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

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Summary

Increasing violence perpetrated by drug trafficking organizations and other criminal groups is threatening citizen security and governance in Mexico. According to Mexican government data, organized crime-related violence claimed more than 34,500 lives in Mexico between January 2007 and December 2010. That toll may now exceed 40,000. Escalating 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 drug trafficking organizations dominate the U.S. illicit drug market and are now considered the greatest organized crime threat facing the United States.

In recent years, U.S.-Mexican security cooperation has increased significantly, largely as a result of the development and implementation of the Mérida Initiative, a counterdrug and anticrime assistance package for Mexico and Central America that was first proposed in October 2007. Between FY2008 and FY2010, Congress provided $1.5 billion for Mérida Initiative programs in Mexico, with an early emphasis on training and equipping Mexican security forces engaged in counterdrug efforts. As part of the Mérida Initiative, the Mexican government pledged to intensify its efforts against transnational criminal organizations and the U.S. government pledged to address drug demand and the illicit trafficking of firearms and bulk currency to Mexico.

With funding for the original Mérida Initiative technically ending in FY2010 and new initiatives underway for Central America and the Caribbean, the Obama Administration worked with the Mexican government to develop a new four-pillar strategy for U.S.-Mexican security cooperation. That strategy, adopted in March 2010, focuses on (1) disrupting organized criminal groups; (2) institutionalizing the rule of law; (3) building a 21st century border; and (4) building strong and resilient communities. The first two pillars largely build upon existing efforts, whereas pillars three and four broaden the scope of Mérida programs to include efforts to facilitate "secure flows" through the U.S.-Mexico border and to improve conditions in violence-prone border cities. While the Obama Administration asked for $310 million in Mérida Initiative funding for FY2011, the allocation for Mexico that was included in P.L. 112-10 is not yet available. The Administration also requested $282 million in Mérida assistance for FY2012. As of July 1, 2011, a total of $465.0 million worth of assistance (training and equipment) had been provided to Mexico. For 2011, the total value of deliveries to Mexico is expected to exceed $500 million.

The 112th Congress is likely to continue funding and overseeing the Mérida Initiative, as well as examining the degree to which the U.S. and Mexican governments are fulfilling their pledges to tackle domestic problems contributing to drug trafficking and crime in the region. Congress may also examine the degree to which the Administration's new strategy for the Mérida Initiative complements other counterdrug and border security efforts as outlined in the 2011 National Southwest Border Counternarcotics Strategy. In August 2010, Congress approved $600 million in supplemental funds for border security (P.L. 111-230). Given current budget constraints, Congress may also debate how best to measure the impact of current and future Mérida Initiative programs. Another congressional interest is likely to focus on whether human rights conditions placed on Mérida Initiative funding are appropriate or sufficient.

For related information, see CRS Report R41576, *Mexico's Drug Trafficking Organizations: Source and Scope of the Rising Violence*, by June S. Beittel and CRS Report R41075, *Southwest Border Violence: Issues in Identifying and Measuring Spillover Violence*, coordinated by Kristin M. Finklea.

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Introduction

Organized crime poses a serious challenge to governance in Mexico, a country with which the United States shares a nearly 2,000 mile border and close to $400 billion in annual trade. Drug trafficking organizations (DTOs) are fighting for control of lucrative smuggling routes into the United States and resisting the Mexican government's campaign against them. According to Mexican government estimates, this violence resulted in more than 34,500 deaths in Mexico between January 2007 and December 2010. That figure, which was released in January 2011 and has not yet been updated, is higher than those that have been reported by Mexican media outlets.[1] One media source, *Grupo Reforma*, recorded more than 6,400 drug-trafficking related killings in the first half of 2011. Targets of the violence have often included rival criminal organizations or affiliated gang members, but have also included Mexican security forces and public officials; journalists; and civilians, including Americans.[2] An example of this occurred in August 2010, when 72 Central and South American migrants passing through Mexico were found massacred in Tamaulipas. According to a survivor, the Zetas—one of the newest and most violent DTOs—attempted to recruit the migrants to assist in moving drugs and killed them when they refused. In another example, on February 15, 2011, two U.S. Immigration and Customs Enforcement (ICE) agents were shot, one fatally, while driving to Mexico City. This incident marked the first death of a U.S. law enforcement agent in Mexico since 1985.[3]

Drug-trafficking related violence and criminality have created regions in Mexico where the government appears to be struggling to assert its authority[4] leaving significant numbers of Mexicans to question their government's security strategy.[5] The violence has also led to some internal displacement within Mexico and refugees seeking asylum in the United States. DTOs have corrupted and undermined police (particularly at the local level) and criminal justice institutions. With impunity rates hovering around 98%,[6] many Mexicans also doubt their government's ability to bring criminals to justice. J.P. Morgan's chief economist for Mexico estimated that drug trafficking-related violence cost the country some $4 billion in foreign direct investment in 2010.[7] The expanding techniques used by the DTOs, which has included the use of car bombs and grenades, have led some scholars and U.S. officials to liken DTOs' tactics to those

[1] Mexican government data is available here: http://www.presidencia.gob.mx/base-de-datos-de-fallecimientos/. In the absence of updated government data, many analysts use data from *Reforma*, a Mexico-city based newspaper, to track and analyze drug trafficking-related killings in Mexico. For a discussion of the different tallies of the casualties reported by the Mexican media and those of the Mexican government, see Viridiana Ríos and David Shirk, *Drug Violence in Mexico: Data and Analysis Through 2010*, Trans-Border Institute (TBI), University of San Diego, January 2011, http://justiceinmexico.files.wordpress.com/2011/02/2011-tbi-drugviolence4.pdf.

[2] That total includes two U.S. citizens connected to the U.S. Consulate in Ciudad Juarez, Mexico that were killed on March 13, 2010. U.S. Department of State, Bureau of Consular Affairs, *Travel Warning: Mexico*, April 22, 2011.

[3] 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.

[4] Adriana Gomez Licon and Katherine Corcoran, "Mexico Massacre Question: How did it Happen Twice?" *Miami Herald*, Apr. 16, 2011.

[5] According to a May 2011 survey, nearly 60% of those polled thought the Calderón government was losing its struggle against organized crime. "58% Cree Que el Crimen va Ganando Lucha: Encuesta," *El Universal*, June 1, 2011.

[6] In other words, about 98% of perpetrators have not been brought to justice. See Guillermo Zepeda, *Índice de Incidencia Delictiva y Violencia 2009*, Center of Research for Development (CIDAC), Mexico City, August 2009.

[7] Nicholas Casey and James R. Hagerty, "Companies Shun Violent Mexico," *Wall Street Journal*, December 17, 2010.

of armed insurgencies.[8] Criminality often associated with the illegal drug trade has also increased the prevalence of related crimes, including kidnapping, robbery, and extortion.

Escalating violence in 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 FY2010, Congress provided $1.5 billion for Mérida Initiative programs in Mexico. Over roughly the same period, Mexico invested some $26.0 billion of its own resources on security and public safety.[9]

Whereas U.S. assistance under the Mérida Initiative initially focused on training and equipping Mexican counterdrug forces, it now places more emphasis on addressing the weak judicial and law enforcement institutions and the underlying societal problems that have allowed the drug trade to flourish in Mexico. The "Beyond Mérida" strategy announced by both governments in March 2010 focuses on four pillars: (1) disrupting organized criminal groups; (2) institutionalizing the rule of law; (3) building a 21st century border; and (4) building strong and resilient communities. President Obama and Mexican President Felipe Calderón reaffirmed their commitment to the strategy during Calderón's state visit in May 2010 and after a White House meeting on March 3, 2011. The Obama Administration asked for $310 million in Mérida Initiative funding for FY2011, but allocation amounts are not yet available. The Administration also requested $282 million in Mérida assistance for FY2012.

The 112th Congress is likely to continue overseeing how Mérida and related funds have been used and the degree to which the Obama Administration's strategy for Mexico complements other U.S. counterdrug and border security efforts. Congress is likely to continue debating what types and amounts of funding to provide for U.S.-Mexican security efforts and related domestic programs for FY2012. Congress is likely to continue close scrutiny of U.S. efforts to reduce firearms trafficking to Mexico in the wake of recent allegations that Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) officials allowed suspected straw purchasers to amass large quantities of firearms, some of which were subsequently smuggled across the Southwest border (see "Firearms Trafficking" below.[10] Congress may also consider legislation that would define what role, if any, U.S. National Guard troops should continue to play in supporting law enforcement efforts along the Southwest border, which could have implications for U.S.-Mexican law enforcement efforts.[11]

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 new U.S.-Mexican security strategy. The report concludes by raising some policy issues that may affect U.S.-Mexican security cooperation.

[8] 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.

[9] Government of Mexico, "Mexico's Fight for Security: Strategy and Main Achievements," June 2011.

[10] "Is Obama A Gunrunner?," *Investor's Business Daily*, May 9, 2011, p. A16.

[11] The Obama Administration deployed 1,200 National Guard troops to the U.S.-Mexico border in July 2010 to support counternarcotics enforcement pending Customs and Border Protection (CBP) staff increases. The National Guard deployment was scheduled to end in June 2011, but has been extended until September 2011.

Concerns About Drug Trafficking-Related Violence

Drug Trafficking, Violence, and Mexico's Security Strategy[12]

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 (see "Dealing with Increasing Drug Production in Mexico").[13] Mexico is also increasingly becoming a consumer of illicit drugs, particularly in northern states where criminal organizations have been paying their workers in product rather than in cash. Consumption of marijuana, cocaine, and methamphetamine in Mexico increased from 2002 to 2008.[14] Mexican drug trafficking organizations, often referred to as drug "cartels,"[15] control the most significant drug distribution operations along the Southwest border. The most dominant DTOs include the Arellano Felix Organization (Tijuana), Beltran Leyva Organization, the Zetas, Sinaloa (La Federación), Carillo Fuentes Organization (Juárez), Gulf, and La Familia Michoacana. U.S. government reports have characterized Mexican drug trafficking organizations as representing the "greatest organized crime threat" to the United States today.[16] Mexican DTOs have expanded their U.S. presence by increasing their transportation and distribution networks, as well as displacing other Latin American traffickers, primarily Colombians.[17]

In the past few years, the violence and brutality of the Mexican DTOs have 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)[18] due to the fact that they have increasingly branched out into other criminal activities, including alien smuggling, kidnapping, and extortion.

Since taking office in December 2006, President Calderón has focused on combating drug trafficking and organized crime by, in part, increasing Mexico's annual budget for security and public safety from $7.3 billion in 2007 to $10.9 billion in 2011.[19] Government enforcement efforts, many of which have been led by Mexican military forces, have successfully taken down some of the leaders of the major DTOs, either through arrests or deaths during operations to detain them. The pace of these takedowns has accelerated since late 2009, partly due to increased

[12] For background, see CRS Report R41576, *Mexico's Drug Trafficking Organizations: Source and Scope of the Rising Violence*, by June S. Beittel.

[13] U.S. Department of State, *International Narcotics Control Strategy Report (INCSR)*, March 2011, http://www.state.gov/p/inl/rls/nrcrpt/2011/.

[14] Marijuana use increased from 3.48 percent of the population in 2002 to 4.4 percent in 2008, cocaine from 1.23 percent to 2.5 percent, and methamphetamine from 0.08 percent to 0.5 percent. Ibid.

[15] The term drug cartel remains the term used colloquially and in the press, but some experts disagree with this because "cartel" often refers to price-setting groups and it is not clear that Mexican drug cartels are setting illicit drug prices.

[16] U.S. Department of Justice, National Drug Intelligence Center (NDIC), *2009 National Drug Threat Assessment*, December 2008, http://www.justice.gov/ndic/pubs31/31379/31379p.pdf

[17] NDIC, *2010 National Drug Threat Assessment*, February 2010, http://www.justice.gov/ndic/pubs38/38661/index.htm.

[18] See for example, Miguel R. Salazar and Eric L. Olson, *A Profile of Mexico's Major Organized Crime Groups*, Woodrow Wilson Center for International Scholars.

