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 From:
 Leach, Michael W (Mexico City)

 Sent:
 1/11/2013 4:18:33 PM

 To:
 SMART Core

 Subject:
 Pillar II Cable - Bilateral Institutional Capacity Building to Sustain Rule of Law at the Beginning of a New Administration

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Subject:	Pillar II Cable - Bilateral Institutional Capacity Building to Sustain Rule of Law at the Beginning of a New Administration
Summary	REVIEW AUTHORITY: Oscar Olson, Senior Reviewer

1. (SBU) This is one of a four-part series of cables summarizing the achievements of over \$1 billion spent over the last four years in Merida Initiative activities. (Reftel A and B) The Merida Initiative faces Mexico's first change of administration since the program's inception in 2008. Merida efforts ushered in an era of unprecedented bilateral cooperation, challenging narcotics trafficking and other forms of transnational organized crime in Mexico and strengthening ties between the GOM and USG. At the same time, Merida built capacity for crime deterrence, law enforcement, investigative capacity, and judicial efficacy. Programs which are part of Pillar II, the "Development of An Institutionalized Capacity to Sustain the Rule of Law," produced important advances in Mexico's justice sector infrastructure. These include professionalizing police, modernizing corrections facilities, developing trustworthy institutions, advancing judicial reforms and crime laboratory development, and training all levels of justice sector personnel.

2. (SBU) Incoming president Enrique Peña Nieto (EPN) has indicated that his administration will focus on the issue of safety

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and security for Mexicans, a policy which may affect certain operational aspects of Merida and will very likely make Pillar II programs even more important given their links to longer-term reform. END SUMMARY

Police Training

3. (SBU) The United States provides training to officers from over twenty-one different states. The USG partners with police academies in five cities (Hermosillo, Chihuahua, Ciudad Juarez, Monterrey and Puebla) to train students from these states and other outside agencies. The Mexican academies provide classrooms and other facilities for classes taught by U.S. instructors. The USG has also provided equipment to these state police academies —from gym equipment to training handcuffs to ambulances for injured cadets. The USG is also providing specialized intelligence analysis training for Joint Intelligence Task Force units being established in specific states. At the federal level, Merida has provided classes to incoming federal police recruits in speciality areas such as Explosive Devices, Terrorism and Drug Trafficking. Merida assistance has also supported a wide array of training courses facilitated by partner agencies such as the Office of Antiterrorism Assistance (ATA), the Bureau of Alcohol, Tobacco, and Firearms (ATF), the Department of Homeland Security (DHS), and the Federal Bureau of Investigation (FBI). These courses include technical training and mentoring programs focused on justice sector security operations, quick response and mirrored and coordinated border security operations, facility security, dignitary protection, fugitive apprehension, and witness security.

Corrections Development - Federal Level

4. (SBU) In 2008, the GOM developed a strategic plan to build modern facilities to house all Mexican inmates who are under federal jurisdiction. This plan involved increasing the federal prison system from six facilities holding 4,525 inmates to 22 prisons with a capacity to house approximately 50,000 inmates. This plan also focused on improving the professionalization of staff operating the prisons, the standardization of correctional practices, and the development of programs to assist inmates the transition back to society.

5. (SBU) Since 2008, the Mexican federal prison system has been recognized as an international leader in prison reform for its ambitious corrections system overhaul and its training programs which have trained prison officials from Mexico as well as from other countries. The National Penitentiary Academy (ANAP) was opened in Xalapa, Veracruz in 2009, and has trained over 4,700 prison security and technical staff. ANAP created a mobile training unit which will provide the same level of training throughout the country. The Academy and seven federal prisons have received accreditation from the American Correctional Association (ACA), with all other federal facilities working toward this goal by implementing these standards of operation. The federal prison system has developed an objective prisoner classification system, which allows authorities to assign inmates to an appropriate prison security level based on the risk level of the prisoners.

