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

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January 18, 2017

**Congressional Research Service**

7-5700

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R41349

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## Summary

Ten years after the Mexican government launched an aggressive, military-led campaign against drug trafficking and organized crime, violent crime continues to threaten citizen security and governance in parts of Mexico, including in cities along the U.S. Southwest border. Organized crime-related violence in Mexico declined from 2011 to 2014 but rose in 2015 and again in 2016. Analysts estimate that the violence may have claimed more than 100,000 lives since December 2006. Social protests in Mexico against education reform and gas price increases have also resulted in deadly violence. High-profile cases—particularly the enforced disappearance and murder of 43 students in Guerrero, Mexico, in September 2014—have drawn attention to the problem of human rights abuses involving security forces. Cases of corruption by former governors, some of whom have fled Mexico, also have increased concerns about impunity.

Supporting Mexico's efforts to reform its criminal justice system is widely regarded as crucial for combating criminality and better protecting citizen security in the country. U.S. support for those efforts has increased significantly as a result of the development and implementation of the Mérida Initiative, a bilateral partnership launched in 2007 for which Congress appropriated more than \$2.6 billion from FY2008 to FY2016. U.S. assistance to Mexico focuses on (1) disrupting organized criminal groups, (2) institutionalizing the rule of law, (3) creating a 21<sup>st</sup>-century border, and (4) building strong and resilient communities. Newer areas of focus have involved bolstering security along Mexico's southern border and addressing the production and trafficking of heroin. As of November 2016, \$1.6 billion of Mérida assistance had been delivered to Mexico.

Inaugurated to a six-year term in December 2012, Mexican President Enrique Peña Nieto has continued U.S.-Mexican security cooperation. U.S. intelligence has helped Mexico arrest top crime leaders, including Joaquín “El Chapo” Guzmán—the world's most-wanted drug trafficker—in February 2014. Guzmán's July 2015 prison escape was a major setback for bilateral efforts, but he was recaptured in 2016 and is scheduled to be extradited. The Peña Nieto government met a 2008 constitutional mandate to transition to an accusatorial justice system by June 2016 but has struggled to comply with international recommendations on preventing torture, enforced disappearances, and other human rights abuses. Mexico's adoption of a national anticorruption system and its transition from a presidentially appointed attorney general's office to a more independent prosecutor general's office selected by the Mexican Senate have become the focus of efforts to combat corruption.

The U.S. Congress has continued to fund and oversee security assistance to Mexico. Congress provided \$139 million in FY2016 for the Mérida Initiative in P.L. 114-113, some \$20 million above the budget request. President Obama's FY2017 budget request included \$129 million for the Mérida Initiative. The House Appropriations Committee's version of the FY2017 foreign operations measure, H.R. 5912, would have provided \$149 million for the Mérida Initiative. The Senate Appropriations Committee's version, S. 3117, would have fully funded the Administration's request for Mexico. The 114<sup>th</sup> Congress did not complete action on FY2017 appropriations, but in December 2016 it approved a continuing resolution (P.L. 114-254) providing foreign aid funding to Mexico through April 28, 2017, at the FY2016 level, minus an across-the-board reduction of almost 0.2%. As a result, the 115<sup>th</sup> Congress is to consider both FY2017 and FY2018 appropriations for Mexico and the Mérida Initiative. This report will be updated periodically.

See also CRS In Focus IF10578, *Security Cooperation with Mexico: The Mérida Initiative*; CRS In Focus IF10400, *Heroin Production in Mexico and U.S. Policy*; CRS In Focus IF10215, *Mexico's Recent Immigration Enforcement Efforts*.

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## Introduction

For more than a decade, violent crime perpetrated by warring criminal organizations has threatened citizen security and governance in parts of Mexico.<sup>1</sup> While the illicit drug trade has long been prevalent in Mexico, an increasing number of criminal organizations are fighting for control of smuggling routes into the United States and local drug markets. Organized crime-related violence may have resulted in more than 100,000 killings since December 2006, including more than 11,000 killings in 2016.<sup>2</sup> The case of 43 students who disappeared in Guerrero in September 2014 has continued to draw attention to the problem of enforced disappearances and extrajudicial killings involving security forces. The government's inability to resolve that and other high-profile cases—including those involving former governors who have laundered vast sums of money—has underscored the problems of impunity and corruption in Mexico.<sup>3</sup>

Although daunting challenges remain, U.S.-Mexican cooperation to improve security and the rule of law has increased significantly as a result of the Mérida Initiative, a bilateral partnership developed by the George W. Bush Administration and the Mexican government of Felipe Calderón. Between FY2008 and FY2016, Congress appropriated more than \$2.6 billion for Mérida Initiative programs in Mexico (see **Table 1**). Some \$1.6 billion worth of training, equipment, and technical assistance had been provided to Mexico as of November 2016. Mexico, for its part, has invested some \$94 billion of its own resources on security and public safety.<sup>4</sup>

Mexican President Enrique Peña Nieto of the Institutional Revolutionary Party (PRI) took office in December 2012 vowing to reduce violence in Mexico and adjust the current U.S.-Mexican security strategy to focus on violence prevention. While Mexico's public relations approach to security issues has changed, President Peña Nieto has adopted an operational approach similar to that of former President Calderón. That approach, commonly referred to as the “kingpin” strategy, has focused on taking out the top- and mid-level leadership of Mexico's criminal organizations. The February 2014 capture of Sinaloa leader Joaquín “El Chapo” Guzmán proved to be a high point for the government; his 2015 escape from prison served as one of its lowest points. In January 2016, Guzmán was recaptured and may be extradited to the United States in 2017.

The 115<sup>th</sup> Congress will face completing action on FY2017 foreign aid appropriations, including the \$133.5 million requested for the Mérida Initiative. It also will consider the FY2018 budget request and oversee previously appropriated funding for the Mérida Initiative. Congress may analyze how progress under the Mérida Initiative is being measured; how U.S. funds have been used to advance Mexico's police and judicial reform efforts; and the degree to which U.S. programs in Mexico complement other U.S. counterdrug and border security efforts. Congress

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<sup>1</sup> For general information on Mexico and bilateral relations, see CRS Report R42917, *Mexico: Background and U.S. Relations*, by Clare Ribando Seelke. For a summary of the Mérida Initiative, see CRS In Focus IF10578, *Security Cooperation with Mexico: The Mérida Initiative*, by Clare Ribando Seelke.

<sup>2</sup> For a range of estimates, see Kimberly Heinle, Octavio Rodríguez Ferreira, and David A. Shirk, *Drug Violence in Mexico: Data and Analysis Through 2015*, Justice in Mexico Project, University of San Diego, April 2016. According to Lantia Consultores, a leading Mexican security firm, there were more than 102,500 organized crime-related killings from December 2006–November 2016. CRS electronic correspondence with Lantia Consultores, December 28, 2016.

<sup>3</sup> Seven of the governors who left office in 2016 have been accused of corruption. One of those, Javier Duarte, the former governor of Veracruz, fled the country and remains at large.

<sup>4</sup> Government of Mexico, “Mexico's Fight for Security: Strategy and Main Achievements,” June 2011. Marciel Reyes Tepach, *El Presupuesto Público Federal para la Función Seguridad Pública, 2012-2013 and 2013-2014*, Cámara de Diputados, March and December 2013. U.S. Department of State, *International Narcotics Control Strategy Report (INCSR)*, March 2015 and March 2016. Hereinafter *INCSR*, March 2016.

may seek to ensure that Mérida Initiative funds support drug eradication and interdiction programs within Mexico given recent rises in heroin and methamphetamine production there.

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 security challenges in Mexico and Mexico's security strategy. It then provides information on the evolution of congressional funding and oversight of the Mérida Initiative before delving into its four pillars. The report concludes by raising policy issues facing Congress, as it considers continued funding and as it oversees the Mérida Initiative and broader U.S.-Mexican security cooperation.

## Background

### Drug Trafficking, Organized Crime, and Violence in Mexico<sup>5</sup>

Countering the movement of illegal drugs from Mexico into the U.S. market has remained a top U.S. drug control priority for decades. Mexico is the main foreign supplier to the U.S. market of heroin, methamphetamine, and marijuana. It remains a major transit country for cocaine sold in the United States and has been cited as a transit and probable supplier country of fentanyl (a potent synthetic opioid often mixed with heroin).<sup>6</sup> Marijuana remains the most widely abused drug in the United States, with some of the supply coming from Mexico, although the quality of most Mexican marijuana has been considered inferior to the marijuana produced domestically.<sup>7</sup> In contrast, more Mexico-produced methamphetamine is being used in the United States than U.S.-produced product. Methamphetamine seizures at the southwest border increased 305% from 2010 to 2015.<sup>8</sup>

There has also been particular concern about the increasing availability of Mexican-produced heroin in the United States, including in eastern states where Colombian-produced heroin used to predominate.<sup>9</sup> The amount of heroin seized along the U.S.-Mexico border more than doubled from 2010 to 2015.<sup>10</sup> Surging U.S. demand has fueled increasing opium cultivation and heroin production in Mexico, as well as drug trafficking-related violence in areas where groups are vying to control production. In June 2016, the Mexican government estimated the average poppy cultivation in Mexico to be 24,000 hectares for 2014-2015.<sup>11</sup> The U.S. estimate of poppy cultivation in Mexico for 2014 was 17,000 hectares.<sup>12</sup>

Mexican transnational criminal organizations (TCOs), often in alliance with U.S. national and local gangs, continue to dominate the U.S. drug market. According to the Drug Enforcement

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<sup>5</sup> See CRS Report R41576, *Mexico: Organized Crime and Drug Trafficking Organizations*, by June S. Beittel.

<sup>6</sup> DEA, *2016 National Drug Threat Assessment Summary*, November 2016, available at <https://www.dea.gov/resource-center/2016%20NDTA%20Summary.pdf>. Hereinafter *NDTA*, November 2016.

<sup>7</sup> CRS Report R43164, *State Marijuana Legalization Initiatives: Implications for Federal Law Enforcement*, by Lisa N. Sacco and Kristin Finklea.

<sup>8</sup> *NDTA*, November 2016.

<sup>9</sup> CRS Report R44599, *Heroin Trafficking in the United States*, by Kristin Finklea.

<sup>10</sup> *NDTA*, November 2016.

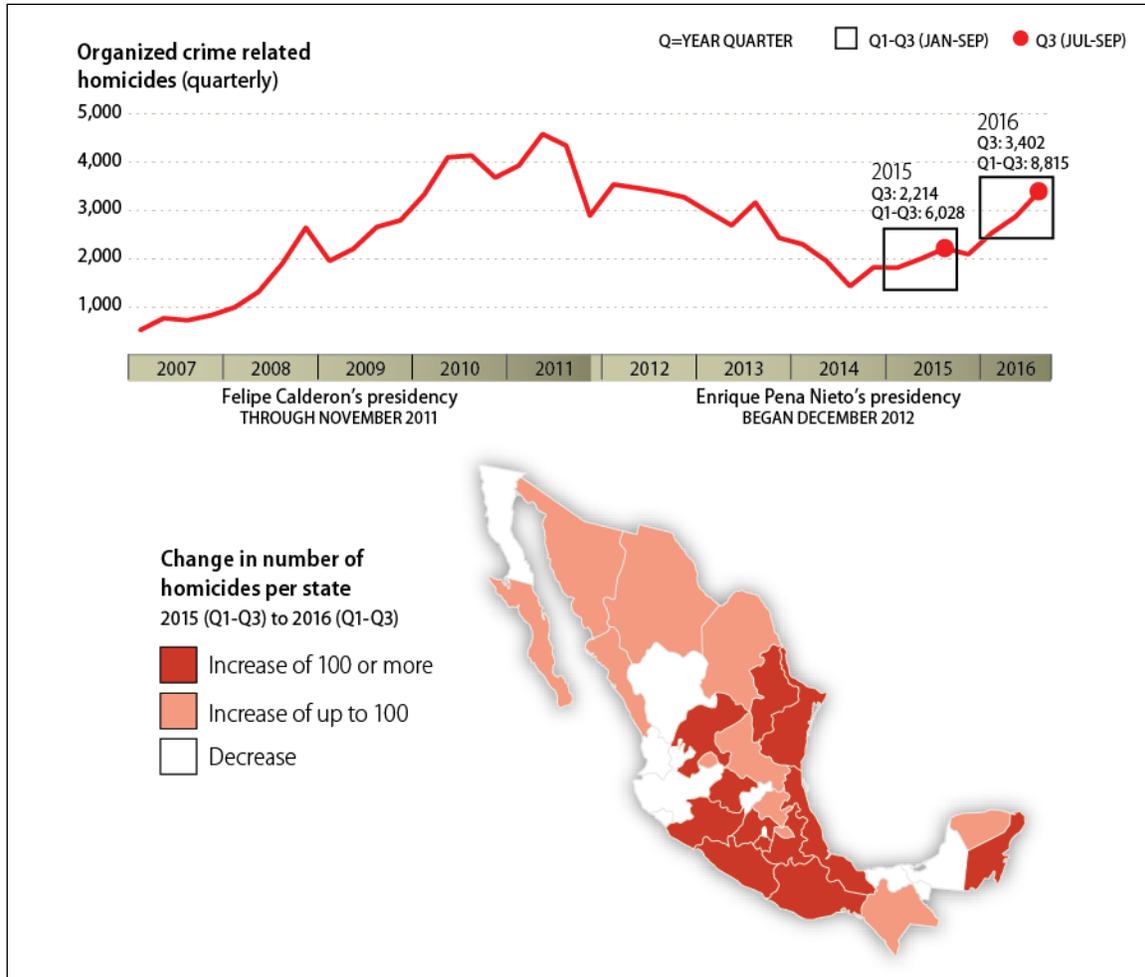
<sup>11</sup> This figure is cited in U.N. Office on Drugs and Crime (UNODC), *World Drug Report*, June 2016, available at <http://www.unodc.org/wdr2016/>.

