

Refocusing U.S.-Mexico Security Cooperation

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Hearing on Security Cooperation in Mexico: Examining the Next Steps in the U.S.-Mexico Security Relationship

Chairman Udall, Ranking Member McCain, and distinguished members of the Subcommittee on Western Hemisphere and Global Narcotics Affairs, thank you for the opportunity to testify today on the important issue of our bilateral security relationship with Mexico. Given our deep economic, personal, and community ties, Mexico's safety and security is vital to our own. A strong and safe Mexico will have positive benefits for the United States, while a dangerous Mexico will have repercussions far beyond the southern U.S. border.

Refocusing U.S.-Mexico Security Cooperation

U.S.-Mexico security cooperation, led by the Merida Initiative, is vital and must continue. But Mexico's political landscape has changed under the Enrique Peña Nieto government, and the United States must adjust its strategy and support accordingly. Building on the lessons of the past five years, the United States should work

with Mexico to implement the nonmilitary programs envisioned in the current Merida framework, in particular supporting and prioritizing Mexico's ongoing judicial reform, training police officers at the state and local levels, investing in local community and youth-oriented programs, and modernizing the U.S.-Mexico border.

The Merida Initiative After Five Years

The Merida Initiative was launched in 2007 under the George W. Bush administration, which promised \$1.4 billion over three years to "support Mexico's law enforcement in the fight against organized crime." The Obama administration revised and expanded Merida's mission, moving from a heavy emphasis on military equipment to a more comprehensive bilateral strategy that seeks to reduce the role and influence of organized crime. The initiative now encompasses four priorities (called pillars): disrupting the operational capacity of organized crime, institutionalizing the rule of law, creating a twenty-first-century border to speed the flow of legal commerce and stop that of illegal goods, and building strong and resilient communities that can stand up to criminal intrusions. The main problem today is not Merida's design but its uneven implementation, with the gains in some areas offset by minimal progress in others.

Together Mexico and the United States have been most successful in removing drug kingpins. In the last few years Mexican authorities have captured or killed the majority of the most-wanted drug traffickers and substantially disrupted the operations of Mexico's best-known criminal networks. Many of these high-profile arrests resulted from bilateral intelligence and operational cooperation.

Advances have been made as well in strengthening the rule of law, most notably the expansion and professionalization of the federal police. But progress has been slight beyond this particular law enforcement body, which represents just 10 percent of Mexico's police forces. The United States has also provided support for justice reform. Though a set of 2008 constitutional and legislative reforms set in motion a fundamental transformation of Mexico's court systems, the implementation of these changes has been slow, so much so that many worry the shift will not occur by the 2016 deadline, leaving Mexico's judicial future uncertain. On a practical level, rising crime and violence have exposed the weak capacity of the current justice system. With fewer than 20 percent of homicides ending in convictions, impunity reigns, providing a weak legal deterrent to a life of crime.

Initiatives to modernize the border and build resilient communities (pillars three and four of the Merida Initiative) are further behind. Though some innovative border management programs, such as the Customs Trade Partnership Against Terrorism—which helps trusted businesses avoid extensive border checks—have improved efficiency, the overall tenor of U.S. policy has been to increase barriers, slowing flows of legal

commerce. Financially, investment in border crossings and infrastructure has not matched the exponential increase in trade crossing the border each year. Investment has lagged not only for new construction, but also for basic maintenance on existing infrastructure, leading to overwhelmed and at times downright dangerous facilities (the San Ysidro border crossing roof collapsed in 2011, injuring seventeen people). Stressed infrastructure has also led to traffic jams lasting up to eight hours, and has cost billions of dollars in trade losses, without drastically discouraging or disrupting illegal flows.

The building of "resilient communities" too has been limited. The pillar's ambitious objectives of addressing the underlying socioeconomic and community factors behind rising crime rates have not yet moved beyond pilot programs in Ciudad Juárez and a few other places.

Finally, though talking often of co-responsibility in the drug war, the United States has done little to address the domestic factors that affect Mexico's security. The illegal flow of weapons and money southward continues unabated, and U.S. drug consumption remains high. (The 2011 National Survey on Drug Use and Health found that just under 9 percent of Americans over the age of twelve used illegal drugs in the past month.)

