

U.S.-MEXICO SECURITY COLLABORATION: INTELLIGENCE SHARING AND LAW ENFORCEMENT COOPERATION

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This paper will identify the mechanisms for cooperation between law enforcement and intelligence agencies, evaluate how these are working, identify the obstacles to cooperation and explore the efforts undertaken to address these obstacles. While addressing these core issues I will examine the role extradition is playing in promoting bilateral law enforcement cooperation and the limitations to that cooperation.

The core challenge for intelligence gathering today is the ability to create conditions to prevent, preempt, and deter adversaries. In this case, the adversaries for Mexico and the United States are drug trafficking organizations (DTOs). Hence, the assumptions for this paper are:

1. Drug-related organized crime does not respect of jurisdictional boundaries; therefore confronting organized crime requires responses from both the intelligence and law enforcement communities. Overlapping work amongst federal agencies in both countries is important, but works at the state and local levels is also critical.
2. Each government has its own domestic intelligence and law enforcement agencies that act and react primarily to domestic challenges, and, thus, may differ in how they prioritize security matters related to combating organized crime.
3. Intelligence sharing is an inherently secretive process, and, as such, is usually hindered by a natural reticence to share information across and amongst domestic agencies as well as transnational.

Today it is clear that Mexico and the U.S. have taken steps to improve coordination of their efforts against DTO's¹ in both countries. However, bilateral intelligence and law enforcement efforts invariably lead to turf wars, interagency rivalries and domestic political obstacles within each government and bilaterally.² Sharing intelligence is sharing information that was gathered, analyzed and is valued for a specific purpose. Sharing information amongst agencies is therefore a daunting task.

¹DTO refers to drug trafficking organizations.

²See Tony Payan, (2006) *Cops, Soldiers and Diplomats. Explaining Agency Behavior in the War on Drugs*. Lexington books. Rowman and Littlefield Publishers, Inc.

Nevertheless, it was the Calderon administration that reached out to the U.S. government in order to examine ways to improve intelligence and law enforcement cooperation against DTOs. No other Mexican administration had ever taken such an ambitious step in matters of security. It was clear that the need to improve security conditions required a more effective coordinated strategy between both countries. It also required the U.S. to share responsibility for the high levels of violence and drug-related insecurity that was plaguing Mexico by the end of 2006. In this context, Presidents Bush and Calderon initiated talks in Mérida with the goal of working together to enhanced security in both countries.

Still, it is important to note that the growth in U.S.-Mexico bilateral cooperation did not start when President Calderon took office in December, 2006. Mexican security agencies have been engaged in a process of increasing cooperation for at least a decade.

I. BACKGROUND

Before examining the current of state of Mexico-U.S. bilateral cooperation in law enforcement and intelligence sharing, it is important to note that a number of previous institutional agreements were established by both governments that have helped create a framework to address this issue. For example, in December 1987 both governments signed a Memorandum of Understanding that, for the first time, sought to establish the rules for information exchange amongst law enforcement agencies in both countries and regulated the presence of law enforcement personnel in each others country.³ In 1989, Mexico and the U.S. signed another agreement to combat drug trafficking and drug abuse; and in July of 1992 Mexico published the “Norms that regulate the temporal presence of foreign agents, that do policing, inspection or surveillance;” and finally, at the end of that same year, the government of Mexico issued the “Specific rules that regulate the activities of technicians and agents from the DEA in Mexico.” All these set the norms and standards for binational collaboration prior to the Mérida Initiative, which began a new phase in bi-national security collaboration between Mexico and the U.S.⁴

In March, 1996, during the administration of President Zedillo, Mexico and the U.S. created the High Level Contact Group (HLCG). By this time, both countries had accepted their roles in the trafficking of illicit drugs, whether as producers, consumers or transit points and sought to develop more effective bilateral cooperation to address important issues such as public education, treatment, prevention, drug trafficking, money laundering, diversion of precursor chemicals and illicit arms

³The MOU is known in Spanish as, “Tratado de Cooperación entre los Estados Unidos Mexicanos y los Estados Unidos de América sobre Asistencia Jurídica Mutua.” Its objective was to further binational legal assistance for the persecution, investigation and prevention of criminal activities. The MOU went into effect in 1991.

⁴See <http://www.iniciativaMérida.gob.mx/pdf/antecedentes-cooperacion.pdf>.

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trafficking. The new partnership was embodied in the “Declaration of the United States–Mexico Alliance against Drugs,” signed in May, 1997.

By February, 1998, the HLCG approved the “Mexico–U.S. Bilateral Strategy of Cooperation against Drugs.” At that time, the strategy contained sixteen major areas of collaboration. In an effort to keep track of their progress, in February, 1999 both nations agreed to numerous “Measures of Effectiveness” (MOE) as an additional tool to evaluate the implementation of the Strategy. Zedillo did face internal opposition to increasing U.S.–Mexico law enforcement cooperation. The negotiated MOE were conceived of as an institutionalized mechanism to follow up on both nation’s commitments, but were the beginning of still deeper mistrust amongst agencies on each side of the border.

THE CASE OF JUAN GARCIA ABREGO

Juan Garcia Abrego’s deportation to the U.S. was an important first sign of the changing cooperation policy between both countries as they sought to deal with drug kingpins. As the leader of the Gulf Cartel and the first drug trafficker to ever appear on the FBI’s “Ten Most Wanted” list, Garcia Abrego was arrested on January 14, 1996 at a ranch near Monterrey, Nuevo León. A few days later he was expelled from Mexico to the United States under Article 33 of the Mexican Constitution (Garcia Abrego was both a U.S. and Mexican citizen). According to statements by President Zedillo, the Gulf Cartel had the operational capability to mount an offensive to rescue their leader and therefore he could not stay in the country. While probably true, this explanation was only part of the story. Had Mexico–U.S. cooperation been a lower priority, President Zedillo could have easily prevented Garcia Abrego’s expulsion to the U.S. by denying U.S. requests to send him back. Mexican law at the time prohibited extradition of Mexican nationals to any country where life in prison or the death penalty were possible punishments,⁵ so the Zedillo government could have treated Garcia Abrego as a Mexican citizen and denied his extradition. Instead, the Zedillo government decided to expel Garcia Abrego considering that he was a U.S. national. as a foreign national.