<sup>12</sup> *INCSR*, March 2016.

Administration (DEA), six major Mexican TCOs operate in the United States. Of those, the Sinaloa organization has the widest reach into U.S. cities.<sup>13</sup>

Mexican TCOs have vied for control of illicit routes into the United States and for control over local drug distribution networks.<sup>14</sup> Mexico’s criminal organizations are also continuing to fragment and diversify away from drug trafficking, furthering their expansion into activities such as oil theft, alien smuggling, kidnapping, and human trafficking. Much of the crime—particularly extortion—disproportionately affects localities and small businesses.

**Figure 1. Estimated Organized Crime-Related Homicides in Mexico**



**Source:** Lantoria Consultores, a Mexican security firm. Graphic prepared by CRS.

**Notes:** This graphic was prepared prior to the availability of full-year data for 2016.

Organized crime-related homicides in Mexico declined from 2011 to 2014 but rose slightly in 2015 and significantly in 2016 (see **Figure 1**).<sup>15</sup> Violence has escalated as the dominant TCOs

<sup>13</sup> NDTA, November 2016.

<sup>14</sup> Drug abuse in Mexico is most prevalent in places where criminal organizations have been paying their workers in product rather than in cash.

<sup>15</sup> Kirk Semple, “Mexico Grapples With a Surge in Violence,” *New York Times*, December 13, 2016.

have been in flux this year, capping many years of change.<sup>16</sup> The fragmentation and infighting among criminal groups has intensified since the rise of the Jalisco New Generation or CJNG cartel, a group that shot down a military helicopter in 2015 and a police helicopter in September 2016. The recapture and impending extradition of “El Chapo” Guzmán has prompted CJNG and other TCOs to challenge Sinaloa’s dominance. In addition to the larger TCOs, analysts estimate that there has been an increase in smaller crime groups, perhaps as many as 200, many of which operate only in certain regions.<sup>17</sup>

## The Peña Nieto Administration’s Security Strategy

President Peña Nieto initially downplayed security concerns and focused on enacting economic reforms. When discussing security policy, Peña Nieto emphasized violence reduction and the importance of respect for human rights.<sup>18</sup> His security strategy initially focused on (1) planning, (2) prevention, (3) protection and respect of human rights, (4) coordination, (5) institutional reform, and (6) monitoring and evaluation. Early in his term, he launched a national crime prevention plan, established a unified code of criminal procedures to cover the federal and judiciaries, and increased funding for the country’s transition to an accusatorial justice system.<sup>19</sup> His proposal to create a large national gendarmerie (police) to replace soldiers engaged in public security was watered down; the proposed force became a part of the federal police. Another goal—to create a centralized intelligence agency—was later abandoned.<sup>20</sup> While efforts to target the Zetas proved relatively successful, operations against the CJNG have yet to demonstrate success.

By 2014, violence had begun to increase, high-profile cases of human rights abuses committed by security forces had captured international attention, and President Peña Nieto and his top adviser had become embroiled in conflict-of-interest scandals. Rising insecurity, social protests that have led to deadly clashes with security forces, and the government’s apparent lack of new strategies to address either type of violence has raised significant concerns.<sup>21</sup> President Peña Nieto has maintained former President Calderón’s reactive approach of deploying federal forces—including the military—to areas in which crime surges rather than focusing on police reform and deterring violence and human rights abuses through criminal justice reform. In August 2016, for example, the government said that it had created a “new” anticrime strategy for the 50 most violent cities, but the strategy reportedly involved a familiar emphasis on “coordination of local, state and federal authorities” and “rapid reaction forces.”<sup>22</sup> Additionally, experts are concerned about what security programs will be prioritized given Mexico’s current fiscal austerity. The 2017 budget

<sup>16</sup> For profiles of Mexican criminal organizations, see <http://www.insightcrime.org/mexico-organized-crime-news>.

<sup>17</sup> Christopher Woody, “Mexico’s Biggest Cartel is Leaderless, and Drug Violence may be About to Intensify,” *Houston Chronicle*, October 29, 2016. For background, see CRS Report R41576, *Mexico: Organized Crime and Drug Trafficking Organizations*, by June S. Beittel.

<sup>18</sup> Presidencia de México, “Discurso íntegro del Presidente Peña Nieto a la Nación,” December 1, 2012.

<sup>19</sup> Octavio Rodríguez Ferreira and David A. Shirk, *Criminal Procedure Code Reform in Mexico, 2008-2016: the Final Countdown*, Justice in Mexico, University of San Diego, October 2015. Hereinafter Rodríguez Ferrera and Shirk, October 2015.

<sup>20</sup> Vanda Felbab-Brown, *Changing the Game or Dropping the Ball? Mexico’s Security and Anti-Crime Strategy Under President Enrique Peña Nieto*, Brookings Institution, November 2014.

<sup>21</sup> AP, “Violence at Mexico Teachers’ Protest Leaves Six Dead, Officials Say,” June 16, 2016; “Mexicans March Against Fuel Price Increases,” *Latin News Daily*, January 9, 2016. Hannah Smith and Maureen Meyer, *2016 Review: Addressing Mexico’s Human Rights and Security Situation*, Washington Office on Latin America (WOLA), December 19, 2016. Hereinafter WOLA, December 2016.

<sup>22</sup> Semple, *op. cit.*



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Foreword by Alan S. Frumin

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reduced funding for intelligence collection, crime prevention, and the prosecutorial unit charged with investigating cases of people who have disappeared.<sup>23</sup>

### **Military Involvement in Public Security**

Despite criticism from human rights groups and international organizations, the Peña Nieto government is likely to continue to rely on the Mexican military's active involvement in public security efforts. Mexico's defense minister, General Salvador Cienfuegos, has spoken out in favor of establishing a legal framework to regulate the military's involvement in internal security.<sup>24</sup> The Mexican congress is in the process of debating an internal security law proposed by President Peña Nieto. Human rights groups and academics hope any legislation that is enacted will increase transparency on the role of the military, hold military forces responsible for their actions (including civilian deaths), and include a plan to replace soldiers engaged in public security efforts with police as soon as possible.<sup>25</sup>

### **High Value Targeting**

In February 2014, the capture of "El Chapo" Guzmán symbolized the capstone of Peña Nieto's "kingpin" strategy, which began under the Calderón government and focused on taking out the top leadership of each criminal organization. Some 105 of this government's 122 top criminal targets reportedly have been arrested or killed during law enforcement operations.<sup>26</sup> Many have avoided prosecution, however.<sup>27</sup> In addition, many critics fault the kingpin strategy for having caused turf battles, succession struggles, and a proliferation of crime groups. Some analysts have therefore recommend that Mexico focus on taking out the middle layer of one group at a time, focusing on the most violent groups first, as the government appeared to do with the Zetas.<sup>28</sup>

### **Federal Operations in Violent States**

In recent years, federal deployments to states and cities facing crime surges have continued even though many have not led to sustained reductions in violence and some have resulted in human rights abuses committed by security forces.<sup>29</sup> In the state of Michoacán, the emergence of armed civilian "self-defense groups" that clashed with crime groups prompted a federal intervention that

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<sup>23</sup> According to many estimates, the number of disappeared persons in Mexico exceeds 25,000. U.S. Department of State, *Mexico-Mérida Initiative Report (15% Report) for FY2015*, September 6, 2016; "Fiscal Austerity Hits Security," *Latin American Security and Strategic Review*, September 2016.

<sup>24</sup> It is difficult to ascertain the difference between "internal security," which General Cienfuegos supports, and "public security," which he appears to oppose. Salvador Cienfuegos, "Cienfuegos: No Confundir Seguridad Interior con Seguridad Pública," *El Universal*, December 5, 2016.

<sup>25</sup> Under the Peña Nieto government, the number of civilians killed by military forces has not been released. See Francisco Sandoval, "El Ejército Esconde el Número de Civiles Muertos a Manos de Militares," *Animal Político*, January 2017. For broader debates, see WOLA, December 2016; Tony Payán and Guadalupe Correa-Cabrera, *Mexican Armed Forces and Security in Mexico*, Baker Institute for Public Policy, May 31, 2016.

<sup>26</sup> Antonio Garza and Stephanie Leutert, "Slowing Mexico's Violence Requires International Cooperation," *Houston Chronicle*, January 1, 2017.

<sup>27</sup> Duncan Tucker, Mexico's "Guilty Until Proven Innocent" Justice System is Failing the Nation," *Latin Correspondent*, November 7, 2014.

<sup>28</sup> Vanda Felbab-Brown, *The United States and Mexico: Moving beyond the election's vitriol and strengthening a multifaceted partnership*, Brookings Institution, November 16, 2016.

<sup>29</sup> Open Society Justice Initiative, *Undeniable Atrocities: Confronting Crimes Against Humanity in Mexico*, June 2016.

yielded mixed results in 2013.<sup>30</sup> The state of Tamaulipas was divided into zones overseen by Mexican military and federal police forces that have captured drug traffickers and purged local police forces, yet violence continued.<sup>31</sup> Federal forces that had been operating in the state of Guerrero did not intervene to prevent the September 2014 disappearances and killings of 43 students in Iguala, Guerrero, by local police collaborating with criminal groups in September 2014. Moreover, some federal police may have participated in the disappearances.<sup>32</sup> In October 2014, Mexico's National Human Rights Commission issued a report concluding that at least 12 people had been killed execution-style by the Mexican military in Tlatlaya, Mexico, on July 1, 2014.<sup>33</sup> In August 2016, the Commission concluded that Federal Police had used excessive force in a May 2015 confrontation in the state of Michoacán that left 42 civilians dead, with at least 22 people arbitrarily killed.

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<sup>30</sup> For a critical analysis of the policy, see Vanda Felbab-Brown, "The Rise of Militias in Mexico: Citizens' Security or Further Conflict Escalation?" *PRISM*, vol. 5, no. 4 (2015).

<sup>31</sup> Christopher Wilson and Eugenio Weigend, *Plan Tamaulipas: a New Security Strategy for a Troubled State*, Woodrow Wilson Center for Scholars' Mexico Institute, October 2014.

<sup>32</sup> Some of those who have been accused were likely tortured. See Mark Stevenson, "In Mexico Missing Students Case, Suspects Allege Torture," *New York Times*, May 10, 2016. An internal evaluation by the attorney general's office reportedly identified errors made during the investigation. See "Mexican Report Says Investigators Botched Search for 43 Students," *New York Times*, December 16, 2016. For background, see "Resource Page: Analysis and Information on Mexico's Ayotzinapa Case," WOLA, November 16, 2016.

<sup>33</sup> Michael Evans, *Tlatlaya Revealed: Archive Petition Cracks Open Investigative File on Mexican Army Massacre*, National Security Archive, March 6, 2016.

**Figure 2. Political Map of Mexico**



**Source:** Map files from Map Resources.

## Security and Justice Sector Reform

The Peña Nieto government dedicated significant attention and funding (more than \$1.2 billion) to support implementation of judicial reforms enacted in 2008, but experts are concerned about whether the government will sustain that support to ensure the system’s success.<sup>34</sup> As per those constitutional reforms, in June 2016 Mexico transitioned from an inquisitorial, closed-door process based on written arguments presented to a judge to an adversarial system with oral arguments and the presumption of innocence. These changes are expected to make the system more transparent and impartial. Through alternative dispute resolution, the system aims to increase flexibility and efficiency (see “Reforming the Judicial and Penal Systems,” below.)