Changing Realities on the Ground

As the U.S.-Mexico security cooperation strategy has evolved, so too have the realities on the ground. The most drastic shift is the rise in violence. When the Merida Initiative was signed in 2007, there were just over two thousand drug-related homicides annually; by 2012, the number escalated to more than twelve thousand. Violence also spread from roughly 50 municipalities in 2007 (mostly along the border and in Sinaloa) to some 240 municipalities throughout Mexico in 2011, including the once-safe industrial center of Monterrey and cities such as Acapulco, Nuevo Laredo, and Tlaxiaco.

This increase in violence is not just the direct result of drug trafficking. Criminal organizations have diversified into numerous illicit businesses, including kidnapping, robbery, human trafficking, extortion, and retail drug sales, and as a result prey more directly on the local population. One recent survey found that over 40 percent of Mexicans reported that they or a family member had been a victim of a crime in the past year.

Mexico's politics have also changed. On December 1, 2012, Enrique Peña Nieto became president, bringing the Institutional Revolutionary Party's (PRI) back into Los Pinos, Mexico's White House. During his campaign, he promised to shift the country's current security strategy away from combating drug trafficking toward reducing violence. Throughout his first six months however he has been somewhat slow to define the details of his new security approach, though the general announcements reflect more continuity than change. Peña Nieto's

National Development Plan maintains a role for the armed forces, and in fact calls for creating a firmer legal basis for the military's public security role. He has said he will continue to push through the judicial reform begun in 2008. He has also promised to build on programs such as *Todos Somos Juarez*, expanding and prioritizing broad-based crime prevention efforts.

Some strategic changes are planned. The government has announced it will create a new national gendarmerie, a 40,000 member force. It has also begun the process of centralizing control and command of the security apparatus under the Ministry of the Interior, beginning with folding the autonomous Federal Police back under its wing. These centripetal tendencies also will affect U.S.-Mexico cooperation, requiring joint programs to be channeled through this same Ministry, ending the decentralized engagement between U.S. and Mexican agencies and agents that occurred during the Calderón administration. The Peña Nieto government has also announced it will consolidate the roughly 2,000 local police forces into thirty one state level commands—something the Calderón administration tried but failed to do.

It is still somewhat unclear what these announcements will mean in reality and on the ground. For instance Mexican officials have said that members of the new gendarmerie will march in this year's September Independence Day parade; yet at the same time, the force was not mentioned in the government's recently released National Development Plan, nor adequately provided for in last year's federal budget, leading many to question whether it will ever come to pass. There are questions too about the centralization of the local police into state level forces, as many cities and states may push back on relinquishing control of their security forces.

U.S.-Mexico Security Cooperation Going Forward

These announced changes will lead to some shifts in how U.S. law enforcement and other agencies work with Mexico on security issues. Within the United States there are worries that these changes will stifle cooperation, and in particular the flow of information—especially sensitive intelligence—that has been important in many of the successful operations and takedowns of recent years. But the most recent articulation by the Mexican government should not be seen as the last or permanent word on the future of U.S.-Mexico security cooperation. Instead, it should be considered as part of the ongoing discussion and evolution in the relationship that has happened, that is happening, and that will continue to happen in the coming months and years. The challenge for the United States is to work with the new Mexican administration and legislative branch in ways that are both congruent with their objectives, and that also enable both countries to push past the current limits on security cooperation and implementation. As the consequences of the changes in the operational relationship become clear, there will likely be both the desire and the opportunity to adapt bilateral and operational

strategies, and the United States should be prepared to take advantage of these openings to focus and refocus bilateral efforts.

U.S. assistance will undoubtedly remain a small portion of the overall security spending in Mexico, as it should be. But with the funds that the United States does dedicate, it should prioritize civilian (versus military) law enforcement institutions, and focus on four areas. The first is judicial reform, as long-term sustainable security will only exist when Mexico has a strong civilian-based rule of law, and is able to take on and punish all types of criminal activity.