[19] These budget figures include funding for the Ministry of Defense, the Navy, the National Security and Investigation Center, the Federal Police, the Attorney General's Office, and parts of the Ministries of Government and the Presidency. Government of Mexico, June 2011, op. cit.

intelligence-sharing between the U.S. and Mexican governments.[20] In 2009, the Mexican government identified the country's 37 most wanted criminals and by the end of 2010 at least 20 of those alleged criminals had been captured or killed.[21] At the same time, the government's focus on dismantling the leadership of the major criminal organizations appears to have contributed to brutal succession struggles, shifting alliances among the DTOs, and the replacement of existing leaders and criminal groups with others that are even more violent.[22]

Even by conservative estimates, drug trafficking-related violence in Mexico resulted in more than 2,200 killings in 2007, 5,100 killings in 2008, 6,500 killings in 2009, and 11,500 killings in 2010—a more than 70% increase over the prior year).[23] In 2010, a large percentage of the violence occurred in the states of Chihuahua (along the U.S.-Mexico border), Sinaloa, Guerrero, and Durango (see **Figure 1**). However, a split between the Gulf DTO and the Zetas (their former enforcers) sparked violence in new areas of Tamaulipas and Nuevo León (also border states). Feuding for control over the Beltrán Leyva organization increased violence in Morelos, and turf battles invaded Nayarit and Jalisco as well.

Thus far in 2011, the incidence of violence in Mexico has spiraled higher and the geographic area affected by the violence has spread. According to data from *Reforma*, the total number of drug trafficking-related killings in Mexico this year may exceed last year's total by 15% or more.[24] While violence in border states like Baja California and Chihuahua has declined, the locus of border violence has now shifted to Tamaulipas and Nuevo León. Monterrey, a major industrial and financial hub, has been particularly hard hit by the struggle between the Gulf and Zetas DTOs. Violence has remained high in Sinaloa and increased in the Pacific states of Nayarit, Guerrero and Jalisco, as well as in the interior states of Durango and San Luís Potosí. The recent discoveries of mass grave sites in Durango and Tamaulipas have added to the drug trafficking-related death tolls in those states.

[20] STRATFOR, *Mexico's Drug Wars: Bloodiest Year to Date*, December 20, 2010.

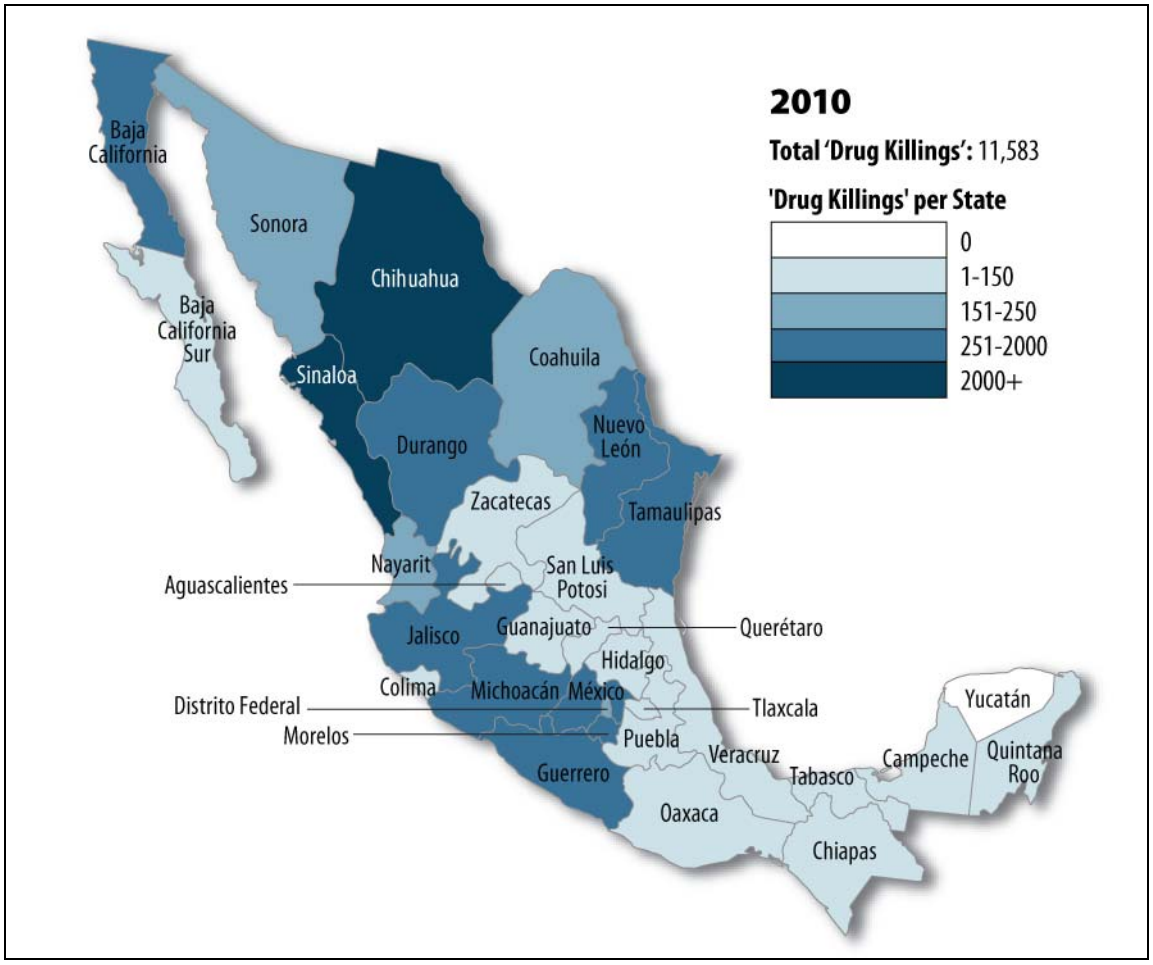
[21] Government of Mexico, "Mexico's Fight for Security: Actions and Achievements," February 2011.

[22] Patrick Corcoran, "A Survey of Mexico's Drug Trafficking Organizations," *In Sight Organized Crime in the Americas*, June 27, 2011.

[23] Ríos and Shirk, op. cit.

[24] TBI, *Justice in Mexico: June 2011 News Report*, June 2011.

Figure 1. Rates of Drug Trafficking-Related Killings in Mexico by State in 2010



Source: Crime Indicator Database at the Trans-Border Institute (TBI) at the University of San Diego, adapted by CRS. The data represented are from *Reforma* newspaper.

Many experts assert that, in order to regain popular support for its security policies, the Calderón government will have to show success in dismantling the DTOs while also reducing drug trafficking-related violence. President Calderón and his top advisers have responded to mounting criticism of the government's security policies by stressing the holistic nature of its public security strategy. They describe the strategy as 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[25]); (3) initiating legal and institutional reforms; (4) strengthening crime prevention and social programs; and, (5) strengthening international cooperation (such as the Mérida Initiative).[26] As part of that strategy, President Calderón has secured legislative approval of a number of constitutional reforms and laws related to national security, including judicial reform (passed in 2008) and, more recently, an anti-kidnapping law. The Calderón government has also used extradition as a major tool to

[25] The size of the Federal Police has increased from 6,500 officers in 2006 to roughly 35,500 officers (including 7,000 college graduates) in 2010.

[26] Government of Mexico, "Mexico's Fight for Security: Strategy and Main Achievements," June 2011.

combat drug traffickers, extraditing 107 individuals to the United States in 2009 and another 94 individuals in 2010.

While some have urged the Calderón government to continue its current strategy with slight modifications, others have suggested that the strategy be completely revised. Calderón Administration officials consulted with local and state officials to change the government's military-led strategy for Ciudad Juarez after the massacre of 15 civilians, many of them teenagers, at a private home there in late January 2010. The new strategy that the Calderón government has implemented, "We Are All Juárez," involves significant federal government investments in education, job training, and community development programs to help address some of the underlying factors that have contributed to violence in the city. It also involved an April 2010 shift from military to federal police control over security efforts in the city, a strategy shift which appears to have yielded some results.[27]

Since August 2010, President Calderón has conducted a series of consultations with academics, policy makers, and civil society leaders on the direction that Mexico's broader public security policy should take. Their recommendations include suggestions like focusing enforcement efforts on the most violent criminal organizations, pressing governors to accelerate much-needed judicial and police reforms, and concentrating crime control efforts and social programs in the country's most violent municipalities. [28] Other, more dramatic policy suggestions have also been put forth. Among them: removing the military from the streets, creating one national police force, and urging the United States to decriminalize drugs, beginning with marijuana, so as to cut into the DTOs' profits.[29]

On June 23, 2011, President Calderón met with peace activists led by Javier Sicilia, a prominent Mexican poet whose son was killed by drug gangs earlier this year. The activists urged President Calderón to abandon his military-led strategy, which they say has caused violence and human rights abuses by security forces. They urged him to consider a new approach focused on combating the poverty, inequality, and unemployment that are contributing to violence.[30]

Potential "Spillover" Violence in the United States[31]

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. In particular, an increase in violence in Mexican cities such as Juárez and Nuevo Laredo has sparked fears that the violence may spill into the neighboring U.S. "sister cities" of El Paso and Laredo. For

[27] Alejandor Martinez-Cabrera, "Mexican President Calderón Highlights Successes in Juárez," *El Paso Times*, May 21, 2011.

[28] Eduardo Guerrero Gutiérrez, "La Ráiz de la Violencia," *Nexos en Línea*, June 1, 2011; Alfredo Corchado, "Arrest Signals Targeting of Zetas," *Dallas Morning News*, July 5, 2011; Kevin Casas-Zamora, "Mexico's Forever War," *ForeignPolicy.com*, December 22, 2010; Eduardo Guerrero Gutiérrez, "*Como Reducir la Violencia en México*," *Nexos en Línea*, November 3, 2010.

[29] See, for example, "Jorge Castañeda, "The Way Forward," *Time*, June 30, 2011.

[30] Candace Vallantin, "Mexicans Campaign to End Drug War; Renowned Poet Puts Down his Pen to Focus on a Caravan For Peace," *Toronto Star*, June 7, 2011.

[31] For background, see CRS Report R41075, *Southwest Border Violence: Issues in Identifying and Measuring Spillover Violence*, coordinated by Kristin M. Finklea.

instance, 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.[32] 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.[33]

U.S. federal 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 recognize that incidents of violence have occurred and that the potential for increased violence does exist.[34] On May 25, 2010, in response to rising state and local concerns about border security, President Obama authorized sending up to 1,200 National Guard troops to the U.S.-Mexico border. The troops began the deployment process on August 1, 2010, and are now serving in law enforcement support roles in high-crime areas along the Southwest border through September 2011.

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 does 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 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

[32] "Department of Homeland Security (DHS): Mexican Assassin Teams Targeting U.S. Law Enforcement," *Homeland Security Newswire,* April 6, 2010.

[33] *INCSR,* March 2011, op. cit.

[34] 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.

tendency to accommodate drug leaders.[35] 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[36] 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.[37]

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 some $397 million from FY2000-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, seizures in Mexico remained relatively low, and corruption continued to hinder bilateral efforts.[38]

As previously stated, upon taking office in December 2006, Mexican President Calderón made combating drug trafficking and organized crime a top priority of his administration. In response to the Calderón government's request for increased U.S. cooperation, 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. 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 diminish local drug demand. Congress appropriated roughly $1.5 billion to support the Mérida Initiative in P.L. 110-252, P.L. 111-8, P.L. 111-32, P.L. 111-117, P.L. 111-212, and, most recently, in P.L. 112-10 (see **Table 1**). Each of these Acts contained human rights conditions on 15% of certain law enforcement and military assistance provided (see "Human Rights Concerns and Conditions on Mérida Initiative Funding" below). U.S. assistance initially focused on training and equipping military and law enforcement officials engaged in counterdrug efforts, improving border security, and reforming Mexico's police and judicial institutions. (For overall U.S. assistance to Mexico, see **Table A-1** in **Appendix A**).

While U.S. and Mexican officials have described the Mérida Initiative as a "new paradigm" for U.S.-Mexican security cooperation, some observers have challenged that description, preferring

[35] 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.

[36] 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.

[37] Craig A. Deare, "U.S.-Mexico Defense Relations: An Incompatible Interface," *Strategic Forum*, Institute for National Strategic Studies, National Defense University, July 2009.