Significant work remains to be done to ensure successful implementation, however. That work includes training police to gather evidence that will stand up in court; providing ongoing capacity-building for other justice-sector actors (prosecutors, public defenders, judges, forensics experts); and monitoring and evaluating the system.<sup>35</sup> It remains to be seen whether sufficient resources and manpower will be dedicated to the unit within the national public security system

<sup>34</sup> Rodríguez Ferrira and Shirk, October 2015. The funding figure is cited in USAID, “Mexico: Rule of Law,” fact sheet, November 2016.

<sup>35</sup> Nancy G. Cortés, Octavio Rodríguez Ferreira, and David A. Shirk, *Justiciabaro metro 2016*, Justice in Mexico, University of San Diego, November 2016.

(SNSP) that has replaced the technical secretariat within the interior ministry that had won praise for the technical assistance it provided to states throughout the transition period.<sup>36</sup> Civil society groups have urged the Mexican Senate to select an independent person through a transparent process to lead the new prosecutor general's office, which will replace Mexico's presidentially appointed attorney general's office, an entity that has long been plagued with problems.<sup>37</sup> The new prosecutor general will serve for nine years, a term longer than Mexico's six-year presidential term.

In response to criticism of his handling of the high-profile human rights cases previously mentioned, President Peña Nieto proposed 10 actions to improve the rule of law in November 2014.<sup>38</sup> Proposals that have advanced include sending federal troops to Guerrero; establishing special economic zones in Guerrero and other poor, southern states; launching a national 911 emergency line; and strengthening the national anticorruption system. Other measures, such as enacting laws against torture and enforced disappearances, have been introduced by President Peña Nieto but have not yet passed the congress.<sup>39</sup>

Additional policy changes, including police reforms, have been broadly debated but not enacted. The Calderón government made strides in increasing the size, training, and equipment of the federal police, yet that force has still been accused of serious crimes. Federal officials support unified command (*mando único*)—a constitutional reform that would *require* states to remove the command of police forces from municipalities to the state level.<sup>40</sup> In the meantime, vetting of police at all levels has increased, yet many states and municipalities have kept officers on their payrolls even after the officers failed those exams. Protocols on the use of force for federal police have been enacted, as well as other policing standards (see “Reforming the Police,” below). The U.N. High Commissioner for Human Rights and others have recommended that similar protocols on the use of force be developed for all of Mexico's security forces.

### National Anticorruption System

In July 2016, Mexico's Congress approved secondary legislation to fully implement the national anticorruption system that was created by a constitutional reform in April 2015. Although the final legislation was somewhat altered, it reflected several of the proposals that had been pushed by a broad spectrum of Mexican civil-society groups. The reforms gave the anticorruption system investigative and prosecutorial powers and a civilian board of directors; increased administrative and criminal penalties for corruption by public officials and private companies; and required three declarations (taxes, assets, and conflicts of interest) from public officials. Some analysts praised the reforms as a step forward for efforts aimed at combating official corruption, whereas others cast doubt on the likelihood that the reforms would be implemented effectively. The board of civil-society directors will be selected by a committee of academics and social activists in 2017, and it is expected that the system will start working by the end of the year.

<sup>36</sup> Arturo Angel, “El Nuevo Sistema Penal Acusatorio Opera sin Vigilancia en los Estados,” *Animal Político*, August 29, 2016.

<sup>37</sup> Ximena Suarez-Enriquez, *Three Key Points about Mexico's New Fiscalía*, WOLA, October 25, 2016; WOLA, DPLF, Fundación para la Justicia, “Organizaciones de la Sociedad Civil Exigen una Modificación Profunda del 102 Constitucional y Transitorios para Garantizar una Fiscalía Autónoma,” November 30, 2016.

<sup>38</sup> “Estos son los 10 Puntos que Anunció Peña Nieto en Respuesta al Caso Ayotzinapa,” *Animal Político*, November 28, 2014.

<sup>39</sup> Janet Cacelín, “Los Pendientes de Peña Nieto dos Años Después de su Decálogo Contra la Impunidad en México,” *Univisión*, October 3, 2016.

<sup>40</sup> SEGOB, “Press Release: Creación del Mando Único Policial Permitirá Contar con Instituciones Fuertes: Osorio Chong,” July 27, 2016.

## Community-Based Prevention

Upon taking office, President Peña Nieto launched a National Crime and Violence Prevention (Pronapred) program based, in part, on lessons learned from bilateral efforts in cities such as Ciudad Juárez (see “Pillar Four: Building Strong and Resilient Communities,” below). From 2013 to 2016, Pronapred provided some \$485 million in subsidies for a variety of interventions in municipalities with high crime rates that also exhibited social risk factors. Throughout its implementation, the program was criticized for lacking a rigorous methodology for selecting and evaluating the communities and interventions that it funded.<sup>41</sup> The government did not include funding for Pronapred subsidies in the 2017 budget. Nevertheless, crime prevention experts hope that states and municipalities will learn from the program and continue to support prevention efforts, possibly with support from public-private partnerships or through other federal programs.

## Drug Policy Reform

Mexico’s attorney general’s office has been developing a new anti-drug strategy. In 2015, the government held a national dialogue on marijuana policy in response to calls from some sectors to revisit its position, particularly given moves in some U.S. states to legalize marijuana consumption for medicinal and recreational purposes. In December 2016, the Mexican Senate approved a bill allowing the use of marijuana for medical purposes; the legislation moves to the lower chamber for consideration. Since more than 60% of Mexicans polled disagreed with the Mexican Supreme Court’s 2015 ruling in support of a person’s right to grow and use marijuana recreationally, further drug policy liberalization efforts may not advance.<sup>42</sup>

## Evolution of the Mérida Initiative<sup>43</sup>

### Origin

In December 2006, Felipe Calderón assumed the Mexican presidency amidst rising drug trafficking-related violence. Combating organized crime became his top domestic priority. In March 2007, Calderón asked then-President George W. Bush for U.S. assistance in combating drug and weapons trafficking. Prior to 2007, Mexico had not received large amounts of U.S. counterdrug assistance, partially due to Mexican concerns about U.S. government involvement in the country’s internal affairs. In FY2007, Mexico received \$36.7 million in U.S. antidrug aid (see **Table 1**).

In October 2007, the United States and Mexico announced the Mérida Initiative, a package of U.S. assistance for Mexico and Central America that would begin in FY2008.<sup>44</sup> As part of the Mérida Initiative’s emphasis on shared responsibility, the Mexican government pledged to tackle crime and corruption and the U.S. government pledged to address domestic drug demand and the illicit trafficking of firearms and bulk currency to Mexico. Both governments have struggled to

<sup>41</sup> México Evalua, *Prevención del Delito en México: Dónde Quedó la Evidencia?* January 2014; Mónica Ayala and Alan López, “Prevenir Delitos: Crónica de una Muerte Anunciada,” *Animal Político*, September 15, 2016.

<sup>42</sup> “Two-Thirds of Mexicans Against Decriminalizing Marijuana: Poll,” Reuters, November 10, 2015.

<sup>43</sup> For historical information, see CRS Report R40135, *Mérida Initiative for Mexico and Central America: Funding and Policy Issues*, by Clare Ribando Seelke.

<sup>44</sup> Beginning in FY2010, Congress separated Central America from the Mérida Initiative by creating a separate Central American Regional Security Initiative (CARSI). For information on CARSI, see CRS Report R41731, *Central America Regional Security Initiative: Background and Policy Issues for Congress*, by Peter J. Meyer and Clare Ribando Seelke.

fulfill some of those domestic commitments. A January 2016 Government Accountability Office (GAO) report concluded that 70% of firearms seized by Mexican authorities between 2009 and 2014 came from the United States.<sup>45</sup>

U.S. assistance provided during the first phase of the Mérida Initiative (FY2008-FY2010) enabled the purchase of equipment to support the efforts of federal security forces (military and police). That equipment included \$590.5 million worth of aircraft and helicopters. U.S. assistance focused on (1) counternarcotics, border security and counterterrorism; (2) public security and law enforcement; and (3) institution building and the rule of law. Congress withheld 15% of certain U.S. assistance to the Mexican military and police until the State Department submitted a report stating that Mexico was taking steps to meet human rights reporting requirements. Security forces were (and continue to be) subject to vetting requirements set in so-called Leahy laws.<sup>46</sup>

In 2011, Obama Administration and Calderón government officials revised the strategy behind the Mérida Initiative. After months of consultations, the governments agreed to broaden the scope of bilateral efforts to a four-pillar strategy that includes a focus on institution building over technology transfers, economic development and community-based social programs, and assistance for states and municipalities (especially on the U.S.-Mexican border). Since FY2011, funding for pillar two—building the rule of law while protecting human rights—has exceeded assistance for all other pillars (see **Figure 3**).

**Figure 3. Four Pillars of the Mérida Initiative**



**Source:** U.S. Department of State, “Fact Sheet: the Mérida Initiative: an Overview,” January 15, 2015; Graphic prepared by CRS Graphics.

From 2013 to 2016, cooperation intensified after an initial pause when President Peña Nieto took office. In May 2013, Presidents Obama and Peña Nieto reaffirmed their commitments to the Mérida Initiative’s four-pillar strategy during President Obama’s trip to Mexico. In August 2013,

<sup>45</sup> See Government Accountability Office (GAO), *GAO 16-223, Firearms Trafficking: U.S. Efforts to Combat Firearms Trafficking to Mexico Have Improved, But Some Collaboration Challenges Remain*, January 2016.

<sup>46</sup> CRS In Focus IF10575, *Human Rights Issues: Security Forces Vetting (“Leahy Laws”)*, by Liana W. Rosen.

the U.S. and Mexican governments then agreed to focus on justice sector reform, money laundering, police and corrections professionalization at the federal and state level, border security both north and south, and piloting approaches to address root causes of violence. The U.S. and Mexican governments held the fifth Security Cooperation Group meeting during the tenure of the Peña Nieto government in Washington, DC, in November 2016 to oversee the Mérida Initiative and broader security cooperation efforts. Issues such as how to combat drug trafficking—including opium poppy production in Mexico—were on the agenda.<sup>47</sup>

## **Funding**

Congress has played a major role in determining the level and composition of Mérida Initiative funding for Mexico. From FY2008 to FY2016, Congress appropriated more than \$2.6 billion for Mexico under the Mérida Initiative (see **Table 1** for Mérida appropriations and

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<sup>47</sup> The White House, “Blog Post: Partnering with Mexico to Combat Crime and Secure Our Borders,” November 7, 2016.

# Pocket Constitution



The Declaration of Independence  
The Constitution of the United States  
The Bill of Rights  
Amendments XI–XXVII



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**Table A-1** for overall assistance to Mexico). Congress initially earmarked funds in order to ensure that certain programs are prioritized, such as efforts to support institutional reform. From FY2011 onward, the amount of foreign military financing (FMF) Congress provided to Mexico declined significantly. By FY2012, FMF was no longer considered part of the Mérida Initiative but rather part of bilateral military assistance.

Congress has sought to encourage efforts to combat human rights abuses and impunity in Mexico by placing conditions on Mérida Initiative assistance. From FY2008 through FY2015, Congress directed that 15% of certain assistance provided to Mexican military and police forces would be subject to certain human rights conditions. In FY2014, Congress reprogrammed funding to other countries due to human rights concerns. (See “Human Rights Concerns and Conditions on Mérida Initiative Funding.”) There are no human rights conditions on Mérida Initiative accounts in the FY2016 Consolidated Appropriations Act (P.L. 114-113).

**Table I. Estimated Mérida Initiative Funding: FY2007-FY2017 (Request)**  
(\$ in millions)

Account	ESF	INCLE	FMF	Total
<b>FY2007</b>	11.4	36.7	0.0	<b>48.1</b>
<b>FY2008</b>	20.0	263.5	116.5	<b>400.0</b>
<b>FY2009</b>	15.0	406.0	39.0	<b>460.0</b>
<b>FY2010</b>	9.0	365.0	265.2	<b>639.2</b>
<b>FY2011</b>	18.0	117.0	8.0	<b>143.0</b>
<b>FY2012</b>	33.3	248.5	Not Applicable	<b>281.8</b>
<b>FY2013</b>	32.1	190.1	Not Applicable	<b>222.2</b>
<b>FY2014</b>	35.0	143.1	Not Applicable	<b>178.1</b>
<b>FY2015</b>	33.6	110.0	Not Applicable	<b>143.6</b>
<b>FY2016</b>	39.0	100.0	Not Applicable	<b>139.0</b>
<b>Total</b>	<b>235.0</b>	<b>1,943.2</b>	<b>428.7</b>	<b>2,654.9</b>
<b>FY2017 Request</b>	49.0	80.0	Not Applicable	<b>129.0</b>

**Source:** U.S. Agency for International Development (USAID) budget office, November 3, 2016; U.S. Department of State, November 18, 2016. U.S. Department of State, *Congressional Budget Justification for Foreign Operations FY2010-FY2013*.

