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Mexico: Protection afforded to witnesses before and after trials including, but not limited to, formal witness protection programs; reports on the situation of persons who testify as witnesses before and after a case has gone to trial (2004 - 2006)

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While information about informal witness protection efforts and the situation of persons who testify as witnesses before and after a case has gone to trial could not be found among the sources consulted by the Research Directorate, various sources reported on the existence of a federal witness protection program (Mexico 10 Apr. 2006; DDHS 27 Mar. 2006; *Contralinea* Mar. 2005; *La Jornada* 25 Nov. 2005; *Diario Monitor* 7 Mar. 2006).

In response to the Research Directorate's request for information, three experts in public security issues in Mexico agreed that formal witness protection applies to witnesses of federal-level offences connected to organized crime (Mexico 10 Apr. 2006), including drug-related crimes (ICESI 31 Mar. 2006) and terrorism, money laundering and arms trafficking (DDHS 27 Mar. 2006). Enacted in November 1996, Article 34 of the Federal Law Against Organized Crime (*Ley Federal contra la Delincuencia Organizada*) outlines that the Federal General Attorney's office (Procuraduría General de la República, PGR) must provide support and sufficient protection for judges, experts (*peritos*), witnesses, victims, and other persons involved in the legal proceedings (*procedimiento penal*) of offences related to organized crime (Mexico 10 Apr. 2006). Article 123 of the same law outlines protection measures for victims, including the provision of security personnel, bullet-proof vests and cars, the use of firearms and a confidential residence (*ibid.*).

In 27 March 2006 correspondence, the director of the research institute Democracy, Human Rights and Security (Democracia, Derechos Humanos y Seguridad, DDHS) based in Mexico City provided the following information. According to the director, the federal witness protection program operates "under [the] absolute discretion" of the PGR. The PGR agency responsible for witness protection is the Deputy Attorney General's Office for Special Investigation into Organized Crime (Subprocuraduría de Investigación Especializada en Delincuencia Organizada, SIEDO), currently led by Jose Luis Santiago Vasconcelos. The SIEDO's mandate is limited to federal crimes outlined in the 1996 Law against Organized Crime. One concern surrounding the federal witness protection program is the lack of a regulatory framework for its "proper application"; protection is currently granted at the discretion of the SIEDO.

In November 2005, Mexico City-based newspaper *La Jornada* reported that, from 1997 to 2003, the SIEDO protected 252 witnesses at a total cost of 32,426,512 pesos [CAN\$3,258,864 (Bank of Canada 2 May 2006a)] (*La Jornada* 25 Nov. 2005). In 1997, 19 witnesses were protected at a cost of 1,108,114 pesos [CAN\$111,365 (Bank of Canada 2 May 2006b)] (*La Jornada* 25 Nov. 2005). In 1998, the program protected an equal number of witnesses with an increased budget of 1,168,230 pesos [CAN\$117,407 (Bank of Canada 2 May 2006c)] (*La Jornada* 25 Nov. 2005). The number of witnesses protected in 1999 increased to 30 while the budget decreased slightly to 1,146,955 pesos [CAN\$115,268 (Bank of Canada 2 May 2006d)] (*La Jornada* 25 Nov. 2005). In 2000, the number of witnesses under protection dropped to 27, yet program expenses increased to 2,397,622 pesos [CAN\$240,961 (Bank of Canada 2 May 2006e)], and in 2001, the number of witnesses increased to 35 and the budget grew to 5,823,928 pesos [CAN\$585,304 (Bank of Canada 2 May 2006f)] (*La Jornada* 25 Nov. 2005). In 2002, there were 42 witnesses in the federal program with a budget of 13,370,526 pesos [CAN\$1,343,737 (Bank of Canada 2 May 2006g)] (*La Jornada* 25 Nov. 2005). In 2003, *La Jornada* reported that the PGR's statistics were divided into two semesters: from January to July, although the number of witnesses were not available, the cost of the program totalled 7,737,929 pesos [CAN\$794,685 (Bank of Canada 24 Apr. 2006a)]; from August to December, 39 witnesses received protection at a cost of 5,497,139 pesos [CAN\$564,556 (Bank of Canada 24 Apr. 2006b)] (*La Jornada* 25 Nov. 2005). While data regarding protected witnesses for 2004 could not be found, *La Jornada* reported that 48 individuals were under protection from January to November 2005 (*La Jornada* 25 Nov. 2005). Information on the length of time each witness is afforded protection under the program could not be found among the sources consulted by the Research Directorate.