[38] 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.

to describe the Mérida Initiative as a gradual expansion of existing bilateral efforts.[39] Regardless of whether it has resulted in a paradigm shift in U.S.-Mexican relations, the Mérida Initiative signaled a major diplomatic step forward for U.S.-Mexican counterdrug cooperation, which in the 1990s had been at a low point. The Mérida Initiative has resulted in increased bilateral communication and cooperation, from law enforcement officials engaging in joint operations on the U.S-Mexico border to cabinet-level officials meeting regularly to discuss bilateral security efforts. Bilateral coordination has been further advanced by the establishment of a Bilateral Implementation Office in Mexico City where U.S. and Mexican personnel work together to plan and implement joint activities and projects under the Merida Initiative. 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 in the region, including U.S. drug demand. Some Mexican analysts have concurred with these observations, while others assert that the United States continues to largely dictate the bilateral agenda and that the Mérida Initiative is not that different from previous counterdrug programs like Plan Colombia.[40]

[39] U.S. Department of State, "Joint Statement on the Mérida Initiative: A New Paradigm for Security Cooperation," October 22, 2007. For debates about whether or not the Mérida Initiative is a "new paradigm" for U.S.-Mexican security relations, see Laura K. Stephens and José de Arimateia da Cruz, "The Mérida Initiative: Bilateral Cooperation or U.S. National Security Hegemony, *International Journal of Restorative Justice*, 2008, vol. 4, no. 2.; Rafael Velázquez Flores and Juan Pablo Prado Lallande eds. *La Iniciativa Mérida: ¿Una Nueva Paradigma de Cooperación Entre México y Estados Unidos en Seguridad?* Mexico City : National Autonomous University of Mexico, 2009.

[40] Ibid; see the chapters by Mario Cruz Cruz, Juan Pablo Prado Lallande, Jorge Rebolledo, and Alberto Lozano.

Table 1. FY2008–FY2012 Mérida Funding for Mexico by Aid Account and Appropriations Measure

($ in millions)

Account	FY2008 Supp. (P.L. 110-252)	FY2009 Bridge (P.L. 110-252)	FY2009 (P.L. 111-8)	FY2009 Supp. (P.L. 111-32)	FY2010 (P.L. 111-117)	FY2010 Supp. (P.L. 111-212)	Account Totals	FY2011 Request[a]	FY2012 Request
ESF	20.0	0.0	15.0	0.0	15.0[b]	0.0	50.0	10.0	33.3
INCLE	215.5	48.0	246.0	160.0	190.0	175.0	1,034.5	292.0	248.5
FMF	116.5	0.0	39.0	260.0	5.3	0.0	420.8	8.0	Not applicable[c]
Total	**352.0**	**48.0**	**300.0**	**420.0**	**210.3**	**175.0**	**1,505.3**	**310.0**	**281.8**

Sources: U.S. Department of State, *FY2008 Supplemental Appropriations Spending Plan, FY2009 Appropriations Spending Plan, FY2009 Supplemental Spending Plan, FY2010 Spending Plan,* and *FY2010 Supplemental Spending Plan*. U.S. Department of State, *Congressional Budget Justification for Foreign Operations FY2011*; U.S. Department of State, *Executive Budget Summary: Function 150 & Other International Programs FY2012*.

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

a. On April 14, 2011, Congress passed legislation to fund government programs for the remainder of FY2011 (P.L. 112-10). While the legislation reduced most foreign aid accounts from FY2010 enacted levels, final funding by country and program has not been established.

b. $6 million was later reprogrammed for global climate change efforts by the State Department.

c. Beginning in the FY2012 request, FMF assistance is not included as part of the Mérida Initiative.

Implementation

There has been concern in Congress about the slow delivery of Mérida assistance. On December 3, 2009, the GAO issued a preliminary report for Congress on the status of funding for the Mérida Initiative. The report found that $753 million of the $1.1 billion in Mérida funds appropriated for Mexico as of September 2009 had been obligated by the State Department, but only $24 million of the funds had actually been spent.[41] 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." According to a follow-up report by the GAO that was released on July 21, 2010, approximately $790.9 million in Mérida funding had been obligated by March 2010, of which $121.2 million had been expended.[42]

Rather than tracking obligations and expenditures, State Department officials have preferred to report on progress in Mérida implementation by compiling the value of equipment deliveries that have been made and the value of capacity-building programs that have been provided. As of July 1, 2011, a total of $465.0 million worth of assistance had been provided to Mexico, including $336.0 million in equipment and $129.2 million worth of training and technical assistance. Significant equipment deliveries thus far have included three UH-60 Black Hawk helicopters, eight Bell 412 helicopters, a case management system for the Attorney General's Office, and non-intrusive inspection equipment for scanning containers.[43] For 2011, the State Department has committed to delivering $500 million in assistance (equipment and training) to Mexico. Scheduled equipment deliveries this year should include four UH-60 Black Hawk helicopters, a CASA 235 maritime surveillance aircraft, and a $13 million secure communications system for use by law enforcement in sister cities along the U.S.-Mexico border. [44]

U.S. assistance provided under the Merida Initiative has shifted away from providing expensive equipment, like aircraft and IT equipment, toward a focus on institution-building through training and technical assistance. As of July 1, 2011, more than 65,000 Mexican participants have been reached through direct training, conferences, seminars, or other events. Some 6,885 federal police investigators, 2,014 penitentiary staff, and 4,312 judicial sector personnel have completed U.S.-funded courses.[45] U.S. assistance is supporting 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. Mérida assistance is also supporting curriculum and training programs offered by Mexican institutions like the National Public Security System (SNSP), which sets police standards and provides grants to states and municipalities for police training, and the

[41] GAO, *Status of Funds for the Mérida Initiative*, 10-253R, December 3, 2009, available at http://www.gao.gov/new.items/d10253r.pdf.

[42] GAO, *Mérida Initiative: The United States has Provided Counternarcotics and Anticrime Support but Needs Better Performance Measures*, 10-837R, July 21, 2010, available at http://www.gao.gov/new.items/d10837.pdf.

[43] U.S. Department of State, "Mérida Initiative at a Glance," July 1, 2011.

[44] U.S. Embassy in Mexico City, "The Mérida Initiative- What's Coming in 2011," May 2011, http://photos.state.gov/libraries/mexico/310329/12may/2011_Major_Deliveries_FINAL.pdf.

[45] U.S. Department of State, "Mérida Initiative at a Glance," July 1, 2011.

National Institute of Criminal Sciences (INACIPE), which provides training to judicial sector personnel. Despite progress in accelerating the delivery of Merida assistance, Congress may retain a particular interest in ensuring that Mérida Initiative equipment and training programs are delivered in a timely manner.

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."[46] 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 2009, about 21.8 million individuals were current (past month) illegal drug users, representing 9% of individuals aged 12 and older.[47] High-ranking 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.[48] The Obama Administration released its 2010 National Drug Control Strategy report on May 11, 2010, which includes an increased focus on reducing U.S. drug demand, particularly among youth.[49] 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.[50] Some have questioned whether the federal government allocates enough of the drug budget to adequately address the demand side; the FY2012 drug budget proposes to continue to spend a majority of funds on supply reduction programs including drug crop eradication in source countries, interdiction, and domestic law

[46] U.S. Department of State and Government of Mexico, "Joint Statement on the Mérida Initiative: A New Paradigm for Security Cooperation," October 22, 2007.

[47] 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.oas.samhsa.gov/NSDUH/2k9NSDUH/2k9ResultsP.pdf.

[48] 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*, 111th Cong., 2nd 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.

[49] The strategy is available at http://www.whitehousedrugpolicy.gov/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 Kristin M. Finklea.

[50] See, for example, Testimony of John T. Carnevale, President, Carnevale Associates, before the House Oversight and Government Reform Subcommitee on Domestic Policy, April 14, 2010.

enforcement efforts.[51] It is important to note, however, that many state, local, and nonprofit agencies also channel funds toward demand reduction.

Firearms Trafficking[52]

Many view illegal gun trafficking from the United States to Mexico as a significant factor in the escalating drug trafficking-related violence in that country. To stem the flow of illegal guns, the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) has stepped up enforcement of domestic gun control laws in the four Southwest border states under a program known as "Project Gunrunner." However, ATF's efforts to reduce illegal gun trafficking have generated controversy on two counts. First, the U.S. Department of Justice (DOJ) and ATF have obtained approval from the Office of Management and Budget (OMB) for an information collection initiative under which federally licensed gun dealers in Southwest border states would be required to submit multiple sales reports on certain rifles, as a means of more readily identifying possible straw purchasers and gun traffickers.[53] Second, ATF is alleged to have allowed firearms to be transferred to suspected straw purchasers.[54] Then, either intentionally or unintentionally, ATF allowed those suspected criminals or their associates to smuggle those firearms across the border, in an effort to build more complex investigations designed to uncover and dismantle larger gun trafficking conspiracies.[55] Some of those firearms were implicated in the deaths of two U.S. federal agents, and perhaps hundreds have been seized by authorities in Mexico.[56] If these allegations should prove true, they have possibly serious international implications, for neither DOJ nor ATF are reported to have informed their Mexican counterparts about these investigations and the possibility that some of these firearms could be reaching their country.[57]

As the lead federal agency charged with regulating firearms, ATF administers and enforces laws that are designed to prevent the illegal diversion of firearms from legal to illegal markets. While the United States does not maintain a registry of firearms or firearm owners (except for machineguns and destructive devices), ATF and federally licensed gun dealers maintain a decentralized system of transaction records, through which ATF can sometimes trace a firearm from its manufacturer or importer to its first private owner of record. Over the years, successful firearm traces have generated leads in criminal investigations and have generated data that illustrate wider trafficking trends and patterns.

To undergird Project Gunrunner, ATF developed and deployed a Spanish language version of its eTrace program for Mexican authorities to submit trace requests electronically to the United

[51] Office of National Drug Control Policy, *National Drug Control Budget - FY 2012 Funding Highlights*, http://www.whitehousedrugpolicy.gov/policy/12budget/fy12Highlight_Exec_Sum.pdf.

[52] This section was drafted by William Krouse, Specialist in Domestic Security and Crime Policy. For background information, see CRS Report R40733, *Gun Trafficking and the Southwest Border*, by Vivian S. Chu and William J. Krouse.

[53] U.S. Department of Justice, "Statement of Deputy Attorney General James Cole Regarding Information Requests for Multiple Sales of Semi-Automatic Rifles with Detachable Magazines," press release, July 11, 2011.

[54] A "straw purchase" occurs when a person, who is otherwise eligible to purchase a firearm, purchases a firearm from a federally licensed dealer for another person, who is either prohibited from possessing a firearm or does not want a paper trail linking him to the purchased firearm.

[55] "Is Obama A Gunrunner?," *Investor's Business Daily*, May 9, 2011, p. A16.

[56] Ibid.

[57] Kim Murphy, "AK-47s At Death Scene Were Part of ATF Probe," *Los Angeles Times*, February 3, 2011.

States. According to the U.S. Embassy in Mexico City, from FY2007 through FY2010, ATF processed 78,194 trace requests for Mexican authorities.[58] A large, but unknown, percentage of these trace requests involved firearms that were either manufactured in or imported into the United States for civilian markets.[59] It should be underscored, however, that not all firearms seized by Mexican authorities are traced, and such trace submissions are more likely made for firearms believed to have originated in the United States, such as those with a U.S. manufacturing or import stamp. Moreover, problems persist with regard to the quality, quantity, and timeliness of firearms trace requests made by Mexican authorities and resultant data.[60] Data on some firearms, for example, were submitted several times. If previous tracing trends hold true, moreover, about a quarter of trace requests failed because the firearm make, model, or serial numbers were erroneously entered into the system.[61] It is also probable that ATF was only able to identify the first private firearm owner of record or other possible source in the United States in about a quarter of these trace requests.

In November 2010, the DOJ Office of the Inspector General (OIG) released an evaluation of Project Gunrunner.[62] While the OIG was somewhat critical of ATF's eTrace program for yielding few "usable investigative leads,"[63] the OIG recommended that ATF work with DOJ to develop a reporting requirement for multiple long gun sales because Mexican DTOs have demonstrated a marked preference for rifles capable of accepting high-capacity magazines.[64] In the past, published ATF trace data have shown that many of these rifles were semiautomatic versions of the AK-47 and M-16 assault rifles that were produced for civilian markets in the United States. In addition, the OIG recommended that ATF focus its investigative efforts on more complex criminal conspiracies involving high-level traffickers rather than on low-level straw purchasers.

In December 2010, DOJ and ATF requested that OMB approve a "60-day emergency notice of information collection" by January 5, 2011 under the Paperwork Reduction Act (44 U.S.C. § 3507).[65] Under this proposed initiative, ATF would require federally licensed gun dealers to report whenever they make multiple disposals of one or more rifles within five consecutive business days to an unlicensed person. Such reporting would be limited to firearms that are (1) semiautomatic, (2) chambered for ammunition of greater than .22 caliber, and (3) capable of accepting a detachable magazine. Several Members of Congress strongly opposed the proposal.[66]

[58] U.S. Embassy in Mexico City, "Fact Sheet: Combating Arms Trafficking," April 2011.