**Notes:** ESF = Economic Support Fund; INCLE = International Narcotics Control and Law Enforcement; ; FMF = Foreign Military Financing. FY2008-FY2010 included supplemental funding.

Although budget requests for the Mérida Initiative have been declining, there has been bipartisan support in Congress for sustaining relatively level funding for the Mérida Initiative. In FY2015, Congress provided \$28.6 million above the Administration’s request in P.L. 113-235, with additional funding for justice-sector programs and efforts to help secure Mexico’s southern border. In FY2016, Congress provided \$20 million above the Obama Administration’s \$119 million request for the Mérida Initiative in P.L. 114-113.

The FY2017 budget request included \$129 million for the Mérida Initiative. ESF funds requested would support justice sector reform, human rights programs, and community-level prevention efforts. INCLE funds requested would support initiatives under all four pillars of the initiative, with a priority on training and equipping federal and state criminal justice sector institutions.

The House Appropriations Committee's version of the FY2017 foreign operations measure, H.R. 5912, would have provided \$157.5 million for the Mérida Initiative. The Senate Appropriations Committee's version, S. 3117, would have fully funded the budget request. The 114<sup>th</sup> Congress did not complete action on FY2017 appropriations, but in December 2016 it approved a continuing resolution (P.L. 114-254) providing foreign aid funding through April 28, 2017, at the FY2016 level, minus an across-the-board reduction of almost 0.2%.

Looking ahead, the 115<sup>th</sup> Congress will face completing action on FY2017 foreign aid appropriations. It also will consider the FY2018 budget request and oversee previously appropriated funding for the Mérida Initiative.

## **Implementation**

For the past several years, Congress has maintained an interest in ensuring that Mérida-funded equipment and training is delivered efficiently. After initial delays, deliveries accelerated in 2011, with more than \$500 million worth of equipment, training, and technical assistance provided. As of the end of President Calderón's term (November 2012), \$1.1 billion worth of assistance had been provided. That total included roughly \$873.7 million in equipment (including 20 aircraft<sup>48</sup> and more than \$100 million in nonintrusive inspection equipment) and \$146 million in training.

For most of 2013, delays in implementation occurred largely due to the fact that the Peña Nieto government was still developing its security strategy and determining the amount and type of U.S. assistance needed to support that strategy. The initial procedure the Mexican government adopted for processing all requests from Mexican ministries for Mérida Initiative funds through the interior ministry also contributed to delays. By November 2013, the State Department and Mexican foreign affairs and interior ministries had agreed to a new, more agile process for approving new Mérida Initiative projects. The governments have agreed to more than 100 new projects worth more than \$800 million, half of which are under way. As of November 2016, deliveries stood at roughly \$1.6 billion.<sup>49</sup>

U.S. assistance has increasingly focused on supporting efforts to strengthen institutions in Mexico through training and technical assistance. U.S. funds support training courses offered in new or refurbished training academies for customs personnel, corrections staff, canine teams, and police (federal, state, and local).<sup>50</sup> 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. Despite the significant number of officials who have been trained over the past decade, high

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<sup>48</sup> Aerial equipment deliveries included four CASA 235 maritime surveillance aircraft, nine UH-60 Black Hawk helicopters, and eight Bell 412 helicopters. An Intelligence, Surveillance, and Reconnaissance (ISR) Dornier 328-JET arrived in late 2014.

<sup>49</sup> U.S. Department of State, Bureau of International Narcotics and Law Enforcement Affairs (INL), "Merida Status Update for CRS," November 2016. Hereinafter INL, November 2016.

<sup>50</sup> Mérida assistance is also supporting Mexican institutions like the National Public Security System (SNSP), which sets police standards, provides grants to states and municipalities for police training, and is now overseeing the functioning of the new accusatorial justice system at the federal and state levels. The U.S. government has also supported the National Institute of Criminal Sciences (INACIPE), which provides training to judicial sector personnel.

turnover rates within Mexican criminal justice institutions have limited the impact of U.S. training programs.

## The Four Pillars of the Mérida Initiative

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

U.S. assistance appropriated during the first phase of the Mérida Initiative (FY2008-FY2010) enabled the purchase of equipment to support the efforts of federal security forces engaged in anti-TCO efforts. That equipment included \$590.5 million worth of aircraft and helicopters, as well as forensic equipment for the Federal Police and Attorney General's respective crime laboratories. U.S.-funded nonintrusive inspection equipment (more than \$125 million) and 400 canine teams have also helped Mexican forces interdict illicit flows of drugs, weapons, and money. In response to rising heroin production in Mexico, the State Department has provided training in how to find and destroy drug labs and offered to develop bilateral operational plans to stop heroin production and trafficking. Some Members of Congress would like to see assistance for interdiction further increased.<sup>51</sup>

The Mexican government's antinarcotics strategy, and U.S. efforts to support Mexico, have been focusing more attention on disrupting the criminal proceeds used to finance DTO operations, with more to be done in that area.<sup>52</sup> In August 2010, the Mexican government imposed limits on the amount of U.S. dollars that individuals can exchange or deposit each month; restrictions on cash deposits by businesses in the northern border region were eased in September 2014.<sup>53</sup> In October 2012, the Mexican Congress approved an anti-money laundering law that established a financial crimes unit within the Attorney General's office (PGR), subjected additional industries vulnerable to money laundering to new reporting requirements, and created new criminal offenses for money laundering. Despite these efforts, Mexico lags on prosecutions and convictions for money-laundering offenses. From 2010 to 2015, Mérida assistance has allotted \$22 million in equipment, software, training, and technical assistance to the financial intelligence unit, which is helping that unit analyze data on suspicious transactions and prepare cases for referral to the PGR.

As mentioned, what were once drug trafficking organizations have evolved into poly-criminal organizations, perhaps as a result of interdiction efforts and border security cutting into their profits. Progress has been made in combating human trafficking, with more data being gathered and cooperation to resolve cross-border cases increasing.<sup>54</sup> Some analysts have urged the U.S. and Mexican governments to focus on combating other types of organized crime, such as kidnapping (including of migrants in transit to the United States) and human smuggling.<sup>55</sup>

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<sup>51</sup> U.S. Congress, Senate United States Senate Caucus on International Narcotics Control, Drug Trafficking Across the Southwest Border and Oversight of U.S. Counterdrug Assistance to Mexico, 114<sup>th</sup> Cong., 1<sup>st</sup> sess., Nov. 17, 2015.

<sup>52</sup> Randal C. Archibold, "Vast Web Hides Mexican Drug Profits in Plain Sight, U.S. Authorities Say," *New York Times*, March 25, 2014; Aaron Daugherty, "Mexico Reviews Low Asset Seizure Rate," *Insight Crime*, July 29, 2015.

<sup>53</sup> "Mexico Scraps Dollar Cash Deposit Limits to Spur Trade," Reuters, September 12, 2014.

<sup>54</sup> Polaris, "Raising Awareness about Human Trafficking and the National Hotline in Mexico," October 20, 2016; Polaris, *More Than Drinks for Sale: Exposing Sex Trafficking in Cantinas & Bars in the U.S.*, September 2016; "Mexico and U.S. Authorities Dismantle People Trafficking Ring," *Latin News Daily*, November 1, 2016.

<sup>55</sup> Ximena Suárez Enriquez, José Knippen, and Maureen Meyer, *A Trail of Impunity: Thousands of Migrants in Transit Face Abuses amid Mexico's Crackdown*, FUNDAR and WOLA, September 2016.

Cross-border law enforcement operations and investigations have been suggested as possible areas for increased cooperation. Of note, there already exist a number of U.S.-Mexican law enforcement partnerships, both formal and informal. For instance, Mexican federal police have participated in the Border Enforcement Security Task Force (BEST) initiative, led by U.S. Immigration and Customs Enforcement (ICE).<sup>56</sup> In September 2015, ICE also launched a Transnational Criminal Investigative Unit composed of vetted Mexican federal police to work on cases of alien smuggling, human trafficking, and other crimes. The State Department and the U.N. Office on Drugs and Crime (UNODC) are working with Mexican law enforcement officials to develop a strategy to address dismantle smuggling networks and a communication strategy to raise awareness on the risks of smuggler recruitment.

U.S. technology and personnel support Mexican intelligence-gathering and information-sharing efforts in northern and southern Mexico. U.S. drones gather information that is shared with Mexican officials in the U.S.-Mexican border region. U.S. aid has helped federal, state, and municipal forces form joint intelligence task forces throughout the country. In 2015, the U.S. and Mexican governments approved a \$75 million Mérida program to help Mexico develop an automated, interagency biometrics system to help agencies collect, store, and share information on criminals and migrants. In the area of communications, a \$13 million telecommunications system for cities along the U.S.-Mexican border that was funded by the Mérida Initiative is facilitating cross-border information-sharing among law enforcement in that region. In 2016, the two governments agreed to a \$75 million telecommunications project to improve secure communication capabilities among Mexican agencies working in eight southern states.

As Mexico receives more than \$100 million in U.S. equipment and training that has been obligated to help secure its southern borders with Guatemala and Belize, the need for more regional partnerships with those countries has also arisen.

## **Pillar Two: Institutionalizing Reforms to Sustain the Rule of Law and Respect for Human Rights in Mexico<sup>57</sup>**

Violence and criminality have overwhelmed Mexico's law enforcement and judicial institutions, with record numbers of arrests rarely resulting in successful convictions. With impunity rates hovering around 82% for homicide and even higher for other crimes,<sup>58</sup> experts maintain that it is crucial for Mexico to implement the aforementioned judicial reforms passed in 2008 and to focus on fighting corruption at all levels of government. Increasing cases of human rights abuses committed by authorities at all levels, as well as Mexico's inability to investigate and punish those abuses, are also pressing concerns.

### **Reforming the Police**

Mexican police are tasked with combating criminal groups that are constantly evolving and extremely dangerous. Police roles are changing under the new adversarial justice system, which

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<sup>56</sup> The BEST Initiative is a multi-agency initiative wherein task forces seek to identify, disrupt, and dismantle criminal organizations posing significant threats to border security—both along the southwest border with Mexico as well as along the northern border with Canada.

<sup>57</sup> For more information on this pillar, see CRS Report R43001, *Supporting Criminal Justice System Reform in Mexico: The U.S. Role*, by Clare Ribando Seelke.

<sup>58</sup> In other words, about 82% of perpetrators have not been brought to justice. Guillermo Zepeda, *Seguridad y Justicia Penal en los Estados: 25 Indicadores de Nuestra Debilidad Institucional*, Mexico Evalúa, March 2012.

requires them to prepare investigations that can be challenged in public oral trials and to serve as witnesses in court. Endemic corruption, abuses of power, a reliance on evidence gathered through confessions (sometimes obtained through torture) rather than forensic evidence, extremely low levels of popular trust, and poor relations with prosecutors have hindered police's ability to combat crime. Low salaries, poor working conditions, and limited opportunities for career advancement have hindered recruiting and retention in some states and municipalities as well.

The Calderón Administration increased police budgets, raised selection standards, and enhanced police training and equipment at the federal level. It also created a national database, through which police at all levels can share information and intelligence, and accelerated implementation of a national police registry. Two laws passed in 2009 created a federal police force under the former secretariat for public security or SSP and another force under the PGR, both with some investigative functions. Whereas initiatives to recruit, vet, train, and equip the federal police advanced (with support from the Mérida Initiative<sup>59</sup>) during the Calderón government, efforts to build the PGR's police force lagged.