The U.S. government later acknowledged that in 1997, Drug Enforcement Agency (DEA) agents assisted the Mexican government in the arrest of Juan Garcia Abrego. “The DEA office in Mexico City was instrumental in the arrest and prosecution of Garcia Abrego,” said the Bureau of International Narcotics Police and the State Department, who jointly presented an overview of worldwide U.S. counter-narcotics activities in 1997. During recent interviews held with officials at the time stationed at the Mexican Attorney General’s Office (PGR in Spanish), they confirmed that the personal relationship with U.S. law enforcement liaisons helped facilitate

⁵Interview with former federal official from the Attorney General Office (PGR).

the decision to extradite Garcia Abrego and even shared information that helped prove his U.S. nationality.

Garcia Abrego's extradition was symptomatic of an entire period of increased cooperation based on extraditions. To wit, between 1995 and 2000, Mexico extradited a total of sixty one persons to the United States. That is, in five years, Mexico increased by more than seven times the number of extraditions compared to the preceding fifteen year period. In turn, from 1995 to 2000 the United States tripled its number of extraditions to Mexico, with a total of eighty six.

Also during this period, the Zedillo government decided that, in exceptional circumstances it would grant the extradition of Mexican nationals to be tried in places where they were charged with committing a crime. In order to expedite mechanisms of exchange of information the PGR had to establish precise protocols and institutionalize legal instruments that would strengthen the capacity of the Mexican government to extradite criminals to the U.S. The institutionalization of these processes was developed over several years and is closely followed by the U.S. Department of Justice, State Department and its respective counterparts in Mexico.

THE CASE OF AMEZCUA CONTRERAS

On June 1, 1998 the Luis and Jesus Amezcua Contreras brothers were arrested in the city of Guadalajara by agents of the Special District Attorney's Office for the Attention to Crimes against Health with support from the DEA. Both brothers, together with Adam and Emma Amezcua Contreras, were known as the "kings of amphetamines" and leaders of the so-called Colima Cartel. They were allegedly responsible for the introduction of large volumes of synthetic drugs into the United States. Their territories were the states of Michoacán, Colima, Jalisco, Aguascalientes, Nuevo León and Baja California.

Despite their notoriety, law enforcement agencies struggled to link the Amezcua family directly to amphetamines trafficking and in 1999 they were absolved of money laundering charges. While Adam Amezcua was set free, the U.S. government requested that Jesus and Luis be extradited, The Amezcua's made use of all legal means at their disposal to prevent their extradition, but on May 22, 2001 Jesus Amezcua's extradition to the U.S was granted. Later, however, the Mexican Supreme Court nullified the process because Amezcua could have faced life in prison in the U.S., a penalty which was prohibited by the Mexican Constitution.⁶

In 2001 the Supreme Court examined two contradictory lower court rulings about extradition. In one case a court had ruled that a Mexican national could be extradited for a crime committed in another nation as long as the potential penalties

⁶To learn more on the resolution of legal contradictions see <http://www2.scjn.gob.mx/Ministros/oscgv/Conf/EXTRADICION.%20ITESM.pdf>, this is a conference by Supreme Court Judge, Olga Sanchez Cordero that explains the vote of the majority with regards to this issue. Pages 40-46.

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faced by the extradited did not exceed those permitted in Mexican law. In another decision, a second lower court ruled that extradition was not possible under most circumstances.⁷ In the end, the Supreme Court ruled that the Executive is granted full power to proceed with a requested extradition even when the potential penalty went beyond what was stipulated in Mexican law. The only exception to this would be in cases involving the death penalty, in which case extradition would still be prohibited. (44/2000)⁸

For example, prior to 1994 no Mexican national had been extradited to the U.S. But in 1995 the Mexican government undertook a review of its extradition policies and subsequently began to extradite Mexicans accused of criminal activity if a potential death penalty sentence was not in play. Under these guidelines, only 16 Mexicans were extradited to the U.S. between 1995 and 2001. Subsequently the average annual rate of extradition increased to 30, according to Labardini.⁹

In their 2001 ruling the Supreme Court of National Justice ruled bilateral legal treaties set the standard for extradition, and only when bilateral treaties were absent would the International Extradition Treaty set the standard. This decision differed from the practice in other Latin American countries, where there is an expressed disposition to deny extradition like in Brasil, Ecuador, Panamá y Venezuela.¹⁰

The Fox administration (2000–2005) and members of its security cabinet pushed for an even closer relationship with the U.S.. During this time the National Security Center (CISEN) and the PGR were key supporters of change because they shared the goal of strengthening the exchange of information with the U.S.. According to the PGR, the average number of annual extraditions to the U.S. was twenty four between 1996–2000, while the annual average was forty three between 2000 and 2003.¹¹ The PGR reported the extradition of at least 136 people but also recognized that in 17 cases the extraditions were denied because of the possibility of the death penalty. It must be said that in terms of death penalty the Court's ruling had not changed. By the end of the Fox administration and during Attorney General Cabeza de Vaca's term around 70 extraditions to the U.S. were pending.¹² Some would not proceed because the accused could face the death penalty which is forbidden in the Mexican constitution.

However, after the tragedy of 9/11, priorities in the U.S. intelligence and law enforcement communities changed dramatically which had an impact on cooperation with Mexico. The U.S. bureaucracy went through a reorganization that had an impact on its relationship with the Mexican authorities as the creation of the

⁷<http://www2.scjn.gob.mx/Ministros/oscgv/Conf/EXTRADICION.%20ITESM.pdf>

⁸*Tesis Jurisprudencial 11/2001 y Contradicción 44/2000-PL*. Project by Supreme Court Judge Olga Sanchez Cordero, 10 votes in favor, the vote against was Supreme Court Judge Humberto Román Palacios.