6. (SBU) Looking to the future, the opening of nine new prison facilities in 2013 will require recruitment and training of more than 10,000 new employees. As officials further develop the federal prison system they will continue to need specialized training to improve the central transportation unit, emergency response teams (ERT), and security threat group (gang) training. The federal prison system offered to provide training to the states through the use of mobile training units, which provide equipment and instructors from ANAP to carry out training onsite at state prisons. In addition, the federal parole and probation unit has initiated a model parole office in Mexico City which has active supervision of inmates based on risk level. There are no parole offices outside of Mexico City, and therefore parolees in other states are currently tracked on paper. The Mexican prison system needs to fully develop its anti-gang capabilities, specifically by assigning gang officers to each correctional facility and establishing a central gang unit at headquarters to share all information with other law enforcement agencies. Information provided by this central unit will allow proper placement of disruptive inmates into high security facilities, allowing for safer operations. Additional work, education, and mental health programs need to be developed at all the federal prisons to help provide rehabilitation opportunities to offenders. Facilities with effective programs help limit inmate idleness, thus reducing violence within a prison.

7. (SBU) In its Strategic Plan for 2008-2012, the Public Security Secretariat (SSP) had described the state-level penitentiary system as "one of the most underdeveloped and abandoned components of public security. There are 420 state prisons

and detention centers, which currently have about 211,000 inmates incarcerated, with about 25,000 of them being held on federal charges. The National Commission on Human Rights (CNDH) and NGO's have reported that corruption, overcrowding, prisoner abuse, gang violence and exploitation, and drug addiction are prevalent in most state facilities, as are poor sanitary conditions, poorly trained and paid staff, and inadequate medical care. Prison deaths have been on the rise in state facilities, as are prison riots and escapes. Correctional employees are routinely threatened by inmates and organized crime groups, and many have been murdered.

8. (SBU) The development of a robust Federal Prison system is helping to relieve some of the overcrowding at the state level, with the relocation of some of the 25,000 federal inmates from state facilities, including many of the more dangerous and influential inmates. This relocation will help resolve the overcrowding at the state level, as some facilities are currently at 80 percent overcapacity. Some states have invested in building new facilities to help reduce overcrowding. The states of Baja California and Chihuahua have started the process of accreditation from the ACA. The Merida Corrections Program, together with the federal prison system, is helping these states prepare for accreditation by sending trained staff to audit these facilities and provide recommendations for improvements to meet the standards. The federal prison system needs to continue supporting efforts in the states to enact reforms by sharing their improved security protocols, assisting with training through the use of mobile training units, and providing technical assistance with audits based on international standards. The federal system should expand parole offices to each state, providing appropriate levels of supervision to parolees.

Developing Trustworthy Institutions

9. (SBU) Under the Merida Initiative, the Developing Trustworthy Institutions (DTI) program provides equipment, training and mentoring to the internal control units of the SSP, the Attorney General's Office (PGR), and the Ministry of Public Administration (SFP) to help them detect and deter corruption. As of December 1, 2012, NAS has provided the three agencies with over \$3,952,000 in basic undercover surveillance equipment. The DTI program partners with over a dozen agencies in the U.S. to train GOM officials from these three agencies on the policies and procedures of undercover investigative methods. In addition to these federal-level programs, we prioritized work at the state level in the states of Chihuahua, Tamaulipas, and Nuevo Leon in the past two years of Merida. (See Reftel C, D, and E)

10. (SBU) The SSP, PGR, and SFP have each contributed to enhancing the capacity of their respective internal control units to facilitate investigations of corruption and criminal wrongdoing by restructuring or increasing the number of personnel in their units. The SSP, for example, increased the size of its internal control unit to approximately 120 people. The head of the SSP's internal control unit reported directly to the President, a procedural anomaly among most GOM agencies. Similarly, the PGR also increased the number of people assigned to its internal control unit (the "Visitaduria") and decided to focus its investigations on cases involving serious misconduct and criminal activity, as opposed to performance issues such as arriving late for work. The SFP is not a law enforcement agency, but has the ability to investigate, sanction and fine all federal executive branch employees. As a consequence, NAS has found a formidable partner in this institution to address the levels of corruption in Mexico. The 25-member SFP IA unit has welcomed guidance and equipment from NAS in the area of undercover operations. They have had less additional resources provided by the GOM than SSP and PGR. However, SFP's website reports 482,852 sanctions levied against public servants in its <u>online</u> database.

11. (SBU) The PGR's Visitaduria utilized the resources and training provided by the DTI program to conduct an undercover operation that led to the indictment of a high-ranking officer of the Ministerial Federal Police of Veracruz in March of 2011. Under former PGR head Marisela Morales, beginning in May of 2011, the Visitaduria began conducting investigations of several high level officials within the PGR who were suspected of corrupt activities. In the first 100 days of this initiative, 462 PGR employees were dismissed and 111 of these were referred for prosecution for alleged crimes including fraud, document falsification, and theft, among others. Of the dismissed employees, 289 were mid- or upper-level management, and 59 were prosecutors. An additional 700 officials remain under internal investigation.