The Peña Nieto government has placed the federal police and the SSP under the authority of the interior ministry, created a new gendarmerie within the federal police, and put the PGR's police within its new investigative agency. U.S. training has been offered to each of those entities.<sup>60</sup>

State and local police reform has lagged well behind federal police reform efforts. A public security law codified in January 2009 established vetting and certification procedures for state and local police to be overseen by the national public security system (SNSP). Federal subsidies have been provided to state and municipal units whose officers meet certain standards. Some \$24 million in U.S. equipment and training assistance has supported implementation of codified standards, vetting of law enforcement, the establishment of internal affairs units, and centralization of personnel records. U.S. assistance is also helping police institutions adopt common standards, create career paths, and deter police from engaging in corruption. As of May 2015, roughly 14,100 of 134,600 Mexican municipal police failed vetting exams and another 17,000 state police failed as well.<sup>61</sup> According to *Causa en Comun*, a Mexican civil society organization that has received U.S. funds, the states of Baja California Sur, Michoacán, Nayarit, Tlaxcala, and Zacatecas have not fulfilled their requirements with respect to the 2009 law.

The establishment of unified state police commands (*mando único*) that could potentially absorb municipal police forces has been debated in Mexico for years.<sup>62</sup> The Mexican Congress failed to pass a constitutional reform proposal put forth by the Calderón government to establish unified state police commands. Nevertheless, President Peña Nieto has signed agreements to help more than half of the states move in that direction and introduced his own constitutional reform proposal on that issue. Mexico's interior minister and its governor's conference have called for

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<sup>59</sup> Mérida funding supported training courses to improve federal police investigations, intelligence collection and analysis, and anti-money laundering capacity, as well as the construction of regional command and control centers.

<sup>60</sup> Testimony of William R. Brownfield, Assistant Secretary, Bureau of International Narcotics and Law Enforcement Affairs before the U.S. Congress, Senate United States Senate Caucus on International Narcotics Control, *Drug Trafficking Across the Southwest Border and Oversight of U.S. Counterdrug Assistance to Mexico*, 114<sup>th</sup> Cong., 1<sup>st</sup> sess., November 15, 2015.

<sup>61</sup> These data are available by state in Spanish at <http://causaencomun.org.mx/programas/radiografia-policial/>.

<sup>62</sup> Proponents of the reform maintain that it would improve coordination with the federal government and bring efficiency, standardization, and better trained and equipped police to municipalities. Skeptics argue that police corruption has been a major problem at all levels of the Mexican policing system and argue that there is a role for municipal police who are trained to deal with local issues.

the constitutional adoption of unified command, yet the Mexican Congress has yet to legislate on the matter.<sup>63</sup>

The outcome of police reform efforts could have implications for U.S. initiatives involving state and municipal police forces. Mérida funding has supported state-level academies and training courses for state and local police in first responder education, polygraphing, crime scene preservation, investigation techniques, leadership and supervision, and intelligence-gathering. Training efforts also have focused on helping police work with forensics analysts and prosecutors to investigate crimes and serve as expert witnesses during oral trials. Using a “train the trainer” model, the State Department trained 230,000 preventive police and 30,000 ministerial (investigative) police in how to function in the new accusatorial justice system.<sup>64</sup>

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

## Reforming the Judicial and Penal Systems

The Mexican judicial system has been widely criticized for being opaque, inefficient, and corrupt. It is plagued by long case backlogs, a high pretrial detention rate, and an inability to secure convictions.<sup>65</sup> The vast majority of drug trafficking-related arrests that have occurred over the last several years have not resulted in successful prosecutions. The PGR has also been unable to secure charges in many high-profile cases involving the arrests of politicians accused of collaborating with organized crime.

Mexican prisons, particularly at the state level, are also in need of significant reforms. Increasing arrests have caused prison population to expand significantly, as has the use of preventive detention. Those suspected of involvement in organized crime can be held by the authorities for 40 days without access to legal counsel, with a possible extension of another 40 days, a practice known as “*arraigo*” (precharge detention) that has led to serious abuses by authorities.<sup>66</sup> The government continues to say *arraigo* is necessary to facilitate some types of investigations, although reports that its usage has decreased by 90% in 2015 as compared to 2012.<sup>67</sup> Many

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<sup>63</sup> SEGOB, “Press Release: Creación del Mando Único Policial Permitirá Contar con Instituciones Fuertes: Osorio Chong,” July 27, 2016; “CONAGO Acordó Impulsar Mando Único a Rango Constitucional,” *Milenio*, January 13, 2016.

<sup>64</sup> INL, November 2016.

<sup>65</sup> Ferreira and Shirk, 2015.

<sup>66</sup> This practice 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. The Mexican congress may consider legislation in 2017 to end the *arraigo*. Arturo Angel, “Reforma Penal y Ley Contra Tortura, Entre los 10 Pendientes Claves en Seguridad para 2017,” *Animal Político*, January 4, 2017.

<sup>67</sup> Tanya Montalvo, “Para Proteger el Éxito de una Investigación: así Defiende México al Arraigo,” *Animal Político*, March, 2014; Gustavo Castillo, “De 2012 a la Fecha ha Disminuido 90 por Ciento la Cifra de Arraigos: PGR,” *La Jornada*, December 3, 2015.

inmates are awaiting trials, as opposed to serving sentences. In 2015, Mexico's Human Rights Commission estimated that the country's prisons were at 25% over capacity. Prison breaks and riots are particularly common in state facilities. However, the July 2015 escape by "El Chapo" Guzmán from a maximum security federal prison revealed the dangers posed by corrupt officials inside federal facilities as well. INL has provided training, technical assistance, and equipment to help reform federal and state penitentiary systems and help them obtain independent accreditation from the American Correctional Association (ACA). More than 42 prisons have received ACA accreditation since 2008.

Mexico met the June 2016 deadline (established in 2008 constitutional reforms) to replace its trial procedures at the federal and state level, although it may take many years for the system to be perfected.<sup>68</sup> Under the reform, Mexico moved 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. While justice reform efforts at the federal level lagged during the Calderón government, President Peña Nieto has devoted more political capital and resources (\$1.2 billion) to support the process. Peña Nieto shepherded a unified code of criminal procedure to cover the entire judicial system through the Mexican Congress in February 2014; it was promulgated in March 2014. The federal government and Mexican states have been building new courtrooms, retraining current legal professionals, updating law school curricula, and improving forensic technology—a difficult and expensive undertaking.

In addition to the police training mentioned above, the State Department has equipped more than 120 courtrooms in 21 states with audio and video recording equipment to record the new oral proceedings.<sup>69</sup> With State Department funding, the Department of Justice (DOJ) has supported judicial reform at the federal level, including providing technical assistance to the Mexican Congress during the drafting and adoption of a unified criminal procedure code through its Office of Overseas Prosecutorial Development and Training (OPDAT). In 2011-2012, DOJ worked with the PGR to design and implement a national training program (Project Diamante) through which approximately 9,000 prosecutors, investigators, and forensic experts were trained in the accusatorial system. The PGR then used Diamante-certified instructors and a jointly developed curriculum to transition its personnel and operations to the accusatorial system in 2015-2016. OPDAT also has been working with the PGR to provide specialized training programs for prosecutors in anti-money laundering, trafficking in persons, and anti-kidnapping cases.

OPDAT Mexico also trained more than 250 Mexican federal judges through a DOJ capacity-building program for regional federal judges in Puerto Rico. Based on the training program in Puerto Rico, OPDAT Mexico then designed a similar program for 600 Mexican federal judges in advance of the 2016 deadline for implementation of the new accusatorial system.

The U.S. Agency for International Development (USAID) is implementing an \$87 million rule of law program that provides assistance to Mexican state and federal authorities in all 31 Mexican states and the Federal District, and to civil society organizations that monitor and support reform efforts. Activities provide comprehensive technical assistance to support effective transition to the new criminal justice system. They include strengthening the legal framework; improving prosecutor and judicial capacity and coordination; public awareness and outreach regarding the reforms; building analytical capacity in justice sector institutions (to better track progress); and supporting victims' assistance and access to justice, particularly for women. USAID also supports training for private lawyers, professors, and bar associations to ensure that legal curricula and

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<sup>68</sup> "Trials and Errors: Criminal Justice in Mexico," *Economist*, June 18, 2016.

<sup>69</sup> INL, November 2016.

technical standards are consistent with the new accusatory, adversarial system. Although progress has not been uniform, pretrial detention rates in some states where USAID has worked have decreased by 25% or more, the use of alternative dispute resolution has freed up resources for courts to address violent crimes, and most defendants have complied with the precautionary measures courts have put on them.<sup>70</sup>

The U.S. Congress has expressed support for the continued provision of U.S. assistance for judicial reform efforts in Mexico in appropriations legislation, hearings, and committee reports. Over time, Congress may consider how best to divide funding between the federal and state levels; how to sequence and coordinate support to key elements within the rule of law spectrum (police, prosecutors, courts); how to ensure that Mexico develops a way to monitor and adjust the new criminal justice system, and how the efficacy of U.S. programs is being measured.

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

The Department of Homeland Security (DHS) Customs and Border Protection (CBP) is charged with facilitating the flow of people, commerce, and trade through U.S. ports of entry while securing the border against threats. While enforcement efforts at the southwest border tend to focus on illegal migration and cross-border crime, commercial trade crossing the border also poses a potential risk to the United States. Since the North American Free Trade Agreement took effect in 1994, U.S.-Mexico trade has dramatically increased, while investments in port infrastructure and staffing of customs officials along the border have not, until recently, been made. Particularly since the terrorist attacks of September 11, 2001, there have been significant delays and unpredictable wait times at the U.S.-Mexico border. Concern about those delays has increased in recent years, since roughly 80% of U.S.-Mexico trade must pass through a port of entry along the southwest border, often more than once, as manufacturing processes between the two countries have become highly integrated.

#### **21<sup>st</sup> Century Border Bilateral Executive Steering Committee**

On May 19, 2010, the United States and Mexico declared their intent to collaborate on enhancing the U.S.-Mexican border as part of pillar three of the Mérida Initiative. A Twenty-First Century Border Bilateral Executive Steering Committee (ESC)<sup>71</sup> has met 11 times since then to develop binational action plans and oversee implementation of those plans. The plans are focused on setting measurable goals within broad objectives: infrastructure, secure flows of goods and people, and security and law enforcement. In December 2015, the ESC reported that their efforts had resulted in new facilities at the San Isidro-Tijuana port for southbound screenings, a cross-border pedestrian bridge at the Tijuana airport, the opening of the Brownsville-Matamoros International Railway Bridge, and the creation of a “Cargo Pre-Inspection Program.”<sup>72</sup> That program, which enables U.S. and Mexican customs officials to work together at three locations (two active, one under development) along the shared border to clear goods before they arrive at a U.S. or Mexican port of entry, aims to minimize the double inspection of shipments. It was

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<sup>70</sup> USAID, “Mexico: Rule of Law,” fact sheet, November 2016.

<sup>71</sup> 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. 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. See <https://www.dhs.gov/executive-steering-committee>.

<sup>72</sup> See <http://www.gob.mx/sre/prensa/bilateral-executive-steering-committee-for-the-21st-century-border-management-initiative-17496>.

enabled by Mexico's 2015 passage of a law enabling U.S. customs and immigration officials to bear arms in Mexico.<sup>73</sup>

### **Northbound and Southbound Inspections<sup>74</sup>**

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

In addition to its inbound/northbound inspections, the United States has undertaken steps to enhance its outbound/southbound screening procedures. Currently, DHS reports screening 100% of southbound rail shipments for illegal weapons, cash, and drugs. Also, CBP scans license plates along the southwest border with the use of automated license plate readers. Further, CBP employs nonintrusive inspection (NII) systems—both large-scale and mobile—to aid in inspection and processing of travelers and shipments.

Historically, Mexican Customs had not served the role of performing southbound (or inbound) inspections. As part of the revised Mérida Initiative, CBP has helped 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 investigator training programs and the State Department has provided more than 400 canines to assist with the inspections, many of which are posted along the northern border.<sup>75</sup> Mexico has reportedly increased its investments in manpower and technology to perform southbound inspections, but those investments, which slow southbound traffic at some ports of entry, reportedly have yet to yield large seizures.<sup>76</sup>

### **Preventing Border Enforcement Corruption<sup>77</sup>**

Another issue policymakers may confront regarding the strengthening of the Southwest border is how to prevent the corruption of U.S. and Mexican border officials. With respect to CBP personnel, data from a 2012 GAO report indicates that from FY2005 to FY2012, 144 CBP employees were arrested or indicted for corruption-related activities and 65% of them were stationed along the Southwest border.<sup>78</sup> CBP personnel misconduct has continued to receive

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<sup>73</sup> "US Border Agents to Inspect US-Bound Trucks on Mexican Soil," Associated Press, January 12, 2016.

<sup>74</sup> There is a dearth of open-source data that currently measures the extent of inbound and outbound inspections performed by both the United States and Mexico along the southwest border. Rather, existing data tend 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.

<sup>75</sup> Embassy of Mexico, *Fact Sheet: The Mérida Initiative—An Overview*, January 2015.