[59] It is highly probably that most of these firearms were illegally smuggled into Mexico, because the Mexican government only authorizes a relatively small number of firearms to be legally imported for civilian markets.

[60] Colby Goodman, *Update on U.S. Firearms Trafficking to Mexico Report*, Woodrow Wilson International Center for Scholars, Mexico Institute, April 2011, available at http://www.wilsoncenter.org/news/docs/Goodman%20Update%20on%20US%20Firearms%20to%20Mexico.pdf

[61] Ibid.

[62] U.S. Department of Justice, Office of the Inspector General, *Review of ATF's Project Gunrunner*, I-2011-001, November 2010, http://www.justice.gov/oig/reports/ATF/e1101.pdf.

[63] Ibid, p. 73.

[64] Ibid, p. 38.

[65] Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives, "60-Day Emergency Notice of Information Collection Under Review: Report of Multiple Sale or Other Disposition of Certain Rifles," 75 *Federal Register* 79021, December 17, 2010.

[66] Congressional Documents and Publications, "Rehberg Leads Bipartisan Letter to ATF Questioning New Firearm Dealer Regulations," Representative Denny Rehberg (R-MT) News Release, December 23, 2010. On February 19, 2011, the House adopted an amendment to the Full-Year Continuing Appropriations Act, 2011 (H.R. 1) that would have prohibited ATF from implementing that requirement. While the House passed H.R. 1, the Senate rejected this bill on March 9, 2011, for budgetary considerations that went well beyond concerns about this policy rider. Meanwhile, the (continued...)

They maintain that if Congress authorized multiple handgun sales reporting in statute in 1986, then it is incumbent upon ATF to request similar statutory authority from Congress for multiple rifles sales reporting. While OMB initially denied ATF emergency approval, it approved this information collection request on July 11, 2011.[67] In addition, instead of the of the one-year "pilot" period originally requested by ATF, OMB approved the information collection request for a three-year period (through July 31, 2014).[68] Opponents of this initiative quickly responded. On July 12, 2011, Representative Denny Rehberg successfully amended the FY2012 Commerce, Justice, Science Appropriations bill in full committee markup to prohibit ATF from implementing its information collection initiative by a vote of 25 to 16.

In February 2011, ATF and Project Gunrunner came under renewed congressional scrutiny for a Phoenix, AZ-based investigation known as Operation Fast and Furious. ATF whistleblowers have alleged to Members of Congress that suspected straw purchasers were allowed to amass relatively large quantities of firearms as part of long-term gun trafficking investigations.[69] As a consequence, some of these firearms are alleged to have "walked," meaning that they were trafficked to gunrunners and other criminals before ATF moved to arrest the suspects and seize all of their contraband firearms.[70] Two of these firearms—AK-47 style rifles—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.[71] Questions, moreover, have been raised about whether a firearm—an AK-47 style handgun—that was reportedly used to murder U.S. 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 ATF Project Gunrunner investigation.[72] Legislators in both the United States and Mexico have voiced their concern about these allegations.[73] U.S. Attorney General Eric Holder has called upon the DOJ Inspector General to conduct a third evaluation of Project Gunrunner.[74]

On June 14, 2011, Representative Darrell E. Issa and Senator Charles E. Grassley issued a joint staff report on Operation Fast and Furious,[75] in which it is chronicled that ATF line supervisors

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Department of Defense and Full-Year Continuing Appropriations Act, 2011 (H.R. 1473; P.L. 112-10) does not include a similar rider.

[67] U.S. Department of Justice, "Statement of Deputy Attorney General James Cole Regarding Information Requests for Multiple Sales of Semi-Automatic Rifles with Detachable Magazines," press release, July 11, 2011; Evan Perez, "U.S. News: New Rules on Border Gun Sales," *Wall Street Journal*, July 12, 2011.

[68] 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, available at http://www.reginfo.gov/public/do/PRAMain;jsessionid=9f8e89cb30d6399089b4c8ac4da993b6c0e60ddbeff2.e34ObxiKbN0Sci0SbhaSa3aLchr0n6jAmljGr5XDqQLvpAe.

[69] James v. Grimaldi and Sari Horwitz, "ATF Probe Strategy Is Questioned," *Washington Post*, February 2, 2011.

[70] Ibid.

[71] Ibid.

[72] Ibid.

[73] Dennis Wagner, "Gun Shop Told ATF Sting Was Perilous," *Arizona Republic*, April 15, 2011, p. A1.

[74] Jerry Seper, "ATF Knew Risks in Border Operation; Instructed Arizona Gun Dealer To Engage in 'Suspicious Sales' Despite Concerns," *Washington Times*, April 15, 2011, p. 5.

[75] U.S. Congress, Joint Staff Report, *Department of Justice's Operation Fast and Furious: Accounts of ATF Agents*, prepared for Rep. Darrell E. Issa, Chairman, United States House of Representatives, Committee on Oversight and Government Reform & Senator Charles E. Grassley, Ranking Member, United States Senate, Committee on the Judiciary, 112th Cong., 1st sess., June 14, 2011, http://oversight.house.gov/images/stories/Reports/ATF_Report.pdf.

became increasingly concerned when they witnessed hundreds of firearms being illegally transferred during surveillance operations, but were reportedly directed not to arrest the suspects and interdict those firearms. Those agents contend that this was a questionable departure from past investigative practices. On June 15, 2011, the House Committee on Oversight and Government Reform held a hearing on these matters. Representative Issa, Chairman of that committee, expressed his concern that DOJ had not been entirely cooperative with his committee's efforts to investigate how some of those firearms found their way to crime scenes in Mexico and on the Southwest border. Following the hearing, on June 29, 2011, Representative Elijah E. Cummings, the committee's ranking minority member, issued a report and held a forum, during which the minority explored issues raised by some of those same ATF line supervisors, who had suggested during the House hearing that the penalties for firearm straw purchases under current law are arguably not stringent enough. The minority also discussed other gun control proposals related to gun shows, semiautomatic assault weapons, sniper rifles, and additional penalties for gun trafficking offenses.[76]

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.[77] 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.[78] Of note, stored value cards are not considered monetary instruments under current law.

The U.S. Department of the Treasury's Financial Crimes Enforcement Network (FinCEN) has issued a notice of proposed rulemaking, intending to define "stored value" as "prepaid access" and to implement regulations regarding the recordkeeping and suspicious activity reporting requirements for prepaid access products and services.[79] The proposed rule would not, however,

[76] U.S. Congress, House Oversight and Government Reform Committee, Minority Staff Report, O*utgunned: Law Enforcement Agents Warn Congress They Lack Adequate Tools to Counter Illegal Firearms Trafficking*, 112th Cong., 1st sess., June 30, 2011, available at http://democrats.oversight.house.gov/images/stories/OUTGUNNED%20Firearms%20Trafficking%20Report%20-%20Final.pdf. On July 15, 2011, Representative Carolyn B. Maloney introduced the Stop Gun Trafficking and Strengthen Law Enforcement Act of 2011 (H.R. 2554). Original cosponsors included Representative Cummings and Representative Carolyn McCarthy.

[77] DHS, *United States-Mexico Bi-National Criminal Proceeds Study*, June 2010.

[78] 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."

[79] U.S. Department of the Treasury, FinCEN, "Financial Crimes Enforcement Network; Amendment to the Bank Secrecy Act Regulations—Definitions and Other Regulations Relating to Prepaid Access," 75 *Federal Register*, pp. 36589-36608, June 28, 2010, http://edocket.access.gpo.gov/2010/pdf/2010-15194.pdf.

directly address whether stored value or prepaid access cards would be subject to current regulations regarding the international transportation of monetary instruments. Even if FinCEN were to implement regulations requiring individuals leaving the United States to declare stored value, GAO has identified several challenges that would remain.[80] 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.[81] 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).[82] 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.[83]

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.[84] U.S. efforts against money laundering and bulk cash smuggling are increasingly moving beyond the federal level as well, as experts have recommended.[85] 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.[86]

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[80] GAO, *Moving Illegal Proceeds: Challenges Exist in the Federal Government's Effort to Stem Cross Border Smuggling*, October 2010, pp. 48 – 49.

[81] Douglas Farah, *Money Laundering and Bulk Cash Smuggling: Challenges for the Merida Initiative*, Woodrow Wilson International Center for Scholars, Working Paper Series on U.S.-Mexico Security Cooperation, May 2010, p. 161, available at http://www.wilsoncenter.org/topics/pubs/Farah.pdf.

[82] ONDCP, *National Southwest Border Counternarcotics Strategy*, 2011, available at 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.

[83] Ibid., pp. 31 – 36.

[84] U.S. Embassy, "Fact Sheet: Combating Money Laundering," April 2011.

[85] Farah, op. cit.

[86] GAO, *Moving Illegal Proceeds: Challenges Exist in the Federal Government's Effort to Stem Cross Border*
(continued...)

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.[87] 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.

Beyond Mérida: the New Bilateral Security Strategy

One of the most prominent criticisms of the Mérida Initiative has been its focus on technology transfers, as some believe the plan has thus far neglected to provide adequate attention to capacity building efforts and institutional reforms within Mexico. Experts have argued that a post-Mérida strategy must seek to better address the weak civilian judicial and law enforcement institutions in Mexico while also addressing underlying societal problems, such as poverty and widespread corruption, that have allowed the drug trade to flourish. [88]

As part of the FY2011 budget preparation process, U.S. and Mexican officials began to revise the strategic framework underpinning U.S.-Mexican security cooperation. After several months of consultations, the Obama and Calderón governments agreed to a new strategy, which has been called "Beyond Mérida," that broadens the scope of bilateral security efforts and focuses more on institution-building than on technology and equipment transfers. The Obama Administration outlined the strategy in its FY2011 budget request, which included $310 million for Mérida-related programs in Mexico. The Administration did not formally announce the new strategy until the Mérida High-Level Consultative Group meeting in Mexico City on March 23, 2010. The State Department has since indicated that it intends to extend Mérida assistance beyond 2012, when President Calderón leaves office, and to increase support for Mexican states and municipalities.[89]

The U.S. and Mexican governments have remained committed to the Mérida Initiative under its new strategy despite recent tensions that have emerged in the bilateral relationship. President Obama welcomed President Calderón to the White House for a two-day state visit on May 19, 2010, during which the leaders pledged to continue working together to combat the organized criminal groups that traffic drugs into the United States and illicit weapons and cash into Mexico. After a March 3, 2011 meeting at the White House, President Obama and President Calderón again vowed to bolster bilateral security cooperation. This public display of unity occurred even as bilateral relations were being tested by several recent events. U.S.-Mexican relations have reportedly been strained by the aforementioned shooting of two U.S. ICE agents working in

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Smuggling, GAO-11-73, October 2010, available at http://www.gao.gov/products/GAO-11-73.

[87] DHS, *United States - Mexico Bi-National Criminal Proceeds Study*, 2010.

[88] David Shirk, *The Drug War in Mexico*, Council on Foreign Relations, Council Special Report No. 60, March 2011. Shirk maintains that the $200 million per year that the United States has provided in economic assistance to Colombia has been crucial to consolidating the security improvements that have been made in that country. He recommends increasing U.S. development assistance to Mexico.

[89] U.S. Department of State, *Report to Congress on Mérida and Post-Mérida*, June 11, 2010.

Mexico, one of whom was killed; the March 2011 resignation of the U.S. Ambassador Carlos Pascual;[90] and by the aforementioned "Fast and Furious" gunrunning scandal.[91]

Pillar One: Disrupting the Operational Capacity of Organized Crime

The Calderón government has, until recently, focused most of its efforts on dismantling the power of drug trafficking organizations. To that end, the government has conducted joint police-military operations to arrest DTO leaders, investigated and indicted public officials suspected of collusion, and begun to go after the DTOs' illicit assets.[92] A significant percentage of U.S. assistance appropriated during the first phase of the Mérida Initiative has been obligated to purchase equipment to support those efforts, including $590.5 million worth of aircraft and helicopters. The Mexican government has increasingly begun to conceptualize 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. These efforts, as well as increased intelligence-sharing and cross-border law enforcement operations and investigations (such as those that have occurred in areas around Nogales, AZ[93]) have been suggested as possible areas for increased cooperation.