12. (SBU) The future of these agencies' internal control units is uncertain due to reorganizations under the new administration. However, as the DTI program continues to provide training and mentoring, NAS is seeing measurable results in these units' ability to help strengthen their respective institutions and contribute to building a culture of lawfulness in Mexico; we will seek continue GOM engagement to this end and will work with any new anti-corruption entity brought into force under the Pena Nieto government.

13. (SBU) The DTI program is also helping to reduce corruption within Mexico's public and private security forces at the

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federal, state, and local levels by supporting the Government of Mexico's (GOM) efforts to expand the scope and geographic reach of Mexico's national police registry system, referred to as "Kardex Policial." Kardex allows the capture, storage, and retrieval of biometric information on registered law enforcement officials. Merida -funded hardware will host Kardex and make it more accessible to state and municipal authorities throughout Mexico, providing agencies at all levels and jurisdictions with information about an individual 's past conduct and employment history. Kardex will help reduce corruption in Mexico's security forces, as the information it provides will enable agencies to avoid hiring officers dismissed for corruption or other misconduct in a different jurisdiction. (Reftels C, D, and E)

Control de Confianza

14. (SBU) Prior to the Merida Initiative, the GOM's ability to effectively exclude corrupt individuals —or those with a propensity to engage in corrupt behavior —from working in its judicial, intelligence, and law enforcement institutions suffered from several weaknesses. Under Mexico's 2009 General Act on the National Public Security System (*Ley General del Sistema Nacional de Seguridad Pública*), all public security institutions —including the SSP, the PGR, the Center for Research and National Security (CISEN), the Tax Administration Service (SAT), and some offices within Mexico's National Institute of Migration (INAMI) —must administer a five-part evaluation to vet all potential and current employees. Referred to as the "Control de Confianza" program, this five-part evaluation consists of a polygraph test, a background examination, a psychological exam, a drug test, and a medical exam. The GOM has invested in vetting public security personnel by assisting the states in building forty Control de Confianza Centers throughout Mexico in order to meet requirements set out in the 2009 General Act on the National Public Security System. At the end of Felipe Calderon administration, 30 State Centers and 3 Federal Centers (86.84%) have been fully certified and accredited by the GOM's National Center for Certification that was created to supervise the forty state Control de Confianza centers.

15. (SBU) While well-intentioned, the GOM's polygraph test results were questionable as polygraphists conducted more exams per day than recommended and interviewed subjects in groups instead of individually as required to ensure accuracy. In addition, polygraphists from different GOM agencies received training from different private institutions around the world and learned different technical languages, procedures, and standards.

16. (SBU) The NAS DTI program has provided over \$8 million for equipment, training and technical assistance to improve the professionalism of GOM evaluators. For example, the DTI program sponsored Mexican polygraphists to receive advanced training in the United States under the same standards used by all U.S. federal agencies; is helping to develop advanced training; and is funding an American advisor to provide federal agencies and states with advice and guidance on testing and policy matters. The DTI program is also beginning to work via an interagency agreement with the U.S. Department of Homeland Security, Customs and Border Protection (CBP), on enhancing the capacity of the GOM to conduct thorough background investigations that examine a candidate 's past behavior. The DTI program has been able to provide the GOM with the equipment and training necessary to conduct background investigations that will be comparable to those conducted in the U.S. for someone needing a clearance to handle classified material. This background investigation development module will also be disseminated to the states after it is implemented and tested at the federal level.

17. (SBU) Developed with guidance from NAS, the GOM now has uniform training and operational policies for all federal polygraphists. In accordance with U.S. government (USG) practice in which all USG polygraphists train at one school under one standard, the GOM has established a polygraph school at CISEN and all GOM federal polygraphists receive their basic training at this school. This standardization, along with the training provided by the DTI program, has increased the accuracy of the GOM's polygraph tests and has thereby helped minimize the hiring of corrupt actors or those with a propensity to engage in acts of corruption. Dozens of GOM polygraph examiners are also now actively involved with the American Association of Police Polygraphists. Nevertheless, the demand for vetting currently exceeds the capacity of trained GOM polygraphists, resulting in a bottleneck in the Control de Confianza process and thus the staffing of institutions.