⁹<http://www.bibliojuridica.org/estrev/derint/cont/2/art/art3.htm>

¹⁰*Ibid.*

¹¹<http://www.pgr.gob.mx/cmsocial/bol04/mar/b23004.htm>

¹²PGR press releases numbers: 398/06; 715/06; 1000/06; 1229/06.

Department of Homeland Security took place. The impact was twofold: on the one hand, drug trafficking was not a high priority or concern for the U.S., and secondly, all law enforcement and intelligence cooperation began to be seen through the lens of the fight against terrorism. So the commonality of objectives was diverted because of the events that unfold with the acts of terrorism at the Twin Towers in New York.

The U.S. had a clear and urgent need for better intelligence cooperation, not only internationally but also domestically. U.S. law enforcement had to increase its own intelligence capacities. As a result, beginning in 2004–2005, the U.S. created what are called Fusion Centers (FC)¹³ a coordination space where representatives from multiple agencies come together to share information relevant to a particular case. The creation of FCs came at a time when, as stated in a joint Department of Justice and Department of Homeland Security document on fusion center guidelines: “Leaders must move forward with a new paradigm on the exchange of information and intelligence, one that includes the integration of law enforcement, public safety and the private sector.”¹⁴ By creating these structures the U.S. security community intended to respond to terrorism, public safety and law enforcement threats that were emerging in a dynamic and changing environment. Hence, it was recognized that the sharing of information and intelligence across agency lines is necessary to effectively address security challenges, particularly criminal and terrorist activities.

The FCs are designed to operate consistently, enhance coordination efforts, strengthen partnerships and improve institutional capacity against security threats. Interestingly, the needed allocation of resources and standardization of procedures and methods has taken some time. The U.S. agencies had to realize how important it is to cooperate and leave aside the turf wars—that largely persist to this date—in order to find more effective ways to exchange information. In fact, a Government Accountability Office report concluded that:

¹³A FC is defined as a “collaborative effort of two or more agencies that provide resources, expertise and information to the center with the goal of maximizing their ability to detect, prevent, investigate and respond to criminal and terrorist activity,” p. 2. Success stories: ability of fusion centers to accomplish an all-crimes and all-hazards mission requires long-term investment. To date, there have been several fusion center success stories. One such success occurred in May 2008, when the DHS Intelligence Operational Specialist for Northern California coordinated with Federal officials on an Amber Alert for a three-year-old child who was to be taken out of the United States by a suspect wanted for rape and murder. By coordinating with DHS officials, local law enforcement, and INTERPOL, the DHS Intelligence Operations Specialist was able to track the suspect and the kidnapped child to a flight bound for the Netherlands. With only hours to spare, the DHS Intelligence Operations Specialist coordinated with authorities to ensure law enforcement authorities in Amsterdam detained the subject. The child was recovered unharmed. In March 2007, the Denver Fire Department responded to seven cases of SUVs being firebombed. Investigators requested the Colorado Information Analysis Center’s (CIAC) assistance in developing case information. The CIAC developed a report that included a description of the suspect’s vehicle. Based on this report, the suspect in the crimes was arrested shortly thereafter keeping the community safe from additional fire hazards. http://www.dhs.gov/ynews/testimony/testimony_1238597287040.shtm

¹⁴“Fusion Center Guidelines *Developing and Sharing Information and Intelligence in a New Era.*” http://www.it.ojp.gov/documents/fusion_center_guidelines.pdf

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“In the National Strategy for Information Sharing, state, local, and tribal government officials are critical to our nation’s efforts to prevent future terrorist attacks. Because these officials are often in the best position to identify potential threats that exist within their jurisdictions, they must be partners in information sharing that enhances situational awareness of border crimes and potential terrorist threats. In border communities, this partnership is particularly important because of the vulnerability to a range of criminal activity that exists along our nation’s borders. Therefore, a more robust effort by federal agencies to identify the information needs of local and tribal law enforcement agencies along the borders and periodically assess the extent to which partnerships exist and related mechanisms to share information are working—and fill gaps and address barriers where needed—could better enable federal agencies to provide useful information”¹⁵

The example above serves to demonstrate the size of the challenge inherent in improving U.S.–Mexico cooperation on law enforcement, especially in light of the challenges the U.S. faces in creating the trust, resources, and prioritizing necessary to ensure proper internal, cross agency coordination. This challenge is also shared by Mexican agencies, During Mexico’s history of one-party political hegemony inter-agency, and federal state and local coordination was much easier since the governing party (PRI) at the time had complete control of the incentives and disincentives to ensured cooperation among different levels of government. Yet, as Mexico became more politically plural and it exhibited diverse institutional capacity, the cooperation and incentives to work hand-in-hand with federal authorities and among different levels of government became a clear obstacle to coordinated effort to fight organized crime. Mistrust and institutional underdevelopment run deep at a time of consistent evidence of drug-related corruption.

II. MECHANISMS FOR COOPERATION BETWEEN LAW ENFORCEMENT AND INTELLIGENCE AGENCIES

One can identify at least three types of mechanisms for cooperation between U.S.–Mexico law enforcement and intelligence agencies: institutional agreements; leadership and personal relationships; and standardized procedures. Institutional mechanisms refer to memorandums of understanding to exchange prisoners and

¹⁵http://www.kms.ijis.org/db/attachments/public/3985/1/GAO_Info_Sharing_Rpt_Dec09.pdf, page 39. GAO, “Information Sharing, Federal Agencies are Sharing Border and Terrorism Information with Local and Tribal Law Enforcement Agencies, but additional efforts are needed,” p.39

the extradition treaty signed by both governments and approved by each Senate.¹⁶ It is important to mention that a number of agencies participate in this process. Some of the primary ones are the Mexican Ministry of Foreign Relations, the U.S. Department of State, the U.S. Department of Justice and the Mexican Attorney General's Office, but if the case of extradition is appealed to the Mexican Supreme Court for an amparo, a special injunction designed to safeguard an individual's constitutional rights, this institution can also have a say in the process.