One question that may arise for policy makers as they review the Administration's current and future budget requests for the Mérida Initiative is whether proposed funding would be used to expand existing bilateral partnerships or whether it would be used to establish new partnerships. The answer to this question may depend on the effectiveness of current partnerships, as well as whether new partnerships are needed to address emerging law enforcement challenges. For example, Mexico recently began conducting southbound inspections of commercial and non-commercial vehicles entering the country, deploying more canine detection teams, and employing risk analysis techniques to improve its ability to detect and seize illicit goods. Under pillar three of the new strategy (discussed below), the Mexican government may seek increased training from CBP and ICE, as well as equipment for the new customs training academy that it is constructing in Querétaro. Should the Mexican Congress enact proposed legislation to create a border police unit within the SSP, that unit could seek increased U.S. support as well. If the DTOs continue to employ new weapons, such as grenades and car bombs, specific training to combat those new threats could be needed.

Also, as the DTOs increasingly evolve into poly-criminal organizations, perhaps as a partial result of drug interdiction efforts cutting into their profits, some analysts have also urged both

[90] Prior to his resignation, Ambassador Pascual was criticized by Presidentg Calderón for the comments he made about deficiencies in Mexico's antidrug efforts in confidential diplomatic cables that were leaked to the press. Denise Dresser, "U.S. Ambassador to Mexico Ousted 'For Doing his Job," *Miami Herald*, April 18, 2011.

[91] "Is Obama A Gunrunner?," *Investor's Business Daily*, May 9, 2011, p. A16.

[92] The Mexican Congress has recently enacted an asset forfeiture law. The Mexican government has also imposed limits on the amount of U.S. dollars that individuals can exchange or deposit each month. "Mexico Targets Dirty Dollars," *BBC News*, June 15, 2010.

[93] 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 is now being extended to El Paso.

governments to focus more on combating other types of organized crime, such as kidnapping, human trafficking and alien smuggling.[94] Some may therefore question whether the funding provided under the Mérida Initiative will be used to address all forms of transnational organized crime. Examples of current U.S.-Mexico law enforcement partnerships are discussed in **Appendix B**.

Pillar Two: Institutionalizing the Rule of Law in Mexico

Many security experts maintain that the Mexican government needs to focus more on addressing the country's weak law enforcement and judicial institutions. Federal police reform is well underway, but serious questions remain as to when and how the federal police will take over the anti-drug functions currently being carried out by the Mexican military. President Calderón has indicated that the military will remain engaged in public security functions through the end of his term in 2012. Another major challenged 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 police training and prison reform efforts to states and municipalities, beginning with Ciudad Juárez and the state of Chihuahua.

With impunity rates hovering around 98%,[95] 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, some argue that U.S.-funded judicial training programs may have to be significantly expanded.[96] Others also maintain that the country's overcrowded federal and state prisons, whose inmate populations have grown partially as a result of increasing drug-related arrests and the use of pre-trial detentions, merit increased attention.[97]

Reforming the Police

Police corruption has presented additional challenges to the campaign against DTOs in Mexico. In October 2008, an elite unit within the Attorney General's Office for Special Investigations of Organized Crime (SIEDO) was implicated in a scandal involving payoffs for sensitive information about antidrug activities, with at least 35 officials fired or arrested.[98] In November 2008, the former head of SIEDO was arrested and accused of accepting bribes from a DTO. The former investigative agency within the Attorney General's Office (PGR), the Federal Agency of Investigations (AFI), which was created in 2001, was, by 2005, widely criticized for corruption,

[94] Edgardo Buscaglia, a Mexican expert in organized crime, has estimated that between 52 and 55% of the illicit profits earned by Mexican organized criminal groups now come from illicit activities other than drug trafficking. Dolia Estévez, "Juárez: El Futúro de México?" *Poder 360*, March 12, 2010.

[95] In other words, about 98% of perpetrators have not been brought to justice. This figure is widely cited, see, for example, Guillermo Zepeda, *Índice de Incidencia Delictiva y Violencia 2009*, Center of Research for Development (CIDAC), Mexico City, August 2009, p. 9.

[96] Eric L. Olson and Christopher E. Wilson, *Beyond Merida: The Evolving Approach to Security Cooperation*, Woodrow Wilson International Center for Scholars, Working Paper Series on U.S.-Mexico Security Cooperation, May 2010.

[97] Federal police reform in Mexico began in 2008. Between FY2008 and FY2010, some $14 million in Mérida assistance were set aside for providing "technical assistance in prison management."

[98] Tracy Wilkinson, "Mexico Under Siege: Elite Police Tainted by Drug Gang," *Los Angeles Times*, October 28, 2008.

and largely disbanded in June 2009.[99] Corruption has also plagued federal, state, and municipal police forces.

President Calderón has taken steps to reform Mexico's federal, state, and municipal police forces by enhancing police training at the federal level, creating a national database through which police can share information and intelligence, and accelerating implementation of a national police registry.[100] Calderón initially proposed the creation of one unified federal police force under the 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 to replace the discredited AFI, both with some investigative functions.[101] It took the Mexican government another year to issue regulations delineating the roles and responsibilities of these two new police entities.

Whereas initiatives to recruit, train, and equip the FP under the Secretariat for Public Security (SSP) have rapidly advanced (with support from the Mérida Initiative), efforts to build the PGR's police forces (the PFM) have lagged behind. According to the State Department, Mérida funding will support 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.[102] The Calderón government has 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. Mérida assistance has recently 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 and guidance on how they will collaborate in investigating and developing cases with prosecutors from the PGR.

Thus far, state and local police reform has lagged behind federal police reform efforts. In October 2010, the Calderón government submitted a proposal to reform article 115 of the Mexican Constitution in order to have the country's roughly 2,022 municipal police forces absorbed by state-level police agencies that would then coordinate their efforts with the SSP.[103] Mexico's 2011 budget includes funding for its implementation, which is moving forward in some states, but the proposal has encountered significant opposition in the Mexican Congress.[104] 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,

[99] Robert E. Donnelly and David A. Shirk, eds., *Police and Public Security in Mexico*, San Diego, CA: University Readers, 2010, p. 228.

[100] A State Department report submitted to congressional appropriators on April 2, 2010, as required by the Joint Explanatory Statement to P.L. 111-117, described Mexico's national police registry, which was started in 2001, as now being "fully functional," but stated that "not all [Mexican] states and municipalities have permanent, real-time connectivity to the system." The State Department plans to devote up to $8.8 million in Mérida funding to enhance the registry and make it available across the country. U.S. Department of State, *Report on the Mexican Federal Registry of Police Personnel*, April 2, 1010.

[101] Daniel Sabet, *Police Reform in Mexico: Advances and Persistent Obstacles*, Woodrow Wilson International Center for Scholars, Working Paper Series on U.S.-Mexico Security Cooperation, May 2010, available at http://www.wilsoncenter.org/topics/pubs/Sabet.pdf

[102] U.S. Department of State, *FY2010 Mérida Initiative Spending Plan for Mexico*, June 10, 2010.

[103] In order to take effect, the measure would have to be approved by the Mexican Congress and then a majority of the state legislatures, a process which could take several months to a year or more.

[104] Melissa Pitts, *Mexico Update: Addressing Police Reform and Climate Changes*, Council of the Americas, December 2, 2010.

including the state and federal police, and argue that there is a role for municipal police who are trained to deal with local issues.

Regardless of whether the aforementioned proposal moves forward, many analysts have urged the Mexican government to implement the vetting and certification procedures for state and local police that were codified in the January 2009 public security law; strengthen the National Public Security System (SNSP), which is overseeing state and local police reform; and continue rewarding state and municipal units whose officers meet certain standards with federal subsidies. The SNSP recently reported that just 9.2% of Mexican police have met the professional standards established in the 2009 law and only one third of Mexican states were on track to ensure that their police forces meet the law's standards by January 2013.[105]

The outcome of the aforementioned reform effort could have implications for U.S. initiatives to expand Mérida assistance to state and municipal police forces, which is already occurring in the state of Chihuahua.[106] The U.S. and Mexican governments are expanding the training programs developed for the SSP training institute at San Luis Potosi to support a new national police academy that is now under construction in Puebla. Roughly $4 million in Mérida funds is supporting the creation that police academy. Training courses offered to state and local police might have a slightly different emphasis than those given to federal forces, with more emphasis on, for example, community-oriented policing and dealing with street crime.

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. Combined with internal control mechanisms and stringent punishments for police misconduct, some maintain that citizen participation councils can have a positive impact on police performance and police-community relations.

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. Press reports citing data provided by the Attorney General's Office (PGR) maintain that the vast majority of drug trafficking-related deaths that have occurred since President Calderón took office have not been prosecuted.[107] At the same time, increasing arrests have caused the prison population to expand by approximately 8% in the past three years, with inmates housed in facilities that are, on average, 30% over capacity.[108] Many inmates (perhaps 40%[109]) are awaiting their trials. Those suspected of involvement in organized crime can be held by the

[105] "Mexico Struggling to Reform Police Forces," *EFE*, June 10, 2011; Antonio Baranda, "Avanzan 9 Estados en Evaluación Policial," *Reforma*, May 8, 2011.

[106] The U.S. government plans to help Mexico develop a standard curriculum for state and municipal police officers; to provide equipment, training, and advisors to state and municipal forces; and to help create a major crimes task force comprised of federal and state police.

[107] "Cárteles Perturban al Sistema Carcelario," *El Universal*, June 18, 2010.

[108] Silvia Otero, "No Investigan 95% de Muertes en 'Guerra,'" *El Universal*, June 21, 2010.

[109] Human Rights Watch, *World Report*, 2010, available at http://www.hrw.org/world-report-2010.

authorities for 40 days without access to legal council, with a possible extension of another 40 days.[110]

In June 2008, 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. Implementing these judicial reforms has brought major challenges, including the 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.

Implementation of judicial reform has advanced in many states, but experts maintain that "the lack of any serious movement [to implement judicial reforms] at the federal level sends an unfortunate signal that reform is not a priority."[111] The Mexican Congress has yet to approve a new federal CPC, a key element needed to guide both federal and state reform efforts. Prior to 2008, six states had already adopted judicial reforms, many with assistance from USAID, while three others had approved but not yet implemented state-level reforms.[112] In January 2011, the federal commission tasked with monitoring implementation of judicial reforms at the state and federal level reported that eight states have implemented the reforms and three more states are scheduled to do so in 2011. The commission's goal is for all 32 states to have approved the minimum legal changes necessary to comply with the reforms before President Calderón leaves office. Its ability to spur reform efforts has reportedly been hindered, however, by budget constraints and a limited ability to exert pressure on other government entities such as the courts and the PGR.[113]

From the beginning, many analysts had predicted that progress in advancing judicial reform in Mexico was "likely to be very slow as capacity constraints and entrenched interests in the judicial system delay any changes."[114] Others expressed concerns that the Calderón government appeared to be devoting more funding and political will towards modernizing the police than strengthening the justice system (including the courts and the PGR).[115] Some analysts questioned whether it

[110] 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 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.

[111] 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, April 2011.

[112] Chihuahua, Mexico State, Morelos, Oaxaca, Nuevo León, and Zacatecas adopted reforms prior to 2008. As of that time, Baja California, Durango, and Hidalgo had adopted but not yet implemented state-level reforms. Matthew Ingraham, *State-Level Judicial Reform in Mexico: The Local Progress of Criminal Justice Reforms*, TBI Working Paper, May 2010.

[113] David Shirk, *Justice Reform in Mexico: Changes and Challenges in the Judicial Sector*, Woodrow Wilson Center, Working Paper Series on U.S.-Mexico Security Cooperation, April 2010, http://www.wilsoncenter.org/topics/pubs/Shirk.pdf.

[114] "Mexico Risk: Legal and Regulatory Risk," *Economist Intelligence Unit-Risk Briefing*, January 8, 2010.

[115] Eric L. Olson, *Police Reform and Modernization in Mexico, 2009*. Woodrow Wilson Center, September 2009, http://www.wilsoncenter.org/news/docs/Brief%20on%20Police%20Reform%20and%20Modernization.pdf.

would be feasible to revamp the judicial system at a time when the government was under pressure to get tough on organized crime since accountability and due process within the judicial system are sometimes portrayed as impediments to law enforcement efforts.