18. (SBU) The DTI program plans to continue equipping and training its GOM counterparts to enhance their capacity to rootout corruption and strengthen Mexico's judicial, intelligence, and law enforcement institutions. In addition, the DTI program is beginning to work with the states of Chihuahua, Estado de Mexico and Nuevo Leon to enhance their capacity to 1.4(D) B1 conduct Control de Confianza evaluations.

CENAPI

19. (SBU) Mexico's National Center for Analysis, Planning and Information to Combat Crime (CENAPI) is an agency within the Attorney General (PGR) charged with supporting PGR capabilities to process diverse data using appropriate scientific methodology, information technology, and communications, to assist the planning, collection, analysis and exploitation of law enforcement intelligence. CENAPI is responsible for preparing "Averiguaci ones Previas" (Preliminary Investigation/Discovery), which are comprehensive documents containing the results of criminal and civil investigations. With USG support through the Merida Initiative, NAS helped to put in place a process of high-speed document scanning, optical character recognition (OCR), categorizing, and analysis that greatly speeds up the previous (manual) process and results in an end product that is highly secure, supports advanced intelligence and relationship analysis, and aids the GOM judicial process. The project is valued at approximately \$190,000 and took four months to complete.

20. (SBU) Future improvements to CENAPI's capacity for digital and automated processing of preliminary investigations/discoveries and their components are only limited by the availability of additional equipment and personnel to operate it. This could be addressed by an expansion of the project to include the implementation of scanning/imaging tools at either the regional prosecutor offices or within a supported area. As Mexico continues to implement its national judicial reform, thousands of prosecutors will depend on CENAPI to lead the way in modernizing the technology required to provide for speedy, accurate, and secure access to investigation documents and analysis. The CENAPI Document Management Program is an effective way to support and advance these efforts.

Forensic Laboratory Development

21. (SBU) The Department of Justice International Criminal Investigative Training Assistance Program (DOJ/ICITAP) has worked with the PGR and SSP laboratories for the past two years with a goal of assisting them to obtain international accreditation. This process normally takes a fully functional forensic laboratory anywhere from two to four years, depending on the discipline. Accreditation in a given forensic discipline demonstrates that the lab uses some quality assurance system in their analysis process. It does not necessarily equate to perfect analysis, but it does demonstrate that they are employing international standards and best practices. As an integral part of the justice system, it is essential that not only the court but also the public have confidence in the results of any forensic analysis.

22. (SBU) On November 30, the EMA (the Mexican Accreditation Agency) provided the SSP Laboratory's Genetics Section with EMA accreditation under ISO-17025, the international standard for DNA testing laboratories. This is a significant step forward for any laboratory, but in the case of the SSP, which started with an inexperienced group of analysts, it represents a monumental achievement, as in record time they have raised their technical level to a point where they have now satisfied the requirements of ISO-17025. The next step for DOJ/ICITAP is to assist the SSP in meeting the American Society of Crime Laboratory Directors -Laboratory Accreditation Board (ASCLD-LAB) standards which is a more rigorous, forensics-based standard. Importantly, ASCLAD-Lab standards include the ISO-17025 standards in addition to supplemental requirements, so passing ISO-17025 is a milestone in reaching full forensics accreditation. The DOJ has received over \$11,000,000 for forensics development under Merida.

23. (SBU) Crime laboratory development in Mexico is a collaborative effort with NAS, DOJ/ICITAP, and the GOM as Merida funding provided much of the forensic laboratory equipment for the SSP. DOJ/ICITAP plans to take this program to the state-level forensic laboratories in early 2013.

Project Diamante: Judicial Reform and Coordination of Investigations

24. (SBU) Under Project Diamante, the Department of Justice provides training and support to Mexican federal agencies supporting the implementation of Mexican judicial reform, which was passed in July, 2008. Under the new law, Mexico's criminal justice system will transform from its traditional inquisitorial system to an adversarial system, allowing both the prosecuting attorney and the defense to cross-examine witnesses and to present evidence. Project Diamante trains GOM

personnel from agencies such as the Federal Agency of Investigation (AFI), the Attorney General (PGR), in gathering admissible evidence, establishing evidence in court, and in the proper procedures for gaining convictions under the new judicial reforms. In addition, the Merida Initiative provides training to GOM officials in specialized areas, such as money laundering, intellectual property, maintaining a proper chain of custody, anti-human trafficking investigations, journalist protection and witness protection.

