

April 17, 2012

UNCLASSIFIED

**ACTION MEMO FOR THE SECRETARY**

FROM: Melinda B. Student

SUBJECT: Mexican Judicial Reform

**Recommendation**

That you initiate a bi-national Judicial Personnel Exchange Program with Mexico to improve judicial policy and practice, in coordination with the Department of Justice.

Approve \_\_\_\_\_ Disapprove \_\_\_\_\_

**Background**

The Mexican “war on drugs” has become one of the biggest challenges we face in dealing with our neighbors to the south. You are no doubt aware of the severe human cost incurred by Mexico’s war on organized drug trafficking: over 47,000 people are estimated to have been killed since 2006. The violence has placed such a strain on the Mexican government that the Joint Forces Command recently released a study describing Mexico, alongside Pakistan, as a potential “failed state.”

This is an extremely pessimistic and perhaps dubious claim. Mexico is a secular, inclusive, democratic state that holds free and fair elections. It has also proven resilient in times of crisis, as Mexican intellectual Enrique Krauze points out. For example, in 1994, Mexico survived the Zapatista rebel uprising, a political assassination, and a catastrophic collapse of their currency. Mexico has since recovered, made strides toward a more effective democracy, and begun to crack down on its drug trafficking problem. In other words, we are not neighbors with a potential Somalia.

However, it is clear that the Mexican government is ill-equipped to effectively deal with the problems of organized crime and widespread violence related to drug trafficking. The efforts of more than 40,000 Mexican troops have led to some success, but casualties and corruption within the government itself remain high. Shortcomings in the intelligence capabilities of the Mexican

government, a porous prison system and a “slow and inefficient” judicial system (98 percent of perpetrators remain free) make it impossible for the war on drugs to make significant inroads against drug trafficking organizations.

## **Current Situation**

The US has provided support to address this problem in the form of the Merida initiative. Passed in 2008, this initiative provided \$400 million to Mexico for combating organized crime and drug trafficking. This program sought to address some of the shortcomings in the Mexican judicial system. David T. Johnson, then Assistant Secretary for International Narcotics and Law Enforcement Affairs, mentioned case management software, technical assistance programs, and aggressive employee-screening processes as ways the Merida initiative would improve the Mexican judicial system.

However, in reality funding from the Merida initiative had largely been allocated towards upgrading military and law enforcement hardware. Additionally, the original framework of the initiative focused its efforts more on improving law enforcement and judicial infrastructure and less on personnel and training.

Mexico enacted judicial reform in 2008 in an effort to address the serious shortcomings of the judicial system. This is an ambitious undertaking that includes revamping the training and coordination of judges and 40,000 active attorneys within the Mexican judicial system. At this point, the Merida initiative provides little support for this judicial overhaul.

## **Conclusion**

For the US, the most effective way to help Mexico address judicial shortcomings would be through effective sharing of practices and procedures between our Department of Justice and theirs. We therefore recommend that you order Assistant Secretary Brownfield to initiate a bi-national judicial Personnel exchange program between the US and Mexico. This program would encourage (or require) young but experienced professionals, particularly attorneys, working in the DOJ to spend a year working in Mexico to assist and inform their judicial reform. DOJ could also accept “exchange” staff in the US, where they could learn be mentored and learn best practices from our judicial service. Such exchange programs are common and successful among the Armed Services. DOJ also already operates International Law Enforcement Academies to assist similar reform in law enforcement. This exchange initiative could use these programs as a model and build from their success to assist effective judicial reform in Mexico.

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