b>	<b>405.9</b>	<b>786.8</b>	<b>403.7</b>	<b>178.2</b>	<b>324.8</b>	<b>269.5</b>

**Sources:** U.S. Department of State, *Congressional Budget Justification for Foreign Operations FY2008-FY2012*, and *FY2013 Executive Budget Summary: Function 150 & Other International Programs*.

**Notes:** GHCS=Global Health and Child Survival; DA=Development Assistance; ESF=Economic Support Fund; FMF=Foreign Military Financing; IMET=International Military Education and Training; INCLE=International Narcotics Control and Law Enforcement; NADR=Non-proliferation, Anti-terrorism and Related Programs. Funds are accounted for in the fiscal year for which they were appropriated as noted below:

- a. FY2008 assistance includes funding from the Supplemental Appropriations Act, 2008 (P.L. 110-252).
- b. FY2009 assistance includes FY2009 bridge funding from the Supplemental Appropriations Act, 2008 (P.L. 110-252) and funding from the Supplemental Appropriations Act, 2009 (P.L. 111-32).
- c. \$94 million provided under P.L. 111-32 and counted here as part of FY2009 funding was considered by appropriators “forward funding” intended to address in advance a portion of the FY2010 request.
- d. \$175 million provided in the FY2010 supplemental (P.L. 111-212) and counted here as FY2010 funding was considered by appropriators as “forward funding” intended to address in advance a portion of the FY2011 request.
- e. \$260 million provided under a FY2009 supplemental (P.L. 111-32) and counted here as FY2009 funding was considered by appropriators “forward funding” intended to address in advance a portion of the FY2010 request.
- f. Prior to FY2008, the Global Health and Child Survival account was known as Child Survival and Health.

## **Appendix B. Selected U.S.—Mexican Law Enforcement Partnerships**

### **Border Enforcement Security Task Forces (BEST)**

The BEST Initiative is a multi-agency initiative, led by Immigration and Customs Enforcement (ICE) within the Department of Homeland Security (DHS), wherein task forces seek to identify, disrupt, and dismantle criminal organizations posing significant threats to border security—both along the Southwest border with Mexico as well as along the Northern border with Canada.<sup>143</sup> Through the BEST Initiative, ICE partners with the U.S. Customs and Border Protection (CBP); the Drug Enforcement Administration (DEA); the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF); the Federal Bureau of Investigation (FBI); U.S. Coast Guard; and U.S. Attorneys' Offices; as well as local, state, and international law enforcement agencies. In particular, the Mexican Secretariat for Public Security (SSP) or federal police is a partner along the Southwest border. There are currently 21 BEST teams around the country, 12 of which are along the Southwest border and one in Mexico City. BEST is the umbrella for the Vetted Arms Trafficking Group, the Weapons Virtual Task Force, and the ICE Border Liaison Program.

### **Operation Against Smugglers (and Traffickers) Initiative on Safety and Security (OASISS)**

CBP and the Mexican government have partnered through OASISS, a bi-lateral program aimed at enhancing both countries' abilities to prosecute alien smugglers and human traffickers along the Southwest border.<sup>144</sup> Through OASISS, the Mexican government is able to prosecute alien smugglers apprehended in the United States. From the time of its inception in August 2005 through May 2010, OASISS generated 2,031 cases.<sup>145</sup> This program is supported by the Border Patrol International Liaison Unit, which is responsible for establishing and maintaining working relationships with foreign counterparts in order to enhance border security.

### **Illegal Drug Program (IDP)**

The Illegal Drug Program (IDP) is an agreement between ICE and the Mexican Attorney General's Office (PGR) wherein ICE can transfer cases of Mexican nationals smuggling drugs

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<sup>143</sup> Department of Homeland Security, U.S. Immigration and Customs Enforcement, *Border Enforcement Security Task Forces*, November 3, 2009, [http://www.ice.gov/pi/news/factsheets/080226best\\_fact\\_sheet.htm](http://www.ice.gov/pi/news/factsheets/080226best_fact_sheet.htm).

<sup>144</sup> See testimony by Audrey Adams, Deputy Assistant Commissioner, Office of International Affairs, U.S. Customs and Border Protection, U.S. Department of Homeland Security before the U.S. Congress, House Committee on International Relations, Subcommittee on the Western Hemisphere, *U.S. - Mexico Relations*, 109<sup>th</sup> Cong., April 26, 2006.

<sup>145</sup> Testimony by Allen Gina, Assistant Commissioner, Office of Intelligence and Operations Coordination, U.S. Customs and Border Protection, Department of Homeland Security before the U.S. Congress, House Committee on Homeland Security, Subcommittee on Border, Maritime, and Global Counterterrorism, and House Committee on Foreign Affairs, Subcommittee on Western Hemisphere, *U.S.-Mexico Security Cooperation: Next Steps for the Merida Initiative*, 111<sup>th</sup> Cong., 1<sup>st</sup> sess., May 27, 2010.

into the United States to the PGR for prosecution.<sup>146</sup> The program was initiated in Nogales, AZ, in October 2009 and subsequently adopted in El Paso, TX. Under the IDP, the U.S. Attorneys' Offices review the cases and then transfer them to the PGR rather than to local law enforcement agencies, as was previously done. The PGR has agreed to accept any drug smuggling case referred by the U.S. Attorneys, regardless of quality, quantity, or type of illegal drug seized.