Over time the process has been encumbered by the formal procedures defined in these agreements, and drug traffickers fighting extradition to the U.S. often use the process itself to obstruct their extradition. Fortunately, the obstacles of the past are now being removed for future extraditions. In fact, even the Mexican Supreme Court that in the past was cautious about allowing extraditions has now set the terms for this legal tool to be utilized.

At the time of the Fox administration, U.S. information sharing was key in a number of cases under the jurisdiction of Daniel Cabeza de Vaca, Mexican Attorney General, the Undersecretary for International and Judicial Affairs, Jose Luis Santiago Vasconcelos, and also the CISEN while Eduardo Medina Mora headed this agency. Medina Mora later expanded U.S. cooperation as the head of the Ministry of Public Security. In large part, bilateral cooperation took place among these agencies because of the leadership and importance that those Mexican officials gave to it, especially collaboration with the Drug Enforcement Agency (DEA).

Additionally, personal relationships are critical informal mechanisms of law enforcement cooperation. For example, during the Fox Administration, Mexican officials had settled into the bureaucratic structure allowing them to build a sense of personal trust and cooperation with U.S. counterparts, which in turn translated into increased cooperation in case investigations. Furthermore, Mexican cooperation with the U.S. was not only a focus of civilian agencies. Numerous interviews confirm that the army also benefitted from shared information that allowed them to go after specific targets. Yet, it is more difficult to measure the degree of improvement and efficiency this information produced in the army's efforts to combat organized crime because the Mexican armed forces (National Defense) are less open about their relationship with U.S. counterparts as a result of the historic nationalism and national sovereignty that permeate the institution.

Therefore, the second clear characteristic of U.S.-Mexico cooperation in law enforcement has to do with the leadership of the respective agencies and the commitment those in charge of this cooperation give to the exchange of information, the extradition mechanisms and the building of trust between actors on each side. There is no doubt that trust remains a key component to bilateral cooperation. The steps taken since the Zedillo Administration all the way through Calderon's time in

¹⁶Extradition Treaty. 1980. <http://portal.sre.gob.mx/eua/pdf/EUAExtradicion1978.pdf>. Procedures to be followed: http://www.oas.org/juridico/MLA/sp/mex/sp_mex-ext-gen-list.html.

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office prove that a number of U.S. and Mexican officials have been in contact and collaborating all of these years to find more effective and transparent mechanisms to target a common enemy.

Finally, there are other important arrangements, developed since the late 1990s, that have institutionalized law enforcement cooperation. The DEA's Mexico office, like their Colombia office, has been part of the Sensitive Information Units' (SIU) program since its inception in 1997.¹⁷ During the Fox administration the SIU members came from the Mexican Federal Investigative Agency (AFI), headed by Genaro Garcia Luna, leaving law enforcement and intelligence bilateral cooperation strongly tied to its parent agency, the PGR.¹⁸ This program allowed Mexican law enforcement to be vetted and learn and exchange standardizing processes of intelligence and information gathering. As personnel of both nationalities came to work together they became aware of the institutional and legal arrangements and had to find and work out points of contact that would allow them to build a case together.

While a major institutional rearrangement has taken place within the U.S. bureaucracy since 9/11, the DEA has grown and remains strongly linked to Mexico in efforts to deal with DTOs. This agency's international presence and level of interaction with its respective foreign counterparts has increased incrementally. The DEA's five objectives for its work with foreign counterpart agencies are: (1) to participate in bilateral investigations, (2) to cultivate and maintain quality liaison relations, (3) to promote and contribute to foreign institution building, (4) to support intelligence gathering and sharing efforts, and (5) to provide training opportunities. Since FY 2003 the DEA's office in Mexico is actively targeting a total of 212 Priority Target Organizations.¹⁹ The data indicates that the DEA's foreign offices were pursuing high-priority cases and have succeeded in disrupting or dismantling a significant portion of DTOs.²⁰

It is important to mention that in addition to the DEA, other U.S. agencies are participating in some of these coordinating efforts on a more regular basis and at times this leads to conflict, both among themselves or with their Mexican counterparts. Nevertheless, each agency has its own bureaucratic constituency and objectives to pursue. Hence, turf wars, competition, stepping on each other's toes during

¹⁷<http://www.justice.gov/oig/reports/DEA/a0719/chapter3.htm>. The Drug Enforcement Agency's International Operations (Redacted). Audit Report 07-19. February 2007. Office of the Inspector General. Chapter 3. International Operations

¹⁸*Ibid.*

¹⁹<http://www.justice.gov/oig/reports/DEA/a0335/findings.htm> See footnote 13 of *The Drug Enforcement Administration's Implementation of the Government Performance and Results Act*. Report No. 03-35 September 2003 Office of the Inspector General

²⁰*Organized Crime Drug Enforcement Task Forces (OCDETF) Program was established in 1982 to conduct comprehensive, multi-level attacks on major drug trafficking and money laundering organizations. This program produces the Consolidated Priority Organization Target (CPOT) List. See <http://www.justice.gov/dea/programs/ocdetf.htm>*

investigations and a tendency of U.S. agencies to deal on a one-to-one basis (without interagency coordination) with their Mexican counterparts all create disruptions in the growing need to work together and continue building trust.

As the DEA has strengthened its collaboration with Mexican agencies, the use of vetted units has become a vital means of pursuing its investigative needs in that location. The DEA uses two types of vetted units: (1) vetted units that are part of the DEA's Sensitive Investigative Unit (SIU) Program and (2) non-SIU vetted units. The DEA's SIU program was created in FY 1997 when Congress appropriated \$20 million for the creation of vetted units in Bolivia, Colombia, Mexico, and Peru.²¹ In FY 2006, the budget to support the SIU Program was \$18.3 million.