<sup>76</sup> CRS electronic correspondence with Dr. David Shirk, Justice in Mexico project, January 6, 2016.

<sup>77</sup> This section was authored by Carla Argueta, Analyst in Immigration Policy.

<sup>78</sup> U.S. Government Accountability Office, *Border Security: Additional Actions Needed to Strengthen CBP Efforts to Mitigate Risk of Employee Corruption and Misconduct*, GAO-13-59, January 2013.

attention in recent years,<sup>79</sup> and CBP has taken steps to increase transparency on this issue. For example, in 2016, the CBP Integrity Advisory Council released a publicly available report that included various recommendations on a number of topics,<sup>80</sup> including Border Corruption Task Forces.<sup>81</sup> Additionally, the Federal Bureau of Investigation (FBI), in collaboration with DHS, has launched a campaign to “raise awareness about the dangers of border corruption.”<sup>82</sup>

To date, the 21<sup>st</sup> century border pillar has not directly addressed the issue of corruption. Congress may consider whether preventing, detecting, and prosecuting the corruption of border enforcement personnel should be a component of the border programs funded by the Mérida Initiative. Congress may also consider how this corruption may exacerbate some of the issues the Mérida Initiative seeks to address. Furthermore, Congress may decide whether to increase funding—as part of or separately from Mérida funding—for the vetting of new and current border enforcement personnel.

### **Mexico’s Southern Borders<sup>83</sup>**

Policymakers may also seek to examine a newer element under pillar three of the Mérida Initiative that involves U.S. support for securing Mexico’s porous and insecure southern borders with Guatemala and Belize. With U.S. support, the Mexican government has been implementing a southern border security plan since 2013 that has involved the establishment of 12 advanced naval bases on the country’s rivers and three security cordons that stretch more than 100 miles north of the Mexico-Guatemala and Mexico-Belize borders. Mexico’s National Institute of Migration (INAMI) agents have taken on a new enforcement directive alongside federal and state police forces. These unarmed agents have worked with the military and the police to increase immigration enforcement efforts along known migrant routes. U.S. officials have repeatedly praised Mexico’s efforts.<sup>84</sup> In contrast, human rights groups have criticized Mexico for abuses committed by its officials against migrants and for failing to provide enough access to humanitarian visas or asylum to migrants who have valid claims to international protection.<sup>85</sup>

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<sup>79</sup> For example, after a review of court records and internal agency documents, The New York Times found that “over the last 10 years almost 200 employees and contract workers for the Department of Homeland Security have taken nearly \$15 million in bribes while being paid to protect the nation’s borders and enforce immigration laws.” Furthermore, the Center for Investigative Reporting, also maintains a website that tracks individual border corruption cases. At the time of this report, the site had 153 cases. Ron Nixon, “The Enemy Within: Bribes Bore a Hole in the U.S. Border,” *The New York Times*, December 28, 2016 and Andrew Becker, *Crossing the Line: Corruption at the Border*, The Center for Investigative Reporting, <http://bordercorruption.apps.cironline.org/>.

<sup>80</sup> The CBP Integrity Advisory Council is a subcommittee of the Homeland Security Advisory Council.

<sup>81</sup> The National Border Corruption Task Force was established by the Federal Bureau of Investigation (FBI), along with 22 Border Corruption Task Forces/Border Corruption Working Groups. They investigate serious official corruption allegations involving local, state, and federal officials with law enforcement authorities at or near U.S. borders. U.S. Department of Homeland Security, Homeland Security Advisory Council, *Final Report of the CBP Integrity Advisory Panel*, March 15, 2016.

<sup>82</sup> Federal Bureau of Investigation, *Corruption on the Border: New Campaign Enlists the Public’s Help*, December 22, 2016, <https://www.fbi.gov/news/stories/border-corruption-campaign-enlists-publics-help>.

<sup>83</sup> See CRS In Focus IF10215, *Mexico’s Recent Immigration Enforcement Efforts*, by Clare Ribando Seelke.

<sup>84</sup> David Nakamura, “Obama thanks Mexico for ‘Absorbing’ Central American Refugees. His own Administration Wants to Turn Them Away,” *Washington Post*, September 20, 2016.

<sup>85</sup> José Knippen, Clay Boggs, and Maureen Meyer, *An Uncertain Path: Justice for Crimes and Human Rights Violations Against Migrants and Refugees in Mexico*, Washington Office on Latin America (WOLA), Fundar, et al., November 2015.

By Bradford Fitch

Includes  
U.S. Constitution and  
Declaration of Independence



# Citizen's Handbook

## To Influencing Elected Officials

Citizen Advocacy in  
State Legislatures and Congress

The State Department has provided \$24 million in equipment and training assistance, including NII equipment, mobile kiosks, canine teams, and training for INAMI officials in the southern border region. It has obligated more than \$75 million more in that area. The Department of Defense has provided training and equipment to Mexican military forces as well. Observers have urged U.S. policymakers to consider providing Mexico with support in how to investigate and punish crimes against migrants, training in how to conduct humanitarian screening, and support for Mexico's asylum agency.<sup>86</sup> Increased U.S. funding has been devoted to the U.N. High Commissioner for Human Rights to assist in some of those areas and to help INAMI develop a training program for migration officials to interview vulnerable populations and to conduct humane repatriations.<sup>87</sup>

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

This pillar focuses on addressing the underlying causes of crime and violence, promoting security and social development, and building communities that can withstand the pressures of crime and violence. Pillar four is unique in that it has involved Mexican and U.S. federal officials working together to design and implement community-based programs in high-crime areas. Pillar four seeks to empower local leaders, civil society representatives, and private sector actors to lead crime prevention and drug demand reduction efforts in their communities. It has been informed by lessons learned from U.S. and Mexican efforts in Ciudad Juárez, Chihuahua.

### **Ciudad Juárez: Lessons Learned**

In January 2010, in response to the massacre of 15 youths with no connection to organized crime in Ciudad Juárez, the Mexican government began to prioritize crime prevention and community engagement. Federal officials worked with local authorities and civic leaders to establish six task forces to plan and oversee a strategy for reducing criminality, tackling social problems, and improving citizen-government relations. The strategy, "Todos Somos Juárez" ("We Are All Juárez"), was launched in February 2010 and involved close to \$400 million in federal investments in the city. While federal officials began by amplifying access to existing social programs and building infrastructure projects, they later responded to local demands to concentrate efforts in certain "safe zones." Control over public security in the city shifted from the military, to the federal police, and then to municipal authorities.

Prior to the endorsement of a formal pillar four strategy, the U.S. government's pillar four efforts in Ciudad Juárez involved the expansion of existing initiatives, such as school-based "culture of lawfulness"<sup>88</sup> programs and drug demand reduction and treatment services. 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. U.S. support also included new programs, such as support for an anonymous tip line for the police. USAID supported a crime and violence mapping project that enabled Ciudad Juárez's government to identify hot spots and respond with tailored prevention measures as well as a program to provide safe spaces, activities, and job training programs for at-risk youth. USAID also provided \$1 million in grants to local organizations working in the areas of social cohesion.

It may never be determined what role the aforementioned efforts played in the significant reductions in violence that has occurred in Ciudad Juárez since 2011.<sup>89</sup> Nevertheless, lessons have been gleaned from this example of Mexican and U.S. involvement in municipal crime prevention that are informing newer programs in Mexico and in Central America. Analysts have praised the sustained, high-level support Ciudad Juárez received from the Mexican and U.S.

<sup>86</sup> Ibid, Jennifer Podkul, Women's Refugee Commission, presentation on December 17, 2015.

<sup>87</sup> The White House, Office of the Press Secretary, "Fact Sheet: United States-Mexico Relations," July 22, 2016.

<sup>88</sup> Key sectors that CoL programs seek to involve include law enforcement, security forces, and other public officials; the media; schools; and religious and cultural institutions. The U.S. government is supporting school-based "culture of lawfulness" programs in more than 10,000 schools, as well as "culture of lawfulness" courses that are being taught to federal and state police.

<sup>89</sup> While many analysts credit the decline in violence to the end of a turf war between the Sinaloa and Juárez TCOs, federal and local officials have variously taken credit for the reduction. See, for example, "Looking back on the Calderón Years," *Economist*, November 22, 2012.

governments; community and private sector ownership of the effort; and coordination that occurred between various levels of the Mexican government.<sup>90</sup> The strategy was not well targeted, however, and monitoring and evaluation of its effectiveness has been relatively weak.

In April 2011, the U.S. and Mexican governments formally approved a binational pillar four strategy focused on (1) strengthening federal civic planning capacity to prevent and reduce crime; (2) bolstering the capacity of state and local governments to implement crime prevention and reduction activities; and (3) increasing engagement with at-risk youth. U.S.-funded pillar four activities were designed to complement the work of Mexico's National Center for Crime Prevention and Citizen Participation, an entity (since renamed) within the Interior Department that implements prevention projects. U.S. support for pillar four has exceeded \$100 million.

USAID is dedicating \$90 million for crime and violence prevention programs in Mexico.<sup>91</sup> Some funding has been directed toward helping the federal government design and monitor prevention programs and developing a "lab" of best practices, while other funds have been targeted at communities. Community-based programs have supported the development of local strategies to reduce crime and violence in certain localities in Ciudad Juárez, Monterrey, Nuevo León, and Tijuana, Baja California. Strategies that have been evaluated for possible replication have included outreach to at-risk youth, improved citizen-police collaboration, and partnerships between public and private sector entities. Programs have reached 35,000 at risk youth in the three cities. Of those, 70% of some 9,000 at-risk youth who participated in after-school activities and employability programs in Tijuana and Ciudad Juárez found an internship or jobs or returned to school within six months. USAID also awarded local grants to civil society organizations for innovative crime prevention projects. A follow-on program is expanding successful initiatives to other cities in Chihuahua, Jalisco, Michoacán, and Nuevo León.

Initially, pillar four appeared to be a priority for the Peña Nieto government. However, Mexico's National Crime and Violence Prevention Program has been defunded for 2017, and it is unclear how states will receive federal support for prevention programs.<sup>92</sup> As previously stated, that program involved federal interventions in municipalities in high crime areas.

The State Department is supporting other key elements of pillar four: drug demand reduction, culture of lawfulness programs, and efforts to help citizens hold government entities accountable. U.S.-funded training and technical assistance provided by the Inter-American Drug Control Commission has helped Mexico develop a curriculum and train hundreds of drug counselors, conduct research, and expand drug treatment courts throughout the country. U.S. support has also enabled the establishment of community anti-drug coalitions in Mexico and at least five drug courts. As Mexico has made culture of lawfulness education a required part of middle school curriculum, U.S. support has helped that curriculum reach more than 10,000 schools. U.S. assistance has helped a Mexican nongovernment organization establish citizens' watch booths in district attorney's offices in Mexico City and surrounding areas that have helped people report crime, be made aware of their rights, and monitor the services provided by those entities.

<sup>90</sup> Lucy Conger, "The Private Sector and Public Security: The Cases of Ciudad Juarez and Monterrey," *Building Resilient Communities: Civic Responses to Violent Organized Crime in Mexico* (Woodrow Wilson Center's Mexico Institute and the Trans-Border Institute at the University of San Diego, 2014). For lessons learned, see International Crisis Group, *Back from the Brink, Saving Ciudad Juárez*, February 2015.

<sup>91</sup> USAID, "Mexico: Crime and Violence Prevention," November 2016.

<sup>92</sup> "Dejan sin un Peso al Programa para Prevenir el Delito, Aunque hay Incremento en la Violencia," *Animal Político*, November 16, 2016.

## Issues

### Measuring the Success of the Mérida Initiative

With little publicly available information on what specific metrics the U.S. and Mexican governments are using to measure the impact of the Mérida Initiative, analysts have debated how bilateral efforts should be evaluated. 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 TCOs—a national security threat to Mexico and an organized crime threat to the United States. However, their short-term goals may differ; Mexico may focus more on reducing drug trafficking-related crime and violence, while the United States may place more emphasis on aggressively capturing TCO leaders and seizing illicit drugs.

For years, the GAO has urged U.S. agencies working in Mexico to adopt outcome-based measures, not just output measures.<sup>93</sup> For example, rather than calculating the number of police trained, the GAO would urge the creation of a measure to see how U.S. training affected police performance. The State Department has worked internally, with external contractors, and with two different Mexican governments to try to develop a set of indicators to measure the efficacy of Mérida Initiative programming without overstating the impact—positive or negative—of U.S. programs. In 2015, a contractor developed 200 indicators. These indicators have yet to be made public but have been accepted by both governments and reportedly contain a mix of output (e.g., number of people trained), outcome (e.g., impact of that training on performance), and crime perception variables.<sup>94</sup> Mérida aid also is supporting efforts to measure public perception of implementation of the accusatory justice system.