Despite these challenges, many analysts are hopeful that Mexico will be able to follow the examples of countries like Chile and Colombia that have successfully transformed their judicial systems. In order for that transformation to take place, Mexico would likely benefit from increased training and technical assistance from the United States and other Latin American countries. USAID has 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. Using roughly $19 million of the Economic Support Funds (ESF) appropriated thus far for the Mérida Initiative, USAID is now working comprehensively in seven of Mexico's 32 states. With $11.5 million in FY2010 supplemental funds, USAID will continue and expand its justice sector reform at the state level.[116] However, at a time when Mexico is supporting the reforms through significant in-kind financial investments, demand appears to be outpacing USAID resources. Additional funding would enable USAID to deepen assistance to target states and further expand into others committed to advancing the reforms.[117] For its part, DOJ is administering at least $19 million in State Department and USAID funding in the areas of (1) prosecutorial capacity building; (2) strengthening the internal control systems of the SSP and the PGR; (3) extradition training; (4) asset forfeiture; (5) forensics; and (6) witness protection.[118] Since no one, including the Mexican government, has published an estimate of how much it is likely to cost to implement the 2008 reforms, the adequacy of Mexican and U.S. investments is difficult to measure.

Pillar Three: Creating a "21st Century Border"

Policy makers have questioned not only what it means to have a 21st 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 21st 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.[119]

[116] U.S. Department of State, FY2010 Supplemental Appropriations Spending Plan: Mérida Initiative/Mexico, November 9, 2010.

[117] USAID officials estimate that it would require $21 million in additional funding to establish a permanent presence in the seven states where it has already been working and $35 million to deal with the pending requests it has received. USAID will receive $11.5 million in FY2010 supplemental funding to support judicial sector programs, including prosecutorial training at the state level. Email from USAID official, December 16, 2010.

[118] U.S. Department of Justice, Criminal Division, Office of Overseas Prosecutorial Development, Assistance, and Training (OPDAT), "OPDAT Mexico Mérida Initiative Resident Legal Advisor Program," press release, April 2010. That figure does not include funds from the FY2010 supplemental appropriations measure.

[119] U.S. Department of State, "United States - Mexico Partnership: A New Border Vision," press release, March 23, 2010.

Policy makers may question whether this combination of efforts aimed at creating a 21st century border will simultaneously enhance law enforcement's abilities to combat organized crime and prevent drug trafficking-related violence from spilling over into the United States.

On May 19, 2010, the United States and Mexico declared their intent to collaborate on enhancing the U.S.-Mexican border.[120] To head this initiative, they have established a Twenty-First Century Border Bilateral Executive Steering Committee (ESC). On December 15, 2010, the ESC held its inaugural meeting in Mexico City during which it adopted a bi-national action plan. The plan is focused on coordinating infrastructure development, expanding trusted traveler and shipment programs, establishing pilot projects for cargo pre-clearance, and improving information sharing among law enforcement agencies.[121] The ESC also issued a joint declaration on preventing border violence, including the use of lethal force by either U.S. or Mexican law enforcement officers.[122] As part of the binational effort to modernize the border, three new ports of entry opened in 2010.

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 "21st 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.[123] 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-related activities.

[120] 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 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.

[121] A draft version of the binational plan is available at http://www.usembassy-mexico.gov/pdf/plan-eng.pdf.

[122] "Mexico-US Joint Statement on the Prevention of Violence in the Border Region," press release, http://www.usembassy-mexico.gov/pdf/fronteriza-eng.pdf.

[123] For more information on the U.S. border strategy, see CRS Report R41237, *People Crossing Borders: An Analysis of U.S. Border Protection Policies*, by Alison Siskin. CRS was unable to locate an official Mexican border strategy for comparison with the U.S. border strategy. For information on the roles of various U.S. agencies in border security, see CRS Report RS21899, *Border Security: Key Agencies and Their Missions*, by Chad C. Haddal. For information on the U.S. Border Patrol, see CRS Report RL32562, *Border Security: The Role of the U.S. Border Patrol*, by Chad C. Haddal.

Northbound and Southbound Inspections[124]

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 still 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.

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, as previously mentioned, CBP scans license plates along the Southwest border with the use of automated license plate readers (LPRs). CBP is expected to deploy additional LPR equipment to more than 42 locations along the Southwest border by the end of FY2011.[125] In FY2010, Congress provided $20 million for CBP to acquire Non-Intrusive Inspection Equipment (NIIE) to aid in southbound inspection and processing of travelers and shipments. As of April 2011, Mérida funding had enabled 30 ion scanner vapor tracers, 23 ZBV Backscatter Vans, 10 mobile X-Ray Minivans, and 2 Railroad Vehicle and Cargo Inspection Systems.[126]

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 April 2011, had trained 58 canines and 44 handlers to assist with the inspections.[127]

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

[124] 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.

[125] SWBCS, 2011, p. 77.

[126] Embassy of Mexico, *Fact Sheet: A 21st Century Border Vision*, April 2011.

[127] Ibid.

Transportation Security Administration (TSA) employees.[128] 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 21st 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,[129] 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.[130] If this pattern holds true and 85%-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."[131] 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 relatively new focus for U.S.-Mexican cooperation, the overall goal of which is to build strong and resilient communities that can withstand the pressures of crime and violence. It includes existing programs in support of school-based "culture of lawfulness"[132] courses, as well as new "cultural of lawfulness" courses that are being taught to Federal Police and state police in five northern border states. Pillar Four also includes ongoing Mérida-funded programs in the area of demand reduction. Those programs are helping to create a network to connect Mexico's 334 prevention and treatment centers, to develop curricula for drug counselors and volunteers at the centers, and to help certify Mexican drug counselors.

[128] 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*, 111th Cong., 1st sess., March 11, 2010.

[129] 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*, 111th Cong., 1st sess., March 11, 2010.

[130] See testimony by James F. Tomsheck, 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 Subcommittee on State, Local, and Private Sector Preparedness and Integration, *New Border War: Corruption of U.S. Officials by Drug Cartels*, 111th Cong., 1st sess., March 11, 2010.

[131] Ibid.

[132] A "culture of lawfulness" may be defined as a culture in which the overwhelming majority of the population is convinced that the rule of law offers the best long term chance of securing their rights and attaining their goals. 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.

New programs under this pillar will consist primarily of targeted efforts to (1) improve strategic planning and communication to reduce risk factors that lead to crime/violence; (2) help subnational governments to collaboratively address community needs; and (3) prepare youth to be responsible members of their communities. Funding and implementation of pillar four is primarily the responsibility of the Mexican government, with some support from multilateral institutions like the World Bank. The Mexican government began its efforts under pillar four in Ciudad Juárez, Chihuahua, but has started to expand some social programs to other cities. U.S.-funded efforts are focusing on pilot projects in Ciudad Juárez, but, with additional funds, could potentially be expanded to other cities.

For the past few years, Ciudad Juárez, Chihuahua, a city across the border from El Paso, TX, has been at the epicenter of Mexico's drug trafficking-related violence and is now among the world's most violent cities. Violence has escalated as the Juárez and Sinaloa DTOs have battled for control over the El Paso drug smuggling route or "plaza," youth gangs have fought over local drug distribution networks, and criminal groups have struggled against Mexican law enforcement and military forces. The violence captured international attention after the massacre of 15 civilians, many of them teenagers, by armed gunmen at a private home in late January 2010, an event which also sparked strong criticism in Mexico of President Calderón's military-led drug strategy. Mistrust between the citizens of Ciudad Juárez and government officials, as well as amongst officials from different agencies and levels of the Mexican government had reportedly reached an untenable level that was hindering law enforcement efforts.[133]

In an attempt to heal those rifts and counter the escalating violence, President Calderón and his top advisers began consulting with state and local officials to revise the government's military-led strategy for Ciudad Juárez. After those consultations, the Calderón government launched a new "We Are All Juárez" strategy in mid-February 2010 that includes significant federal government investments in education, job training, and community development programs to help address some of the underlying factors that have contributed to the violence.[134] Critics argued that the hastily conceived strategy concentrated too much on amplifying existing programs rather than developing new ones to meet the particular needs of the Juárez community. More broadly, some observers maintain that any social programs are likely to fail in Ciudad Juárez unless the security situation and rampant corruption now plaguing the city are brought under control.[135] Possibly in response to those concerns, efforts are being made to concentrate federal efforts in certain "safe zones" that will enable the Juárez government to demonstrate to citizens the benefits that come with successful government control over neighborhoods.

U.S. efforts in Ciudad Juárez have involved the expansion of some existing Mérida-funded initiatives, such as school-based "culture of lawfulness" programs and demand reduction and treatment services, as well as supporting some new initiatives. USAID has reprogrammed existing funding, both Mérida and bilateral, to support an urban mapping project (Mérida) and an at-risk youth program (non-Mérida) administered by international organizations with experience working in the city. Some of USAID's Mérida funding has also been dedicated to supporting

[133] Eric L. Olson, *Shattered Dreams and Restoring Hope: Organized Crime and Violence on the U.S.-Mexico Border*, Woodrow Wilson Center, February 22, 2010.

[134] The Mexican government plans to implement 160 concrete policy actions that will involve government investments of more than $3.4 billion pesos (roughly $274.0 million dollars). A progress report on how implementation of the strategy is advancing is available in Spanish at http://www.todossomosjuarez.gob.mx/estrategia/avances.html.

[135] Katherine Corcoran," Mexico Program to Clean up Violence-Plagued Border City Ciudad Juárez has Long Way to go," *Associated Press*, January 3, 2011.

social development projects in Ciudad Juárez. In April 2010, USAID launched a program by which civic organizations in Ciudad Juárez could submit proposals to receive grants of up to $100,000 to support community development projects. By October 2010, roughly 17 grants worth roughly close to $1 million had been approved.[136]

USAID is receiving $14 million in FY2010 supplemental funding to implement pillar four activities in Ciudad Juárez. Those activities may include grant funding for crime prevention programs; support for human rights NGOs; assistance to help civic organizations influence local and state politics; municipal exchanges to share best practices in reducing violence; and, support for the development of community crime prevention strategies.[137]

According to the Obama Administration's FY2012 budget request, some of the $33.3 million in ESF funds requested would be used to support pillar four activities in targeted areas.[138]

Issues

Measuring the Success of the Mérida Initiative

Policy makers and analysts have debated how to measure the success of the Mérida Initiative.[139] 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, as the 2012 elections approach, U.S. and Mexican 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.

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 previously mentioned, a December 2009 GAO report identified several factors that had slowed the pace of Mérida implementation.[140] It is unclear whether more expeditious equipment deliveries to Mexico may result in a more positive evaluation of Mérida because this is one of many metrics that may be used for measuring success. Another means by which Mérida success may be measured is through the impact of training programs, such as the number of individuals completing each course. If, for example, the speed of equipment deliveries or the number of Mexican officials trained are used as benchmarks for success, it is unclear whether the Mérida Initiative may still be considered a success if equipment is delivered and training programs are carried out, but the

[136] Email from USAID official, January 18, 2011.

[137] U.S. Department of State, *FY2010 Supplemental Appropriations Spending Plan: Mérida Initiative/Mexico*, November 9, 2010.

[138] U.S. Department of State, *Executive Budget Summary: Function 150 & Other International Programs FY2012*.

[139] 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.

[140] U.S. Government Accountability Office, Status of Funds for the Mérida Initiative, 10-253R, December 3, 2009.

Mexican government is still unable to make significant inroads against drug trafficking organizations and organized criminal groups.

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 included a list of similar performance measures for each portion of the Mérida Initiative in its FY2008 supplemental spending plan.[141] As noted in the July 2010 GAO report that was previously discussed, the State Department has yet to update those measures to reflect the new four-pillar strategy for Mérida.[142] In the Joint Explanatory Statement to the FY2010 Consolidated Appropriations Act (P.L. 111-117), Congress directed the State Department to submit a report to congressional appropriators on progress that has been made thus far in implementing the Mérida Initiative. The report, which was submitted on June 11, 2010, continues to document progress in terms of the amount of equipment that has been delivered and training courses that have been carried out, but does not include information on any other performance indicators.

Nevertheless, State Department fact sheets and remarks have shown that, with respect to arrests and seizures of some drugs (i.e., cocaine and methamphetamine), the Mérida Initiative may have had some success. Arrests and seizures on both sides of the border have increased.[143] U.S. officials have also highlighted the fact that cocaine availability and purity in United States has been on a downward trend since 2006 as evidence of the success of Mérida and other U.S.-funded antidrug efforts.[144]

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 does 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.