SIU members participate in a specially designed training course at the DEA Training Academy in Quantico, Virginia.²² The National Drug Control Budget released in February of 2010 highlights an FY2011 budget request of \$10.8 million in non-personnel funding to "provide permanent funding for the expanded SIU program in Mexico."²³ The SIU program allows the training of foreign police officers that work cooperatively with the DEA to focus on specific cases.

In February 2006 a Mexican SIU unit conducted a surveillance operation with assistance from the DEA that resulted in the arrest of a members of a Consolidated Priority Organization Target²⁴ residing in Mexico. Additionally, the SIU program in Mexico was instrumental in the successful completion of a major methamphetamine investigation that resulted in the seizure of 15 methamphetamine labs and over 130 pounds of methamphetamine with a potential street value of over \$1 million.²⁵ Yet, it is still difficult to assess the impacts of the SIU program in Mexico mainly because Mexican authorities are extremely reserved about discussing them and the type of information that is being shared by their U.S. counterparts that leads to successful operations. In fact, what has been described here previously is the result of an extensive review of public documents released by the U.S. law enforcement agencies and their international programs subject to review from the General Accounting Office.

Of the few comments that were picked up when interviewing Mexican sources they claimed to hold more operational intelligence information than what is shared by their U.S. counterparts. Mexicans believe that the quality of U.S. intelligence is not always as good as claimed. However, what is clear is that the training, screening and vetting process of Mexican law enforcement officials have proven helpful to the standardization of information gathering and intelligence sharing. Today,

²¹La información de la cita no. 16

²²*Ibid.*

²³National Drug Control Budget Highlights. February 2010. P.11. ONDCP.

²⁴Consolidated Priority Organization Target (CPOT) List, a unified agency target list of international "command and control" drug traffickers and money launderers. See <http://www.justice.gov/dea/programs/ocdetf.htm>.

²⁵<http://www.justice.gov/oig/reports/DEA/a0719/chapter3.htm>

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cooperation amongst some Mexican law enforcement and intelligence agencies has reached the point where Mexican nationals are stationed in U.S. agencies. This suggests they are developing standardized procedures for information sharing that allows for better targeting of DTOs.

An example of this shows how the DEA office in Mexico provides information and support to investigations through communication and collaboration with other DEA offices, including its domestic field offices. The El Paso Intelligence Center (EPIC) has become instrumental in efforts to coordinate not only the array of U.S. agencies that converge to work on a case, but also in the coordination of bilateral cooperation.²⁶ EPIC was established in 1974 to improve coordination among agencies addressing law enforcement matters related to the Southwest Border. EPIC brings together representatives from many agencies including the DEA, FBI, the U.S. Marshals Service (USMS), and the Department of Homeland Security's Bureau of Immigration and Customs Enforcement (ICE), who work together on various matters related to drug-trafficking and immigration. Today, EPIC also includes Mexican foreign nationals that share their experience and expertise on crime, terrorism and contraband information and build personal relationships with U.S. law enforcement.

There is no doubt that as violence on the Mexican side of the border grew, more coordinated U.S.-Mexican responses had to take place. Another example of building joint efforts to counter organize crime capabilities in the region is the creation of the Border Enforcement Security Task Force (BEST) that was started in January 2006 in Laredo, Texas. The BEST are lead by U.S. Immigration and Customs Enforcement (ICE) the largest investigative agency in the Department of Homeland Security (DHS).²⁷ Since then DHS has established a number of BEST²⁸ teams on the Southwest Border where several U.S. law enforcement agencies come together in coordination with the Mexican Ministry of Public Security.²⁹ The results reported describe border-related arms and ammunition smuggling investigations in Texas and Arizona, leading to the arrest of hundreds and the seizure of 68 thousand rounds and multiple 687 firearms.³⁰

The efforts described above show how the Mexican and U.S. law enforcement communities have grown closer in order to achieve a shared goal. A couple of decades ago this would have seemed unthinkable to the PGR. As economic, social and political processes continue to move forward, particularly after the North American Free Trade Agreement, and even with the post-9/11 transformations to the U.S. security

²⁶Page 70.

²⁷www.ice.gov/pi/news/factsheets/080226best_fact_sheet.htm

²⁸As August 5,2010 One can find 17 BEST teams in places such as Mexico city, Phoenix, Tucson, Yuma; Imperial Valley, Los Angeles, Long Beach Seaport; San Diego; Miami seaport; Deming, Las Cruces, El Paso, Laredo, Rio Grande Valley and in New York, Michigan and Washington states.

²⁹*Ibid.*

³⁰*Ibid.*

community, the reality is that both nations know they still need to work out more efficient ways to undermine DTO's capacity. It is in the best interest of both nations to have trustworthy neighbor.