In 2008, Mexico passed a wide-ranging package of constitutional and legislative reforms that, if and when enacted, will fundamentally transform Mexico's judicial system. The new legal framework introduces oral trials, the presumption of innocence, access to an adequate defense, and strengthens due process. It also establishes alternative arbitration and plea bargaining options to help streamline the legal process, helping prosecutors to prioritize their time and resources more strategically. It bolsters investigation and prosecution tools against organized crime, making it easier to tap phones and to hold suspects, effectively suspending habeas corpus for especially serious crimes.

All told, the reforms promise to change the basic nature of the system and the role of its main actors—judges, prosecutors, police, defense attorneys, defendants, and victims—in ways that should increase transparency and accountability and improve justice more generally. But, with the deadline for the reform's implementation set for 2016, not enough has been done yet to make this design a reality. At the federal level the government still needs to pass unified penal and criminal procedure codes, and a majority of states still have huge hurdles to climb. In the roughly one-third of Mexico's states that have implemented at least in part the new judicial framework, initial studies show the new systems are faster in resolving cases, better at prioritizing serious crimes, able to limit pre-trial detentions, and lead to tougher sentences for the convicted. With President Peña Nieto's backing, U.S. resources can help Mexico achieve this transformation, creating or remodeling courtrooms, training or retraining Mexico's roughly forty thousand active lawyers and thousands of judges, and revamping law school courses and materials to prepare the next generation of judicial system officials.

Second, U.S. security support should continue to move beyond the federal level, focusing U.S. resources and programs in Mexico on state and local efforts, as this is where violence and insecurity are most concentrated and devastating. A shift to the local level would also enable policymakers and U.S.-supported programs to recognize and address the varying nature of the violence. In cities such as Ciudad Juárez, local gangs today are perhaps as threatening as transnational drug cartels.

This more local focus will involve expanding the training and professionalization courses available to state and local law enforcement. It should move beyond classes to greater support for the development of systems of standards, police procedures, and evaluation mechanisms for Mexico's local law enforcement, as most of Mexico's police forces lack elements as basic as manuals that lay out standard practices. Drawing on known national and international accrediting agencies and programs such as the Commission on Accreditation for Law Enforcement Agencies (CALEA), the International Association of Directors of Law Enforcement Standards and Training, and the Commission on Peace Officer Standards and Training, the United States can be useful in helping Mexico define and set these guidelines, to which officers can then be held accountable.

In addition, these joint U.S. and Mexican local efforts should concentrate on realizing the so-far-neglected fourth pillar of the Merida Initiative, which calls for building resilient communities. Mexico has seen many instances of innovation in places hit hard by violence, including the business community's involvement in creating a new state police force in Monterrey, and the security roundtable in Ciudad Juárez that brings together civil society leaders, business owners, political officials, and local, state, and federal law enforcement to address the security threat. Meeting often on a weekly basis, these interchanges have helped to slowly build the trust so lacking in many of these communities, and to cultivate a close working relationship between law enforcement officers and those they protect—something largely missing in Mexico, yet vital to a longer term peace and safety.

In practice, this reorientation will mean more funding for the U.S. Agency for International Development's (USAID) community projects and youth programs, as well as INL's training of state and municipal police (as opposed to just federal-level officers).

Finally, the United States should prioritize the modernization of the U.S.-Mexico border. This means expanding its roads, bridges, and FAST lanes (express lanes for trusted drivers), as well as increasing the number of U.S. customs officers, agricultural specialists, and support staff that man the ports of entry. The estimated cost of these necessary investments would also be relatively small, with the U.S. Customs and Border Patrol estimating the need for some \$6 billion over the next decade. These investments are vital for security, helping to keep out illicit goods and people. Upgrading the border has an added benefit, as it will facilitate legal trade, where consultants estimate losses in the tens of billions of dollars and hundreds of thousands of jobs, due to long border wait times and distances between ports of entry.

The outlined initiatives—many already part of the Merida framework—have a greater chance of reducing violence in Mexico, as they will help strengthen police forces, court systems, and local communities. The

border improvements, moreover, will benefit both the U.S. and Mexican economies, which can have indirect positive effects by providing greater legal opportunities to young people. In the end, Mexico's security will depend on the actions and decisions of Mexico. But there is much the United States can do to help or hinder the process. A transition to a justice and a more local level and community-based approach to U.S. security assistance will help Mexico establish more effective and long-lasting tools for combating crime and violence.