In the meantime, the State Department has pointed to some indications of success:

- cooperation among law enforcement and intelligence officials that has led to the capture of top criminal leaders, including Joaquín “El Chapo” Guzmán (awaiting extradition);
- Mexico's transition to an accusatorial justice system with oral trials in June 2016;
- the improvements in infrastructure and policies that helped more than 40 Mexican correctional facilities achieve international accreditation; and
- Mexico's apprehension of more than 150,000 Central American migrants in FY2015 and FY2016, as well as migrants from Africa and Asia.

Despite these achievements, Mexico continues to face considerable security challenges. The Peña Nieto government has been criticized for its security policy failures, particularly the escape of “El Chapo” Guzmán, and for its continued reliance on military forces to perform public security functions. Mexico's human rights record has been widely criticized, as has the continued corruption and impunity in its justice system. Mexico's attorney general's office has failed to

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<sup>93</sup> GAO, *Merida Initiative: The United States Has Provided Counternarcotics and Anticrime Support But Needs Better Performance Measures*, GAO-10-837, July 21, 2010.

<sup>94</sup> U.S. Department of State, Bureau of International Narcotics and Law Enforcement Affairs (INL), “Merida Status Update for Congressional Research Service, November 2016.

November 2016

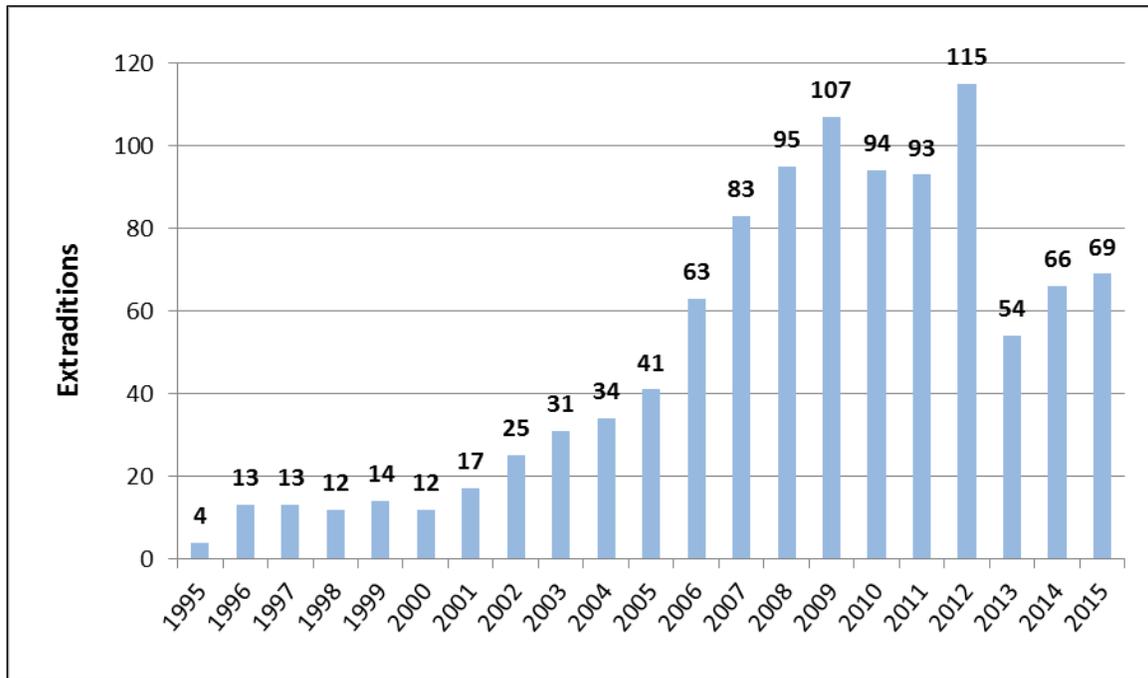
solve emblematic cases, such as that of 43 students who were forcibly abducted and killed in Ayotzinapa, Guerrero, in September 2014, even with significant international support.

Critics of Mexico's security strategy also have often criticized U.S. programs, even though the programs are limited in size and scope in relation to Mexico's overall budget for public security and national defense. In 2016, Mexico's security budget exceeded \$15 billion and U.S. assistance provided for the Mérida Initiative was \$139 million.<sup>95</sup>

## Extraditions

During the Calderón government, extraditions were another indicator that the State Department used as an example of the Mérida Initiative's success. Under the Calderón government, Mexico extradited more than 100 individuals per year to the United States, on average, a large increase over the prior Administration. When President Peña Nieto took office, extraditions fell to 54 in 2013 but have since risen to 69 in 2015 (see **Figure 4**).

**Figure 4. Individuals Extradited from Mexico to the United States**  
(1995-2015)



**Sources:** U.S. Department of Justice and U.S. Department of State.

Some U.S. policymakers hope that “El Chapo” Guzmán’s July 2015 prison escape has definitively changed the Peña Nieto government’s position on extraditions. Although Mexico resisted pressure to extradite Guzmán to the United States (where he faces multiple charges) following his initial capture in 2014, the Mexican government has demonstrated more willingness to approve U.S. extradition requests in the past year. Mexico extradited 13 top drug traffickers to

<sup>95</sup> INCSR, 2016.

the United States in September 2015 and quickly initiated procedures to extradite Guzmán following his January 8, 2016, recapture. He may be extradited in 2017.<sup>96</sup>

Congress may increase pressure on the Department of Justice and the State Department to push harder for extraditions in the future due to concerns about the security of Mexico's prisons and general corruption in its criminal justice system.

## **Drug Production and Interdiction in Mexico<sup>97</sup>**

Drug eradication and alternative development programs have not been a focus of the Mérida Initiative even though Mexico is a major producer of opium poppy (used to produce heroin), methamphetamine, and cannabis (marijuana). According to U.S. and Mexican government estimates, opium production has surged in Mexico as cannabis production has fallen.<sup>98</sup> In addition, despite Mexican government import restrictions on precursor chemicals and efforts to seize precursor chemicals and dismantle clandestine labs, the production of methamphetamine, which has an average purity of some 96%, has continued at high levels.<sup>99</sup>

The Mexican government has engaged its military in drug crop eradication efforts since the 1930s, but personnel constraints have inhibited recent eradication efforts. Because of the terrain where drug crops are grown and the small plot sizes involved, Mexican eradication efforts have predominantly been conducted manually. With more military forces to public security functions, fewer soldiers are available for drug crop eradication efforts. However, the Mexican government has significantly increased its eradication of poppy in recent years, with 15,000 hectares eradicated from January to May 2016.<sup>100</sup> The State Department has held discussions with the Mexican government, as well as Canada, on ways in which bilateral and trilateral cooperation on combating the production and trafficking of heroin can be further augmented.

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 collaborated with TCOs out of economic necessity to adopt alternative means of employment. In Colombia, studies have found that the combination of jointly implemented eradication, alternative development, and interdiction is more effective than the independent application of any one of these three strategies.<sup>101</sup> Despite those findings, alternative development often takes years to show results and requires a long-term commitment to promoting rural development.

While Mexico has made arresting drug kingpins a top priority, it has not given equal attention to the need to increase drug seizures. The State Department has provided canines and inspection

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<sup>96</sup> Christopher Woody, "Mexico Says it Wants to Rid Itself of Cartel Kingpin 'El Chapo' Guzmán by the Start of 2017," *Business Insider*, October 14, 2016.

<sup>97</sup> CRS In Focus IF10400, *Heroin Production in Mexico and U.S. Policy*, by Clare Ribando Seelke and Liana W. Rosen.

<sup>98</sup> The 2016 NDTA cites potential production in Mexico as up to 70 metric tons of heroin as compared to an estimated 42 metric tons in 2014.

<sup>99</sup> Seelke and Rosen, op. cit.

<sup>100</sup> Deborah Bonello, "Mexico Publishes Poppy Cultivation Data for First Time," *Insight Crime*, June 23, 2016.

<sup>101</sup> Vanda Felbab-Brown, Joel M. Jutkowitz, Sergio Rivas, et al., *Assessment of the Implementation of the United States Government's Support for Plan Colombia's Illicit Crop Reduction Components*, report produced for review by the U.S. Agency for International Development (USAID), April 17, 2009.

equipment for interdiction at Mexico's borders and ports of entry that has helped increase seizures, yet cocaine seizures in Central American countries often exceed those of Mexico. The State Department reports that Mexico's seizures of methamphetamine jumped by almost 36% between 2013 and 2014 to 19.8 metric tons, and Mexican authorities seized 143 meth laboratories in 2014, up more than 11% from 2013.<sup>102</sup> The Mexican marines have taken over control of the country's ports and have been actively interdicting precursor chemicals arriving from Asia and elsewhere. According to Mexico's Attorney General's office, Mexico seized 41.5% less cocaine in 2014 than the year before, but increased its seizures of opium gum by 400%.<sup>103</sup>

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

There have been ongoing concerns about the human rights records of Mexico's military and police, particularly given the aforementioned cases (Tlatlaya, Iguala) involving allegations of their involvement in torture, enforced disappearances, and extrajudicial killings. The State Department's annual human rights reports covering Mexico have cited credible reports of police involvement in extrajudicial killings, kidnappings for ransom, and torture.<sup>104</sup> There has also been concern that the Mexican military has committed more human rights abuses since being tasked with carrying out public security functions.

In addition to expressing concerns about current abuses, Mexican and international human rights groups have criticized the Mexican government for failing to hold military and police officials accountable for past abuses. In May 2014, Mexico revised the country's military justice code to comply with rulings by the Inter-American Court of Human Rights and decisions by Mexico's Supreme Court affirming that cases of military abuses against civilians should be tried in civilian courts. In the past year, civilian courts, some operating with oral trials, have begun to hold military officials accountable for past abuses. Since January 2015, at least three federal courts have convicted military forces of homicide or forced disappearances.<sup>105</sup>

Congress has expressed ongoing concerns about human rights conditions in Mexico. These concerns have intensified as U.S. security assistance to Mexico has increased under the Mérida Initiative. Congress has continued monitoring adherence to the "Leahy laws" that require vetting for Mexican security forces to receive U.S. DOD or State Department support.<sup>106</sup>

From FY2008 to FY2015, Congress also conditioned U.S. assistance to the Mexican military and police on compliance with certain human rights standards. In an October 19, 2015, briefing, a spokesperson said that although the State Department was "unable to confirm and report to Congress that Mexico fully met all of the [human rights] criteria in the Fiscal Year 2014 appropriation legislation (P.L. 113-76 P.L. 113-76) ... [it continues] to strongly support Mexico's ongoing efforts to reform its law enforcement and justice systems." As a result of the State

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<sup>102</sup> 2015 *INCSR*, Vol. 1, March 2015. The 2016 *INCSR* cited these same figures. There were no data included from 2015.

<sup>103</sup> These figures compare data in the U.S. Department of State, 2014 *International Narcotics Control Strategy Report (INCSR)* with the 2015 *INCSR*.

<sup>104</sup> The State Department, *Country Report on Human Rights Practice for 2015: Mexico*, April 2016.

<sup>105</sup> U.S. Department of State, *Mexico-Mérida Initiative Report (15% Report) for FY2015*, September 6, 2016.

<sup>106</sup> There is no FAA definition for the term "security force." DOD defines the term as "duly constituted military, paramilitary, police, and constabulary forces of a state." (DOD Dictionary of Military and Associated Terms, DOD Joint Publication 1-02, <http://www.dtic.mil>.) See CRS In Focus IF10575, *Human Rights Issues: Security Forces Vetting ("Leahy Laws")*, by Liana W. Rosen.

Department's decision not to submit a report for Mexico, some \$5 million in International Narcotics and Law Enforcement assistance (INCLE) was reprogrammed to Peru. Mexico lost close to \$500,000 in foreign military financing (FMF) that was withheld as well.

For FY2015, human rights groups again urged the State Department not to submit a human rights progress report for Mexico as required by P.L. 113-235.<sup>107</sup> In September 2016, the State Department did submit a report certifying that Mexico was taking steps to improve respect for human rights through the transition to an accusatorial justice system, among other measures.<sup>108</sup> The report stated, however, that “emblematic human rights cases ... underscore the continuing challenges and the need for further action to protect human rights and the rule of law.”