THE CALDERON ADMINISTRATION

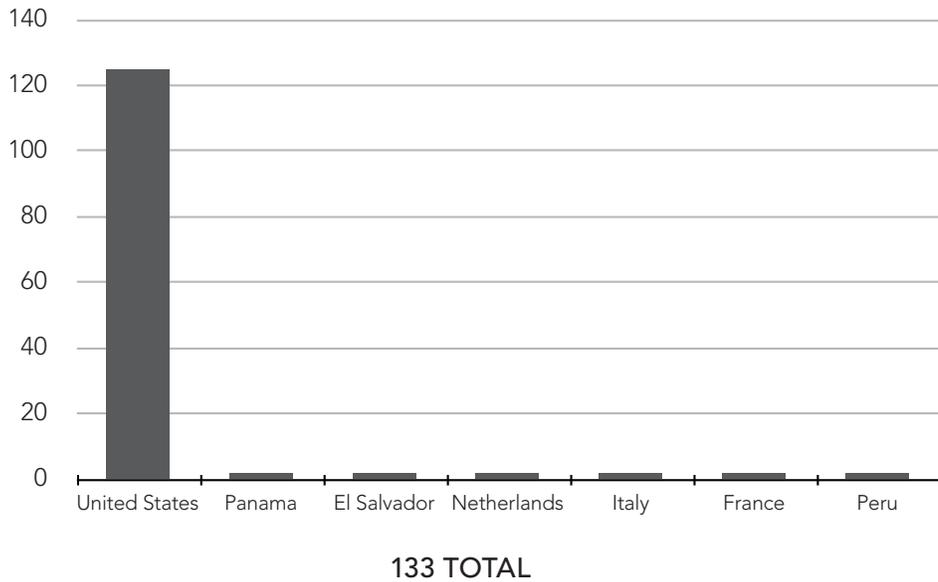
The political context under which President Calderon took office in 2006 was without a doubt a complex one. By that time, the DTO's had dramatically escalated the violence against law enforcement officials and their enemies. Executions, decapitations and disappearances had already taken place in a number of states, including Michoacán, Baja California, Sinaloa and Chihuahua. So President Calderon instructed the appropriate agencies to strengthen their commitment to cooperation with the nation's northern neighbor. A key element of the increasing cooperation was that a number of Mexican officials from the security community had already worked to strengthen collaboration with the U.S. regarding the exchange of information, similar policing procedures, intelligence sharing and confidence building were now become heads of agencies. This was the case for Attorney General Eduardo Medina Mora, who would lead U.S.-Mexico cooperation as a continuation of what he had achieved during the previous administration. The case of Genaro Garcia Luna, President Calderon's choice to be Secretary of Public Security, was very similar; he was well known by U.S. officials as a long time partner to U.S. law enforcement because of his work at CISEN and AFI during the Zedillo and Fox administrations. In other words, the road was already paved, and officials could identify priorities to work together and improve the capacity of the institutions against organized crime.

In a smart move, it was Calderon who presented a proposal for an increase of U.S.-Mexico cooperation in Mérida when meeting with President Bush. Although initially the proposal was well received, the U.S. was not sure about the implementation of this initiative for increased cooperation with its southern neighbor. Nevertheless, it is also true that the plan called on the Mexican intelligence and law enforcement communities to make immense efforts at coordination and setting aside personal agendas and egos. Many of the agency heads had developed extensive relationships and trust with their U.S. counterparts over the years, so there was concern that inter-agency coordination could hamper their personal relationships based on trust with U.S. officials resulting in the exchange of valuable information with their U.S. counterparts. Nevertheless, once the coordination plans and ground rules were clarified and the agency heads were convinced that operational information would not be put at risk in the inter-agency process, all the actors understood the roles they could play to improve efficiency in the fight against organized crime.

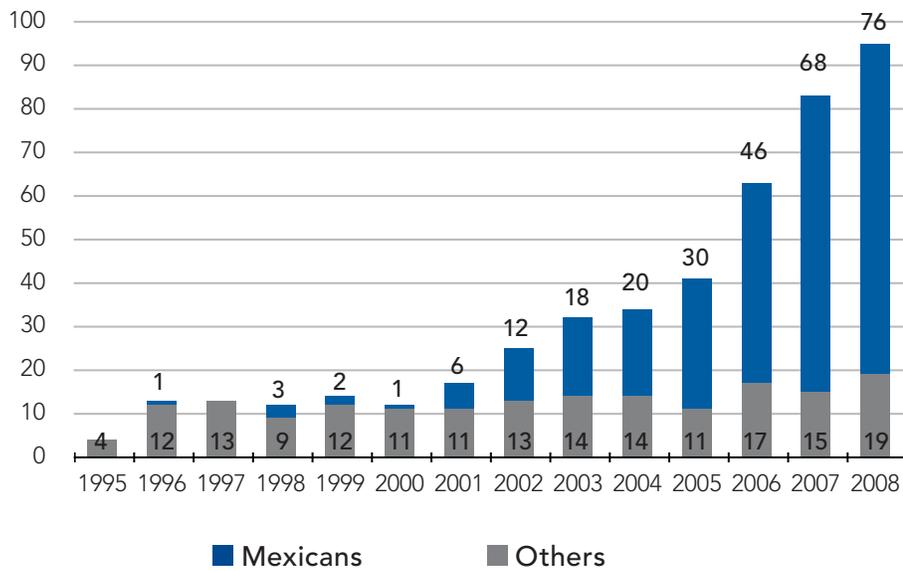
Key in the process of building trust between the two countries was the number of major drug traffickers that had been extradited to the U.S. by January 2007. Among

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EXTRADITIONS FROM MEXICO BY DESTINATION, 2007



EXTRADITIONS FROM MEXICO BY NATIONALITY, 1995–2008



Source: <http://www.pgr.gob.mx/prensa/2007/docs08/Extraditados%20al%20mundo.pdf>.

the extradited drug figures where Osiel Cardenas of the Gulf Cartel, Gilberto Higuera Guerrero from the Arrellano Felix Organization in Tijuana, Hector Palma Salazar from the “Chapo” Guzman Cartel in Sinaloa, and thirteen other high profile Mexicans that had committed homicides, drug related crimes or other federal crimes in the United States.³¹ All of these persons had failed in their attempts to be protected from extradition under the Mexican Constitution (agotado juicio de amparo) and were sent to the U.S. on charges of drug trafficking, organized crime or other crimes. The action was welcomed by the U.S. government as a clear sign from the Calderon administration of the seriousness of its efforts to extradite those kingpins that were taking advantage of the justice system in Mexico in order to continue terrorizing regions of the country with violence and corruption.

Extradition is not only related to drug crimes, as there are a number of other crimes committed in the U.S., by nationals and non-nationals, that seek safe haven in Mexican territory. More and more, through an important exchange of information, those running from justice and trying to hide in Mexico are being caught and extradited to face charges in U.S. courts. Mexico has extradited sexual offenders, murderers, money launderers and human traffickers. Close proximity attracts those committing crimes in the U.S. to run to Mexico, so it is understandable why there are so many extraditions from Mexico to the United States.