In March 2005, *Contralinea*, a Mexico City-based news source reported that 80 per cent of organized crime investigations were backed by information obtained from 83 ex-members of criminal gangs under protection of the PGR at an annual cost of 13,200,000 pesos [CAN\$1,355,640 (Bank of Canada 24 Apr. 2006c)] (*Contralinea* Mar. 2005). Critics interviewed by the media at the time complained that the federal witness protection system protects

former criminals at an excessive cost, and that the program operates discretionally and without accountability (ibid.).

In January 2004, *El Universal* reported that the Law against Organized Crime, including witness protection, was insufficient and that a package of reforms to the law had been sent to Congress for analysis (31 Jan. 2004). Among the improvements proposed to witness protection were amendments to allow individuals to change their identities, delineate levels of protection, outline the obligations of a protected person, and define reasons for exclusion from the program (*El Universal* 31 Jan. 2004).

In July 2005, *Contralinea* reported that efforts to improve the organized crime law, especially with regard to witness protection, were ongoing. The DDHS director noted that as of March 2006, proposed reforms to the witness protection program had yet to be passed in Congress (27 Mar. 2006).

Also in July 2005, *Diario de Mexico* reported that federal deputies of the National Action Party (Partido Accion Nacional, PAN), Institutional Revolutionary Party (Partido Revolucionario Institucional, PRI) and Party of Democratic Revolution (Partido de la Revolucion Democratica, PRD) all agreed on the urgency to reform witness protection in order to avoid the discretionary use of this law enforcement tool and the potential for its abuse during investigations (11 July 2005). In particular, the politicians pointed to incidents where reportedly innocent persons had been arrested on the basis of information provided by witnesses (*Diario de Mexico* 11 July 2005). The PRI official also noted the need for the PGR to "have filters" (*tener filtros*) and conduct its own investigations in order to avoid wrongful arrests that can have serious impacts on the individuals named by witnesses (ibid.).

Information about the effectiveness of federal witness protection efforts was scarce among the sources consulted by the Research Directorate. The DDHS director responded that assessment of this program was difficult to determine (27 Mar. 2006). However, the director was aware of some individuals who had claimed to be under witness protection but were later killed (DDHS 27 Mar. 2006). In February 2005, the Economist Intelligence Unit signalled that, without providing details, among other challenges faced by country's judicial system, "witness protection cannot be guaranteed" (2 Feb. 2005).

In October 2005, news sources reported that United States (US) and Mexico law enforcement agencies launched a series of collaborative initiatives designed to address increased border violence caused by drug-traffickers in the north of Mexico (*San Antonio Express-News* 14 Oct. 2005; *Global Insight Daily Analysis* 14 Oct. 2005; Reuters 13 Oct. 2005). Among the initiatives agreed to by both countries was the expansion of victim and witness protection programs in order to "help Mexican officials secure the testimony needed to prosecute drug criminals in Mexico" (ibid.).

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of additional sources consulted in researching this Information Request.

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Additional Sources Consulted

Four oral sources did not provide information within the time constraints of this Request.

Internet sites, including: Amnesty International (AI), European Country of Origin Information Network (ECOI), Factiva, Freedom House, Human Rights Watch (HRW), Justice Studies Centre of the Americas (JSCA), United Nations Office on Drugs and Crime (UNODC), United States Department of State, World News Connection (WNC).

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