25. (SBU) As of the end of the Calderon Administration, 7700 PGR employees have been trained (prosecutors, peritos and investigators) through Proyecto Diamante and 200 laptops provided. In addition, OPDAT established a Judicial Institute in Puerto Rico that has trained 36 Mexican judges with 50 additional judges already selected for training in 2013. In total, OPDAT/ICITAP have provided training to 21,776 Mexican law enforcement personnel; prosecutors, experts and judges. DOJ's Project Diamante has been supported by approximately \$10,000,000 since it was first implemented.

26. (SBU) Peña Nieto publically announced his commitment to a national standard criminal procedure that will comply with the new judicial reforms. Based on this commitment, NAS and OPDAT are hopeful the reforms will continue and perhaps accelerate.

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Organizational Development

27. (SBU) The Department of Justices's International Criminal Investigative Training and Assistance Program (DOJ/ICITAP), with funding and support from the Merida Initiative, is working with PGR and SSP on the development of personnel systems, and leadership development at all levels. To date the program has focused on the Federal Ministerial Police (PFM-former AFI) and the development of personnel evaluation systems. Utilizing a working group composed of representatives from different part of the PFM organization, ICITAP experts have mentored Mexican counterparts on how to develop evaluation profiles. At the conclusion of the work, the organization will not only have evaluation profiles for specific positions in the organization, but more importantly they will have personnel trained on how to continue this task in the future. A critical component is ensuring that the organization begins to utilize standards and best practices in the performance of its duties. This is the initial step into developing standards for other areas of the organization to include training and career development.

Justice Sector Reform

28. (SBU) Beginning in 2004, Mexican states began pioneering reforms to transition from a written, inquisitorial criminal trials system plagued with inefficiencies and impunity to an oral, adversarial one that would promote fair, swifter justice and increase the confidence of Mexicans in the justice system. Four years later, a constitutional amendment mandated nation-wide reform, with implementation currently proceeding state by state under the coordination of the federal government's Technical Secretariat (SETEC). Since 92% of crimes in Mexico fall within state jurisdiction, the importance of state reforms cannot be overemphasized. Results of Mexican state-level reform efforts and USAID Merida Initiative cooperation continue to crystallize. Already, Mexican prisons hold 30,000 fewer people without charges, a major problem under the traditional system, and prosecution rates have risen in states implementing the reform. Reform states are issuing longer sentences with fewer acquittals, indicating that the adversarial system has the potential to be both tough on crime while protective of rights. USAID assists this process as part of Pillar II of the Merida Initiative: institutionalizing the rule of law and respect for human rights.

29. (SBU) While reaching more than 30,000 justice sector operators in the new criminal justice system through training and institutional support to training units, USAID has built or strengthened key institutions such as alternative and restorative justice centers and victims assistance units in target states. Now halfway to the 2016 deadline of reform implementation, 22 of Mexico's 31 states have passed a new criminal procedure code and at least some of the necessary secondary legislation and procedural reforms to implement the new justice system.

30. (SBU) Training considers the context of institutional strengthening actions, such as the application of model policies, procedures, regulations, and systems developed in conjunction with SETEC. USAID, together with SETC, developed standard operating procedures for judges, prosecutors, public defenders and police rolled out nation-wide. USAID strengthened in-house training programs for judicial institutions in priority states with a focus on ensuring long-term

sustainability. This allows justice institutions to continue building the capacity of staff and measuring compliance in absence of direct USAID assistance. USAID supported bilateral academic studies and nation-wide public opinion polls providing empirical data on the reforms and establishing a baseline to measure impact in future years.

31. (SBU) USAID strategically focuses assistance in the target states (known as "Tier 1" states) of Baja California, Chihuahua, Hidalgo, Morelos, Nuevo Leon, Pubela and Oaxaca. USAID also provides support for the "Tier 2" states of Estado de Mexico, Tamaulipas, Durango and Campeche when strategic opportunities for success arise. USAID supported civil society organizations to assume a more proactive role in monitoring and advocating for criminal justice reform implementation. This critical measure strengthened civil society's capacity to collect and disseminate accurate information about the reforms, inform public opinion, and advocate political decision makers on behalf of the reforms. The Justice and Security Program works to increase the journalists' knowledge and understanding of the reforms and their role within the new justice system.