For Mexican authorities, extradition has become a strong legal tool to combat crimes that are committed in one or multiple territories by criminals that seek or attempt to buy safe haven.³²

In testimony at the U.S. Senate, the DEA said:

The acknowledgment of a shared problem has paved the way for cooperation between DHS, along with DOJ, and the government of Mexico that would have been unthinkable 10 years ago, and even unspeakable 3 years ago. DHS is working in full partnership with the government of Mexico to respond to the dangers and the opportunities that the current crisis has presented. This is a relationship of trust with verification, and one that is accepted by both countries.³³

President Calderon has continued to work against the violence and drug related crimes that persist in Mexico. As part of this effort, this administration has taken further steps to better coordinate along the U.S.-Mexico border. For example, after the killing of three people with ties to the U.S. Consulate in Ciudad Juarez in March

³¹<http://www.pgr.gob.mx/prensa/2007/bol07/Ene/b03007.shtm>.

³²Jose Luis Santiago Vasconcelos, August 13, 2007. Opening statement at the Workshop on Extradition. <http://www.pgr.gob.mx/prensa/2007/bol07/PGR/bol38807.shtm>.

³³United States Congress, House of Representatives, Committee on Oversight and Government Reform, Hearing, *The Rise of the Mexican Drug Cartels and U.S. National Security*, 111th Congress, 1st Session, July 9, 2009, 49.

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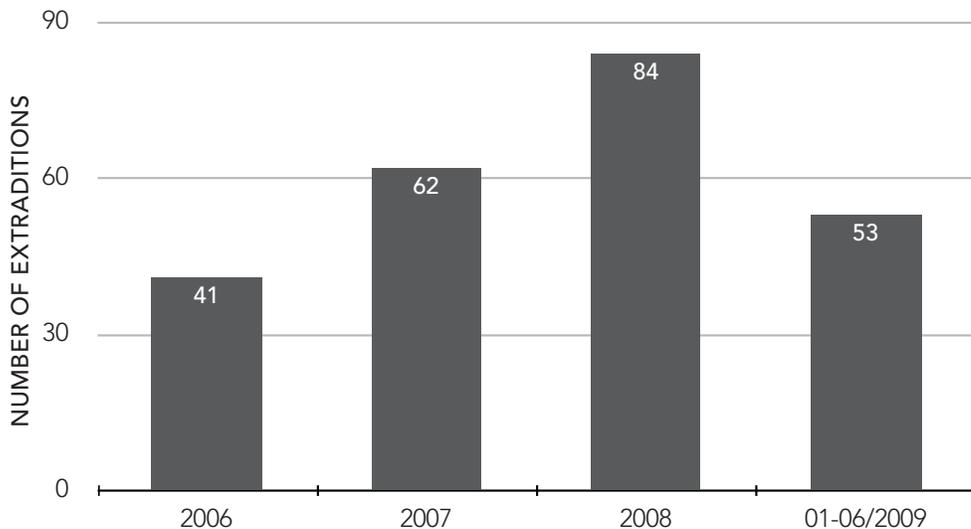
2010, including one American consulate employee, a group of U.S. officials traveled to Mexico for a high level meeting between U.S. and Mexican officials. This was the second time high level officials met as a follow-up to the Mérida Initiative. At the end of the meeting officials on both sides of the border announced that they would concentrate in four strategic areas: a) dismantling criminal organizations; b) consolidating institution building; c) developing a 21st Century border; and d) improving social cohesion in communities.

Clearly pressure on the U.S. Congress from border constituencies and the sense of responsibility the United States has regarding the provision of arms that give immense firepower to criminal organizations increase the sense of urgency to improve the public safety of those living along the border. At some point, it seems inevitable that the U.S. will need to find a way to address the arms market at the border.

THE CASE OF MARIO VILLANUEVA

In May 2010, Mario Villanueva, ex-governor of Quintana Roo, was extradited to the U.S. as part of an improved environment for bilateral cooperation. Villanueva was governor of his state between 1993 and 1999, but he did not finish his term in office because he was accused of having links with organized crime. Villanueva was the first high profile PRI governor to be arrested on organized crime charges during the Zedillo administration.

EXTRADITIONS FROM MEXICO TO THE U.S.



Source: "Mexico – U.S at a Glance: Extraditions," (June 2009), <http://mexico.usembassy.gov>.

The U.S. government requested his extradition based on charges that Villanueva helped traffic drugs into the United States. Villanueva was accused of having received millions of dollars from the Juarez Cartel in exchange for protecting the transportation of more than 200 tons of cocaine to the United States. After numerous judicial proceedings, Villanueva was finally extradited to face charges in the United States. For some analysts, his extradition was unthinkable given Villanueva's strong links to the country's oldest and strongest political party known as the Institutional Revolutionary Party (PRI in Spanish) and the fact that Quintana Roo would have gubernatorial elections later in the year. However, the levels of drug-related corruption and violence he had freely exhibited in his everyday life made all too clear the failure of law enforcement and policing efforts in the state. Days after the extradition, the mayor of the famous tourist city, Cancun, was also arrested on organized crime charges.

Mexico is increasingly putting together cases of political-drug corruption. The challenge for the Mexican PGR remains putting together all the judicial elements needed to attain the ultimate goal, which is getting a guilty verdict from the judge. Impunity must not prevail under the current circumstances, and Mexican authorities need to continue improving the capacity to gather intelligence and share information amongst and between government agencies. It is important to highlight that during 2009, 107 Mexican nationals were extradited to the U.S., and up to September 2010, 58 Mexican nationals were handed over to U.S. Department of Justice. This has no doubt been one of the most important means to undermine the capabilities of organized crime, but maybe more importantly strengthening collaboration between the U.S. in law enforcement and intelligence matters.