The FY2016 Consolidated Appropriations Act (P.L. 114-113) contains conditions that are similar to those described above in P.L. 113-235 but apply to the \$5 million in FMF rather than to Mérida Initiative aid.<sup>109</sup>

Human rights groups initially expressed satisfaction that President Peña Nieto had adopted a pro-human rights discourse and promulgated a law requiring state support for crime victims and their families. If in 2013 they were underwhelmed with his government's efforts to promote and protect human rights, they have vigorously criticized the government's handling of high-profile cases of alleged abuses in 2014 and the lack of protection it has provided for groups vulnerable to abuses (journalists, human rights defenders, migrants).<sup>110</sup> They supported the State Department's decision not to submit an FY2014 human rights progress report for Mexico but disagreed with the submission of a progress report for FY2015.

The State Department has established a high-level human rights dialogue with Mexico, provided human rights training for Mexican security forces, and implemented a number of human rights-related programs. USAID has supported a \$5 million program being implemented by Freedom House to improve protections for Mexican journalists and human rights defenders that is in the process of being extended and augmented. USAID is dedicating \$25 million through 2018 for that and other human rights programs focused on helping Mexico develop a national human rights strategy, assist victims of torture and other abuses, and develop and implement legislation related to preventing and punishing human rights abuses.

Congress may choose to augment Mérida Initiative funding for human rights programs, such as ongoing training programs for military and police, or newer efforts, such as support for human rights organizations. Human rights conditions in Mexico, as well as compliance with conditions on Mérida assistance, are also likely to continue to be important oversight issues. Along with

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<sup>107</sup> Amnesty International, Centro Prodh, Latin America Working Group, et al., *Civil Society Assessment of the Human Rights Situation in Mexico*, July 2016.

<sup>108</sup> U.S. Department of State, *Mexico-Mérida Initiative Report (15% Report) for FY2015*, September 6, 2016.

<sup>109</sup> Prior to the obligation of FMF, the Secretary of State has to submit a report to the Appropriations Committees detailing steps taken by the Mexican government in the past year “to investigate and prosecute military and police personnel for violation of human rights in civilian courts, enforce the prohibitions against torture and the use of testimony obtained through torture, and search for the victims of forced disappearances; and by the Mexican military and police to promptly transfer detainees to the custody of civilian judicial authorities in accordance with Mexican law and to cooperate with such authorities in such cases.”

<sup>110</sup> Clay Boggs and Maureen Meyer, “Human Rights Crisis in Mexico Demands Stronger Response from Mexican Government,” Washington Office on Latin America (WOLA), December 9, 2014; WOLA and Peace Brigades International, *The Mechanism to Protect Human Rights Defenders and Journalists in Mexico: Challenges and Opportunities*, February 3, 2015; Adam Isaacson, Maureen Meyer, and Gabriela Morales, *Security, Migration, and the Humanitarian Crisis at the Line with Central America*, WOLA, June 2014.

COMMUNICATION SERIES



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consideration of providing funds to help secure Mexico's southern border, Congress may consider how to help mitigate concerns about migrants' rights in Mexico.

## **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. The Department of Defense (DOD) did not play a primary role in designing the Mérida Initiative and is not providing assistance through Mérida accounts. However, DOD oversaw the procurement and delivery of equipment provided through the FMF account, which was part of Mérida until FY2012.

Despite DOD's limited role in the Mérida Initiative, military cooperation between the two countries has been increasing, as have DOD training and equipment programs to support the Mexican military. DOD has sent unmanned aerial vehicles into Mexico to gather intelligence on criminal organizations. DOD is also providing training and equipment to Mexican military forces patrolling the country's southern borders. More broadly, DOD assistance aims to support Mexico's efforts to improve security in high-crime areas, track and capture TCO operatives, strengthen border security, and disrupt illicit flows.

There are a variety of funding streams that support DOD training and equipment programs. Some DOD equipment programs are funded by annual State Department appropriations for FMF, which totaled \$7 million in FY2016. For their part, International Military Education and Training (IMET) funds, which totaled \$1.5 million in FY2016, support training programs for the Mexican military, including courses provided in the United States (see **Appendix**).

Apart from the Mérida Initiative and other State Department funding, DOD provides additional training, equipping and other support through its Drug Interdiction and Counterdrug Activities account that complements the Mérida Initiative. DOD programs in Mexico are overseen by U.S. Northern Command (USNORTHCOM), which is located at Peterson Air Force Base in Colorado. DOD support to Mexico totaled some \$64.2 million in FY2016. DOD funding is subject to the Defense Department's Leahy Law (10 U.S.C. 362), which prohibits U.S. security assistance to foreign security forces when there is credible information that a recipient unit has committed a "gross violation of human rights."

The aforementioned counternarcotics funding has enabled NORTHCOM to train and equip an increasing number of Mexican military personnel. Training has included courses on information fusion, surveillance, interdiction, cybersecurity, logistics, and professional development. Equipping efforts provided nonlethal equipment (such as communications tools, aircraft modifications, night vision, boats, etc.) to support those training courses.

Policymakers may want to receive periodic briefings on DOD efforts in order to guarantee that DOD programs are being adequately coordinated with Mérida Initiative efforts, complying with U.S. vetting requirements, and not reinforcing the militarization of public security in Mexico.

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

The Mérida Initiative was designed to complement domestic efforts to combat drug demand, drug trafficking, weapons smuggling, and money laundering. These domestic counter-drug initiatives are funded through regular and supplemental appropriations for a variety of U.S. domestic agencies. As the strategy underpinning the Mérida Initiative has expanded to include efforts to

build a more modern border (pillar three), policymakers may consider how best to balance the amount of funding provided to Mexico with support for related domestic initiatives.

Regarding support for law enforcement efforts, some would argue that there needs to be more federal support for states and localities on the U.S. side of the border that are dealing with crime and violence originating in Mexico. Of those who endorse that point of view, some are encouraged that the Obama Administration increased manpower and technology along the border, whereas others maintain that those efforts have been insufficient.<sup>111</sup> In contrast, some maintain that it is impossible to combat transnational criminal enterprises by solely focused on the U.S. side of the border, and that domestic programs must be accompanied by continued efforts to build the capacity of Mexican law enforcement officials. They maintain that if recent U.S. efforts are perceived as an attempt to “militarize” the border, they may damage U.S.-Mexican relations and hinder bilateral security cooperation efforts. Mexican officials from across the political spectrum have expressed concerns about the construction of border fencing and the effects of border enforcement on migrant deaths.<sup>112</sup>

## **U.S. Counterdrug Policy in the Western Hemisphere**

U.S. State Department-funded counterdrug assistance programs in the Western Hemisphere are currently in transition. Counterdrug assistance to Colombia and the Andean region is in decline after record assistance levels that began with U.S. support for Plan Colombia in FY2000 and peaked in the mid-2000s. Anti-drug aid to Mexico increased dramatically in FY2008-FY2010 as a result of the Mérida Initiative, but has since been reduced as well. Conversely, funding for Central America has increased as a result of the Central American Regional Security Initiative (CARSI).<sup>113</sup> Support for the Caribbean increased in FY2010 and has remained relatively stable due to the Caribbean Basin Security Initiative (CBSI).

The Obama Administration took steps to coordinate the aforementioned country and regional antidrug programs and to ensure that U.S.-funded efforts complemented the efforts of partner governments and other donors, yet challenges remain. Ongoing struggles to deal with the violent and destabilizing effects of the illicit drug trade have spurred some Latin American leaders and others to explore drug policy alternatives. The 114<sup>th</sup> Congress was engaged in regional debates on drug policy reform, particularly as it evaluated the Obama Administration's counternarcotics goals in the Western Hemisphere, including counternarcotics and foreign aid budget plans as well as the distribution of domestic and international drug control funding and the relative balance of civilian, law enforcement, and military roles in regional anti-drug efforts. As noted above, Congress enacted P.L. 114-323 in December 2016, which, among its provisions, established a drug policy commission directed to review and report on U.S. foreign policy efforts and programs in the hemisphere to combat drug trafficking, abuse, and related consequences. The results of those findings could affect U.S. efforts in Mexico under the Mérida Initiative.<sup>114</sup>

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<sup>111</sup> For a fuller discussion of U.S. border enforcement efforts, see CRS Report R42138, *Border Security: Immigration Enforcement Between Ports of Entry*, by Carla N. Argueta.

<sup>112</sup> See, for example, Marc R. Rosenblum, *Obstacles and Opportunities for Regional Cooperation: The U.S.-Mexico Case*, Migration Policy Institute, April 2011; Maureen Meyer, Adam Isacson, and Carolyn Scorpio, *Not a National Security Crisis: The U.S.-Mexico Border and Humanitarian Concerns*, Seen from El Paso, WOLA, October 27, 2016,

<sup>113</sup> CRS Report R41731, *Central America Regional Security Initiative: Background and Policy Issues for Congress*, by Peter J. Meyer and Clare Ribando Seelke.

<sup>114</sup> CRS In Focus IF10580, *Transnational Crime Issues: International Drug Trafficking*, by Liana W. Rosen.

## Outlook

The Mérida Initiative has continued to advance, albeit slowly, despite changes in Administrations and partisan control in both countries. There has been bipartisan support in the U.S. Congress for the Mérida Initiative and, although funding has declined, appropriators provided more assistance than the Administration requested in FY2015 and FY2016. The 114<sup>th</sup> Congress held hearings examining how the Mérida Initiative and DOD assistance have been used, including whether assistance has adequately prioritized heroin interdiction and migration enforcement.

The 114<sup>th</sup> Congress did not complete action on FY2017 appropriations, but in December 2016 it approved a continuing resolution (P.L. 114-254) providing foreign aid funding through April 28, 2017, at the FY2016 level, minus an across-the-board reduction of almost 0.2%.

Looking ahead, the 115<sup>th</sup> Congress will face completing action on FY2017 foreign aid appropriations. It also will consider the FY2018 budget request and oversee previously appropriated funding for the Mérida Initiative. Most experts agree that Mexico continues to require international support to address organized crime-related violence and reform its criminal justice system.<sup>115</sup> Some have urged the incoming Trump Administration to return to the Mérida Initiative's original focus on law enforcement, while others have urged a broad, multifaceted approach.<sup>116</sup>

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<sup>115</sup> Antonio Garza and Stephanie Leutert, "Slowing Mexico's Violence Requires International Cooperation," *Houston Chronicle*, January 1, 2017.

<sup>116</sup> Nelson Balido, "Five Border Security Priorities for Trump in his First 100 days," *FoxNews.com*, December 27, 2016;

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

**Table A-I. U.S. Assistance to Mexico by Account, FY2007-FY2017**  
(U.S. \$ millions)

Account	FY2007	FY2008	FY2009	FY2010	FY2011	FY2012	FY2013	FY2014	FY2015	FY2016	FY2017 Request
<b>INCLE</b>	36.7	263.5	406.0	365.0	117.0	248.5	195.1	148.1	110.0	100.0	80.0
<b>ESF</b>	11.4	34.7	15.0	15.0	18.0	33.3	32.1	46.8	46.1	39.0	49.0
<b>FMF</b>	0.0	116.5	39.0	265.2	8.0	7.0	6.6	6.6	4.7	7.0	3.0
<b>IMET</b>	0.0	0.4	0.8	1.0	1.0	1.0	1.2	1.4	1.5	1.5	1.5
<b>NADR</b>	1.3	1.3	3.8	3.9	5.7	5.4	3.8	3.9	2.9	2.2	not available
<b>GHCS</b>	3.7	2.7	2.9	3.5	3.5	1.0	0.0	0.0	0.0	0.0	0.0
<b>DA</b>	12.3	8.2	11.2	10.0	25.0	33.4	26.2	0.0	0.0	11.5	0.0
<b>TOTAL</b>	<b>65.4</b>	<b>412.6</b>	<b>478.8</b>	<b>657.6</b>	<b>178.2</b>	<b>329.6</b>	<b>265.0</b>	<b>206.8</b>	<b>165.2</b>	<b>161.2</b>	<b>133.5</b>

**Sources:** U.S. Department of State, *Congressional Budget Justification for Foreign Operations FY2009-FY2017*; “FY 2016 653(a) Allocations – Final,” provided to CRS in August 2016. Figures for INCLE are from: U.S. Department of State, “Mérida Initiative Update for CRS,” November 18, 2016.

**Notes:** GHCS = Global Health and Child Survival; DA = Development Assistance; ESF=Economic Support Fund; FMF = Foreign Military Financing; IMET = International Military Education and Training; INCLE = International Narcotics Control and Law Enforcement; NADR = Non-proliferation, Anti-terrorism and Related Programs.

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