Many experts have argued that Mexican President Calderón needs to reduce drug trafficking-related violence in order to recover popular support for his anti-drug efforts. 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? Studies have shown that violence tends to escalate after a government launches a major law enforcement initiative against a DTO or other organized criminal group.[145] In addition to a decline in drug trafficking-related violence, others have suggested that success would be evidenced by, among other things, increases in popular trust in

[141] For a complete list of those indicators, see U.S. Department of State, *FY2008 Supplemental Appropriations Spending Plan, Mexico, Central America, Haiti, and the Dominican Republic*, September 9, 2008, pp. 16-39.

[142] GAO 10-837.

[143] 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.

[144] ONDCP, 2011 National Drug Control Strategy, July 11, 2011.

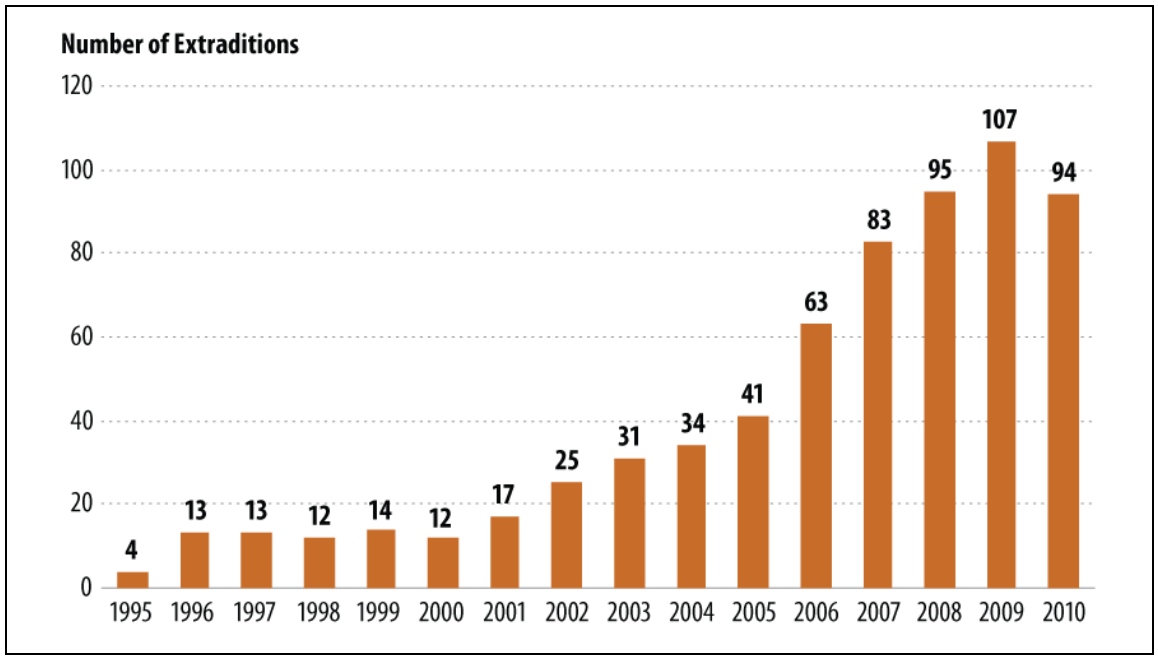
[145] International Centre for Science in Drug Policy, *Effect of Drug Law Enforcement on Drug-Related Violence: Evidence from a Scientific Review*, 2010.

the police and courts, and the return of a free press, particularly in parts of Mexico where attacks on journalists have led to virtual self-censorship.[146]

Still others, including U.S. officials, have maintained that the success of the Mérida Initiative may be measured by a general increase in bilateral cooperation. Some officials have stated that the increasing ability of U.S. and Mexican law enforcement to work collaboratively may be a byproduct of enhanced cooperation fostered in part by Mérida.[147] 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: 107 in 2009 and 94 in 2010. As illustrated in **Figure 2**, however, these extraditions may be more a reflection of President Calderón'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.

Figure 2. Individuals Extradited from Mexico to the United States

1995–2010



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/eataglance_law.html. Data for 2007—2008 from the Trans-Border Institute, *Justice in Mexico, News Report January 2009*, January 2009, http://www.justiceinmexico.org/news/pdf/justiceinmexico-january2009news-report021709.pdf. Data for 2009 from the U.S. Department of State, "United

[146] Diana Villers Negroponte, *Measuring Success in the Drug War: Criteria to Determine Progress in Mexico's Efforts to Defeat Narco-traffickers*, The Brookings Institution, May 25, 2010.

[147] Testimony by Roberta S. Jacobson, Deputy Assistant Secretary, Bureau of Western Hemisphere Affairs, U.S. Department of State, 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*, 111th Cong., 1st sess., May 27, 2010.

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 figures from electronic communication with U.S. Department of Justice.

Dealing with Increasing Drug Production in Mexico

Mexico is not only a transit country for Andean cocaine bound for the United States, but also a major producer of cannabis (marijuana), opium poppy (used to produce heroin), and methamphetamine. In recent years, U.S. government estimates indicate that marijuana and opium poppy cultivation in rural Mexico has expanded significantly. In 2009, estimated marijuana production in Mexico rose to 17,400 hectares, a 45% increase over 2008 and the highest level recorded since 1992. Similarly, opium production rose to 19,000 hectares, a 31% increase over 2008.[148] At the same time, despite Mexican government import restrictions on precursor chemicals, the production of methamphetamine in clandestine labs also appears to have increased significantly.[149] Despite these trends, neither drug eradication nor alternative development programs have been a focus of Mérida Initiative programs to date.

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 President Calderón has assigned more military forces to public security functions, including anti-DTO operations, than to drug crop eradication efforts. As Mexicans become increasingly wary of President Calderón'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 continues to expand, particularly production of the potent and 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.[150] Despite those findings, alternative development often takes years to show results and requires a long-term government and donor commitment to promoting rural development, two factors which may lessen its appeal as a policy tool for Mexico.

[148] 2010 figures are not yet available. U.S. Department of State, *INCSR*, March 2011.

[149] Ibid.

[150] 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.

Human Rights Concerns and Conditions on Mérida Initiative Funding

Both the Mexican police and military have poor human rights records. According to the State Department's human rights report covering 2010, there have been credible reports of police involvement in extrajudicial killings, kidnappings for ransom, and torture.[151] There has also been increasing concern that the Mexican military, which has had less human rights training and is less accountable to civilian authorities than the police, is committing human rights abuses as it is increasingly tasked with carrying out public security functions.[152] According to Mexico's Human Rights Commission (CNDH), complaints of human rights abuses by the Mexico's Department of Defense increased from 182 in 2006 to 1,791 in 2009 before falling to 1,415 in 2010. The CNDH also reported that 111 civilians were killed during federal police or army operations in 2010.[153]

In addition to expressing concerns about current human rights abuses, Mexican and international human rights groups have criticized the Mexican government for failing to hold military and police officials accountable for past abuses. On July 13, 2009, Human Rights Watch issued a statement asserting that "Mexican military courts ... have not convicted a single member of the military accused of committing a serious human rights violation."[154] The Mexican army has since created a unit to handle citizen complaints about human rights abuses and developed a website to track cases of human rights abuses that are being handled in military courts. As of December 2010, one officer and seven soldiers had been convicted of abuses.[155]

Given these concerns, in 2008, Congress debated what type of human rights conditions should be placed on Mérida assistance beyond the requirements in Section 620J of the Foreign Assistance Act (FAA) of 1961. Section 620J of the FAA states that units of a foreign country's security forces are prohibited from receiving assistance if the Secretary of State receives "credible evidence" that such units have committed "gross violations of human rights." In the end, the FY2008 Supplemental Appropriations Act (P.L. 110-252), which provided the first tranche of Mérida funding, had softer human rights conditions than earlier House and Senate versions, in large part because of Mexico's objections 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

[151] U.S. Department of State, *2010 Country Report on Human Rights Practices*, April 8, 2011.

[152] See, for example, Jorge Rocha Quintero, "Public Security and Human Rights," in *Police and Public Security in Mexico*, edited by Robert A. Donnelly and David A. Shirk. San Diego, CA: University Readers, 2010; Maureen Meyer, *Abused and Afraid in Ciudad Juarez*, Washington Office of Latin America/Centro Prodh, September 2010.

[153] Statistics are available in annual reports of Mexico's Human Rights Commission (CNDH), available at http://www.cndh.org.mx; "Ciento Once Civiles Ajenos a Guerra Contra Crimen Murieron en 2010 en México," *EFE*, January 27, 2011.

[154] Human Rights Watch, "Mexico: U.S. Should Withhold Military Aid: Rights Conditions in Merida Initiative Remain Unmet," July 13, 1009.

[155] Ignacio Alzaga. "Sedena se Abre al Escrutinio Público; Sube Quejas a Web." *Milenio*. July 28, 2010; U.S. Department of State, *2010 Human Rights Report: Mexico*, April 2011.

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 have been included in subsequent appropriations measures that have funded the Mérida Initiative.[156] Human rights organizations generally lauded the inclusion of these human rights conditions in Mérida Initiative appropriations legislation, although some thought they could have been more tightly worded.

On August 13, 2009, the State Department submitted a human rights progress report for Mexico to Congress, thereby meeting the statutory requirements for FY2008 supplemental and FY2009 regular funds that had been on hold to be released. While acknowledging that serious problems remain, the report outlined steps that the Mexican government has made to improve police transparency and accountability, consult with Mexican human rights organizations and civil society on the Mérida Initiative, investigate and prosecute allegations of human rights abuses by security forces, and prohibit the use of torture.[157] Human rights groups criticized the State Department report, and the release of Mérida funds that were on hold. They urged the State Department not to issue another favorable human rights progress report to Congress until measurable improvements have been made.[158]

On September 2, 2010, the State Department submitted a second human rights progress report on Mexico to Congress.[159] According to that report, the Mexican government had demonstrated enough progress to enable $36 million in FY2009 and FY2010 regular funds that had been on hold to be released. The report credited the Calderón government with initiating legislation to

[156] 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 to 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, or roughly $33.75 million. In the FY2009 Supplemental (P.L. 111-32), the conditions effectively only applied to the $160 million in the INCLE account, or $24 million, because the $260 million in FMF funds designated for aircraft for the Mexican navy was excluded from the scope of the 15% withholding requirement. In the FY2010 Consolidated Appropriations Act (P.L. 111-117), the 15% withholding applies to all of the accounts but it excludes assistance for judicial reform, institution building, anti-corruption and rule of law activities.[156] In the FY2010 Supplemental Appropriations Act (P.L. 111-212), the conditions applied to 15% of the INCLE appropriated or roughly $26 million. The same conditions that were included in P.L. 111-117 will apply to assistance provided in the FY2011 Department of Defense and Full-Year Continuing Appropriations Act (P.L. 112-10).

[157] U.S. Department of State, "Mexico- Merida Initiative Report," August 2009.

[158] Fundar et al., "Obama Administration's Alleged Release of Mérida Funds: A Violation of U.S. Law That Will Encourage Serious Human Rights Violations in Mexico," August 2009; Washington Office on Latin America (WOLA) et al., "Joint Letter to Secretary of State Hillary Clinton: Human Rights Concerns to Inform the U.S. Department of State's Merida Initiative Reporting on Mexico," May 27, 2010.

[159] U.S. Department of State, *Mexico-Mérida Initiative Report*, September 2, 2010.

strengthen the authority of the CNDH, carrying out human rights training for military and police officials, and formalizing a bilateral dialogue on human rights issues with the United States.

While acknowledging the aforementioned progress, the State Department report stated that further progress had to be made in the areas of transparency and combating impunity in order for roughly $26 million in FY2010 supplemental funds on hold to be released. The State Department urged the Mexican Congress to approve pending legislation that would, among other measures, 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. In October 2010, President Calderón submitted legislation to the Mexican Congress that would reform the Military Justice Code to establish civilian jurisdiction in cases where soldiers are accused of forced disappearance, rape, and torture.[160] That legislation is still pending. On July 12, 2011, the Mexican Supreme Court rendered a decision that may imply that the current Military Justice Code should be reinterpreted so that cases involving credible allegations of human rights abuses committed by military forces against civilians are tried in civilian courts.[161] In March 2011, 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.[162] The reforms were promulgated in June 2011.