CONCLUSIONS

During an interview in Washington, DC for this paper, the author asked a U.S. official, "What should U.S.-Mexico law enforcement and intelligence cooperation look like?" The answer: "Ideally, an automation of information and intelligence sharing."³⁴ The sharing of information and intelligence should be taking place at all three levels of government (federal state, and local) he continued, "just like it happens between the U.S.-Canada." When one examines the case of U.S.-Canada cooperation one observes that no matter the political moment, changes in government or the current mix of bilateral issues, both countries have reached such a level of institutional strength that they are able to share intelligence and information regularly.

Even with the Mérida Initiative, Mexico has to understand the political reality of its Northern neighbor — drug policy is not a priority on the U.S. domestic political agenda at this time. The institutional arrangements to undermine drug sales in the U.S. are focused on the local level and fall mostly to local law enforcement.

³⁴Interview held April 2010.

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If local police come upon a particularly violent gang they might receive reinforcements from federal agencies. Therefore, there are limits to the information gathering process that can be performed by federal agencies and then shared with international partners. The number of coordination points amongst U.S. agencies is also enormous, as highlighted by the ambitious efforts and challenges faced by the Fusion Centers cited earlier.

Today both countries share a strong political commitment to strengthen institutional cooperation and capabilities. This essay reviews the important progress that has been made to date. However, we must remember that in both countries law enforcement and intelligence agencies are constrained by their own political leadership, constituencies and bureaucracies that are maneuvering in political arenas. Therefore, achieving a consolidated bi-national operational capacity to exchange information relevant to combating organized crime, or any other national security threat, remains the goal, but is not yet a reality. Both governments will always face a limit to what they can share as a result of national security or judicial constraints on the exchange of information. Additionally, both governments will experience times where agency heads are replaced or changed, and priorities can also change as well. Yet, as of today Mexican foreign nationals are stationed together with U.S. law enforcement agencies learning together from common experiences, building personal relationships, and sharing information that benefit both communities. This is by itself a clear example of how far both countries have moved in an effort to improve and deepen information sharing.

It is clear that even within the U.S. there are challenges to be met regarding information sharing and intelligence. Hence, sharing information is not a minor challenge because agencies compete to get the credit for prosecuting high profile cases. The irony is that as crime becomes more transnational as a result of globalization, federal law enforcement agencies in Mexico and the U.S. need more and more local and state information. But obstacles remain to obtaining this information. There are occasions when information is not shared because state and local laws protect privacy rights in the U.S.; and, because of changes in agency leadership in Mexico leave many officials waiting for new direction.

In sum, challenges remain for both governments that need to be addressed to continue strengthening U.S.-Mexico cooperation. Clearly Mexico has made a tremendous effort in its institution building over the last four years, particularly at the federal level. However, critical improvement are pending at the state and local level, especially in the border states, where local and state authorities have left the majority of the effort against organized crime to the federal government. In some sad cases, police and law enforcement on both sides of the border have even acted in favor of organized crime.³⁵ Authorities need to be clear that trust needs to be built

³⁵See U.S. has established a Anti-Corruption Task Force for the Southwest Border. http://www.fbi.gov/page2/august10/border_080910.html

continuously, but they should also recognize that at present there is greater penetration of drug trafficking organizations than ever before. This should be seen as an area of opportunity to work together and stand together against drug-corruption.

Only a few weeks ago Mexico's National Intelligence Director recognized that drug related violence had taken the life of more than 28 thousand persons during the current administration. In order to strengthen U.S.-Mexico cooperation, this official said that the anti-narcotics assistance had jumped significantly from U.S.\$37.3 million between 2000 and 2007, to \$443.3 U.S. million dollars between 2008 and 2010.³⁶ But despite the increase in resources, many significant challenges lie ahead, especially when one sees the amounts of arms, ammunitions, vehicles, and money that has until now been seized from criminal organizations.³⁷

As Mexican law enforcement agencies continue to face corruption in drug-related cases, so, too, have U.S. partner agencies. News reports about the challenges faced by agencies recruiting personal have highlighted problems with screening, training and supervising new agents. Similar findings were also documented in a report by the Office of the Inspector General of the Department of Homeland Security about ICE agents.³⁸ The report says the officers have, at times, inappropriate or unauthorized access to Homeland Security intelligence systems.³⁹ This also has an impact on the security of Mexican officials as they share information that allows them to act against criminal groups.

In all the interviews conducted with Mexican and U.S. officials the recurring theme was personal trust and building partnerships. Trusting each other and building the capacity to share information are key components of cooperation. Historically U.S. officials have been concerned with corruption in Mexico, however, the above cited press reports and Inspector General's report should make Mexican officials concerned about their northern neighbor too. This is not to say that cooperation should not grow; on the contrary, it needs to do so continually and incrementally. But the U.S. also needs to be more open about the corruption cases that it is facing and share these vulnerabilities with its Mexican counterparts.

Considering the commitment from both nations to continue improving law enforcement and intelligence capabilities and their evident asymmetries in terms of human and financial resources, it is clear that the Mérida Initiative has become an umbrella for increased information sharing, data inter-operability and the use

³⁶Talking points at the Dialogos por la Seguridad, Guillermo Valdes, CISEN.

³⁷*Ibid.* Seized vehicles 34,669; firearms: 83,997; U.S. dills. 411'952'887; were used as examples.

³⁸Julia Preston, "Report Faults Training of Local Officers in Immigration Enforcement Program," New York Times, April 3, 2010.; Also see AP, "U.S. Customs: Mexican Cartels corrupt border agents," March 11, 2010.

³⁹See: www.allbusiness.com/print/12832577-1-22eeq.html."Former Top Ice Agent Arrested in drug smuggling corruption case"; Reuters, "Drug smugglers bribing U.S. agents on Mexican Border," July 15, 2008. According to news reports, between 2007-2009, more than 80 officials who worked along the border have been convicted on drug related charges.

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of common systems, such as fusion centers, that create platforms for information sharing, whether through SIUs or BEST teams. The reality is that both governments need to continue strengthening these structures. Not doing so can hamper not only the bilateral relationship, but more importantly, the safety and well-being of both nations' communities.