32. (SBU) USAID's key achievements include the following:

- Training for more than 20,000 justice sector operators directly and over 14,000 more through training of trainer and institutional support in the new criminal justice system.
- Development and training on protocols for coordination on investigation between police and prosecutors.
- Establishment and strengthening of Alternative Justice Centers in priority states. Since January 2010, USAID has trained over 400 staff of Alternative Justice Centers on mediation, negotiation and restorative justice.
- USAID-supported first pre-trial services unit for juveniles in Latin America opened in Morelos in 2011. USAID is supporting replication pre-trial services units in Baja California and Puebla.
- USAID cooperative establishment of the Oaxaca Victims of Crime Assistance Unit. Based on lessons learned in Oaxaca, USAID is also providing assistance on the model in Chihuahua, Ciudad Juarez and Monterrey.
- Small grants of less than \$100,000 supporting 44 Mexican NGOs that promote criminal justice reform, human rights, victims' assistance, anti-TIP efforts, and other related issues and work with media outlets in target states to better educate citizens on the reforms.
- A master's degree program in human rights and security for 300 police and other officials launched in partnership with the Latin American Institute for Educational Communication (ILCE) and the Secretariat of Public Security (SSP).

33. (SBU) The Pact for Mexico (Pacto por México), signed by the main political parties and the President in December 2012, has the potential of dramatically affecting the Criminal Justice Reform (CJR). The CJR is mandated by a constitutional amendment adopted by the Mexican Congress in 2008, and the cornerstone of its implementation has been the passing of state Criminal Procedure Codes (SCPC). Although several laws integrate the legal CJR framework – such as alternative dispute resolution (ADR), victim's assistance, organic laws of the judicial branch, prosecutor's office and public defender's office – the SCPC usually marks the start of the significant legal and administrative changes needed to comply with the constitutional amendment. The Pact includes the creation of a unified Criminal Procedure Code, and of a unified Penal Code. A successful discussion and swift passing of these two unified codes by the federal congress will most likely precipitate the reform in the less advanced states and positively shake and accelerate the reform.

34. (SBU) COMMENT: The continued success of Pillar II programs depends upon a smooth transition that maintains the strong, bilateral collaborative efforts of the GOM and the USG. It is unclear how the inevitable shifts in priorities, as well as the reorganization of GOM agencies, will affect current and future activities, but the USG agencies involved in Pillar II programming are working to maintain good relations with interlocutors who remain and to reach out to newly appointed counterparts as they are identified. END COMMENT.

Signature:

Drafted By:

MEXICO:Leach, Michael W (Mexico City)

WAYNE

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Cleared By:	NAS:Pforzheimer, Annie (Mexico City)
	NAS\BIO:Redmer, Christian W (Mexico City)
	NAS:Wilson, Andrew C (Mexico City)
	EMB:Del Valle, Alfonso (Mexico City)
	EMB:Noah, Ellery B (Mexico City)
	POL:Linton, Scott H (Mexico City)
	PAS:Matheny, Ryan D (Mexico City)
	Amidon, Doyle E (cbp.dhs.gov - Mexico City)
	DOJ-OPDAT:Rouech -Alabre, Nicole M (Mexico City)
	LEGAT:Moore, Peter J (Mexico City)
	EMB:Risheim, Carl A (Mexico City)
	ODC:Maciel, Victor M (Mexico City)
	ATF:Arredondo, Francisco J (Mexico City)
	Justice And Citizen Security Office:Sacks, Larry (USAID/MEXICO/JACS)
Approved By:	Department of State:Wayne, Earl Anthony (Mexico City)
Released By:	MEXICO:Leach, Michael W (Mexico City)
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	DEPT OF TREASURY WASHINGTON DC RUEPTRS ROUTINE;
•	DEPT OF JUSTICE WASHINGTON DCROUTINE ; FBI WASHINGTON DC RHMCSUU
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	SECDEF WASHINGTON DC RUEKJCS ROUTINE ;
	JOINT STAFF WASHINGTON DC RUEKJCS ROUTINE ; HQ USNORTHCOM ROUTINE ;
	HQ USSOUTHCOM MIAMI FL <i>ROUTINE</i> ;
	DEPT OF HOMELAND SECURITY WASHINGTON DCROUTINE;
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