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.[163] 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 is administering assistance provided through the FMF account. As an implementing agency, DOD's role has largely involved overseeing the procurement and delivery of Mérida-funded 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.[164] 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 Sec. 1004 of

[160] Some human rights groups and Member of Congress have criticized President Calderón's proposal for exempting many crimes, including extrajudicial killings, from civilian jurisdiction. Washington Office on Latin America, "Members of U.S. Congress Urge Secretary Clinton to Raise Human Rights Concerns with Mexico," press release, March 3, 2011.

[161] "Mexican Supreme Court Says Military Rights Violations Should be Reviewed by Civilian Courts," *Associated Press*, July 13, 2011.

[162] Maureen Meyer, "Al Día: Historic Human Rights Reforms Passed in the Mexican Senate; now State Congresses Should Follow Suit," March 16, 2011.

[163] 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.

[164] These trends preceded the Mérida Initiative. 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.

P.L. 101-510, as amended through FY2011, and can provide additional assistance to certain countries as provided for in Sec. 1033 of P.L. 105-85, as amended through FY2011. DOD counternarcotics support to Mexico totaled roughly $34.2 million in FY2009, $89.7 million in FY2010, and $71.7 million in FY2011. DOD is developing a plan to use some $50 million in FY2011 per Sec.1033 of P.L. 105-85 funds to improve security along the Mexico-Guatemala-Belize border. Total DOD support to Mexico in FY2012 may exceed $75.5 million.[165]

In March 2010, then-Defense Secretary Robert Gates and Joint Chiefs Chairman Admiral Mike Mullen traveled to Mexico along with Secretary Clinton to participate in a Mérida High-Level group meeting and to offer increased military assistance to their Mexican counterparts. In July 2010, Admiral James Winnefeld, the new Commander of NORTHCOM, said that he saw a "tremendous opportunity" to strengthen ties between the U.S. and Mexican militaries through training and intelligence-sharing. As an example, he said that the Mexican government has asked NORTHCOM to help it establish a joint intelligence center.[166] Secretary Gates and Admiral Mullen participated in another Mérida High-Level Group meeting held in late April 2011 to review progress and plan future efforts. 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. 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.[167]

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."[168]

[165] DOD response to CRS request, March 21, 2011. 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 Forward Operating Locations.

[166] "NORTHCOM Chief Cites Mexico Partnership as Top Priority," *U.S. Fed. News*, June 2, 2010; Bill Gertz, "NORTHCOM's New Leader Boosts Focus on Mexico," *Washington Times*, July 5, 2010.

[167] Ginger Thompson and Mark Mazzetti, "U.S. Drones Fly Deep in Mexico to Fight Drugs," *New York Times*, March 16, 2011.

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

Balancing Assistance to Mexico with Support for Southwest Border Initiatives[169]

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, particularly those focused on the U.S. side of the Southwest border.[170]

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 by President Obama's decision to send about 1,200 National Guard troops to the border, whereas others maintain that those steps are insufficient to secure the border. In contrast, some maintain that it is impossible to combat transnational criminal enterprises by adopting a "fortress-like" mentality 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 warn 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. Further, Mexican officials from across the political spectrum have been critical of Arizona's recently enacted state law against illegal immigration (S.B. 1070) and have expressed concerns about the treatment of Mexican migrants in the United States. The Mexican government was particularly incensed after two Mexican youth were killed by U.S. Border Patrol agents within a 10-day span, including one youth shot on June 7, 2010, at the El Paso-Ciudad Juárez border crossing.[171]

With respect to pillar four of the updated strategy, Mexico and the United States have discussed the possibility of launching pilot programs to strengthen communities in the Ciudad Juárez-El Paso and possibly Tijuana-San Diego areas. In targeting those cities 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. Take, for example, initiatives directed at providing youth with education, employment, and social outlets such that the allure of joining a DTO or local gang is reduced. Some may contend that providing these services on the U.S. side of the border as well as the Mexican side could prevent youth in the U.S. from becoming involved in a local gang with ties to drug trafficking.

[169] CRS Report R41237, *People Crossing Borders: An Analysis of U.S. Border Protection Policies*, by Alison Siskin.

[170] 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.

[171] Christopher Sherman and Alexandra Olson, "Mexico Condemns Border Patrol Shooting of Teen; Some Demand Agent's Extradition to Mexico," *AP Newswire*, June 10, 2010.

In August 2010, the 111th Congress passed legislation (P.L. 111-230) that provides $600 million in supplemental funding to strengthen U.S. border security efforts. That total includes $394 million for DHS: $244 million to hire new CBP officers and Border Patrol agents, $84 million to hire new ICE agents, $32 million for two unmanned aerial detection systems, $6 million for bases for Border Patrol agents, $14 million for communications equipment, and $8 million to train new law enforcement personnel. The supplemental funds also include $196 million to support DOJ efforts on the Southwest border. Those funds will enable the creation of seven new ATF Gunrunner units and five FBI Hybrid Task Forces, as well as support additional DEA agents, federal attorneys, prosecutors, and immigration judges. The supplemental funds will also enable the U.S. government to provide increased technical assistance and training for Mexican law enforcement.

Integrating Counterdrug Programs in the Western Hemisphere[172]

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. Conversely, antidrug funding for Mexico, Central America, and the Caribbean has increased 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)[173] and the Caribbean Basin Security Initiative (CBSI). The strategy undergirding the Mérida Initiative has broadened from primarily providing equipment and training to Mexican officials engaged in combating DTOs to place more of an emphasis on building democratic institutions. It also includes a new focus on facilitating "secure flows" of people and goods through the U.S.-Mexico border and promoting social and economic development in violence-prone communities. Similarly, CARSI and CBSI include some anti-drug components as part of broader regional security packages that are also aimed at institutional strengthening and community development.

The Obama Administration has recently taken steps to better 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 to oversee the planning and implementation of the aforementioned regional security assistance packages. The Office of National Drug Control Policy (ONDCP) is also working with other federal agencies, as well as independent policy experts, to develop a Western Hemisphere Counterdrug Strategy that is scheduled to be published later this year. According to ONDCP, the strategy will emphasize "interdiction and disrupting transnational criminal organizations, institutional strengthening, building strong and resilient communities, and drug demand reduction."[90] 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.[91] One area in which closer cooperation between the United States, partner governments, and other donors will likely be necessary is in efforts to better secure the porous Mexico-Guatemala and Mexico-Belize borders.

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[172] 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.

[173] CRS Report R41731, *Central America Regional Security Initiative: Background and Policy Issues for Congress*, by Peter J. Meyer and Clare Ribando Seelke.

The Way Forward

On April 29, 2011, Secretary Clinton and Mexican Foreign Secretary Patricia Espinosa chaired another meeting of the Mérida Initiative High-Level Group in Washington D.C. after which both governments "ratified their shared commitment to achieving long-term solutions to challenges to the rule of law posed by transnational organized crime."[174] Both governments pledged, among other measures, to increase efforts to accelerate judicial reform in Mexico, expand Mexican police reform to the state and local levels, and counter illicit financing and weapons trafficking. This meeting signaled the commitment of both governments to advance bilateral efforts under the Mérida Initiative despite recent tensions in the U.S.—Mexican relationship and upcoming elections in both countries in 2012.

The Mérida Initiative was designed in response to the Calderón Administration's request for specific forms of U.S. equipment, training, and technical assistance. Increased U.S. operational support for Mexico's struggle against organized crime has recently included, among other things, the deployment of U.S. unmanned aerial vehicles to gather intelligence on DTO activities. This support, however, has only occurred in accordance with requests by the Mexican government.[175] As such, while the Mérida Initiative's broad four-pillar strategy is likely to remain in place, the specific type of assistance and the depth of U.S. involvement, as requested by Mexico, may change over time, particularly after the 2012 elections.[176]

Analysts have been weighing in about how the Calderón government and/or its successor might adjust Mexico's current security strategy. They have also debated how the U.S. will advance its pledges of reducing drug demand, firearms trafficking, and bulk cash smuggling. Similarly, experts have also suggested ways in which the Mérida Initiative might be adjusted in the future. Those suggestions have included

- Bolstering U.S. domestic efforts to combat drug demand, firearms trafficking, and bulk cash smuggling;
- Conceptualizing the DTOs as businesses and increasing U.S., Mexican, and bilateral efforts against money laundering and bulk cash smuggling;
- Expanding bi-national intelligence-sharing and U.S. operational support for targeted operations against DTO leaders;
- Focusing law enforcement efforts on combating all activities of organized crime, including kidnapping, human trafficking and alien smuggling, as Mexican DTOs are increasingly evolving into poly-crime organizations;
- Concentrating Mexican crime control efforts on the country's most violent cities and paying increased attention to helping state and local police combat street crimes, such as robbery and extortion, in those cities; and

[174] U.S. Department of State, "Joint Statement on U.S.- Mexico Merida High Level Consultative Group on Bilateral Cooperation Against Transnational Criminal Organizations," press release, April 29, 2011.

[175] Ginger Thompson and Mark Mazzetti, "U.S. Drones Fly Deep in Mexico to Fight Drugs," *New York Times*, March 16, 2011.

[176] Duncan Wood, *Mexico's 2012 Election and U.S.-Mexican Relations*, Center for Strategic & International Studies, May 2011; Richard Downie, *Critical Strategic Decisions in Mexico: the Future of US/Mexican Defense Relations*, Center for Hemispheric Defense Studies, National Defense University, Vol. 1, no. 1, July 6, 2011.

- Increasing development assistance to Mexico to help address the underlying societal problems—poverty, inequality, unemployment, a large informal sector, and a lack of opportunities for at-risk youth—that have enabled the drug trade to flourish in Mexico.

Appendix A. U.S. Assistance to Mexico

Table A-1. U.S. Assistance to Mexico by Account, FY2007-FY2012

(U.S. $ millions)

Account	FY2007	FY2008[a]	FY2009[ab]	FY2010 (est.)	FY2011[c] req.	FY2012 req.
INCLE	36.7	242.1	454.0[f]	365.0[g]	292.0	248.5
ESF	11.4	34.7	15.0	15.0	10.0	33.3
FMF	0.0	116.5	299.0[e]	5.3	8.0	8.0
IMET	0.1	0.4	0.8	1.1	1.1	1.7
NADR	1.3	1.4	3.9	5.7	5.7	n/a
CSH[d]	3.7	2.7	2.9	3.5	0.0	3.7
DA	12.3	8.2	11.2	10.0	26.3	33.4
TOTAL	**65.4**	**405.9**	**786.8**	**405.6**	**346.6**	**328.6**

Sources: U.S. Department of State, *Congressional Budget Justification for Foreign Operations FY2008-FY2011*, *FY2010 Supplemental Spending Plan*; *Executive Budget Summary: Function 150 & Other International Programs FY2012*.

Notes: CSH=Child Survival and Health; 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.

a. FY2008 assistance includes funding from the Supplemental Appropriations Act, 2008 (P.L. 110-252). FY2009 assistance includes FY2009 bridge funding from the Supplemental Appropriations Act, 2008 (P.L. 110-252).

b. FY2009 assistance includes funding from the Supplemental Appropriations Act, 2009 (P.L. 11-32).

c. On April 14, 2011, Congress passed legislation to fund government programs for the remainder of FY2011 (P.L. 112-10). While the legislation reduced most foreign aid accounts from FY2010 enacted levels, final funding by country and program has not been established.

d. Beginning with the FY2010 request, the Child Survival and Health Account became known as Global Health and Child Survival—USAID.

e. $260 million provided under the 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. $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.

g. $175 million of this funding 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.

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.[177] 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.[178] 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.[179] 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

[177] 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.

[178] 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*, 109th Cong., April 26, 2006.

[179] 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*, 111th Cong., 1st sess., May 27, 2010.

into the United States to the PGR for prosecution.[180] The program was initiated in Nogales, TX, 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[181]

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.[182] 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.[183] In September, 2010, ATF released a new strategy, "Project Gunrunner—A Cartel Focused Strategy," that reportedly addresses these issues.[184]

Electronic Trace Submission System[185]

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).[186] 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.[187] Most of those requests

[180] 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.

[181] 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.

[182] U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives, *ATF Congressional Budget Submission, Fiscal Year 2012*, February 2011, p. 5.

[183] 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.

[184] Ibid., p. ix.

[185] 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.

[186] 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.

[187] 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.[188]

Mexican American Liaison and Law Enforcement Training (MALLET)

The FBI created Mexican American Liaison and Law Enforcement Training (MALLET) seminars in 1988.[189] 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.[190]

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.[191] 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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[188] 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.

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

[190] From CRS communication with FBI representative, April 27, 2010.

[191] For more information on PISA, see the website at http://www.azpisa.org/.