## **Project Gunrunner<sup>147</sup>**

Project Gunrunner is an initiative led by ATF in DOJ. Its goal is to disrupt the illegal flow of guns from the United States to Mexico. In addition to its domestic objectives, Project Gunrunner also aims to bolster U.S. and Mexican law enforcement coordination along the border in firearms and violent crime cases as well as to train U.S. and Mexican law enforcement officials to identify firearms traffickers. Between FY2005 and FY2010, ATF investigations in those border states have led to the seizure of over 8,700 guns and the indictment of 1,705 defendants, of whom 1,170 were convicted, in federal court.<sup>148</sup> Project Gunrunner has recently been criticized, in part, for not systematically and consistently sharing information with Mexican and U.S. partners as well as for focusing investigations on gun dealers and straw purchasers over high-level traffickers.<sup>149</sup> In September, 2010, ATF released a new strategy, "Project Gunrunner—A Cartel Focused Strategy," that reportedly addresses these issues.<sup>150</sup>

## **Electronic Trace Submission System<sup>151</sup>**

ATF maintains a foreign attaché in Mexico City to administer an Electronic Trace Submission System (ETSS), also known as the eTrace program, for Mexican law enforcement authorities. In January 2008, ATF announced that e-Trace technology would be deployed to an additional nine U.S. consulates in Mexico (Mérida, Juarez, Monterrey, Nogales, Hermosillo, Guadalajara, Tijuana, Matamoros, and Nueva Laredo).<sup>152</sup> More recently, ATF has developed and deployed a Spanish language version of its eTrace program that enables Mexican authorities to submit firearm trace requests electronically to ATF officials in the United States. From FY2007 through FY2010, ATF processed 78,194 trace requests for Mexican authorities.<sup>153</sup> Most of those requests

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<sup>146</sup> For more information on the IDP, see U.S. Immigration and Customs Enforcement, "ICE, Mexican authorities meet and agree to prosecution plan for drug smugglers captured at the border: DHS, Government of Mexico announce new agreement to help curb narcotics smuggling," press release, April 15, 2010, <http://www.ice.gov/pi/nr/1004/100415elpaso.htm>.

<sup>147</sup> For more information on Project Gunrunner, see CRS Report R41206, *The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF): Budget and Operations for FY2011*, by William J. Krouse.

<sup>148</sup> U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives, *ATF Congressional Budget Submission, Fiscal Year 2012*, February 2011, p. 5.

<sup>149</sup> U.S. Department of Justice, Office of the Inspector General, Review of ATF's Project Gunrunner, I-2011-001, November 2010, pp. iii-v, <http://www.justice.gov/oig/reports/ATF/e1101.pdf>.

<sup>150</sup> *Ibid.*, p. ix.

<sup>151</sup> For more information on the Electronic Trace Submission System, see CRS Report R41206, *The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF): Budget and Operations for FY2011*, by William J. Krouse.

<sup>152</sup> Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), Office of Public Affairs, "ATF Expands Efforts to Combat Illegal Flow of Firearms to Mexico," January 16, 2008.

<sup>153</sup> U.S. Embassy, *Mexico City, Fact Sheet: Combating Arms Trafficking*, April 2011.

involved firearms that were either manufactured in or imported into the United States for civilian markets.<sup>154</sup>

## **Mexican American Liaison and Law Enforcement Training (MALLET)**

The FBI created Mexican American Liaison and Law Enforcement Training (MALLET) seminars in 1988.<sup>155</sup> These week-long seminars, hosted at least four times annually in the United States throughout the four Southwest border states, train Mexican law enforcement officers on various topics including law enforcement management and investigative techniques. The Mexican law enforcement officials participating in these trainings come from all levels of government—federal, state, and municipal. These seminars provide not only training, but opportunities for building trusted partnerships on both sides of the border. The MALLET seminars are funded through the FBI's Office of International Operations.<sup>156</sup>

## **Policia Internacional Sonora Arizona (PISA)**

The Policia Internacional Sonora Arizona (PISA) is a nonprofit organization that was established in 1978 and has continued to enhance international law enforcement communication and train officers in laws and procedures across borders.<sup>157</sup> With nearly 500 representatives from various levels of Mexican and U.S. government, PISA promotes training and mutual assistance to extradite fugitives and solve crimes from auto thefts to homicides. For example, state and local law enforcement from Arizona have been involved in providing tactical, SWAT, and money laundering training to Mexican police.

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<sup>154</sup> It is highly probable that most of these firearms were illegally smuggled into Mexico, because the Mexican government only authorizes a relatively small number of firearms to be imported for civilian markets.

<sup>155</sup> For more information, see Federal Bureau of Investigation, *On the Border: Training Our Mexican Colleagues*, May 11, 2009, <http://elpaso.fbi.gov/boader051109.htm>.

<sup>156</sup> From CRS communication with FBI representative, April 27, 2010.

<sup>157</sup> For more information on PISA, see the website at <http://www.azpisa.org/>.